

ORDINANCE NO. 680517-A

AN ORDINANCE TO BE KNOWN BY THE SHORT TITLE OF "FAIR HOUSING ORDINANCE OF THE CITY OF AUSTIN"; DECLARING THE PUBLIC POLICY OF THE CITY OF AUSTIN; DEFINING THE TERMS USED IN SAID ORDINANCE; PROHIBITING DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING; PROHIBITING DISCRIMINATION IN THE FINANCING OF HOUSING; PROHIBITING DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES; PROVIDING FOR CERTAIN EXEMPTIONS AND EXCLUSIONS; PROVIDING FOR THE FILING OF COMPLAINTS; PROVIDING FOR INVESTIGATION AND ATTEMPT AT CONCILIATION BY THE EXECUTIVE DIRECTOR OF THE HUMAN RELATIONS COMMISSION OF THE CITY OF AUSTIN; PROVIDING FOR REFERENCE OF COMPLAINTS AND FOR HEARINGS BEFORE THE HUMAN RELATIONS COMMISSION OF THE CITY OF AUSTIN; PROVIDING FOR CERTIFICATION OF VIOLATIONS TO THE CITY ATTORNEY; PROVIDING FOR THE INSTITUTION OF CIVIL OR CRIMINAL PROCEEDINGS BY THE CITY ATTORNEY; PROVIDING FOR THE ISSUANCE OF SUBPOENAS IN THE AID OF ENFORCEMENT AND FOR PENALTY FOR WILFUL VIOLATION OF SUCH SUBPOENAS; PROVIDING AUTHORITY FOR THE EXECUTIVE DIRECTOR OF THE HUMAN RELATIONS COMMISSION TO DELEGATE CERTAIN OF HIS AUTHORITIES AND RESPONSIBILITIES; PROVIDING AUTHORIZATION FOR THE COMMISSION AND THE EXECUTIVE DIRECTOR TO COOPERATE WITH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND TO ENTER INTO AGREEMENTS WITH SUCH SECRETARY; PROHIBITING UNLAWFUL INTIMIDATION IN CONNECTION WITH HOUSING AND THE ENJOYMENT OF THE RIGHTS RECOGNIZED UNDER THIS ORDINANCE; PROVIDING PENALTIES FOR THE VIOLATION OF THE PROHIBITIONS OF THIS ORDINANCE; AND PROVIDING THAT THE INVALIDITY OF A PORTION OF THIS ORDINANCE SHALL NOT AFFECT THE REMAINING PORTIONS THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF AUSTIN:

DECLARATION OF POLICY

SECTION 1. (a). It is hereby declared to be the public policy of the City of Austin to bring about, through fair, orderly and lawful procedures the opportunity for each natural person to enjoy a good, wholesome, and decent dwelling without regard to his race, color, religion, or national origin.

(b). It is further declared that this policy is grounded upon a recognition of the inalienable right of each natural person as a human being to provide for himself and his family a dwelling according to his own choosing; and further, that the denial of such rights through considerations based upon race, color, religion, or national origin is detrimental to the health, safety and welfare of the inhabitants of the City of Austin and constitutes an unjust denial or deprivation of such inalienable right which is properly within the power of government to prevent and is the proper responsibility of government to prevent.

DEFINITION OF TERMS

SECTION 2. As used in this ordinance, unless a different meaning clearly appears from the context in which used, the following terms shall be taken to have the meaning described in this section; provided, however, that no term shall be given a meaning which will be destructive of the policy of the City of Austin; to wit:

- (a) "Commission" means the Human Relations Commission of the City of Austin;
- (b) "Director" means the Executive Director of the Commission;
- (c) "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, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;
- (d) "family" includes a single individual;
- (e) "person" includes one or more individuals, corporations, firms, partnerships, associations, mutual companies, legal representatives, trusts, estates, trustees, fiduciaries, unincorporated organizations, and any other organization or entity of whatever character;
- (f) "to rent" includes to lease, to sub-lease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant;
- (g) "discriminatory housing practice" means an act that is unlawful under Sections 3, 4 or 5.

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

SECTION 3. Except as exempted by Section 6, it shall be unlawful --

- (a) to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or the rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.
- (b) to 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, religion, or national origin.
- (c) to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.
- (d) to represent to any person because of race, color, religion, or national origin 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, to 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, religion, or national origin.

DISCRIMINATION IN THE FINANCING OF HOUSING

SECTION 4. 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 making commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rates, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or other occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICE

SECTION 5. It shall be unlawful to deny any person 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 against him in the terms or conditions of such access, membership, or participation, on account or race, color, religion, or national origin.

EXEMPTIONS AND EXCLUSIONS

SECTION 6. (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) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual 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 a portion of the proceeds from the sale or rental of, more than

three such single-family houses at any one time: Provided further, That the sale or rental of any such single-family house shall be excepted from the application of this ordinance only if such house is sold or rented (A) 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 (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3 (c) of this ordinance; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(b) Nothing in this ordinance 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, or national origin;

(c) Nothing in this ordinance shall prohibit a bona fide private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings 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.

COMPLAINTS

SECTION 7. (a) Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter referred to as "person aggrieved") may file a complaint with the Director. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be about to commit the discriminatory housing practice and shall set forth the particulars thereof. The Director is directed to prepare and adopt from time to time standard complaint forms and to furnish them without charge to any person aggrieved. The Director and his staff and employees may assist in the clerical preparation of such complaints.

(b) The Director shall receive and accept notification and referral of complaints from the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII -- Fair Housing -- Civil Rights Act of 1968, Public Law 90--284, 9th Congress, and shall treat such complaints hereunder in the same manner as complaints filed directly by the person aggrieved with the Director.

(c) If, in the course of any investigation as provided in Section 8 hereof on a complaint filed with or referred to the Director, he shall receive credible evidence and shall have probable cause to believe that the person or persons named in such complaint have committed or are about to commit a discriminatory housing practice on grounds not stated in

such complaint, the Director may prepare and file a supplementary complaint upon his own motion and in his own name and such supplementary complaint shall thereafter be treated in the same manner as an original complaint filed by a person aggrieved.

(d) If in the course of any investigation as provided in Section 8 hereof on a complaint filed with or referred to the Director he shall receive or discover credible evidence and shall have probable cause to believe that the person or persons named in such complaint have committed or are about to commit a discriminatory housing practice or practices as to which no complaint has been filed, the Director 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) If at any time the Director shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are about to commit a discriminatory housing practice or practices as to which no complaint has been filed or is about to be filed, the Director 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.

(f) Upon the filing or referral of any complaint, the Director shall furnish a copy of the same to the person or persons named in the complaint who allegedly committed or about to commit the alleged discriminatory housing practice.

(g) A complaint under subsections (a), (c), (d) and (e) shall be filed within 180 -ays after the alleged discriminatory housing practice occurred. Complaints shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and, with the leave of the Director, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Both complaints and answers shall be signed.

INVESTIGATION AND ATTEMPT AT CONCILIATION BY DIRECTOR

SECTION 8. (a) Upon the filing of a complaint as herein provided, the Director shall cause to be made a prompt investigation of the matter stated in the complaint.

(b) In connection with such investigation, the Director may interrogate and take and record the testimony and statements of such persons as may voluntarily appear and as he may lawfully require to appear and the Director may examine, record and copy such records and documents as may be voluntarily submitted to him and as he may lawfully require to be produced and the Director may examine such premises as he may lawfully enter and examine.

(c) During or after the investigation the Director shall, if it appears that a discriminatory housing act has occurred or is about to occur, attempt by informal endeavors to effect conciliation in the matter, including voluntary discontinuance of any discriminatory housing practice, rectification

of the discriminatory housing practice complained of, voluntary compliance with the provisions of this ordinance, and receipt of adequate assurances of future voluntary compliance with the provisions of this ordinance.

(d) In the event conciliation in the matter is effected, the Director shall disclose nothing said or done in the course of such informal endeavors at conciliation in such a way as to make public identification of the person or persons named in the complaint without the written consent of the persons concerned.

REFERENCE OF COMPLAINT TO HUMAN RELATIONS COMMISSION

SECTION 9. (a) Upon completion of the investigation and informal endeavors at conciliation by the Director, but within 30 days of the filing of the complaint with the Director, and if in the judgment of the Director the complaint has substantial merit, and if conciliation of the matter complained of has not been effected, the Director shall refer the complaint to the Commission, together with the answer of the respondent, if any, and a full report of his investigation and activities in the matter.

(b) Upon reference of a complaint from the Director, the Commission shall promptly set a date for the hearing of the matters alleged in such complaint and subsequent occurring related matters; such hearing to be held not more than 30 days after the date on which the Director shall have so referred such complaint, but only after giving at least 5 days prior written notice to the person or persons alleged to have committed or to be about to commit the discriminatory housing practice. The hearing before the Commission shall be conducted in a fair and impartial manner according to rules adopted by the Commission. The hearing before the Commission shall be public. Proof of the matters alleged within the complainant and the person or persons alleged to have committed or to be about to commit the discriminatory housing practice may appear personally or by representative and with legal council and shall have the right to present proof and cross-examine witnesses in all matters relating to the complaint and subsequent occurring related matters. In the event that a person or persons alleged to have committed or to be about to commit a discriminatory housing practice shall fail to appear at the Commission hearing either personally or by representative, after notice as provided above, then such hearing shall be deemed waived by such person or persons.

(c) If, after such hearing, a majority of the Commission shall determine on the basis of the evidence adduced at the hearing that the complaint is well founded, the Commission shall forthwith by persuasion, education and entreaty diligently attempt to secure within a reasonable time, not to exceed 15 days, voluntary discontinuance of any discriminatory housing practice, rectification of the discriminatory housing practice and receipt of adequate assurances of further voluntary compliance with the provisions of this ordinance.

CERTIFICATION OF VIOLATION TO CITY ATTORNEY

SECTION 10. If the Commission shall determine that a discriminatory housing practice violation of this ordinance has occurred and if a hearing before the Commission on the complaint alleging such violation has been waived or if the Commission has held a hearing on the complaint of such violation and the efforts of the Commission to secure voluntary discontinuance, rectification, voluntary compliance and assurances of future voluntary compliance have been unsuccessful, the Commission shall cause the Director to certify in writing to the City Attorney that such discriminatory housing practice violation has occurred and request the City Attorney to forthwith institute civil proceedings in a court of competent jurisdiction to secure compliance with this ordinance and to enforce the rights granted or protected by this ordinance or to forthwith prosecute such violation in the Corporation Court of the City of Austin.

CITY ATTORNEY MAY INSTITUTE PROCEEDINGS

SECTION 11. (a) Upon certification by the Director pursuant to the direction of the Commission, the City Attorney shall, upon sufficient evidence, institute a civil proceeding in a court of competent jurisdiction or institute a charge in the Corporation Court of the City of Austin, as to him shall seem most effective to further the policy of this ordinance and to secure the rights sought to be secured and protected thereby.

(b) If the City Attorney shall determine to institute civil proceedings in a court of competent jurisdiction, he shall proceed at law or in equity, by injunction, mandamus, or such other remedy as shall seem appropriate, to secure compliance with this ordinance and to enforce the rights granted or protected by this ordinance.

(c) If the City Attorney shall determine to institute a charge in the Corporation Court of the City of Austin, he shall institute such charge against the alleged violator or violators of this ordinance and prosecute the same to final conclusion.

(d) The certification to the City Attorney and the actions provided herein to be taken by the City Attorney shall be cumulative of all other remedies and procedures for the effectuation and enforcement of this ordinance and the prosecution of alleged violators of this ordinance.

ISSUANCE OF SUBPOENAS IN AID OF ENFORCEMENT

SECTION 12. (a) In connection with any investigation by the Director under the provisions of Section 8 and in connection with the conduct of any hearings before the Commission under the provisions of Section 9, the Commission may issue subpoenas to compel the appearance of persons and to compel access to or the production of records and documents to the same extent and subject to the same limitations as would apply if the subpoenas were issued in aid of a prosecution before the Corporation Court of the City of Austin.

(b) The Commission may issue, upon its own motion, subpoenas in the name of the Commission.

(c) Upon written application to the Commission, the Director shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Commission. Subpoenas issued at the request of the Director shall state on their face that they were issued at the request of the Director.

(d) Upon written application to the Commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(e) Within five days after service of a subpoena upon any person, such person may petition the Commission to revoke or modify the subpoena. The Commission shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(f) If any person shall wilfully and unlawfully fail or neglect to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena of the Commission, the Commission shall cause the Director to certify such facts to the City Attorney, together with a copy of the subpoena and request the City Attorney to forthwith institute a charge in the Corporation Court of the City of Austin and to prosecute the same to conclusion.

(g) Any person who wilfully and unlawfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so, in obedience to the subpoena of the Commission shall upon conviction thereof be punished by a fine of not more than \$200.

AUTHORITY OF DIRECTOR TO DELEGATE

SECTION 13. The Director may delegate any of his functions, duties, and powers to employees in the office of the Director, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business or matter under this ordinance.

COOPERATION WITH SECRETARY OF HOUSING AND URBAN DEVELOPMENT

SECTION 14. The commission and the Director are authorized and encouraged to cooperate with the Secretary for Housing and Urban Development pursuant to the provisions of Title VIII -- Fair Housing -- Civil Rights Act of 1968, Public Law 90--284, 90th Congress and may render such service to the Secretary as they shall deem appropriate to further the policies of this ordinance and may accept reimbursement from the Secretary for services rendered to assist him in carrying out the provisions of the above cited federal law. In furtherance of such cooperative efforts, the Commission may enter into written agreements with the Secretary pursuant to the above cited federal law.

UNLAWFUL INTIMIDATION

SECTION 15. It shall be unlawful for any person, whether or not acting under color of law, by force or threat or force to wilfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with;

(a) any person because of his race, color, religion, or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing, or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or class of persons from

(1) participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations, or facilities described in subsection 15(a); or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any person because he is or has been, or in order to discourage such person or any other person from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection 15(a), or participating lawfully in speech or peaceable assembly opposing any denial of the opportunity so to participate.

PENALTY

SECTION 16. Any person who shall violate any one or more of the provisions of Sections 3, 4, 5, or 15 of this ordinance shall upon conviction of each such violation thereof be punished for each such violation by a fine of not more than \$200.

SEVE RABILITY

SECTION 17. In the event that any part or portion of this ordinance shall be declared invalid, the remainder of its provisions shall not thereby be affected, but such remaining provisions shall continue in full force and effect.

PASSED: May 17, 1968
APPROVED: May 17, 1968


MAYOR

APPROVED:

ATTEST:


City Attorney


City Clerk

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared, Eleanor Walker Classified Advertising Agent of The American-Statesman A daily newspaper published in said County and State, who, being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit: May 24, 1968 and that the attached is a true copy of said advertisement:

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(Sgd) Eleanor Walker

SWORN AND SUBSCRIBED TO BEFORE ME, this the Twenty-eight Day of May A.D. 1968.

(Sgd) Merle Duncan
Notary Public in and for
TRAVIS COUNTY, TEXAS

(SEAL)