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Law 2

COUNCIL BILL No. 109805

HHASE Committee for
170 pers, 2-0-13

AN ORDINANCE relating to Open Housing and Public Accommodations, to establish substantial equivalency with the Federal Fair Housing Amendments Act of 1988; amending Seattle Municipal Code (SMC) Chapter 14.08 (Open Housing and Public Accommodations Ordinance 104839, as last amended by Ordinance 114864); by amending SMC sections 14.08.010, 14.08.020, 14.08.030, 14.08.040, 14.08.050, 14.08.060, 14.08.070, 14.08.080, 14.08.090, 14.08.100, 14.08.110, 14.08.120, 14.08.130, 14.08.150, 14.08.160, 14.08.170, 14.08.180, and 14.08.190E; and adding new SMC sections 14.08.045, 14.08.055, 14.08.095, 14.08.135, 14.08.165, 14.08.185, and 14.08.187.

CONTROLLED FILE NO.

Introduced: 8-9-93	By: Harris
Referred: 8-9-93	To: Housing, Health, Human Services & Ed
Referred:	To:
Referred:	To:
Reported: AUG 16 1993	Second Reading: AUG 16 1993
Third Reading: AUG 16 1993	Signed: AUG 16 1993
Presented to Mayor: AUG 16 1993	Approved: AUG 23 93
Returned to City Clerk: AUG 23 93	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: 

Full Council

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Law Department

SL Committee Report:

pass, 2-0 (SA, SP) on 8/10/93

Full Council vote 9-0

Sherry O'Hara

ORDINANCE 116818

AN ORDINANCE relating to Open Housing and Public Accommodations, to establish substantial equivalency with the Federal Fair Housing Amendments Act of 1988; amending Seattle Municipal Code (SMC) Chapter 14.08 (Open Housing and Public Accommodations Ordinance 104839, as last amended by Ordinance 114864); by amending SMC sections 14.08.010, 14.08.020, 14.08.030, 14.08.040, 14.08.050, 14.08.060, 14.08.070, 14.08.080, 14.08.090, 14.08.100, 14.08.110, 14.08.120, 14.08.130, 14.08.150, 14.08.160, 14.08.170, 14.08.180, and 14.08.190 E; and adding new SMC sections 14.08.045, 14.08.055, 14.08.095, 14.08.135, 14.08.165, 14.08.185, and 14.08.187.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code ("SMC") 14.08.010 (as last amended by §1 of Ordinance 113610) is hereby further amended as follows:

14.08.010 Short title and purposes.

A. This chapter shall be known as and may be cited as the "Open Housing and Public Accommodations Ordinance." The general purposes of this chapter are to promote the availability and accessibility of housing and real property to all persons; to prohibit ~~((discriminatory))~~ unfair practices in real property transactions, whether direct or indirect, which inexcusably and unjustifiably deny those persons equal rights and opportunities in acquiring ~~((or))~~, disposing of or occupying real property; to assure all persons equal opportunity to the full enjoyment of places of public accommodation; to eliminate and to prevent unlawful discrimination in places of public accommodation; to provide enforcement mechanisms for the accomplishment of such purposes; and to these ends the provisions of this chapter shall be liberally construed. The role of the Human Rights Department is to enforce the provisions of this chapter in furtherance of this policy.

B. This chapter shall not be construed to endorse specific beliefs, practices or lifestyles.

C. Nothing in this chapter shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

D. To avoid duplication of efforts or otherwise conserve agency resources, the Director may suspend or close a case for any reason consistent with this chapter, including the reason that the case is being actively pursued in another forum. The commencement of a civil action by the

1 Department to enjoin any unfair practice in violation of this chapter shall not preclude the
2 initiation or continuation of administrative proceedings under this chapter.

3 E. Remedies under this chapter should include such relief authorized by law as may be
4 appropriate and reasonable to provide appropriate temporary or preliminary relief as well as to
5 make the aggrieved person whole and eliminate the unfair practice.

6 F. Nothing contained in this chapter is intended to be nor shall be construed to create or
7 form the basis for any liability on the part of the City, or its officers, employees or agents, for
8 any injury or damage resulting from or by reason of any act or omission in connection with the
9 implementation or enforcement of this chapter on the part of the City by its officers, employees
10 or agents.

11
12 Section 2. SMC 14.08.020 (as last amended by §1 of Ordinance 114864) is hereby
13 further amended as follows:

14 **14.08.020 Definitions.**

15 Definitions as used in this chapter, unless additional meaning clearly appears from the
16 context, shall have the meanings subscribed:

17 A. "Charging party" means the person aggrieved by an unfair practice, or the person
18 making a charge on another person's behalf, or the Director when the Director files a charge.

19 B. "City" means The City of Seattle.

20 C. "City department" means any agency, office, board or commission of the City, or
21 any department employee acting on its behalf, but shall not mean a public corporation chartered
22 under Ordinance 103387, or its successor ordinances, or any contractor, consultant, or
23 concessionaire or lessee.

24 D. "Commission" means the Seattle Human Rights Commission.

25 E. "Department" means the ~~((Department-of))~~ Seattle Human Rights Department ~~((of~~
26 ~~the-City))~~.

27 F. "Director" means the Director of the Seattle Human Rights Department.

28 G. "Discriminate" means any conduct, whether by single act or as part of a practice, the
29 effect of which is to adversely affect or differentiate between or among individuals or groups of
30 individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital
31 status, parental status, sexual orientation, political ideology, possession or use of a Section 8 rent
32 certificate, the presence of any sensory, mental or physical handicap or the use of a trained guide
33 or service dog by a handicapped person.

1 H. ~~"Dwelling" includes any building containing one (1) or more dwelling units~~ means
2 any building, structure, or portion thereof which is occupied as, or is designed or intended for
3 occupancy as, a residence by one or more individuals or families, and any vacant land which is
4 offered for sale or lease for the construction or location thereon of any such building, structure,
5 or portion thereof.

6 I. ~~"Dwelling unit" includes a suite of rooms for occupancy by one (1) family containing~~
7 ~~space for living, sleeping and preparation of food, and containing toilet and bathing facilities.~~

8 J. "Full enjoyment of" includes the right to purchase any service, commodity, or article
9 of personal property offered or sold on, or by, any establishment to the public, and the
10 admission of any person to accommodations, advantages, facilities, or privileges of any place of
11 public resort, accommodation, assemblage, or amusement, without acts directly or indirectly
12 causing persons of any particular race, color, sex, marital status, parental status, sexual
13 orientation, political ideology, creed, religion, national origin, ancestry, persons holding a
14 Section 8 rent certificate, persons with any sensory, mental or physical handicap, or handicapped
15 persons using trained guide or service dogs, to be treated as not welcome, accepted, desired or
16 solicited.

17 K-I. "Holder" means a person possessing a Section 8 rent certificate.

18 L-K. "Housing accommodations" includes any dwelling ~~or dwelling unit~~, rooming
19 unit, rooming house, lot or parcel of land in the City which is used, intended to be used, or
20 arranged or designed to be used as, or improved with, a residential structure for one (1) or more
21 human beings.

22 M-L. "Lender" includes any bank, insurance company, savings or building and loan
23 association, credit union, trust company, mortgage company, or other person or agent thereof,
24 engaged wholly or partly in the business of lending money for the financing or acquisition,
25 construction, repair or maintenance of real property.

26 N-M. "Marital status" means the presence or absence of a marital relationship and
27 includes the status of married, separated, divorced, engaged, widowed, single or cohabitating.

28 O-N. "Occupant" includes any person who has established residence or has the right to
29 occupancy of real property.

30 P-O. "Owner" includes persons who own, lease, sublease, rent, operate, manage,
31 have charge of, control or have the right of ownership, possession, management, charge, or
32 control of real property on their own behalf or on behalf of another.

33 Q-P. "Parental status" means being a parent, step-parent, adoptive parent, guardian,
34 foster parent or custodian of a minor child or children under the age of 18 years, or the designee

1 of a parent or other person having legal custody of a child or children under the age of 18 years,
2 with the written permission of such parent or other person, which child or children shall reside
3 permanently or temporarily (~~occupy the real estate~~) or shall seek full enjoyment of any place of
4 public accommodation with such parent or other person. In addition, parental status shall refer
5 to any person who is pregnant or who is in the process of acquiring legal custody of any person
6 who has not yet attained the age of 18 years.

7 R-Q. "Party" includes the person charging or making a charge or complaint or upon
8 whose behalf a charge or complaint is made alleging an unfair practice, the person alleged or
9 found to have committed an unfair practice and the (~~department of~~) Human Rights Department.

10 S-R. "Person" includes one (1) or more individuals, partnerships, organizations, trade
11 or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy
12 and receivers. It includes any owner, lessee, proprietor, manager, agent or employee, whether
13 one (1) or more natural persons, and further includes any political or civil subdivisions or agency
14 or instrumentality of the City.

15 F-S. "Place of public accommodation" includes, but is not limited to, any place,
16 licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission,
17 service, occupancy or use of any property or facilities, whether conducted for the entertainment,
18 housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking
19 health, recreation or rest, or for the burial or other disposition of human remains, or for the sale
20 of goods, merchandise, services or personal property, or for the rendering of personal services,
21 or for public conveyance or transportation on land, water, or in the air, including the stations
22 and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are
23 sold for consumption on the premises, or where public amusement, entertainment, sports or
24 recreation of any kind is offered with or without charge, or where medical service or care is
25 made available, or where the public gathers, congregates or assembles for amusement, recreation
26 or public purposes, or public halls, public elevators, and public washrooms of buildings and
27 structures occupied by two (2) or more tenants, or by the owner and one (1) or more tenants, or
28 any public library or private educational institution, or private schools of special instruction, or
29 nursery schools, or day care centers or children's camps.

30 U-T. "Political ideology" means any idea or belief, or coordinated body of ideas or
31 beliefs, relating to the purpose, conduct, organization, function or basis of government and
32 related institutions and activities, whether or not characteristic of any political party or group.
33 This term includes membership in a political party or group and includes conduct, reasonably
34 related to political ideology, which does not interfere with the property rights of the landowner

1 as it applies to housing, or which does not cause substantial and material disruption of the
2 property rights of the provider of a place of public accommodation.

3 ~~V-U~~. "Prospective borrower" includes any person who seeks to borrow money to
4 finance the acquisition, construction, repair, or maintenance of real property.

5 ~~W-V~~. "Prospective occupant" includes any person who seeks to purchase, lease,
6 sublease or rent real property.

7 ~~X-W~~. "Real estate agent, salesperson or employee" includes any person employed by,
8 associated with or acting for a real estate broker to perform or assist in the performance of any
9 or all of the functions of a real estate broker.

10 ~~Y-X~~. "Real estate broker" includes any person who for a fee, commission, or other
11 valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or
12 negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or
13 rental of real property of another, or holds themselves out as engaged in the business of selling,
14 purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or
15 collects the rental for use of real property of another.

16 ~~Z-Y~~. "Real estate-related transaction" means any of the following:

17 1. The making or purchasing of loans or providing other financial assistance

18 a. for purchasing, constructing, improving, repairing, or maintaining real property;

19 or

20 b. secured by real property; or

21 2. The selling, brokering, or appraising of real property.

22 ~~Z~~. "Real property" includes housing accommodations, buildings, structures, real estate,
23 lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and
24 hereditaments, corporeal and incorporeal, or any interest therein.

25 AA. "Respondent" means any person who is alleged to have committed an unfair practice
26 prohibited by this chapter.

27 BB. "Rooming unit" includes one (1) or more rooms within a dwelling unit or rooming
28 house containing space for living and sleeping.

29 CC. "Section 8 rent certificate" means a document issued by a government agency
30 declaring the holder thereof eligible to participate in the Section 8 program and stating the terms
31 and conditions of such participation.

32 DD. "Section 8" means a federal, state or local government program in which a
33 tenant's rent is paid partially by the government program (through direct contract between the
34 government program and the owner or lessor of the real property), and partially by the tenant.

1 EE. "Sexual orientation" means actual or perceived male or female heterosexuality,
2 bisexuality, homosexuality, transsexuals, or transvestism and includes a person's attitudes,
3 preferences, beliefs and practices pertaining thereto.
4

5 Section 3. SMC 14.08.030 (as last amended by §3 of Ordinance 113610) is hereby
6 further amended as follows:

7 **14.08.030 Unfair practices forbidden.**

8 A. Unfair practices as defined in Sections 14.08.040 through 14.08.090 are contrary to
9 the public peace, health, safety and general welfare and are prohibited by the City in the exercise
10 of its police power.

11 B. Unless the context otherwise requires, "unfair practice" includes "unfair real estate
12 practice."

13
14 Section 4. SMC 14.08.040 (as last amended by §2 of Ordinance 114864) is hereby
15 further amended as follows:

16 **14.08.040 Unfair practices--Generally.**

17 A. ~~((No))~~ It is an unfair real estate practice for any owner, assignee, real estate broker,
18 real estate agent, salesperson or employee, or other person having the right to sell, rent, lease,
19 sublease assign, transfer, or otherwise dispose of real property, ((shall)) to discriminate by
20 undertaking or refusing to sell, rent, lease, sublease, assign, transfer or otherwise deny to or
21 withhold from any person or group of persons such real property, or refuse to negotiate for the
22 sale, rental, lease, sublease, assignment or transfer of real property, or segregate the use thereof,
23 or represent that such real property is not available for inspection, when in fact it is so available,
24 or expel or evict an occupant from real property or otherwise make unavailable or deny a
25 dwelling because of the person's race, color, creed, religion, ancestry, national origin, age, sex
26 marital status, sexual orientation, parental status, political ideology, possession or use of a
27 Section 8 certificate, or the presence of any sensory, mental or physical handicap, or the use of a
28 trained guide or service dog by a handicapped person, or to discriminate against or segregate any
29 person because of such person's race, color, religion, ancestry, national origin, age, sex, marital
30 status, sexual orientation, parental status, political ideology, possession or use of a Section 8
31 certificate, or the presence of any sensory, mental or physical handicap or the use of a trained
32 guide or service dog by a handicapped person in the terms, conditions or privileges of the sale,
33 rental, lease, sublease, assignment, transfer or other disposition of any such real property,
34 including but not limited to the setting of rates for rental or lease, or establishment of damage

1 deposits, or other financial conditions for rental or lease, or in the furnishing of facilities or
2 services in connection therewith.

3 B. It is an unfair real estate practice to unreasonably prohibit modifications needed by a
4 handicapped tenant. Whether or not the landlord permits tenants in general to make alterations
5 or additions to a structure or fixtures, it is an unfair practice for a landlord to refuse to make
6 reasonable accommodations in rules, policies, practices, or services, when such accommodations
7 may be necessary to afford a handicapped person equal opportunity to use and enjoy and
8 dwelling, or to refuse to allow a person to make alterations or additions to existing premises
9 occupied or to be occupied by a handicapped person, which are necessary to make the rental
10 property accessible by handicapped persons, under the following conditions:

11 1. The landlord is not required to pay for the alterations, additions, or restoration.

12 2. The landlord may reserve the right to approve the design, quality, and
13 construction of the alterations or additions in order to minimize damage to the building and
14 enforce standards of quality and architectural compatibility.

15 3. The landlord may, where it is reasonable to do so, condition permission for
16 modification on the renter's agreeing to restore the interior of the premises to the condition that
17 existed before the modification, reasonable wear and tear excepted.

18 C. It is an unfair real estate practice under this chapter for any person to design a
19 building or structure that does not conform with the Federal Fair Housing Act as amended, 42
20 U.S.C. §3601 et seq., the Washington State Barrier Free Act, WAC Ch. 51-10, any other
21 applicable laws pertaining to access by handicapped persons, or any rules or regulations
22 promulgated thereunder. Whenever the requirements of the applicable laws shall differ, those
23 which require greater accessibility for handicapped persons shall govern.

24 ((C))D. It is an unfair practice for any person or his or her agent or employee to commit
25 an act which directly or indirectly requires any person to pay a larger sum than the uniform rates
26 charged other persons, or to refuse or withhold from any person the admission, patronage,
27 custom, presence, frequenting, dwelling, staying, or lodging in any place of public
28 accommodation, or to deny, directly or indirectly, any person the full enjoyment of any of the
29 goods, services, accommodations, facilities, privileges or advantages in any place of public
30 accommodation because of the person's race, color, religion, ancestry, sex, marital status,
31 parental status, sexual orientation, political ideology, creed, national origin, possession or use of
32 a Section 8 rent certificate, sensory, mental or physical handicap, or the use of a trained guide or
33 service dog by a handicapped person, except for conditions and limitations established by law
34 and applicable to all persons regardless of race, color, religion, ancestry, sex, marital status,

1 parental status, sexual orientation, political ideology, creed, national origin, possession or use of
2 a Section 8 rent certificate, sensory, mental or physical handicap, or the use of a trained guide or
3 service dog by a handicapped person.

4 ((D))E. It is an unfair practice for any person, agent or employee to print, circulate,
5 post, mail or otherwise cause directly or indirectly to be published a statement, advertisement or
6 sign which indicates directly or indirectly that the full enjoyment of the goods, services,
7 facilities, privileges, advantages, and accommodations of a place of public accommodation will
8 be refused, withheld from, denied or in some manner limited or restricted toward an individual;
9 or that an individual's patronage of or presence at a place of public accommodation is
10 objectionable, unwelcome, unacceptable or undesirable because of a person's race, color,
11 religion, creed, ancestry, national origin, sex, marital status, parental status, sexual orientation,
12 possession or use of a Section 8 rent certificate, sensory, mental or physical handicap, or
13 handicapped person's use of a trained guide or service dog.

14
15 Section 5. Ch. 14.08 of the Seattle Municipal Code is hereby amended by the addition
16 thereto of a new section (SMC 14.08.045), as follows:

17 **14.08.045 Retaliation, harassment, or coercion.**

18 A. It is an unfair practice under this chapter for any person to:

19 1. Aid, abet, incite, compel, or coerce the doing of any act defined in this chapter
20 as an unfair practice; or to intimidate, harass, retaliate, obstruct or discriminate against a person
21 in any manner because such person has complied with or proposes to comply with provisions of
22 this chapter or has filed a charge or complaint, has testified, or has assisted in any proceeding
23 under this chapter, or any order issued thereunder; or to attempt, either directly or indirectly, to
24 commit any act defined in this chapter to be an unfair practice; or to apply any economic
25 sanctions or to deny membership privileges because of compliance with the provisions of this
26 chapter; or

27 2. Coerce, intimidate, threaten, or otherwise interfere with any person in the
28 exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account
29 of his or her having aided or encouraged any other person in the exercise or enjoyment of any
30 right granted or protected under this chapter.

31 B. Any unfair practice under this section which has the purpose or effect of denying a
32 person the right to be free from discrimination in real estate practices or the right to quiet or
33 peaceful possession or enjoyment of real property (other than as a place of public
34 accommodation), interfering with a person's compliance with the provisions of this chapter

1 prohibiting unfair real estate practices, or interfering with a person's filing of a charge or
2 assisting in any proceeding relating to an unfair real estate practice under this chapter, is an
3 unfair real estate practice.

4
5 Section 6. SMC 14.08.050 (as last amended by §3 of Ordinance 114864) is hereby
6 further amended as follows:

7 **14.08.050 Refusal or failure to list or show property.**

8 ((No)) It is an unfair real estate practice for any real estate broker or real estate agent,
9 salesperson or employee ((shall)) to, because of race, color, religion, ancestry, national origin,
10 age, sex, marital status, sexual orientation, parental status, political ideology of, or possession,
11 use ((of)), or attempted ((to)) use of a Section 8 rent certificate by, an occupant, purchaser,
12 prospective occupant, or prospective purchaser:

13 A. Refuse or intentionally fail to list or discriminate in listing real property for sale,
14 rent, lease or sublease;

15 B. Refuse or intentionally fail to show a prospective occupant real property listed for
16 sale, rental, lease or sublease;

17 C. Refuse or intentionally fail to accept and/or transmit to an owner any reasonable
18 offer to purchase, lease, rent or sublease real property.

19
20 Section 7. Ch. 14.08 of the Seattle Municipal Code is hereby amended by the addition
21 thereto of a new section (SMC 14.08.055), as follows:

22 **14.08.055 Participation in multiple listing service.**

23 It is an unfair real estate practice to deny a person access to, or membership or
24 participation in, a multiple listing service or real estate brokers' organization or other service
25 because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, sexual
26 orientation, parental status, political ideology, possession or use of a Section 8 certificate, or the
27 presence of any sensory, mental, or physical handicap.

28
29 Section 8. SMC 14.08.060 (as last amended by §4 of Ordinance 114864) is hereby
30 further amended as follows:

31 **14.08.060 Discrimination in ~~((application-for-financial-assistance))~~ real estate-related**
32 **transactions.**

33 ((No)) It is an unfair real estate practice for any lender, or any agent or employee thereof,
34 to whom application is made for financial assistance for the purchase, lease, acquisition,

1 construction, rehabilitation, repair, or maintenance of any real property, or any other person
2 whose business includes engaging in real estate-related transactions, ((shall)) to:

3 A. Discriminate against any person, prospective occupant or tenant of real property in
4 the granting, withholding, extending, making available, modifying or renewing, or in the rates,
5 terms, conditions or privileges of, any such financial assistance, or in the extension of services in
6 connection therewith; or

7 B. Use any form of application for such financial assistance or make any record of
8 inquiry in connection with applications for such financial assistance which expresses, directly or
9 indirectly, any limitation, specification, or discrimination because of race, color, religion,
10 ancestry, national origin, sex, age, marital status, sexual orientation, parental status, political
11 ideology, possession or use of a Section 8 rent certificate, or the presence of any sensory, mental
12 or physical handicap or the use of a trained guide or service dog by a handicapped person, unless
13 required or authorized by local, state or federal laws or agencies for the purpose of preventing
14 discrimination in real property; provided that nothing in this provision shall prohibit any party to
15 a credit transaction from requesting designation of marital status for the purpose of considering
16 application of community property law to the individual case or from taking reasonable action
17 thereon or from requesting information regarding age, parental status, or possession or use of a
18 Section 8 rent certificate when such information is necessary to determine the applicant's ability
19 to repay the loan.

20
21 Section 9. SMC 14.08.070 (as last amended by §5 of Ordinance 114864) is hereby
22 further amended as follows:

23 **14.08.070 Unfair inquiries(~~(,)~~) or advertisements(~~(, -or-harassment)~~).**

24 ~~((No))~~ It is an unfair real estate practice for any owner, real estate agent, salesperson or
25 employee, real estate broker, or any other person, ((shall)) to:

26 A. Require any information, make or keep any record, or use any form of application
27 containing questions or inquiries concerning race, color, religion, ancestry, national origin, age,
28 sex, marital status, sexual orientation, parental status, political ideology, possession or use of a
29 Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the use of
30 a trained guide or service dog by a handicapped person in connection with the sale, rental, lease
31 or sublease of any real property unless used solely:

32 1. For making reports required by agencies of the federal, state or local government
33 for the purposes of preventing and eliminating discrimination or of overcoming its effects or for
34 other purposes authorized by federal, state or local agencies or laws or rules adopted thereunder,

1 2. As to "marital status," for the purpose of determining applicability of community
2 property law to the individual case, and

3 3. As to "age," for the purpose of determining that the applicant has attained the
4 age of majority, or in the case of housing exclusively for older persons as described in SMC
5 14.08.190 E, for the purpose of determining the eligibility of the applicant;

6 B. Publish, circulate, issue or display or cause to be published, circulated, issued or
7 displayed, any communication, notice, advertisement, or sign of any kind relating to the sale,
8 rental, lease, sublease, assignment, transfer, or listing of real property which indicate any
9 preference, limitation or specification based on race, color, religion, ancestry, national origin,
10 age, sex, marital status, sexual orientation, parental status, political ideology or the presence of
11 any sensory, mental or physical handicap, or the use of a trained guide or service dog by a
12 handicapped person((;)).

13 ~~((C. Aid, abet, incite, compel or coerce the doing of any act defined in this chapter as an
14 unfair practice; or intimidate, harass, retaliate, obstruct or discriminate against a person in any
15 manner because such person has complied or proposes to comply with provisions of this chapter
16 or has filed a complaint, testified, or assisted in any proceeding under this chapter, or any order
17 issued thereunder, or attempt, either directly or indirectly, to commit any act defined in this
18 chapter to be an unfair practice or apply any economic sanctions or deny membership privileges
19 because of compliance with the provisions of this chapter.))~~

20
21 Section 10. SMC 14.08.080 (as last amended by §6 of Ordinance 114864) is hereby
22 further amended as follows:

23 **14.08.080 Unfair inducement to sell or rent--Blockbusting; Steering persons to particular**
24 **areas.**

25 ~~((No))~~ It is an unfair real estate practice for any owner, real estate agent, salesperson or
26 employee, real estate broker, or any other person, ((shall)) to, for profit:

27 A. Promote, induce or attempt to promote or induce any person to sell or rent any real
28 property by representation regarding the entry or prospective entry into the neighborhood or area
29 of a person or persons of a particular race, color, religion, ancestry, national origin, age, sex,
30 marital status, sexual orientation, parental status, political ideology, or who possess, use or
31 attempt to use a Section 8 rent certificate, or who have any sensory, mental or physical handicap,
32 or handicapped persons who use a trained guide or service dog;

33 B. Show or otherwise take any action, the design or effect of which is to steer a person
34 or persons to any section of the City or to particular real property in a manner tending to

1 segregate or maintain segregation on the basis of race, color, religion, ancestry, national origin,
2 age, sex, marital status, sexual orientation, parental status, political ideology, possession or use
3 of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the
4 use of a trained guide or service dog by a handicapped person.
5

6 Section 11. SMC 14.08.090 (as last amended by §7 of Ordinance 114864) is hereby
7 further amended as follows:

8 **14.08.090 Denial of right granted under this chapter -- Prohibited.**

9 A. ((No)) It is an unfair practice under this chapter for any person, whether or not acting
10 for profit, ((shall)) to harass, intimidate, or otherwise abuse or discriminate against any person or
11 person's friends or associates because of the race, color, religion, ancestry, national origin, age,
12 sex, marital status, sexual orientation, parental status, political ideology, possession or use of a
13 Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the use of
14 a trained guide or service dog by a handicapped person with the purpose or effect of denying to
15 such person the rights granted in this chapter or the right to quiet or peaceful possession or
16 enjoyment of any real property or the full enjoyment of any place of public accommodation.

17 B. Any unfair practice under this section which has the purpose or effect of denying a
18 person the right to be free from discrimination in real estate practices or the right to quiet or
19 peaceful possession or enjoyment of real property (other than as a place of public
20 accommodation) is an unfair real estate practice.
21

22 Section 12. Ch. 14.08 of the Seattle Municipal Code is hereby amended by the addition
23 thereto of a new section (SMC 14.08.095), as follows:

24 **14.08.095 Enforcement by private persons.**

25 A. Any person who claims to have been injured by an unfair real estate practice, or who
26 believes that he or she will be injured by an unfair real estate practice that is about to occur, may
27 commence a civil action in King County Superior Court not later than one year after the
28 occurrence or the termination of an alleged unfair real estate practice, whichever occurs last, to
29 obtain appropriate relief with respect to such unfair real estate practice.

30 B. The computation of such one year period shall not include any time during which an
31 administrative proceeding under this chapter was pending with respect to a complaint or charge
32 under this chapter alleging an unfair real estate practice based on the same facts or occurrences.

33 C. A complaint may be filed under this section whether or not an administrative charge
34 has been filed under SMC 14.08.100, and without regard to the status of such charge, but if the

1 Department or the U.S. Department of Housing and Urban Development has obtained a pre-
2 finding or post-finding settlement or conciliation agreement with the consent of the charging
3 party, no action may be filed under this section with respect to the alleged unfair real estate
4 practice which forms the basis for such complaint except for the purpose of enforcing the terms
5 of such agreement.

6 D. No civil action may be commenced under this section with respect to an alleged
7 unfair real estate practice which forms the basis of a complaint if a hearing on the record has
8 been commenced by the City of Seattle Office of the Hearing Examiner.

9 E. In a civil action under this section, if the court finds that an unfair real estate practice
10 has occurred or is about to occur, the court may grant as relief, as it deems appropriate, any
11 permanent or temporary injunction, temporary restraining order, or other order, including an
12 order enjoining the defendant from engaging in such practice or ordering such affirmative action
13 as may be appropriate. The court may also award actual damages, including damages for
14 humiliation and mental suffering, and any other appropriate remedy set forth in the Federal Fair
15 Housing Amendments Act (P.L. 100-430). The court may also allow reasonable attorney's fees
16 and costs to the prevailing party.

17 F. Relief granted under this section shall not affect any contract, sale, encumbrance, or
18 lease consummated before the granting of such relief and involving a bona fide purchaser,
19 encumbrancer, or tenant, without actual notice of the filing of a charge or civil action under this
20 chapter.

21 G. Upon timely application, the City Attorney may intervene in such civil action, if the
22 City Attorney certifies that the case is of general public importance, and may obtain such relief
23 as would be available in an action brought under SMC 14.08.165.

24
25 Section 13. SMC 14.08.100 (as last amended by §1(part) of Ordinance 109208) is
26 hereby further amended as follows:

27 **14.08.100 Charge--Filing.**

28 A. A charge alleging an unfair ((housing)) practice under this chapter shall be in writing
29 and signed under oath or affirmation by or on behalf of a charging party before the Director, one
30 of the department's employees, or any other person authorized to administer oaths ((;)). ((and))
31 The charge shall describe the unfair ((housing)) practice complained of and should include a
32 statement of the dates, places and circumstances, and the persons responsible for such acts and
33 practices. Upon the filing of a charge alleging an unfair practice, the Director shall cause to be
34

1 served upon the charging party a written notice acknowledging the filing, and notifying the
2 charging party of the time limits and choice of forums provided in this chapter.

3 ((A))B. Whenever charges are made ((by-or)) on behalf of a person claiming to be
4 aggrieved, the person making the charge must provide the Director with the name, address and
5 telephone number of the individual on whose behalf the charge is made. Thereafter, the Director
6 shall verify the authorization of such charge by the person on whose behalf the charge is made
7 and upon the request of such person may keep his or her identity confidential.

8 ((B))C. A charge shall not be rejected as insufficient because of failure to include all
9 required information so long as it substantially satisfies the informational requirements necessary
10 for processing.

11 ((C))D. A charge alleging an unfair ((housing)) practice or pattern of unfair practices
12 under this chapter may also be filed by the Director whenever the Director has reason to believe
13 that any person has been engaged or is engaging in an unfair ((housing)) practice under this
14 chapter.

15
16 Section 14. SMC 14.08.110 (as last amended by §1 of Ordinance 109208) is hereby
17 further amended as follows:

18 **14.08.110 Time for filing charges.**

19 Charges filed under this chapter must be filed with the Department within six (6) months
20 after the occurrence of the alleged unfair ((housing)) practice ((with the Department of Human
21 Rights)). For charges involving respondents who are City departments, the Department shall
22 then cause the charge to be presented to the City Council by filing a claim for damages with the
23 City Clerk.

24
25 Section 15. SMC 14.08.120 (as last amended by §3 of Ordinance 113144) is hereby
26 further amended as follows:

27 **14.08.120 Charge--Amendments.**

28 ~~((The charging party may amend a charge to cure technical defects or omissions; or to~~
29 ~~clarify and amplify allegations made therein; or to add allegations related to or arising out of the~~
30 ~~subject matter set forth, or attempted to be set forth in the original charge. For jurisdictional~~
31 ~~purposes, such amendments shall relate back to the date the original charge was first filed. The~~
32 ~~charging party may also amend a charge to include allegations of additional unrelated~~
33 ~~discriminatory acts and/or retaliation which arose after filing of the original charge. The~~
34 ~~amendment must be filed within six (6) months after the occurrence of the additional~~

1 ~~discriminatory act or retaliation and prior to the Department's issuance of findings of fact and a~~
2 ~~determination with respect to the original charge. Such amendments may be made at any time~~
3 ~~during the investigation of the original charge so long as the Director will have adequate time to~~
4 ~~investigate such additional allegations and the parties will have adequate time to present the~~
5 ~~Director with evidence concerning such allegations before the issuance of findings of fact and a~~
6 ~~determination.))~~

7 A. The charging party or the Department may amend a charge:

8 1. To cure technical defects or omissions;

9 2. To clarify allegations made in the charge;

10 3. To add allegations related to or arising out of the subject matter set forth or
11 attempted to be set forth in the charge; or

12 4. To add or substitute as a respondent a person who was not originally named as a
13 respondent, but who is, during the course of the investigation, identified as a respondent.

14 For jurisdictional purposes, such amendments shall relate back to the date the original
15 charge was first filed.

16 B. The charging party may amend a charge to include allegations of retaliation which
17 arose after the filing of the original charge. Such amendment must be filed within six (6) months
18 after the occurrence of the retaliation, and prior to the Department's issuance of findings of fact
19 and determination with respect to the original charge. Such amendments may be made at any
20 time during the investigation of the original charge so long as the Director will have adequate
21 time to investigate the additional allegations and the parties will have adequate time to present
22 the Director with evidence concerning the additional allegations before the issuance of findings
23 of fact and a determination.

24 C. When a charge is amended to add or substitute a respondent, the Director shall serve
25 upon the new respondent:

26 1. The amended charge;

27 2. The notice required under section 14.08.130 A; and

28 3. A statement of the basis for the Director's belief that the new respondent is
29 properly named as a respondent.

30 For jurisdictional purposes, amendment of a charge to add or substitute a respondent shall
31 relate back to the date the original charge was first filed.

32
33 Section 16. SMC 14.08.130 (adopted in §2 of Ordinance 109208) is hereby amended as
34 follows:

1 **14.08.130 Notice of charge and investigation.**

2 A. The Director shall promptly, and in any event within twenty (20) days of filing of the
3 charge, cause to be served on or mailed, by certified mail, return receipt requested, to the
4 respondent, a copy of the charge along with a notice advising the respondent of respondent's
5 procedural rights and obligations under this chapter (~~on the respondent within twenty (20) days~~
6 ~~after the filing of said charge and~~)). The Director shall promptly make an investigation
7 ((thereof)) of the charge.

8 B. The investigation shall be directed to ascertain the facts concerning the unfair practice
9 alleged in the charge, and shall be conducted in an objective and impartial manner.

10 C. During the investigation the Director shall consider any statement of position or
11 evidence with respect to the allegations of the charge which the charging party or the respondent
12 wishes to submit, including the respondent's answer to the charge. The Director shall have
13 authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the
14 production of evidence including but not limited to books, records, correspondence or documents
15 in the possession or under the control of the person subpoenaed, and access to evidence for the
16 purpose of examination and copying, and conduct discovery procedures which may include the
17 taking of interrogatories and oral depositions.

18 D. The Director may require a fact finding conference with the respondent and any of
19 respondent's agents and witnesses and charging party during the investigation in order to define
20 the issues, determine which elements are undisputed, resolve those issues which can be resolved,
21 and afford an opportunity to discuss or negotiate settlement. Parties may have their legal counsel
22 present if desired.

23
24 Section 17. SMC Ch. 14.08 is hereby amended by the addition of a new section, SMC
25 14.08.135, as follows:

26 **14.08.135 Procedure in cases alleging unfair real estate practices.**

27 The following procedure shall apply to the investigation of charges of unfair real estate
28 practices filed under this chapter:

29 A. A respondent may file with the Department an answer to the charge no later than ten
30 (10) days after receiving notice of the charge.

31 B. The Director shall commence investigation of the charge within thirty (30) days after
32 the filing of the charge. The investigation shall be completed within 100 days after the filing of
33 the charge, unless it is impracticable to do so. If the Director is unable to complete the
34 investigation within 100 days after the filing of the charge, the Director shall notify the charging

1 party and the respondent of the reasons therefor. The Director shall make final administrative
2 disposition of a charge within one year of the date of filing of the charge, unless it is
3 impracticable to do so. If the Director is unable to make a final administrative disposition within
4 one year of the filing of the charge, the Director shall notify the charging party and the
5 respondent of the reasons therefor.

6 C. If the Director determines that it is necessary to carry out the purposes of this
7 chapter, the Director may, in writing, request the City Attorney to seek prompt judicial action
8 for temporary or preliminary relief to enjoin any unfair real estate practice pending final
9 disposition of a charge.

10
11 Section 18. SMC 14.08.150 (adopted in §4 of Ordinance 109208) is hereby amended as
12 follows:

13 **14.08.150 Determination of no reasonable cause--Appeal from and dismissal.**

14 If a determination is made that there is no reasonable cause for believing an unfair
15 ((housing)) practice under this chapter has been committed, the charging party shall have the
16 right to appeal such determination to the Commission within thirty (30) days of the date of said
17 determination by filing a written statement of appeal with the Commission. The Commission
18 shall promptly deliver a copy of the statement to the Department and respondent and shall
19 promptly consider and act upon such appeal by either affirming the Director's determination or
20 remanding it to the Director with appropriate instructions. In the event no appeal is taken or
21 such appeal results in affirmance or if the Commission has not decided the appeal within the
22 sixty (60) days allotted, the determination of the Director shall be final and the charge deemed
23 dismissed and the same shall be entered on the records of the Department. Any party aggrieved
24 by the final dismissal may appeal the order on the record to an appropriate court.

25
26 Section 19. SMC 14.08.160 (as last amended by §18 of Ordinance 112903) is hereby
27 further amended as follows:

28 **14.08.160 Determination of reasonable cause--Conciliation and settlement.**

29 A. If a determination is made that reasonable cause exists to believe that an unfair
30 ((housing)) practice has occurred, the Director shall endeavor to eliminate the unfair practice by
31 conference, conciliation and persuasion. Conditions of settlement may include (but are not
32 limited to) the elimination of the unfair ((housing)) practice, rent refunds or credits,
33 reinstatement to tenancy, affirmative recruiting or advertising measures, payment of actual
34 damages, damages for loss of the right to be free from discrimination in real estate transactions,

1 damages for loss of the right to full enjoyment of any place of public accommodation, attorney's
2 fees or such other ((action)) remedies that which will effectuate the purposes of this chapter,
3 including action which could be ordered by a court((-)), except that in charges alleging an unfair
4 practice with respect to public accommodations, damages for humiliation and mental suffering
5 shall not exceed One Thousand Dollars (\$1,000.00) and damages for loss of the right to full
6 enjoyment of any place of public accommodation shall not exceed One Thousand Dollars
7 (\$1,000.00). In charges alleging an unfair real estate practice, filed under this chapter, the
8 Director may also require payment of a civil penalty, as set forth in SMC 14.08.185. ((except
9 that damages for humiliation and mental suffering in cases of discrimination shall not exceed One
10 Thousand dollars (\$1,000.00). Further, up to one Thousand Dollars (\$1,000.00) may be
11 awarded for loss of the right to ((be free from discrimination in real estate transactions.))

12 B. Any settlement or conciliation agreement shall be ((reduced to writing and signed by
13 the Director and the respondent)) an agreement between the charging party and the respondent
14 and shall be subject to the approval of the Director. An order shall then be entered by the
15 Director setting forth the terms of the agreement. Copies of such order shall be delivered to all
16 affected parties. The conciliation agreement shall be made public unless the complainant and the
17 respondent otherwise agree and the Director determines that disclosure is not required to further
18 the purposes of this chapter. ((If no agreement can be reached, a finding to that effect shall be
19 made and reduced to writing, with a copy thereof furnished to the charging party and the
20 respondent.))

21 ((B))C. If conciliation is not successful and no agreement can be reached, the Director
22 shall issue a written finding to that effect and furnish a copy of the finding to the charging party
23 and to the respondent. ((In case of failure to reach an agreement and of conciliation and upon a
24 written finding to that effect furnished to the charging party and respondent)) Upon issuance of
25 the finding, except a case in which a City department is a respondent, the Director shall
26 promptly cause to be delivered the entire investigatory file, including the charge and any and all
27 findings made, to the City Attorney for further proceedings and hearing under this chapter
28 pursuant to Section 14.08.170.

29
30 Section 20. SMC Ch. 14.08 is hereby amended by the addition of a new section, SMC
31 14.08.165, as follows:

32 **14.08.165 Election of civil action in cases of unfair real estate practices.**

33 A. Following the issuance of a finding of unsuccessful conciliation, any charging party
34 on whose behalf the reasonable cause finding was made, or a respondent, may, with respect to

1 an unfair real estate practice, elect to have the claims on which reasonable cause was found
2 decided in a civil action under this section in lieu of an administrative hearing under SMC
3 14.08.170 and 14.08.180. This election must be made not later than twenty days after issuance
4 of the finding of unsuccessful conciliation. The person making such election shall give notice of
5 doing so to the Department and to all other charging parties and respondents to whom the charge
6 relates.

7 B. If an election is made under subsection A of this section, the City Attorney shall
8 commence, within thirty days after the election is made, a civil action in the King County
9 Superior Court to decide on the claim.

10 C. Any aggrieved person may intervene as of right in the civil action. For purposes of
11 this subsection, "aggrieved person" means a person who claims to have been injured by, or
12 believes that he or she will be injured by, an unfair real estate practice that is the subject matter
13 of the civil action.

14 D. In a civil action under this section, if the court finds that an unfair real estate practice
15 has occurred or is about to occur, the court may grant any relief including but not limited to
16 actual damages, injunctive or equitable relief, and any other appropriate remedy set forth in the
17 Federal Fair Housing Amendments Act (P.L. 100-430). The court may also assess a civil
18 penalty as set forth in SMC 14.08.185. If monetary relief is sought for the benefit of a person
19 who could have intervened under subsection C of this section, but who did not intervene in the
20 civil action, the court shall not award such relief if that person has not complied with discovery
21 orders entered by the court.

22 E. In any proceeding under this section, the court may award attorney fees and costs to
23 the prevailing party. Attorney fees and costs may be assessed against a person who intervenes by
24 filing a notice of independent appearance in the civil action only to the extent that the intervening
25 participation was frivolous or vexatious, or was for the purpose of harassment.

26
27 Section 21. SMC 14.08.170 (adopted in §6 of Ordinance 109208) is hereby amended as
28 follows:

29 A. Following submission of the investigatory file from the Director, the City Attorney
30 shall, except as set forth in subsection B of this section, prepare a complaint against such
31 respondent relating to the charge and facts discovered during the investigation thereof and
32 prosecute the same in the name and on behalf of the Department and the City at a hearing
33 therefor before the Hearing Examiner sitting alone or with representatives of the Commission as
34

1 provided in this chapter and to appear for and represent the interests of the Department and the
2 City at all subsequent proceedings.

3 B. ~~((Provided, -i))~~ If the City Attorney determines that there is no legal basis for a
4 complaint to be filed or proceedings to continue, a statement of the reasons therefor shall be filed
5 with the Department ~~((, -charging party and the respondent))~~. The Director shall then dismiss the
6 charge. Any party aggrieved by the dismissal may appeal the dismissal to an appropriate court.

7 ~~((B-))~~ C. The complaint shall be served on respondent in the usual manner provided by
8 law for service of complaints and filed with the Seattle Hearing Examiner. A copy of such
9 complaint shall be furnished charging party.

10 ~~((C-))~~ D. Within twenty (20) days of the service of such complaint upon it, the
11 respondent shall file its answer with the Hearing Examiner and serve a copy of the same on the
12 City Attorney.

13 ~~((D-))~~ E. Upon the filing of the complaint, the Hearing Examiner shall promptly
14 establish a date for the hearing of such complaint and give notice thereof to the Commission, the
15 City Attorney, and respondent, and shall thereafter hold a public hearing on the complaint,
16 which hearing shall commence no earlier than ninety (90) days nor later than one hundred twenty
17 (120) days from the filing of the complaint, unless otherwise ordered by the Hearing Examiner.

18 ~~((E-))~~ F. After the filing of a complaint with the Hearing Examiner, it may be amended
19 only with the permission of the Hearing Examiner, which permission shall be granted when
20 justice will be served thereby and all parties are allowed time to prepare their case with respect
21 to additional or expanded charges which they did not and could not have reasonably foreseen
22 would be in issue at the hearing.

23 ~~((F-))~~ G. The hearing shall be conducted by a Hearing Examiner from the Office of
24 Hearing Examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from
25 a list approved by the Commission, sitting alone or with representatives of the Commission if
26 any are designated. Such hearings shall be conducted in accordance with written rules and
27 procedures consistent with this chapter and the Administrative Code of the City (Ordinance
28 102228).

29 ~~((G-))~~ H. The Commission, within thirty (30) days after notice of the date of hearing
30 from the Hearing Examiner, at its discretion, may appoint two (2) of its members who have not
31 otherwise been involved in the charge, investigation, fact finding, or other resolution and
32 proceeding on the merits of the case, who have not formed an opinion on the merits of the case,
33 and who otherwise have no pecuniary, private, or personal interest or bias in the matter, to hear
34 the case with the Hearing Examiner. If the Commission has designated representatives they shall

1 each have an equal vote with the Hearing Examiner, except the Hearing Examiner shall be the
2 chairperson of the panel and make all evidentiary rulings. Should a question arise as to previous
3 involvement, interest or bias of an appointed Commissioner, the Hearing Examiner shall resolve
4 the issue in conformance with the law on the subject. Any reference in this Chapter to a
5 decision, order, or other action of a Hearing Examiner shall include, when applicable, the
6 decision, order, or other action of a panel constituted under this subsection.
7

8 Section 22. SMC 14.08.180 (as last amended by §6 of Ordinance 113610) is hereby
9 further amended as follows:

10 **14.08.180 Decision and order.**

11 A. Within thirty (30) days after conclusion of the hearing, the Hearing Examiner
12 presiding at the hearing (or the Examiner and Commissioners as the case may be) shall prepare a
13 written decision and order. The final decision shall be filed as a public record with the City
14 Clerk, and copies thereof mailed to each party of record and to the Department.

15 B. Such decision shall contain a brief summary of the evidence considered and shall
16 contain findings of fact, conclusions of law upon which the decision is based, and an order
17 detailing the relief deemed appropriate, together with a brief statement of the reasons therefor.

18 C. In the event the Hearing Examiner (or a majority of the panel composed of the
19 Examiner and Commissioners), determines that a respondent has committed an unfair practice
20 under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take
21 such affirmative action or provide for such relief as is deemed necessary to correct the practice,
22 effectuate the purpose of this chapter, and secure compliance therewith, including but not limited
23 to, rent refund, or credit, reinstatement to tenancy, affirmative recruiting and advertising
24 measures, attorney's fees, or to take such other action as in the judgment of the Hearing
25 Examiner (or panel majority) will effectuate the purposes of this chapter. The Hearing Examiner
26 (or panel majority) may grant any relief that could be ordered by a court, including ((action
27 which could be ordered by a court)) actual damages, damages for loss of the right to be free
28 from discrimination in real estate transactions, damages for loss of the right to full enjoyment of
29 any place of public accommodation, injunctive or equitable relief, any other appropriate remedy
30 set forth in the Federal Fair Housing Amendments Act (P.L. 100-430), and assessment of civil
31 penalties as set forth in smc 14.08.185, except that in charges alleging an unfair practice with
32 respect to public accommodations, damages for humiliation and mental suffering shall not exceed
33 One Thousand Dollars (\$1,000.00) and damages for loss of the right to full enjoyment of any
34 place of public accommodation shall not exceed One Thousand Dollars (\$1,000.00). ((Further,

1 up to One Thousand Dollars (\$1,000.00) may be awarded for loss of the right to be free from
2 discrimination in real estate transactions or the right to full enjoyment of any place of public
3 accommodation;)) An order may include the requirement for a report on the matter of
4 compliance.

5 D. ~~((In the event the respondent refuses or fails to comply with any order of the
6 Director, the Director shall notify the City Attorney, who shall invoke the aid of the appropriate
7 court to secure enforcement or compliance with the order, or to impose the penalties as set forth
8 in this chapter, or both; provided that in any case in which the order is directed to the City, or to
9 any department, division, board, or agency thereof, a copy of such order shall be transmitted to
10 the Mayor who shall take appropriate action to secure compliance therewith.))~~ Any person
11 aggrieved by a final order of the Hearing Examiner (or panel majority) may appeal the order on
12 the record to an appropriate court.

13 E. The Department in the performance of its functions may enlist the aid of all
14 departments of City government, and all said departments are directed to fully cooperate
15 therewith.

16
17 Section 23. SMC Ch. 14.08 is hereby amended by the addition of a new section, SMC
18 14.08.185, as follows:

19 **14.08.185 Civil penalty in cases alleging unfair real estate practices.**

20 A. In cases alleging unfair real estate practices filed under this chapter, in addition to
21 any other award of damages or grant of injunctive relief, a civil penalty may be assessed against
22 the respondent. Payment of the civil penalty may be required as a term of a conciliation
23 agreement entered into under SMC 14.08.160 A, or may be ordered by the Hearing Examiner (or
24 panel majority) in a decision rendered under SMC 14.08.180 or by a court of competent
25 jurisdiction in a proceeding filed under SMC 14.08.165.

26 B. The civil penalty assessed against a respondent shall not exceed the following
27 amounts:

- 28 1. Ten Thousand Dollars (\$10,000.00) if the respondent has not been determined to
29 have committed any prior unfair real estate practice;
- 30 2. Twenty-Five Thousand Dollars (\$25,000.00) if the respondent has been
31 determined to have committed one other unfair real estate practice during the five-year period
32 ending on the date of the filing of this charge; or
33
34

1 3. Fifty Thousand Dollars (\$50,000.00) if the respondent has been determined to
2 have committed two or more unfair real estate practices during the seven-year period ending on
3 the date of the filing of this charge;
4 except that if the acts constituting the unfair real estate practice that is the subject of the charge
5 are committed by the same natural person who has been previously determined to have
6 committed acts constituting an unfair real estate practice, then the civil penalties set forth in
7 subparagraphs 2 and 3 may be imposed without regard to the period of time within which those
8 prior acts occurred. For purposes of this section, "unfair real estate practice" shall include,
9 without limitation, any violation of SMC sections 14.08.040 A or B; 14.08.050; 14.08.060;
10 14.08.070 A or B; or 14.08.080; as in effect at the time of the violation, whether or not the
11 violation was then deemed an "unfair real estate practice" under such section.
12

13 Section 24. SMC Ch. 14.08 is hereby amended by the addition of a new section, SMC
14 14.08.187, as follows:

15 **14.08.187 Enforcement of administrative orders.**

16 A. In any case in which a final order of the Director or of the Hearing Examiner
17 directed to the City, or to any department, division, board or agency thereof, is not complied
18 with, a copy of the order shall be transmitted to the Mayor, who shall take appropriate action to
19 secure compliance therewith.

20 B. In the event that any final order of the Director or of the Hearing Examiner not
21 directed to the City, or to any department, division, board, or agency thereof, is not complied
22 with, the Director or the Hearing Examiner, as the case may be, shall notify the City Attorney,
23 who shall petition the appropriate court to secure enforcement of or compliance with the order,
24 or to impose penalties as set forth in this chapter, or both. The City Attorney shall certify and
25 file with the court the final order sought to be enforced. The City Attorney shall cause a notice
26 of the petition to be sent by certified mail to all parties or their representatives.

27 C. If, within sixty (60) days after the date the Hearing Examiner's order concerning an
28 unfair housing practice is entered, no petition has been filed under subsection B of this section,
29 any person entitled to relief under the final order may petition the superior court for a decree
30 enforcing the order.
31

32 Section 25. SMC 14.08.190 E (as last amended by §8 of Ordinance 114864) is hereby
33 further amended as follows:
34

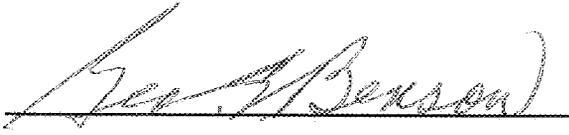
1 E. Prohibit any person from limiting the rental or occupancy of housing
2 accommodations to persons who are elderly or handicapped in any housing facility designed,
3 constructed or substantially rehabilitated and operated exclusively for ~~((the elderly))~~ older
4 persons, as defined by the Federal Fair Housing Act, as amended, 42 U.S.C. Sec. 3607 (b)(1)
5 through (4) as of the effective date of this ordinance, or for the handicapped;
6

7 Section 26. If any clause, sentence, paragraph, or part of this chapter, or the application
8 thereof to any person or circumstances, shall for any reason be adjudged by a court of competent
9 jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of
10 this chapter, or its application to other parties or circumstances.
11

12 Section 27. The provisions of this ordinance shall not be construed to impair any
13 proceedings or remedies for violations of SMC Chapter 14.08 occurring prior to the effective
14 date of this ordinance. The procedural amendments effected by this ordinance shall apply to any
15 matter in which a complaint has not been filed with a court or Hearing Examiner prior to the
16 effective date of this ordinance. For purposes of the procedural provisions of SMC Chapter
17 14.08, as amended hereby, any violation of SMC sections 14.08.040 A or B; 14.08.050;
18 14.08.060; 14.08.070 A or B; or 14.08.080; as in effect prior to the effective date of this
19 ordinance shall be considered an unfair real estate practice. To the extent that any provision of
20 this ordinance is substantially the same as a provision of SMC Chapter 14.08 existing at the time
21 of enactment of this ordinance, such provision shall be construed as a continuation of the
22 previously existing provision.
23

24 Section 28. This ordinance shall take effect and be in force thirty days from and after its
25 passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall
26 become a law under the provisions of the City Charter.

27 Passed by the City Council the 16th day of August,
28 1993, and signed by me in open session in authentication of its passage this 16th day of
29 August, 1993.

30
31 
32 _____
33 President of the City Council
34

1 Approved by me this 23^d day of August, 1993.

2 Norman B. Rice

3 Norman B. Rice, Mayor

4
5
6 Filed by me this 23rd day of August, 1993.

7
8 By: Margaret Carter

9 Deputy Clerk

10 [SEAL]

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12 Published _____

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terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) UNRESOLVED ISSUES.—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement of this joint resolution, on request of either party to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) APPOINTMENT OF ARBITRATION BOARD.—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) CONDUCT OF ARBITRATION BOARD.—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railway Labor Act (45 U.S.C. 157).

(d) ENFORCEMENT AND REVIEW OF ARBITRATION AWARD.—The arbitration award shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

(e) JURISDICTION FOR JUDICIAL REVIEW OF ARBITRATION AWARD.—The United States District Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

Approved September 9, 1988.

Courts, U.S. Illinois.

LEGISLATIVE HISTORY—S.J. Res. 374:

CONGRESSIONAL RECORD, Vol. 134 (1988): Sept. 8, considered and passed Senate.

Sept. 9, considered and passed House.

PUBLIC LAW 100-430 (H.R. 1158); September 13, 1988

FAIR HOUSING AMENDMENTS ACT OF 1988

For Legislative History of Act, see p. 2173.

An Act to amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'".

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"Sec. 800. This title may be cited as the 'Fair Housing Act'."

Fair Housing Act

42 USC 3601

note.

42 USC 3602

note.

42 USC 3601

note.

42 USC 3602

FAIR HOUSING AMENDMENTS ACT

Sept. 13

"(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

"(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

- "(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
- "(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- "(iii) all premises within such dwellings contain the following features of adaptive design:

- "(I) an accessible route into and through the dwelling;
- "(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- "(III) reinforcements in bathroom walls to allow later installation of grab bars; and
- "(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANSI A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

State and local governments

"(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

"(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

"(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

"(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

State and local governments

"(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to

LAW OF 100th CONG.—2nd SESS.

Sept. 13

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(g) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals (who have not attained the age of 18 years) being domiciled with—

- "(1) a parent or another person having legal custody of such individual or individuals; or
- "(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"(h) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

- "(1) the person or other entity accused in a complaint of an unfair housing practice; and
- "(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988)."

Handicapped persons
42 USC 3604.

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) ADDITIONAL DISCRIMINATORY HOUSING PRACTICES.—Section 804 is amended by adding at the end the following:

"(X1) To 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—

- "(A) that buyer or renter,
- "(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- "(C) any person associated with that buyer or renter.

"(2) 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 with such dwelling, because of a handicap of—

- "(A) that person; or
- "(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
- "(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises-occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

(1) by inserting "(a)" after "Sec. 807."; and
(2) by adding at the end of such section the following:
"(b)(1) Nothing in this title limits the applicability of any reasonable local State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.
(2) As used in this section, 'housing for older persons' means housing—
(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
(B) intended for, and solely occupied by, persons 62 years of age or older; or
(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:
(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and
(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:
(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C); *Provided*, That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or
(B) unoccupied units; *Provided*, That such units are reserved for occupants (2) (B) or (C).
(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)."
(5) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

Regulations
Aged persons

Aged persons

Drugs and drug abuse

42 USC 3604

42 USC 3608

receive and process complaints or otherwise engage in enforcement activities under this title.
(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.
(7) As used in this subsection, the term 'covered multifamily dwellings' means—
(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and
(B) ground floor units in other buildings consisting of 4 or more units.
(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.
(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others."
(b) ADDITIONAL PROTECTED CLASSES.—(1) Section 806 and subsections (c), (d) and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.
(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.
(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.
(c) DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

"SEC. 805. (a) IN GENERAL.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.
(b) DEFINITION.—As used in this section, the term 'residential real estate-related transaction' means any of the following:
(1) The making or purchasing of loans or providing other financial assistance—
(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
(B) secured by residential real estate.
(2) The selling, brokering, or appraising of residential real property.
(c) APPRAISAL EXEMPTION.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.
(d) ADDITIONAL EXEMPTION.—Section 807 is amended—

State and local governments

Public health and safety

42 USC 3606

42 USC 3602 note

42 USC 3605

42 USC 3607

receive and process complaints or otherwise engage in enforcement activities under this title.
(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.
(7) As used in this subsection, the term 'covered multifamily dwellings' means—
(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and
(B) ground floor units in other buildings consisting of 4 or more units.
(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.
(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others."
(b) ADDITIONAL PROTECTED CLASSES.—(1) Section 806 and subsections (c), (d) and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.
(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.
(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.
(c) DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.—Section 805 is amended to read as follows:

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(b) DEFINITION.—As used in this section, the term 'residential real estate-related transaction' means any of the following:
(1) The making or purchasing of loans or providing other financial assistance—
(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
(B) secured by residential real estate.
(2) The selling, brokering, or appraising of residential real property.
(c) APPRAISAL EXEMPTION.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.
(d) ADDITIONAL EXEMPTION.—Section 807 is amended—

State and local governments

Public health and safety

42 USC 3606

42 USC 3602 note

42 USC 3605

42 USC 3607

(b) ADDITIONAL FUNCTIONS OF SECRETARY.—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end, the following: “, including an annual report to the Congress—

“(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

“(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

“(i) investigations are not completed as required by section 810(a)(1)(B);

“(ii) determinations are not made within the time specified in section 810(g); and

“(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g);

(B) by striking out “, and” at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”; and

(D) by adding at the end, the following:

“(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).”

(2) Section 808 is amended by adding at the end the following:

“(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

“(1) title VI of the Civil Rights Act of 1964;

“(2) title VIII of the Civil Rights Act of 1968;

“(3) section 504 of the Rehabilitation Act of 1973;

“(4) the Age Discrimination Act of 1975;

“(5) the Equal Credit Opportunity Act;

“(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

“(7) section 8(a) of the Small Business Act;

“(8) section 527 of the National Housing Act;

“(9) section 109 of the Housing and Community Development Act of 1974;

“(10) section 3 of the Housing and Urban Development Act of 1968;

“(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

“(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.”

Reports.
Public
Information.
Records.

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended—

(1) by redesignating sections 815 through 819 as sections 816 through 820, respectively; and

(2) by striking out sections 810 through 813 and inserting in lieu thereof the following:

“ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

“SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary’s own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

(B) Upon the filing of such a complaint—

(i) the Secretary shall serve notice upon the aggrieved person of acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (X)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (X)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(E)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary’s belief that the person to whom the notice is addressed is properly joined as a respondent.

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dependent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

"(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

"(A) within the jurisdiction of a State or local public agency; and

"(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

"(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

"(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

"(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

"(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

"(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

"(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

"(ii) the procedures followed by such agency; and

"(iii) the remedies available to such agency; and

"(iv) the availability of judicial review of such agency's action; are substantially equivalent to those created by and under this title.

"(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

"(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

"(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

"(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) The Secretary shall, within 100 days after the filing of the complaint (or when the Secretary takes further action under subsection (k)(2) with

Contracts.

"(b) INVESTIGATIVE REPORT AND CONCILIATION.—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

"(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

"(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

"(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

Reports.

"(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

"(i) the names and dates of contacts with witnesses;

"(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

"(iii) a summary description of other pertinent records; and

"(iv) a summary of witness statements; and

"(v) answers to interrogatories.

"(B) A final report under this paragraph may be amended if additional evidence is later discovered.

"(c) FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

"(d) PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OR INFORMATION.—(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

"(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

"(e) PROMPT JUDICIAL ACTION.—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

"(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any

"(b) **Witness Fees.**—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

Records.

"(c) **CRIMINAL PENALTIES.**—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

"(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

"(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

"(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

"(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

42 USC 3612

"ENFORCEMENT BY SECRETARY

"Sec. 812. (a) **ELECTION OR JUDICIAL DETERMINATION.**—When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (c) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

"(b) **ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.**—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

"(c) **RIGHTS OF PARTIES.**—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

"(d) **EXEMPTED. DISCOVERY AND HEARING.**—(1) Discovery in administrative proceedings under this section shall be conducted as

respect to a complaint, within 100 days after the commencement of such further action, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (k)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

"(B) Such charge—

"(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

"(ii) shall be based on the final investigative report; and

"(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

"(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

Public information.

"(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

"(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(h) **SERVER OF COPIES OR CHARGE.**—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

"(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

"(2) on each aggrieved person on whose behalf the complaint was filed.

"SUBPOENAS; GIVING OF EVIDENCE

"Sec. 811. (a) **IN GENERAL.**—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

without regard to the period of time within which any subsequent discriminatory housing practice occurred.

"(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

"(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

"(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and
"(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

"(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

"(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

"(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

"(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

"(i) JUDICIAL REVIEW.—(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

"(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

"(g) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

"(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

"(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

"(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

"(e) RESOLUTION OF CHARGE.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

"(f) EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(g) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

"(A) in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

"(B) in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

"(C) in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge.

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed

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for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees.—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

"ENFORCEMENT BY PRIVATE PERSONS

"Sec. 813. (a) Civil Action.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) APPOINTMENT OF ATTORNEY BY COURT.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

(1) appoint an attorney for such person; or
(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(c) RELIEF WHICH MAY BE GRANTED.—(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging

(k) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (i) or (j), the court may—

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(4) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

(1) which is filed by the Secretary under subsection (j) after the end of such day; or

(2) under subsection (m).

(m) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought

against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title.

"(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and
"(C) may, to vindicate the public interest, assess a civil penalty against the respondent—
"(i) in an amount not exceeding \$50,000, for a first violation; and
"(ii) in an amount not exceeding \$100,000, for any subsequent violation.

"(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

"(e) INTERVENTION IN CIVIL ACTIONS.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

"RULES TO IMPLEMENT TITLE

"Sec. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section. 42 USC 3614a. Public information.

SEC. 9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting "handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), after "sex" each place it appears. 42 USC 3631.

SEC. 10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof. 42 USC 3617.

SEC. 11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE, IS AMENDED—
(a) JURISDICTION.—Section 2342 of title 28, United States Code, is amended—

- (1) by striking out "and" at the end of paragraph (4);
- (2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and
- (3) by inserting after paragraph (5) but before the matter beginning "jurisdiction is invoked" the following:
"(6) all final orders under section 812 of the Fair Housing Act."

(b) DEFINITION.—Section 2341(3) of title 28, United States Code, is amended—

- (1) by striking out "and" at the end of subparagraph (B);
- (2) by striking out the period at the end of subparagraph (C) and inserting "; and" in lieu thereof; and
- (3) by adding at the end the following:

in such practice or ordering such affirmative action as may be appropriate.

"(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.
"(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"ENFORCEMENT BY THE ATTORNEY GENERAL

"SEC. 814. (a) PATTERN OR PRACTICE CASES.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

"(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

"(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(d) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (a) AND (b).—(1) In a civil action under subsection (a) or (b), the court—

- "(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order

PART 115—CERTIFICATION OF SUBSTANTIALLY EQUIVALENT AGENCIES

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CFR Title 24, Part 115

[Revised 54 Fed. Reg. 3311, eff. 3-12-89]

Authority: Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3600-3620); sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)).

§ 115.1 Purpose.

(a) Section 810(f) of the Fair Housing Act, (The Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (the Act)) provides that: whenever a complaint alleges a discriminatory housing practice within the jurisdiction of a State or local public agency that has been certified by the Secretary as substantially equivalent, the Secretary shall refer the complaint to that certified agency before taking any action with respect to the complaint. Except with the consent of the certified agency, the Secretary, after referral is made, shall take no further action with respect to the complaint unless:

- (1) The certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of referral;
- (2) The certified agency, having commenced proceedings, fails to carry forward proceedings with reasonable promptness; or
- (3) The Secretary determines that the certified agency no longer qualifies for certification.

The Secretary has delegated the exercise of functions and duties under section 810(f) of the Act to the Assistant Secretary for Fair Housing and Equal Opportunity (the Assistant Secretary).

(b) The purpose of this part is to set forth:

- (1) The basis for agency certification.
- (2) The procedure by which a determination to certify is made by the Assistant Secretary.
- (3) The basis and procedure for withdrawal of certification.
- (4) The consequences of certification.

§ 115.2 Basis of determination.

A determination to certify an agency as substantially equivalent involves a two-phase procedure. The determination requires examination and an affirmative conclusion by the Assistant Secretary on two separate inquiries:

- (a) Whether the law, administered by the agency, on its face, provides that:
 - (1) The substantive rights protected by the agency in the jurisdiction with respect to which certification is to be made;
 - (2) The procedures followed by the agency;
 - (3) The remedies available to the agency; and
 - (4) The availability of judicial review of the agency's actions;

Are Substantially substantively equivalent to those created by and under the act; and

(b) Whether the current practices and past performance of the agency demonstrate that, in operation, the law in fact provides rights and remedies which are substantially equivalent to those provided in the Act.

¶ 4251.33 § 115.3 Criteria for adequacy of law.

(a) In order for a determination to be made that a State or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law or ordinance must:

(1) Provide for an administrative enforcement body to receive and process complaints and provide that:

(i) Complaints must be in writing;

(ii) Upon the filing of a complaint the agency shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law;

(iii) Upon the filing of a complaint the agency shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her procedural rights and obligations under the law or ordinance together with a copy of the complaint;

(iv) A respondent may file an answer to a complaint.

(2) Delegate to the administrative enforcement body comprehensive authority, including subpoena power, to investigate the allegations of complaints, and power to conciliate complaint matters, and require that:

(i) The agency commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint;

(ii) The agency investigate the allegations of the complaint and complete the investigation in no more than 100 days after receipt of the complaint, unless it is impracticable.

(iii) If the agency is unable to complete the investigation within 100 days it shall notify the complainant and respondent in writing of the reasons for not doing so;

(iv) The agency make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the agency is unable to do so it shall notify the complainant and respondent, in writing, of the reasons for not doing so;

(v) Any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent and the complainant and shall be subject to the approval of the agency;

(vi) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the agency determines that disclosure is not required to further the purposes of the law or ordinance.

(3) Not place any excessive burdens on the complainant that might discourage the filing of complaints, such as:

(i) A provision that a complaint must be filed within any period of time less than 180 days after an alleged discriminatory housing practice has occurred or terminated;

(ii) Anti-testing provisions;

(iii) Provisions that could subject a complainant to costs, criminal penalties or fees in connection with filing of complaints.

(4) Not contain exemptions that substantially reduce the coverage of housing accommodations as compared to Section 803 of the Act (which provides coverage with respect to all dwellings except, under certain circumstances, single family homes sold or rented by the owner and units in owner-occupied dwellings containing living quarters for no more than four families).

(5) Be sufficiently comprehensive in its prohibitions to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., prohibit the following acts:

(i) Refusal to sell or rent based on discrimination because of race, color, religion, sex, familial status, or national origin;

(ii) Refusal to negotiate for a sale or rental based on discrimination because of race, color, religion, sex, familial status, or national origin;

(iii) Otherwise making unavailable or denying a dwelling based on discrimination because of race, color, religion, sex, familial status, or national origin;

(iv) Discriminating in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, based on discrimination because of race, color, religion, sex, familial status, or national origin;

(v) Advertising in a manner that indicates any preference, limitation, or discrimination because of race, color, religion, sex, familial status, or national origin;

(vi) Falsely representing that a dwelling is not available for inspection, sale, or rental because of discrimination because of race, color, religion, sex, familial status, or national origin;

(vii) Coercion, intimidation, threats, or interference with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise of enjoyment of any right granted or protected by section 803, 804, 805, or 806 of the Act;

(viii) Blockbusting based on representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, or national origin;

(ix) Discrimination in residential real estate-related transactions by providing that: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, familial status, or national origin. Such transactions include:

(A) The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling, or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate; or

(B) The selling, brokering, or appraising of residential real property;

(x) Denying a person access to, or membership or participation in, a multiple listing service, real estate brokers' organization, or other service because of race, color, religion, sex, familial status or national origin.

(b) In addition to the factors described in paragraph (a) of this section, the provisions of the State or local law must afford administrative and judicial protection and enforcement of the rights embodied in the law.

(1) The agency must have authority to:

(i) Seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if the agency concludes that such action is necessary to carry out the purposes of the law or ordinance;

(ii) Issue subpoenas;

(iii) Grant actual damages or arrange to have adjudicated in court at agency expense the award of actual damages to an aggrieved person;

(iv) Grant injunctive or other equitable relief, or be specifically authorized to seek such relief in a court of competent jurisdiction.

(v) Assess a civil penalty against the respondent, or arrange to have adjudicated in court at agency expense the award of punitive damages against the respondent.

(2) Agency actions must be subject to judicial review upon application by any party aggrieved by a final agency order.

(3) Judicial review of a final agency order must be in a court with authority to grant to the petitioner, or to any other party, such temporary relief, restraining order, or other order as the court determines is just and proper; affirm, modify, or set aside, in whole or in part,

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the order, or remand the order for further proceedings; and enforce the order to the extent that the order is affirmed or modified.

(c) The requirement that the State or local law prohibit discrimination on the basis of familial status does not require that the State or local law limit the applicability of any reasonable local State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(d) The State or local law may assure that no prohibition based on discrimination because of familial status applies to housing for older persons substantially as described in Part 100, Subpart E.

(e) A determination of the adequacy of a State or local fair housing law "on its face" is intended to focus on the meaning and intent of the text of the law, as distinguished from the effectiveness of its administration. Accordingly, this determination is not limited to an analysis of the literal text of the law but must take into account all relevant matters of State or local law, e.g., regulations, directives and rules of procedure, or interpretations of the fair housing law by competent authorities, as may be necessary.

(f) A law will be held to be not adequate "on its face" if it permits any of the agency's decision making authority to be contracted out or delegated to a non-governmental authority. For the purposes of this paragraph, "decision making authority" shall include:

- (1) acceptance of the complaint;
 - (2) Approval of the conciliation agreement;
 - (3) Dismissal of a complaint;
 - (4) Any action specified in Section 115.3(a)(2)(iv) or 115.3(b)(1).
- (g) The State or local law must provide for civil enforcement of the law or ordinance by an aggrieved person by the commencement of an action in an appropriate court not less than 1 year after the occurrence or termination of an alleged discriminatory housing practice. The court should be empowered to:
- (1) Award the plaintiff actual and punitive damages;
 - (2) Grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order;
 - (3) Allow reasonable attorney's fees and costs.

§ 115.3a Criteria for adequacy of law—discrimination because of handicap.

(a) In addition to the provisions of § 115.3, in order for a determination to be made that a State or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices, based on handicap, that are substantially equivalent to those provided in the Act, the law or ordinance must be sufficiently comprehensive in its prohibitions to be an effective instrument in carrying out and achieving the intent and purposes of the Act, i.e., it must prohibit the following acts:

- (1) Advertising in a manner that indicates any preference, limitation, or discrimination because of handicap;
- (2) Falsely representing that a dwelling is not available for inspection, sale, or rental based on discrimination because of handicap;
- (3) Blockbusting, based on representations regarding the entry or prospective entry into the neighborhood of a person or persons with a particular handicap;
- (4) Discrimination in residential real estate-related transactions by providing that: It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms and conditions of such a transaction, because of handicap. Residential and real estate-related transactions include:

(i) The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate, or

(ii) The selling, brokering, or appraising of residential real property;

(5) Denying a person access to, or membership or participation in, multiple listing services, real estate brokers' organizations, or other services because of handicap;

(6) Discrimination in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of a handicap of that buyer or renter, or of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available, or of any person associated with the buyer or renter;

(7) Discrimination 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 with the dwelling, because of a handicap of that person, of a person residing in or intending to reside in the dwelling after it is sold, rented, or made available, or of any person associated with that person.

(b) For purposes of this section, discrimination includes—

(1) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling; or

(3) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that—

- (i) The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;
- (ii) With respect to dwellings with a building entrance on an accessible route—
 - (A) The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;
 - (B) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(C) All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(c) The law or ordinance administered by the State or local fair housing agency may provide that compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1-1986") suffices to satisfy the requirements of paragraph (b)(3)(i)(C) of this section.

(d) As used in this section, the term "covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

§ 115.4 Performance standards.

(a) The initial and continued certification that a State or local fair housing law provides rights and remedies substantially equivalent to those provided in the Act will be dependent upon an assessment of the current practices and past performance of the appropriate State or local agency charged with administration and enforcement of the law to determine that, in operation, the law is in fact providing substantially equivalent rights and remedies. The performance standards set forth in paragraph (b) of this section will be used in making this assessment.

Chapter 14.08
UNFAIR HOUSING PRACTICES^{1, 2}

Sections:

- 14.08.010 Short title and purposes.
- 14.08.020 Definitions.
- 14.08.030 Unfair practices forbidden.
- 14.08.040 Unfair practices—Generally.
- 14.08.050 Refusal or failure to list or show property.
- 14.08.060 Discrimination in application for financial assistance.
- 14.08.070 Unfair inquiries, advertisements or harassment.
- 14.08.080 Unfair inducement to sell or rent—Steering persons to particular areas.
- 14.08.090 Denial of right granted under this chapter—Prohibited.
- 14.08.100 Charge—Filing.
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- 14.08.180 Decision and order.
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- 14.08.200 Unlawful conduct and penalties.
- 14.08.205 Construction with other laws.
- 14.08.210 Cooperative agreements.
- 14.08.215 Application to pending charges and complaints.

Statutory Reference: For comparable statutory provisions on housing discrimination, see RCW 49.60.222 et seq.

1. Cross-reference: For provisions regarding the duties of owners and tenants, see Chapter 22.206 of this Code.

Severability: If any clause, sentence, paragraph, or part of this chapter, or the application thereof to any person or circumstances, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this chapter.
(Ord. 113610 § 8, 1987; Ord. 109208 § 13, 1980.)

2. Editor's Note: The marital status anti-discrimination provisions of SMC Chapters 14.04 and 14.08 applicable to employee health insurance issues have been suspended until March 1, 1990; the City is awaiting a response from the U.S. Commissioner of Internal Revenue on certain questions regarding the income tax implications of compliance with such provisions.



14.08.010 Short title and purposes.

A. This chapter shall be known as and may be cited as the "Open Housing and Public Accommodations Ordinance." The general purposes of this chapter are to promote the availability and accessibility of housing and real property to all persons; to prohibit discriminatory practices in real property transactions, whether direct or indirect, which inexcusably and unjustifiably deny those persons equal rights and opportunities in acquiring or disposing of real property; to assure all persons equal opportunity to the full enjoyment of places of public accommodation; to eliminate and to prevent unlawful discrimination in places of public accommodation; to provide enforcement mechanisms for the accomplishment of such purposes; and to these ends the provisions of this chapter shall be liberally construed. The role of the Human Rights Department is to enforce the provisions of this chapter in furtherance of this policy.

B. This chapter shall not be construed to endorse specific beliefs, practices or lifestyles.

C. Nothing in this chapter shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

D. To avoid duplication of efforts or otherwise conserve agency resources, the Director may suspend or close a case for any reason consistent with this chapter, including the reason that the case is being actively pursued in another forum.

E. Remedies under this chapter should include such relief authorized by law as may be appropriate and reasonable to make the aggrieved person whole and eliminate the unfair practice.

F. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City by its officers, employees or agents.

(Ord. 113610 § 1, 1987; Ord. 113144 § 1, 1986; Ord. 112903 § 9, 1986; Ord. 104839 § 1, 1975.)

14.08.020 Definitions.

Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

A. "Charging party" means the person aggrieved by an unfair practice, or the person making a charge on another person's behalf, or the Director when the Director files a charge.

B. "City" means The City of Seattle.

C. "City department" means any agency, office, board or commission of the City, or any department employee acting on its behalf, but shall not mean a public corporation chartered under Ordinance 103387, or its successor ordinances, or any contractor, consultant, or concessionaire or lessee.

D. "Commission" means the Seattle Human Rights Commission.

E. "Department" means the Department of Human Rights of the City.

F. "Director" means the Director of Human Rights.

G. "Discriminate" means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation,

political ideology, possession or use of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person.

H. "Dwelling" includes any building containing one (1) or more dwelling units.

I. "Dwelling unit" includes a suite of rooms for occupancy by one (1) family containing space for living, sleeping and preparation of food, and containing toilet and bathing facilities.

J. "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, color, sex, marital status, parental status, sexual orientation, political ideology, creed, religion, national origin, ancestry, persons holding a Section 8 rent certificate, persons with any sensory, mental or physical handicap, or handicapped persons using trained guide or service dogs, to be treated as not welcome, accepted, desired or solicited.

K. "Holder" means a person possessing a Section 8 rent certificate.

L. "Housing accommodations" includes any dwelling or dwelling unit, rooming unit, rooming house, lot or parcel of land in the City which is used, intended to be used, or arranged or designed to be used as, or improved with, a residential structure for one (1) or more human beings.

M. "Lender" includes any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person or agent thereof, engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair or maintenance of real property.

N. "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single or cohabitating.

O. "Occupant" includes any person who has established residence or has the right to occupancy of real property.

P. "Owner" includes persons who own, lease, sublease, rent, operate, manage, have charge of, control or have the right of ownership, possession, management, charge, or control of real property on their own behalf or on behalf of another.

Q. "Parental status" means being a parent, step-parent, adoptive parent, guardian, foster parent or custodian of a minor child or children,

which child or children shall permanently or temporarily occupy the real estate or shall seek full enjoyment of any place of public accommodation.

R. "Party" includes the person charging or making a complaint or upon whose behalf a complaint is made alleging an unfair practice, the person alleged or found to have committed an unfair practice and the Department of Human Rights.

S. "Person" includes one (1) or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers. It includes any owner, lessee, proprietor, manager, agent or employee, whether one (1) or more natural persons, and further includes any political or civil subdivisions or agency or instrumentality of the City.

T. "Place of public accommodation" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates or assemblies for amusement, recreation or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two (2) or more tenants, or by the owner and one (1) or more tenants, or any public library or private educational institution, or private schools of special instruction, or nursery schools, or day care centers or children's camps.

U. "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization,

function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with the property rights of the landowner as it applies to housing, or which does not cause substantial and material disruption of the property rights of the provider of a place of public accommodation.

V. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.

W. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent real property.

X. "Real estate agent, salesperson or employee" includes any person employed by, associated with or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

Y. "Real estate broker" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.

Z. "Real property" includes housing accommodations, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

AA. "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this chapter.

BB. "Rooming unit" includes one (1) or more rooms within a dwelling unit or rooming house containing space for living and sleeping.

CC. "Section 8 rent certificate" means a document issued by a government agency declaring the holder thereof eligible to participate in the Section 8 program and stating the terms and conditions of such participation.

DD. "Section 8" means a federal, state or local

government program in which a tenant's rent is paid partially by the government program (through a direct contract between the government program and the owner or lessor of the real property), and partially by the tenant.

EE. "Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, homosexuality, transsexuality, or transvestism and includes a person's attitudes, preferences, beliefs and practices pertaining thereto.

(Ord. 114864 § 1, 1989; Ord. 113610 § 2, 1987; Ord. 113144 § 2, 1986; Ord. 112903 § 10, 1986; Ord. 108205 § 1, 1979; Ord. 104839 § 2, 1975.)

I. Ordinance 103387 is codified at Chapter 3.110 of this Code.

14.08.030 Unfair practices forbidden.

Unfair practices as defined in Sections 14.08.040 through 14.08.090 are contrary to the public peace, health, safety and general welfare and are prohibited by the City in the exercise of its police power.

(Ord. 113610 § 3, 1987; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(1), 1975.)

14.08.040 Unfair practices—Generally.

A. No owner, assignee, real estate broker, real estate agent, salesperson or employee, or other person having the right to sell, rent, lease, sublease, assign, transfer, or otherwise dispose of real property, shall discriminate by undertaking or refusing to sell, rent, lease, sublease, assign, transfer or otherwise deny to or withhold from any person or group of persons such real property, or segregate the use thereof, or represent that such real property is not available for inspection, when in fact it is so available, or expel or evict an occupant from real property because of the person's race, color, creed, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 certificate, or the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person, or to discriminate against or segregate any person because of such person's race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 certificate, or the presence of any sensory, mental or physical

handicap or the use of a trained guide or service dog by a handicapped person in the terms, conditions or privileges of the sale, rental, lease, sublease, assignment, transfer or other disposition of any such real property, including but not limited to the setting of rates for rental or lease, or establishment of damage deposits, or other financial conditions for rental or lease, or in the furnishing of facilities or services in connection therewith.

B. It is an unfair practice to unreasonably prohibit modifications needed by a handicapped tenant. Whether or not the landlord permits tenants in general to make alterations or additions to a structure or fixtures, it is an unfair practice for a landlord to refuse to allow a person to make alterations or additions, which are necessary to make the rental property accessible by handicapped persons, under the following conditions:

1. The landlord is not required to pay for the alterations, additions, or restoration.

2. The landlord may reserve the right to approve the design, quality, and construction of the alterations or additions in order to minimize damage to the building and enforce standards of quality and architectural compatibility.

C. It is an unfair practice for any person or his or her agent or employee to commit an act which directly or indirectly requires any person to pay a larger sum than the uniform rates charged other persons, or to refuse or withhold from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public accommodation, or to deny, directly or indirectly, any person the full enjoyment of any of the goods, services, accommodations, facilities, privileges or advantages in any place of public accommodation because of the person's race, color, religion, ancestry, sex, marital status, parental status, sexual orientation, political ideology, creed, national origin, possession or use of a Section 8 rent certificate, sensory, mental or physical handicap, or the use of a trained guide or service dog by a handicapped person, except for conditions and limitations established by law and applicable to all persons regardless of race, color, religion, ancestry, sex, marital status, parental status, sexual orientation, political ideology, creed, national origin, possession or use of a Section 8 rent certificate, sensory, mental or physical handicap, or the use of a trained guide or service dog by a handicapped person.

D. It is an unfair practice for any person, agent or employee to print, circulate, post, mail or otherwise cause directly or indirectly to be published a statement, advertisement or sign which indicates directly or indirectly that the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be refused, withheld from, denied or in some manner limited or restricted toward an individual; or that an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable or undesirable because of a person's race, color, religion, creed, ancestry, national origin, sex, marital status, parental status, sexual orientation, possession or use of a Section 8 rent certificate, sensory, mental or physical handicap, or handicapped person's use of a trained guide or service dog.

(Ord. 114864 § 2, 1989; Ord. 113610 § 4, 1987; Ord. 112903 § 11, 1986; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(2), 1975.)

14.08.050 Refusal or failure to list or show property.

No real estate broker or real estate agent, salesperson or employee shall because of race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology of, or possession, use of, or attempt to use a Section 8 rent certificate by, an occupant, purchaser, prospective occupant, or prospective purchaser:

A. Refuse or intentionally fail to list or discriminate in listing real property for sale, rent, lease or sublease;

B. Refuse or intentionally fail to show a prospective occupant real property listed for sale, rental, lease or sublease;

C. Refuse or intentionally fail to accept and/or transmit to an owner any reasonable offer to purchase, lease, rent or sublease real property.

(Ord. 114864 § 3, 1989; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(3), 1975.)

14.08.060 Discrimination in application for financial assistance.

No lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition,

construction, rehabilitation, repair, or maintenance of any real property shall:

A. Discriminate against any person, prospective occupant or tenant of real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of, any such financial assistance, or in the extension of services in connection therewith; or

B. Use any form of application for such financial assistance or make any record of inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination because of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 rent certificate, or the presence of any sensory, mental or physical handicap or the use of a trained guide or service dog by a handicapped person, unless required or authorized by local, state or federal laws or agencies for the purpose of preventing discrimination in real property; provided that nothing in this provision shall prohibit any party to a credit transaction from requesting designation of marital status for the purpose of considering application of community property law to the individual case or from taking reasonable action thereon or from requesting information regarding age, parental status, or possession or use of a Section 8 rent certificate when such information is necessary to determine the applicant's ability to repay the loan.

(Ord. 114864 § 4, 1989; Ord. 112903 § 12, 1986; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(4), 1975.)

14.08.070 Unfair inquiries, advertisements or harassment.

No owner, real estate agent, salesperson or employee, real estate broker, or any other person, shall:

A. Require any information, make or keep any record, or use any form of application containing questions or inquiries concerning race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the use of a trained guide or service dog by a handi-

capped person in connection with the sale, rental, lease or sublease of any real property unless used solely:

1. For making reports required by agencies of the federal, state or local government for the purposes of preventing and eliminating discrimination or of overcoming its effects or for other purposes authorized by federal, state or local agencies or laws or rules adopted thereunder,

2. As to "marital status," for the purpose of determining applicability of community property law to the individual case, and

3. As to "age," for the purpose of determining that the applicant has attained the age of majority;

B. Publish, circulate, issue or display or cause to be published, circulated, issued or displayed, any communication, notice, advertisement, or sign of any kind relating to the sale, rental, lease, sublease, assignment, transfer, or listing of real property which indicate any preference, limitation or specification based on race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology or the presence of any sensory, mental or physical handicap, or the use of a trained guide or service dog by a handicapped person;

C. Aid, abet, incite, compel or coerce the doing of any act defined in this chapter as an unfair practice; or intimidate, harass, retaliate, obstruct or discriminate against a person in any manner because such person has complied or proposes to comply with provisions of this chapter or has filed a complaint, testified, or assisted in any proceeding under this chapter, or any order issued thereunder, or attempt, either directly or indirectly, to commit any act defined in this chapter to be an unfair practice or apply any economic sanctions or deny membership privileges because of compliance with the provisions of this chapter.

(Ord. 114864 § 5, 1989; Ord. 112903 § 13, 1986; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(5), 1975.)

14.08.080 Unfair inducement to sell or rent—Steering persons to particular areas.

No owner, real estate agent, salesperson or

employee, real estate broker, or any other person, shall for profit:

A. Promote, induce or attempt to promote or induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood or area of a person or persons of a particular race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, or who possess, use or attempt to use a Section 8 rent certificate, or who have any sensory, mental or physical handicap, or handicapped persons who use a trained guide or service dog;

B. Show or otherwise take any action, the design or effect of which is to steer a person or persons to any section of the City or to particular real property in a manner tending to segregate or maintain segregation on the basis of race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the use of a trained guide or service dog by a handicapped person.

(Ord. 114864 § 6, 1989; Ord. 112903 § 14, 1986; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(6), 1975.)

14.08.090 Denial of right granted under this chapter—Prohibited.

No person, whether or not acting for profit, shall harass, intimidate, or otherwise abuse or discriminate against any person or person's friends or associates because of the race, color, religion, ancestry, national origin, age, sex, marital status, sexual orientation, parental status, political ideology, possession or use of a Section 8 rent certificate, the presence of any sensory, mental or physical handicap, or the use of a trained guide or service dog by a handicapped person with the purpose or effect of denying to such person or persons the rights granted in this chapter or the right to quiet or peaceful possession or enjoyment of any real property or the full enjoyment of any place of public accommodation.

(Ord. 114864 § 7, 1989; Ord. 113610 § 15, 1986; Ord. 109050 § 1(part), 1980; Ord. 108205 § 2(part), 1979; Ord. 104839 § 3(7), 1975.)

14.08.100 Charge—Filing.

A charge alleging an unfair housing practice shall be in writing and signed under oath or affirmation by or on behalf of a charging party before the Director, one of the Department's employees, or any other person authorized to administer oaths, and shall describe the unfair housing practice complained of and should include a statement of the dates, places and circumstances, and the persons responsible for such acts and practices.

A. Whenever charges are made by or on behalf of a person claiming to be aggrieved, the person making the charge must provide the Director with the name, address and telephone number of the individual on whose behalf the charge is made. Thereafter, the Director shall verify the authorization of such charge by the person on whose behalf the charge is made and upon the request of such person may keep his or her identity confidential.

B. A charge shall not be rejected as insufficient because of failure to include all required information so long as it substantially satisfies the informational requirements necessary for processing.

C. A charge alleging an unfair housing practice or pattern of unfair practices may also be filed by the Director whenever the Director has reason to believe that any person has been engaged or is engaging in an unfair housing practice.

(Ord. 109208 § 1(part), 1980; Ord. 108205 § 3(part), 1979; Ord. 106476 § 1(part), 1977; Ord. 104839 § 4(A), 1975.)

14.08.110 Time for filing charges.

Charges filed under this chapter must be filed within six (6) months after the occurrence of the alleged unfair housing practice with the Department of Human Rights. For charges involving respondents who are City departments, the Department shall then cause the charge to be presented to the City Council by filing a claim for damages with the City Clerk.

(Ord. 109208 § 1(part), 1980; Ord. 108205 § 3(part), 1979; Ord. 106476 § 1(part), 1977; Ord. 104839 § 4(B), 1975.)

14.08.120 Charge—Amendments.

The charging party may amend a charge to cure technical defects or omissions; or to clarify

and amplify allegations made therein; or to add allegations related to or arising out of the subject matter set forth, or attempted to be set forth in the original charge. For jurisdictional purposes, such amendments shall relate back to the date the original charge was first filed. The charging party may also amend a charge to include allegations of additional unrelated discriminatory acts and/or retaliation which arose after filing of the original charge. The amendment must be filed within six (6) months after the occurrence of the additional discriminatory act or retaliation and prior to the Department's issuance of findings of fact and a determination with respect to the original charge. Such amendments may be made at any time during the investigation of the original charge so long as the Director will have adequate time to investigate such additional allegations and the parties will have adequate time to present the Director with evidence concerning such allegations before the issuance of findings of fact and a determination.

(Ord. 113144 § 3, 1986; Ord. 112903 § 16, 1986; Ord. 109208 § 1(part), 1980; Ord. 108205 § 3(part) 1979; Ord. 106476 § 1(part), 1977; Ord. 104839 § 4(C), 1975.)

14.08.130 Notice of charge and investigation.

A. The Director shall cause to be served or mailed by certified mail, return receipt requested, a copy of the charge on the respondent within twenty (20) days after the filing of said charge and shall promptly make an investigation thereof.

B. The investigation shall be directed to ascertain the facts concerning the unfair practice alleged in the charge, and shall be conducted in an objective and impartial manner.

C. During the investigation the Director shall consider any statement of position or evidence with respect to the allegations of the charge which the charging party or the respondent wishes to submit. The Director shall have authority to sign and issue subpoenas requiring the attendance and testimony of witnesses, the production of evidence including but not limited to books, records, correspondence or documents in the possession or under the control of the person subpoenaed, and access to evidence for the purpose of examination and copying, and conduct discovery procedures which may include the tak-

ing of interrogatories and oral depositions.

D. The Director may require a fact finding conference with the respondent and any of respondent's agents and witnesses and charging party during the investigation in order to define the issues, determine which elements are undisputed, resolve those issues which can be resolved, and afford an opportunity to discuss or negotiate settlement. Parties may have their legal counsel present if desired.
(Ord. 109208 § 2, 1980; Ord. 104839 § 5, 1975.)

14.08.140 Findings of fact and determination of reasonable cause or no reasonable cause.

A. The results of the investigation shall be reduced to written findings of fact and a determination shall be made by the Director that there is or is not reasonable cause for believing that an unfair practice has been or is being committed, which determination shall also be in writing and issued with the written findings of fact.

B. The findings of fact and determination shall be mailed promptly to the respondent and charging party.

C. Once issued to the parties, the Director's findings of fact, determination and order may not be amended or withdrawn except upon the agreement of the parties or in response to an order by the Human Rights Commission after an appeal taken pursuant to Section 14.08.150; provided, that the Director may correct clerical mistakes or errors arising from oversight or omission upon a motion from a party or upon the Director's own motion.

(Ord. 112903 § 17, 1986; Ord. 109208 § 3, 1980; Ord. 104839 § 6, 1975.)

14.08.150 Determination of no reasonable cause—Appeal from and dismissal.

If a determination is made that there is no reasonable cause for believing an unfair housing practice under this chapter has been committed, the charging party shall have the right to appeal such determination to the Commission within thirty (30) days of the date of said determination by filing a written statement of appeal with the Commission. The Commission shall promptly deliver a copy of the statement to the Department and respondent and shall promptly consider and act upon such appeal by either

affirming the Director's determination or remanding it to the Director with appropriate instructions. In the event no appeal is taken or such appeal results in affirmance or if the Commission has not decided the appeal within the sixty (60) days allotted, the determination of the Director shall be final and the charge deemed dismissed and the same shall be entered on the records of the Department.

(Ord. 109208 § 4, 1980; Ord. 104839 § 7, 1975.)

14.08.160 Determination of reasonable cause—Conciliation and settlement.

A. If a determination is made that reasonable cause exists to believe that an unfair housing practice has occurred, the Director shall endeavor to eliminate the unfair practice by conference, conciliation and persuasion. Conditions of settlement may include (but are not limited to) the elimination of the unfair housing practice, rent refunds or credits, reinstatement to tenancy, affirmative recruiting or advertising measures, attorney's fees or such other action which will effectuate the purposes of this chapter, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed One Thousand Dollars (\$1,000.00). Further, up to One Thousand Dollars (\$1,000.00) may be awarded for loss of the right to be free from discrimination in real estate transactions. Any settlement agreement shall be reduced to writing and signed by the Director and the respondent. An order shall then be entered by the Director setting forth the terms of the agreement. Copies of such order shall be delivered to all affected parties. If no agreement can be reached, a finding to that effect shall be made and reduced to writing, with a copy thereof furnished to the charging party and the respondent.

B. In case of failure to reach an agreement and of conciliation and upon a written finding to that effect furnished to the charging party and respondent, except a case in which a City department is a respondent, the Director shall promptly cause to be delivered the entire investigatory file, including the charge and any and all findings made, to the City Attorney for further proceedings and hearing under this chapter pursuant to Section 14.08.170.

(Ord. 112903 § 18, 1986; Ord. 109208 § 5, 1980; Ord. 104839 § 8, 1975.)

14.08.170 Complaint and hearing.

A. Following submission of the investigatory file from the Director, the City Attorney shall prepare a complaint against such respondent relating to the charge and facts discovered during the investigation thereof and prosecute the same in the name and on behalf of the Department and the City at a hearing therefor before the Hearing Examiner sitting alone or with representatives of the Commission as provided in this chapter and to appear for and represent the interests of the Department and the City at all subsequent proceedings. Provided, if the City Attorney determines that there is no legal basis for a complaint to be filed or proceedings to continue, a statement of the reasons therefor shall be filed with the Department, charging party and the respondent.

B. The complaint shall be served on respondent in the usual manner provided by law for service of complaints and filed with the Seattle Hearing Examiner. A copy of such complaint shall be furnished charging party.

C. Within twenty (20) days of the service of such complaint upon it, the respondent shall file its answer with the Hearing Examiner and serve a copy of the same on the City Attorney.

D. Upon the filing of the complaint, the Hearing Examiner shall promptly establish a date for the hearing of such complaint and give notice thereof to the Commission, the City Attorney and respondent, and shall thereafter hold a public hearing on the complaint, which hearing shall commence no earlier than ninety (90) days nor later than one hundred twenty (120) days from the filing of the complaint, unless otherwise ordered by the Hearing Examiner.

E. After the filing of a complaint with the Hearing Examiner, it may be amended only with the permission of the Hearing Examiner, which permission shall be granted when justice will be served thereby and all parties are allowed time to prepare their case with respect to additional or expanded charges which they did not and could not have reasonably foreseen would be in issue at the hearing.

F. The hearing shall be conducted by a Hearing Examiner from the Office of Hearing Examiner, or a hearing examiner pro tempore appointed by the Hearing Examiner from a list approved by the Commission, sitting alone or with representatives of the Commission if any

are designated. Such hearings shall be conducted in accordance with written rules and procedures consistent with this chapter and the Administrative Code of the City (Ordinance 102228).¹

G. The Commission, within thirty (30) days after notice of the date of hearing from the Hearing Examiner, at its discretion, may appoint two (2) of its members who have not otherwise been involved in the charge, investigation, fact finding, or other resolution and proceeding on the merits of the case, who have not formed an opinion on the merits of the case, and who otherwise have no pecuniary, private or personal interest or bias in the matter, to hear the case with the Hearing Examiner. If the Commission has designated representatives they shall each have an equal vote with the Hearing Examiner, except the Hearing Examiner shall be the chairperson of the panel and make all evidentiary rulings. Should a question arise as to previous involvement, interest or bias of an appointed Commissioner, the Hearing Examiner shall resolve the issue in conformance with the law on the subject. (Ord. 109208 § 6, 1980; Ord. 104839 § 9, 1975.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

14.08.180 Decision and order.

A. Within thirty (30) days after conclusion of the hearing, the Hearing Examiner presiding at the hearing (or the Examiner and Commissioners as the case may be) shall prepare a written decision and order. The final decision shall be filed as a public record with the City Clerk, and copies thereof mailed to each party of record and to the Department.

B. Such decision shall contain a brief summary of the evidence considered and shall contain findings of fact, conclusions of law upon which the decision is based, and an order detailing the relief deemed appropriate, together with a brief statement of the reasons therefor.

C. In the event the Hearing Examiner (or a majority of the panel composed of the Examiner and Commissioners), determines that a respondent has committed an unfair practice under this chapter, the Hearing Examiner (or panel majority) may order the respondent to take such affirmative action or provide for such relief as is deemed necessary to correct the practice, effectuate the purpose of this chapter, and secure compliance therewith, including but not limited

to, rent refund, or credit, reinstatement to tenancy, affirmative recruiting and advertising measures, attorney's fees, or to take such other action as in the judgment of the Hearing Examiner (or panel majority) will effectuate the purposes of this chapter, including action which could be ordered by a court, except that damages for humiliation and mental suffering shall not exceed One Thousand Dollars (\$1,000.00). Further, up to One Thousand Dollars (\$1,000.00) may be awarded for loss of the right to be free from discrimination in real estate transactions or the right to full enjoyment of any place of public accommodation. An order may include the requirement for report on the matter of compliance.

D. In the event the respondent refuses or fails to comply with any order of the Director, the Director shall notify the City Attorney, who shall invoke the aid of the appropriate court to secure enforcement or compliance with the order, or to impose the penalties as set forth in this chapter, or both; provided that in any case in which the order is directed to the City, or to any department, division, board or agency thereof, a copy of such order shall be transmitted to the Mayor who shall take appropriate action to secure compliance therewith.

E. The Department in the performance of its functions may enlist the aid of all departments of City government, and all said departments are directed to fully cooperate therewith. (Ord. 113610 § 6, 1987; Ord. 112903 § 19, 1986; Ord. 109208 § 7, 1980; Ord. 104839 § 10, 1975.)

14.08.190 Exclusions.

Nothing in this chapter shall:

A. Apply to the renting, subrenting, leasing or subleasing of a single-family dwelling, wherein the owner or person entitled to possession thereof maintains a permanent residence, home or abode;

B. Be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than race, color, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, political ideology, creed, possession or use of a Section 8 rent certificate, or presence of any sensory, mental or physical handicap, where such factors are not designed, intended or used to discriminate;

C. Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, 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;

D. Prohibit any person from limiting the rental or occupancy of housing accommodations in any YWCA, YMCA, sorority, fraternity, school dormitory, or similar residential hall to persons of one sex;

E. Prohibit any person from limiting the rental or occupancy of housing accommodations to persons who are elderly or handicapped in any housing facility designed, constructed or substantially rehabilitated and operated exclusively for the elderly or the handicapped;

F. Require any person to rent or lease a housing accommodation to an unemancipated minor;

G. Require any person to rent or lease a housing accommodation in violation of the Housing Code (Ordinance 106319);¹

H. Be construed to prohibit treating handicapped persons more favorably than non-handicapped persons;

I. Be construed to protect criminal conduct;

J. Prohibit any person from limiting the rental or occupancy of housing accommodations on the basis of conduct by an occupant or prospective occupant which involves the use of force or violence or advocacy directed to producing or inciting imminent force or violence to the person or property of the owner, manager, or other person having the right to sell, rent, lease, assign, transfer or otherwise dispose of the real property occupied or sought to be occupied.

K. As it pertains to place of public accommodations, be construed to include or apply to any institute, bona fide club or place of accommodation which is by its nature distinctly private, though where public use is permitted that use shall be covered by this chapter; nor be construed to apply to any noncommercial facility operated or maintained by a bona fide religious institution;

L. As it pertains to place of public accommodation, be construed to require structural

changes, modifications, or additions to make any place accessible to a handicapped person except as otherwise provided by law;

M. Be construed to prohibit any person from denying another person the full enjoyment of a place of public accommodation because of actions by the person seeking full enjoyment of the place of public accommodation that constitute a risk to property or to other persons. (Ord. 114864 § 8, 1989; Ord. 113610 § 7, 1987; Ord. 112903 § 20, 1986; Ord. 109208 § 8, 1980; Ord. 108205 § 4, 1979; Ord. 104839 § 11, 1975.)

1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

14.08.200 Unlawful conduct and penalties.

It is unlawful for any person to wilfully engage in an unfair practice under this chapter or wilfully resist, prevent, impede or interfere with the Director or Hearing Examiner in the performance of their duties under this chapter, or to fail, refuse, or neglect to comply with any lawful order of the Director or Hearing Examiner. (Ord. 109208 § 9, 1980; Ord. 104839 § 12, 1975.)

14.08.205 Construction with other laws.

Nothing in this chapter shall invalidate or restrict any right or remedy of any charging party or respondent under state or federal law nor preclude such party from seeking judicial review of any final administrative decision or order made under this chapter. (Ord. 109208 § 10, 1980; Ord. 104839 § 15, 1975.)

14.08.210 Cooperative agreements.

Nothing in this chapter shall be interpreted to prevent the receiving, referring, or other processing of complaints, in accordance with a cooperative agreement with the Washington State Human Rights Commission as authorized and mandated by RCW 49.60.226 or with other agencies concerned with the enforcement of laws against discrimination. (Ord. 109208 § 11, 1980; Ord. 104839 § 16, 1975.)

14.08.215 Application to pending charges and complaints.

The procedures for administration and enforcement under this chapter shall apply to charges pending which have not had a date certain set for hearing as of the effective date of the ordinance codified in this chapter.¹ However, this section shall not be construed to invalidate any administrative action taken or determinations and orders made on pending charges because of the procedures provided by this chapter. (Ord. 109208 § 12, 1980.)

1. Editor's Note: Ordinance 109208 became effective August 20, 1980.



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APR 19 1993
HUMAN RIGHTS DEPT

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1476

53rd Legislature
1993 Regular Session

Passed by the House March 10, 1993
Yeas 97 Nays 0

Bill Eberle
Speaker of the
House of Representatives

Passed by the Senate April 6, 1993
Yeas 44 Nays 3

P. Louisa D'Almeida
President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 1476 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Alan Thompson
Chief Clerk

FILED

Secretary of State
State of Washington

HOUSE BILL 1476

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Wineberry, Ballard, Shin, G. Cole, Brough, Ogden, Forner, J. Kohl, Veloria, Vance, Leonard, Casada, Miller, Ballasiotes, Foreman, Chandler, Wood, Cooke, H. Myers and Lisk; by request of Human Rights Commission

Read first time 01/29/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to meeting federal fair housing act requirements
2 for housing equivalency; amending RCW 49.60.030, 49.60.120, 49.60.222,
3 49.60.223, 49.60.224, 49.60.225, 49.60.227, 49.60.230, 49.60.240,
4 49.60.250, 49.60.260, and 49.60.330; reenacting and amending RCW
5 49.60.040; adding new sections to chapter 49.60 RCW; and prescribing
6 penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 Sec. 1. RCW 49.60.030 and 1984 c 32 s 2 are each amended to read
9 as follows:

10 (1) The right to be free from discrimination because of race,
11 creed, color, national origin, sex, or the presence of any sensory,
12 mental, or physical (~~handicap~~) disability is recognized as and
13 declared to be a civil right. This right shall include, but not be
14 limited to:

15 (a) The right to obtain and hold employment without discrimination;

16 (b) The right to the full enjoyment of any of the accommodations,
17 advantages, facilities, or privileges of any place of public resort,
18 accommodation, assemblage, or amusement;

1 (c) The right to engage in real estate transactions without
2 discrimination, including discrimination against families with
3 children;

4 (d) The right to engage in credit transactions without
5 discrimination;

6 (e) The right to engage in insurance transactions or transactions
7 with health maintenance organizations without discrimination:
8 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,
9 48.44.220, or 48.46.370 does not constitute an unfair practice for the
10 purposes of this subparagraph; and

11 (f) The right to engage in commerce free from any discriminatory
12 boycotts or blacklists. Discriminatory boycotts or blacklists for
13 purposes of this section shall be defined as the formation or execution
14 of any express or implied agreement, understanding, policy or
15 contractual arrangement for economic benefit between any persons which
16 is not specifically authorized by the laws of the United States and
17 which is required or imposed, either directly or indirectly, overtly or
18 covertly, by a foreign government or foreign person in order to
19 restrict, condition, prohibit, or interfere with or in order to exclude
20 any person or persons from any business relationship on the basis of
21 race, color, creed, religion, sex, national origin or lawful business
22 relationship: PROVIDED HOWEVER, That nothing herein contained shall
23 prohibit the use of boycotts as authorized by law pertaining to labor
24 disputes and unfair labor practices.

25 (2) Any person deeming himself or herself injured by any act in
26 violation of this chapter shall have a civil action in a court of
27 competent jurisdiction to enjoin further violations, or to recover the
28 actual damages sustained ((~~by him~~)), or both, together with the cost of
29 suit including ((a)) reasonable ((~~attorney's~~)) attorneys' fees or any
30 other appropriate remedy authorized by this chapter or the United
31 States Civil Rights Act of 1964 as amended, or the federal fair housing
32 amendments act of 1988 (42 U.S.C. Sec. 3601 et seq.); and

33 (3) Notwithstanding any other provisions of this chapter, any act
34 prohibited by this chapter related to sex discrimination or
35 discriminatory boycotts or blacklists which is committed in the course
36 of trade or commerce in the state of Washington as defined in the
37 Consumer Protection Act, chapter 19.86 RCW, shall be deemed an unfair
38 practice within the meaning of RCW 19.86.020 and 19.86.030 and subject
39 to all the provisions of chapter 19.86 RCW as now or hereafter amended.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60 RCW
2 to read as follows:

3 (1) The superior courts of the state of Washington shall have
4 jurisdiction upon petition of the commission, through the attorney
5 general, to seek appropriate temporary or preliminary relief to enjoin
6 any unfair practice in violation of RCW 49.60.222 through 49.60.225,
7 from which prompt judicial action is necessary to carry out the
8 purposes of this chapter.

9 (2) The commencement of a civil action under this section does not
10 preclude the initiation or continuation of administrative proceedings
11 under this chapter.

12 **Sec. 3.** RCW 49.60.040 and 1985 c 203 s 2 and 1985 c 185 s 2 are
13 each reenacted and amended to read as follows:

14 As used in this chapter:

15 (1) "Person" includes one or more individuals, partnerships,
16 associations, organizations, corporations, cooperatives, legal
17 representatives, trustees and receivers, or any group of persons; it
18 includes any owner, lessee, proprietor, manager, agent, or employee,
19 whether one or more natural persons; and further includes any political
20 or civil subdivisions of the state and any agency or instrumentality of
21 the state or of any political or civil subdivision thereof;

22 (2) "Commission" means the Washington state human rights
23 commission;

24 (3) "Employer" includes any person acting in the interest of an
25 employer, directly or indirectly, who employs eight or more persons,
26 and does not include any religious or sectarian organization not
27 organized for private profit;

28 (4) "Employee" does not include any individual employed by his or
29 her parents, spouse, or child, or in the domestic service of any
30 person;

31 (5) "Labor organization" includes any organization which exists for
32 the purpose, in whole or in part, of dealing with employers concerning
33 grievances or terms or conditions of employment, or for other mutual
34 aid or protection in connection with employment;

35 (6) "Employment agency" includes any person undertaking with or
36 without compensation to recruit, procure, refer, or place employees
37 for an employer;

38 (7) "National origin" includes "ancestry";

1 (8) "Full enjoyment of" includes the right to purchase any service,
2 commodity, or article of personal property offered or sold on, or by,
3 any establishment to the public, and the admission of any person to
4 accommodations, advantages, facilities, or privileges of any place of
5 public resort, accommodation, assemblage, or amusement, without acts
6 directly or indirectly causing persons of any particular race, creed,
7 color, sex, or with any sensory, mental, or physical ((handicap))
8 disability, or a blind or deaf person using a trained dog guide, to be
9 treated as not welcome, accepted, desired, or solicited;

10 (9) "Any place of public resort, accommodation, assemblage, or
11 amusement" includes, but is not limited to, any place, licensed or
12 unlicensed, kept for gain, hire, or reward, or where charges are made
13 for admission, service, occupancy, or use of any property or
14 facilities, whether conducted for the entertainment, housing, or
15 lodging of transient guests, or for the benefit, use, or accommodation
16 of those seeking health, recreation, or rest, or for the burial or
17 other disposition of human remains, or for the sale of goods,
18 merchandise, services, or personal property, or for the rendering of
19 personal services, or for public conveyance or transportation on land,
20 water, or in the air, including the stations and terminals thereof and
21 the garaging of vehicles, or where food or beverages of any kind are
22 sold for consumption on the premises, or where public amusement,
23 entertainment, sports, or recreation of any kind is offered with or
24 without charge, or where medical service or care is made available, or
25 where the public gathers, congregates, or assembles for amusement,
26 recreation, or public purposes, or public halls, public elevators, and
27 public washrooms of buildings and structures occupied by two or more
28 tenants, or by the owner and one or more tenants, or any public library
29 or educational institution, or schools of special instruction, or
30 nursery schools, or day care centers or children's camps: PROVIDED,
31 That nothing contained in this definition shall be construed to include
32 or apply to any institute, bona fide club, or place of accommodation,
33 which is by its nature distinctly private, including fraternal
34 organizations, though where public use is permitted that use shall be
35 covered by this chapter; nor shall anything contained in this
36 definition apply to any educational facility, columbarium, crematory,
37 mausoleum, or cemetery operated or maintained by a bona fide religious
38 or sectarian institution;

1 (10) "Real property" includes buildings, structures, dwellings,
2 real estate, lands, tenements, leaseholds, interests in real estate
3 cooperatives, condominiums, and hereditaments, corporeal and
4 incorporeal, or any interest therein;

5 (11) "Real estate transaction" includes the sale, appraisal,
6 brokering, exchange, purchase, rental, or lease of real property,
7 transacting or applying for a real estate loan, or the provision of
8 brokerage services;

9 (12) "Dwelling" means any building, structure, or portion thereof
10 that is occupied as, or designed or intended for occupancy as, a
11 residence by one or more families, and any vacant land that is offered
12 for sale or lease for the construction or location thereon of any such
13 building, structure, or portion thereof;

14 (13) "Sex" means gender((-));

15 (14) "Aggrieved person" means any person who: (a) Claims to have
16 been injured by an unfair practice in a real estate transaction; or (b)
17 believes that he or she will be injured by an unfair practice in a real
18 estate transaction that is about to occur;

19 (15) "Complainant" means the person who files a complaint in a real
20 estate transaction;

21 (16) "Credit transaction" includes any open or closed end credit
22 transaction, whether in the nature of a loan, retail installment
23 transaction, credit card issue or charge, or otherwise, and whether for
24 personal or for business purposes, in which a service, finance, or
25 interest charge is imposed, or which provides for repayment in
26 scheduled payments, when such credit is extended in the regular course
27 of any trade or commerce, including but not limited to transactions by
28 banks, savings and loan associations or other financial lending
29 institutions of whatever nature, stock brokers, or by a merchant or
30 mercantile establishment which as part of its ordinary business permits
31 or provides that payment for purchases of property or service therefrom
32 may be deferred;

33 (17) "Families with children status" means when one or more
34 individuals who have not attained the age of eighteen years is
35 domiciled with a parent or another person having legal custody of such
36 individual or individuals, or with the designee of such parent or other
37 person having such legal custody, with the written permission of such
38 parent or other person. Families with children status also applies to
39 any person who is pregnant or is in the process of securing legal

1 custody or guardianship of any individual who has not attained the age
2 of eighteen years.

3 Sec. 4. RCW 49.60.120 and 1985 c 185 s 10 are each amended to read
4 as follows:

5 The commission shall have the functions, powers and duties:

6 (1) To appoint an executive secretary and chief examiner, and such
7 investigators, examiners, clerks, and other employees and agents as it
8 may deem necessary, fix their compensation within the limitations
9 provided by law, and prescribe their duties.

10 (2) To obtain upon request and utilize the services of all
11 governmental departments and agencies.

12 (3) To adopt, promulgate, amend, and rescind suitable rules and
13 regulations to carry out the provisions of this chapter, and the
14 policies and practices of the commission in connection therewith.

15 (4) To receive, impartially investigate, and pass upon complaints
16 alleging unfair practices as defined in this chapter.

17 (5) To issue such publications and such results of investigations
18 and research as in its judgment will tend to promote good will and
19 minimize or eliminate discrimination because of sex, race, creed,
20 color, national origin, marital status, age, or the presence of any
21 sensory, mental, or physical ((handicap)) disability.

22 (6) To make such technical studies as are appropriate to effectuate
23 the purposes and policies of this chapter and to publish and distribute
24 the reports of such studies.

25 (7) To cooperate and act jointly or by division of labor with the
26 United States or other states, and with political subdivisions of the
27 state of Washington and their respective human rights agencies to carry
28 out the purposes of this chapter. However, the powers which may be
29 exercised by the commission under this subsection permit investigations
30 and complaint dispositions only if the investigations are designed to
31 reveal, or the complaint deals only with, allegations which, if proven,
32 would constitute unfair practices under this chapter. The commission
33 may perform such services for these agencies and be reimbursed
34 therefor.

35 (8) To foster good relations between minority and majority
36 population groups of the state through seminars, conferences,
37 educational programs, and other intergroup relations activities.

1 Sec. 5. RCW 49.60.222 and 1989 c 61 s 1 are each amended to read
2 as follows:

3 (1) It is an unfair practice for any person, whether acting for
4 himself, herself, or another, because of sex, marital status, race,
5 creed, color, national origin, families with children status, the
6 presence of any sensory, mental, or physical (~~handicap~~) disability,
7 or the use of a trained guide dog or service dog by a blind, deaf, or
8 physically disabled person:

9 (~~(1)~~) (a) To refuse to engage in a real estate transaction with
10 a person;

11 (~~(2)~~) (b) To discriminate against a person in the terms,
12 conditions, or privileges of a real estate transaction or in the
13 furnishing of facilities or services in connection therewith;

14 (~~(3)~~) (c) To refuse to receive or to fail to transmit a bona fide
15 offer to engage in a real estate transaction from a person;

16 (~~(4)~~) (d) To refuse to negotiate for a real estate transaction
17 with a person;

18 (~~(5)~~) (e) To represent to a person that real property is not
19 available for inspection, sale, rental, or lease when in fact it is so
20 available, or to fail to bring a property listing to his or her
21 attention, or to refuse to permit (~~him~~) the person to inspect real
22 property;

23 (~~(6)~~) (f) To discriminate in the sale or rental, or to otherwise
24 make unavailable or deny a dwelling to any person because of a
25 disability of that person, or a person residing in or intending to
26 reside in that dwelling after it is sold, rented, or made unavailable;
27 or any person associated with the person buying or renting;

28 (g) To make, print, circulate, post, or mail, or cause to be so
29 made or published a statement, advertisement, or sign, or to use a form
30 of application for a real estate transaction, or to make a record or
31 inquiry in connection with a prospective real estate transaction, which
32 indicates, directly or indirectly, an intent to make a limitation,
33 specification, or discrimination with respect thereto;

34 (~~(7)~~) (h) To offer, solicit, accept, use, or retain a listing of
35 real property with the understanding that a person may be discriminated
36 against in a real estate transaction or in the furnishing of facilities
37 or services in connection therewith;

38 (~~(8)~~) (i) To expel a person from occupancy of real property;

1 (~~(9)~~) (j) To discriminate in the course of negotiating,
2 executing, or financing a real estate transaction whether by mortgage,
3 deed of trust, contract, or other instrument imposing a lien or other
4 security in real property, or in negotiating or executing any item or
5 service related thereto including issuance of title insurance, mortgage
6 insurance, loan guarantee, or other aspect of the transaction. Nothing
7 in this section shall limit the effect of RCW 49.60.176 relating to
8 unfair practices in credit transactions; or

9 (~~(10)~~) (k) To attempt to do any of the unfair practices defined
10 in this section.

11 (2) For the purposes of this chapter discrimination based on the
12 presence of any sensory, mental, or physical disability or the use of
13 a trained guide dog or service dog by a blind, deaf, or physically
14 disabled person includes:

15 (a) A refusal to permit, at the expense of the disabled person,
16 reasonable modifications of existing dwelling occupied or to be
17 occupied by such person if such modifications may be necessary to
18 afford such person full enjoyment of the dwelling, except that, in the
19 case of a rental, the landlord may, where it is reasonable to do so,
20 condition permission for a modification on the renter agreeing to
21 restore the interior of the dwelling to the condition that existed
22 before the modification, reasonable wear and tear excepted;

23 (b) To refuse to make reasonable accommodation in rules, policies,
24 practices, or services when such accommodations may be necessary to
25 afford a person with the presence of any sensory, mental, or physical
26 disability and/or the use of a trained guide dog or service dog by a
27 blind, deaf, or physically disabled person equal opportunity to use and
28 enjoy a dwelling; or

29 (c) To fail to design and construct dwellings in conformance with
30 the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
31 seq.) and all other applicable laws or regulations pertaining to access
32 by persons with any sensory, mental, or physical disability or use of
33 a trained guide dog or service dog. Whenever the requirements of
34 applicable laws or regulations differ, the requirements which require
35 greater accessibility for persons with any sensory, mental, or physical
36 disability shall govern.

37 For purposes of this subsection (2), "dwelling" means any building,
38 structure, or portion thereof that is occupied as, or designed or
39 intended for occupancy as, a residence by four or more families, and

1 any vacant land that is offered for sale or lease for the construction
2 or location thereon of any such building, structure, or portion
3 thereof.

4 (3) Notwithstanding any other provision of ((law)) this chapter, it
5 shall not be an unfair practice or a denial of civil rights for any
6 public or private educational institution to separate the sexes or give
7 preference to or limit use of dormitories, residence halls, or other
8 student housing to persons of one sex or to make distinctions on the
9 basis of marital or ((family)) families with children status.

10 (4) Except pursuant to subsection (2)(a) of this section, this
11 section shall not be construed to require structural changes,
12 modifications, or additions to make facilities accessible to a
13 ((handicapped)) disabled person except as otherwise required by law.
14 Nothing in this section affects the rights ((and)), responsibilities,
15 and remedies of landlords and tenants pursuant to chapter 59.18 or
16 59.20 RCW, including the right to post and enforce reasonable rules of
17 conduct and safety for all tenants and their guests, provided that
18 chapters 59.18 and 59.20 RCW are only affected to the extent they are
19 inconsistent with the nondiscrimination requirements of this chapter.
20 Nothing in this section limits the applicability of any reasonable
21 federal, state, or local restrictions regarding the maximum number of
22 occupants permitted to occupy a dwelling.

23 (5) Notwithstanding any other provision of this chapter, it shall
24 not be an unfair practice for any public establishment providing for
25 accommodations offered for the full enjoyment of transient guests as
26 defined by RCW 9.91.010(1)(c) to make distinctions on the basis of
27 families with children status. Nothing in this section shall limit the
28 effect of RCW 49.60.215 relating to unfair practices in places of
29 public accommodation.

30 (6) Nothing in this chapter prohibiting discrimination based on
31 families with children status applies to housing for older persons as
32 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
33 Sec. 3607(b)(1) through (3). Nothing in this chapter authorizes
34 requirements for housing for older persons different than the
35 requirements in the federal fair housing amendments act of 1988, 42
36 U.S.C. Sec 3607(b)(1) through (3).

37 Sec. 6. RCW 49.60.223 and 1979 c 127 s 9 are each amended to read
38 as follows:

1 It is an unfair practice for any person, for profit, to induce or
2 attempt to induce any person to sell or rent any real property by
3 representations regarding the entry or prospective entry into the
4 neighborhood of a person or persons of a particular race, creed, color,
5 sex, national origin, families with children status, or with any
6 sensory, mental, or physical ((handicap)) disability or the use of a
7 trained guide dog or service dog by a blind, deaf, or physically
8 disabled person.

9 NEW SECTION. Sec. 7. A new section is added to chapter 49.60 RCW
10 to be codified between RCW 49.60.222 and 49.60.224 to read as follows:

11 It is an unlawful practice to coerce, intimidate, threaten, or
12 interfere with any person in the exercise or enjoyment of, or on
13 account of his or her having exercised or enjoyed, or on account of his
14 or her having aided or encouraged any other person in the exercise or
15 enjoyment of, rights regarding real estate transactions secured by RCW
16 49.60.030, 49.60.040, and 49.60.222 through 49.60.224.

17 Sec. 8. RCW 49.60.224 and 1979 c 127 s 10 are each amended to read
18 as follows:

19 (1) Every provision in a written instrument relating to real
20 property which purports to forbid or restrict the conveyance,
21 encumbrance, occupancy, or lease thereof to individuals of a specified
22 race, creed, color, sex, national origin, families with children
23 status, or with any sensory, mental, or physical ((handicap))
24 disability or the use of a trained guide dog or service dog by a blind,
25 deaf, or physically disabled person, and every condition, restriction,
26 or prohibition, including a right of entry or possibility of reverter,
27 which directly or indirectly limits the use or occupancy of real
28 property on the basis of race, creed, color, sex, national origin,
29 families with children status, or the presence of any sensory, mental,
30 or physical ((handicap)) disability or the use of a trained guide dog
31 or service dog by a blind, deaf, or physically disabled person is void.

32 (2) It is an unfair practice to insert in a written instrument
33 relating to real property a provision that is void under this section
34 or to honor or attempt to honor such a provision in the chain of title.

35 Sec. 9. RCW 49.60.225 and 1985 c 185 s 19 are each amended to read
36 as follows:

1 (1) When a reasonable cause determination has been made under RCW
2 ((49.60.250)) 49.60.240 that an unfair practice ((involving real
3 property)) in a real estate transaction has been committed and a
4 finding has been made that the respondent has engaged in any unfair
5 practice under RCW 49.60.250, the ((commission may, in addition to
6 other relief authorized by RCW 49.60.250, award the complainant up to
7 one thousand dollars)) administrative law judge shall promptly issue an
8 order for such relief suffered by the aggrieved person as may be
9 appropriate, which may include actual damages as provided by Title VIII
10 of the United States civil rights act of 1964, as amended, and the
11 federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3601 et
12 seq.), and injunctive or other equitable relief. Such order may, to
13 further the public interest, assess a civil penalty against the
14 respondent:

15 (a) In an amount up to ten thousand dollars if the respondent has
16 not been determined to have committed any prior unfair practice in a
17 real estate transaction;

18 (b) In an amount up to twenty-five thousand dollars if the
19 respondent has been determined to have committed one other unfair
20 practice in a real estate transaction during the five-year period
21 ending on the date of the filing of this charge; or

22 (c) In an amount up to fifty thousand dollars if the respondent has
23 been determined to have committed two or more unfair practices in a
24 real estate transaction during the seven-year period ending on the date
25 of the filing of this charge, for loss of the right secured by RCW
26 49.60.010, 49.60.030, 49.60.040, and 49.60.222 through ((49.60.226))
27 49.60.224, as now or hereafter amended, to be free from discrimination
28 in real property transactions because of sex, marital status, race,
29 creed, color, national origin, families with children status, or the
30 presence of any sensory, mental, or physical ((handicap)) disability or
31 the use of a trained guide dog or service dog by a blind, deaf, or
32 physically disabled person. Enforcement of the order and appeal
33 therefrom by the complainant or respondent ((shall)) may be made as
34 provided in RCW 49.60.260 and 49.60.270. If acts constituting the
35 unfair practice in a real estate transaction that is the object of the
36 charge are determined to have been committed by the same natural person
37 who has been previously determined to have committed acts constituting
38 an unfair practice in a real estate transaction, then the civil penalty
39 of up to fifty thousand dollars may be imposed without regard to the

1 period of time within which any subsequent unfair practice in a real
2 estate transaction occurred. All civil penalties assessed under this
3 section shall be paid into the state treasury and credited to the
4 general fund.

5 (2) Such order shall not affect any contract, sale, conveyance,
6 encumbrance, or lease consummated before the issuance of an order that
7 involves a bona fide purchaser, encumbrancer, or tenant who does not
8 have actual notice of the charge filed under this chapter.

9 (3) Notwithstanding any other provision of this chapter, persons
10 awarded damages under this section may not receive additional damages
11 pursuant to RCW 49.60.250.

12 **Sec. 10.** RCW 49.60.227 and 1987 c 56 s 2 are each amended to read
13 as follows:

14 If a written instrument contains a provision that is void by reason
15 of RCW 49.60.224, the owner, occupant, or tenant of the property which
16 is subject to the provision may cause the provision to be stricken from
17 the public records by bringing an action in the superior court in the
18 county in which the property is located. The action shall be an in
19 rem, declaratory judgment action whose title shall be the description
20 of the property. The necessary party to the action shall be the owner,
21 occupant, or tenant of the property or any portion thereof.

22 If the court finds that any provisions of the written instrument
23 are void under RCW 49.60.224, it shall enter an order striking the void
24 provisions from the public records and eliminating the void provisions
25 from the title or lease of the property described in the complaint.

26 **Sec. 11.** RCW 49.60.230 and 1985 c 185 s 21 are each amended to
27 read as follows:

28 (1) Who may file a complaint:

29 ~~((+1))~~ (a) Any person claiming to be aggrieved by an alleged
30 unfair practice may, personally or by his or her attorney, make, sign,
31 and file with the commission a complaint in writing under oath. The
32 complaint shall state the name and address of the person alleged to
33 have committed the unfair practice and the particulars thereof, and
34 contain such other information as may be required by the commission.

35 ~~((+2))~~ (b) Whenever it has reason to believe that any person has
36 been engaged or is engaging in an unfair practice, the commission may
37 issue a complaint.

1 ((+3+)) (c) Any employer or principal whose employees, or agents,
2 or any of them, refuse or threaten to refuse to comply with the
3 provisions of this chapter may file with the commission a written
4 complaint under oath asking for assistance by conciliation or other
5 remedial action.

6 (2) Any complaint filed pursuant to this section must be so filed
7 within six months after the alleged act of discrimination except that
8 complaints alleging an unfair practice in a real estate transaction
9 pursuant to RCW 49.60.222 through 49.60.225 must be so filed within one
10 year after the alleged unfair practice in a real estate transaction has
11 occurred or terminated.

12 **Sec. 12.** RCW 49.60.240 and 1985 c 185 s 22 are each amended to
13 read as follows:

14 After the filing of any complaint, the chairperson of the
15 commission shall refer it to the appropriate section of the
16 commission's staff for prompt investigation and ascertainment of the
17 facts alleged in the complaint. The investigation shall be limited to
18 the alleged facts contained in the complaint. The results of the
19 investigation shall be reduced to written findings of fact, and a
20 finding shall be made that there is or that there is not reasonable
21 cause for believing that an unfair practice has been or is being
22 committed. A copy of said findings shall be furnished to the
23 complainant and to the person named in such complaint, hereinafter
24 referred to as the respondent.

25 If the finding is made that there is reasonable cause for believing
26 that an unfair practice has been or is being committed, the
27 commission's staff shall immediately endeavor to eliminate the unfair
28 practice by conference, conciliation, and persuasion.

29 If an agreement is reached for the elimination of such unfair
30 practice as a result of such conference, conciliation, and persuasion,
31 the agreement shall be reduced to writing and signed by the respondent,
32 and an order shall be entered by the commission setting forth the terms
33 of said agreement. No order shall be entered by the commission at this
34 stage of the proceedings except upon such written agreement, except
35 that during the period beginning with the filing of complaints alleging
36 an unfair practice with respect to real estate transactions pursuant to
37 RCW 49.60.222 through 49.60.225, and ending with the filing of a
38 finding of reasonable cause or a dismissal by the commission, the

1 commission staff shall, to the extent feasible, engage in conciliation
2 with respect to such complaint. Any conciliation agreement arising out
3 of conciliation efforts by the commission shall be an agreement between
4 the respondent and the complainant and shall be subject to the approval
5 of the commission. Each conciliation agreement shall be made public
6 unless the complainant and respondent otherwise agree and the
7 commission determines that disclosure is not required to further the
8 purposes of this chapter.

9 If no such agreement can be reached, a finding to that effect shall
10 be made and reduced to writing, with a copy thereof furnished to the
11 complainant and the respondent.

12 NEW SECTION. Sec. 13. A new section is added to chapter 49.60 RCW
13 to read as follows:

14 (1) Any complainant on whose behalf the reasonable cause finding
15 was made, a respondent, or an aggrieved person may, with respect to
16 real estate transactions pursuant to RCW 49.60.222 through 49.60.225,
17 elect to have the claims on which reasonable cause was found decided in
18 a civil action under RCW 49.60.030(2) in lieu of a hearing under RCW
19 49.60.250. This election must be made not later than twenty days after
20 the service of the reasonable cause finding. The person making such
21 election shall give notice of doing so to the commission and to all
22 other complainants and respondents to whom the charge relates. Any
23 reasonable cause finding issued by the commission pursuant to the
24 procedures contained in this chapter shall become final twenty days
25 after service of the reasonable cause finding unless a written notice
26 of election is received by the commission within the twenty-day period.

27 (2) If an election is made under subsection (1) of this section,
28 the commission shall authorize not later than thirty days after the
29 election is made, and the attorney general shall commence, a civil
30 action on behalf of the aggrieved person in a superior court of the
31 state of Washington seeking relief under this section.

32 (3) Any aggrieved person with respect to the issues to be
33 determined in a civil action under this section may intervene as of
34 right in that civil action.

35 (4) In a civil action under this section, if the court finds that
36 an unfair practice in a real estate transaction has occurred or is
37 about to occur, the court may grant any relief that a court could grant
38 with respect to such an unfair practice in a real estate transaction in

1 a civil action under RCW 49.60.030(2). If monetary relief is sought
2 for the benefit of an aggrieved person who does not intervene in the
3 civil action, the court shall not award such relief if that aggrieved
4 person has not complied with discovery orders entered by the court.

5 (5) In any administrative proceeding under this section where the
6 respondent is the prevailing party, a complainant who intervenes by
7 filing a notice of independent appearance may be liable for reasonable
8 attorneys' fees and costs only to the extent that the intervening
9 participation in the administrative proceeding was frivolous or
10 vexatious, or was for the purpose of harassment.

11 (6) In any administrative proceeding brought under RCW 49.60.225 or
12 any court proceeding arising therefrom, or any civil action under this
13 section, the administrative law judge or the court in its discretion
14 may allow the prevailing party, other than the commission, reasonable
15 attorneys' fees and costs.

16 **Sec. 14.** RCW 49.60.250 and 1992 c 118 s 5 are each amended to read
17 as follows:

18 (1) In case of failure to reach an agreement for the elimination of
19 such unfair practice, and upon the entry of findings to that effect,
20 the entire file, including the complaint and any and all findings made,
21 shall be certified to the chairperson of the commission. The
22 chairperson of the commission shall thereupon request the appointment
23 of an administrative law judge under Title 34 RCW to hear the complaint
24 and shall cause to be issued and served in the name of the commission
25 a written notice, together with a copy of the complaint, as the same
26 may have been amended, requiring the respondent to answer the charges
27 of the complaint at a hearing before the administrative law judge, at
28 a time and place to be specified in such notice.

29 (2) The place of any such hearing may be the office of the
30 commission or another place designated by it. The case in support of
31 the complaint shall be presented at the hearing by counsel for the
32 commission: PROVIDED, That the complainant may retain independent
33 counsel and submit testimony and be fully heard. No member or employee
34 of the commission who previously made the investigation or caused the
35 notice to be issued shall participate in the hearing except as a
36 witness, nor shall the member or employee participate in the
37 deliberations of the administrative law judge in such case. Any

1 endeavors or negotiations for conciliation shall not be received in
2 evidence.

3 (3) The respondent shall file a written answer to the complaint and
4 appear at the hearing in person or otherwise, with or without counsel,
5 and submit testimony and be fully heard. The respondent has the right
6 to cross-examine the complainant.

7 (4) The administrative law judge conducting any hearing may permit
8 reasonable amendment to any complaint or answer. Testimony taken at
9 the hearing shall be under oath and recorded.

10 (5) If, upon all the evidence, the administrative law judge finds
11 that the respondent has engaged in any unfair practice, the
12 administrative law judge shall state findings of fact and shall issue
13 and file with the commission and cause to be served on such respondent
14 an order requiring such respondent to cease and desist from such unfair
15 practice and to take such affirmative action, including, (but not
16 limited to) hiring, reinstatement or upgrading of employees, with or
17 without back pay, an admission or restoration to full membership rights
18 in any respondent organization, or to take such other action as, in the
19 judgment of the administrative law judge, will effectuate the purposes
20 of this chapter, including action that could be ordered by a court,
21 except that damages for humiliation and mental suffering shall not
22 exceed one thousand dollars, and including a requirement for report of
23 the matter on compliance. Relief available for violations of RCW
24 49.60.222 through 49.60.224 shall be limited to the relief specified in
25 RCW 49.60.225.

26 (6) If a determination is made that retaliatory action, as defined
27 in RCW 42.40.050, has been taken against a whistleblower, as defined in
28 RCW 42.40.020, the administrative law judge may, in addition to any
29 other remedy, impose a civil penalty upon the retaliator of up to three
30 thousand dollars and issue an order to the state employer to suspend
31 the retaliator for up to thirty days without pay. At a minimum, the
32 administrative law judge shall require that a letter of reprimand be
33 placed in the retaliator's personnel file. All penalties recovered
34 shall be paid into the state treasury and credited to the general fund.

35 (7) The final order of the administrative law judge shall include
36 a notice to the parties of the right to obtain judicial review of the
37 order by appeal in accordance with the provisions of RCW 34.05.510
38 through 34.05.598, and that such appeal must be served and filed within
39 thirty days after the service of the order on the parties.

1 (8) If, upon all the evidence, the administrative law judge finds
2 that the respondent has not engaged in any alleged unfair practice, the
3 administrative law judge shall state findings of fact and shall
4 similarly issue and file an order dismissing the complaint.

5 (9) An order dismissing a complaint may include an award of
6 reasonable attorneys' fees in favor of the respondent if the
7 administrative law judge concludes that the complaint was frivolous,
8 unreasonable, or groundless.

9 (10) The commission shall establish rules of practice to govern,
10 expedite, and effectuate the foregoing procedure.

11 **Sec. 15.** RCW 49.60.260 and 1989 c 175 s 116 are each amended to
12 read as follows:

13 (1) The commission (~~shall~~) may petition the court within the
14 county wherein any unfair practice occurred or wherein any person
15 charged with an unfair practice resides or transacts business for the
16 enforcement of any final order which is not complied with and is issued
17 by the commission or an administrative law judge under the provisions
18 of this chapter and for appropriate temporary relief or a restraining
19 order, and shall certify and file in court the final order sought to be
20 enforced. Within five days after filing such petition in court, the
21 commission shall cause a notice of the petition to be sent by certified
22 mail to all parties or their representatives.

23 (2) If within sixty days after the date the administrative law
24 judge's order concerning an unfair practice in a real estate
25 transaction is entered, no petition has been filed under subsection (1)
26 of this section and the commission has not sought enforcement of the
27 final order under this section, any person entitled to relief under the
28 final order may petition for a decree enforcing the order in the
29 superior courts of the state of Washington for the county in which the
30 unfair practice in a real estate transaction under RCW 49.60.222
31 through 49.60.224 is alleged to have occurred.

32 (3) From the time the petition is filed, the court shall have
33 jurisdiction of the proceedings and of the questions determined
34 thereon, and shall have the power to grant such temporary relief or
35 restraining order as it deems just and suitable.

36 ((+3)) (4) If the petition shows that there is a final order
37 issued by the commission or administrative law judge under RCW
38 49.60.240 or 49.60.250 and that the order has not been complied with in

1 whole or in part, the court shall issue an order directing the person
2 who is alleged to have not complied with the administrative order to
3 appear in court at a time designated in the order, not less than ten
4 days from the date thereof, and show cause why the administrative order
5 should not be enforced according to the terms. The commission or any
6 person entitled to relief of any final order shall immediately serve
7 the ((person)) noncomplying party with a copy of the court order and
8 the petition.

9 ((+4)) (5) The administrative order shall be enforced by the court
10 if the person does not appear, or if the person appears and the court
11 finds that:

12 (a) The order is regular on its face;

13 (b) The order has not been complied with; and

14 (c) The person's answer discloses no valid reason why the order
15 should not be enforced, or that the reason given in the person's answer
16 could have been raised by review under RCW 34.05.510 through 34.05.598,
17 and the person has given no valid excuse for failing to use that
18 remedy.

19 ((+5)) (6) The jurisdiction of the court shall be exclusive and
20 its judgment and decree shall be final, except that the same shall be
21 subject to appellate review by the supreme court or the court of
22 appeals, on appeal, by either party, irrespective of the nature of the
23 decree or judgment. The review shall be taken and prosecuted in the
24 same manner and form and with the same effect as is provided in other
25 cases.

26 **Sec. 16.** RCW 49.60.330 and 1983 c 5 s 2 are each amended to read
27 as follows:

28 Any county or any city classified as a first class city under RCW
29 35.01.010 with over one hundred twenty five thousand population may
30 enact resolutions or ordinances consistent with this chapter to provide
31 administrative and/or judicial remedies for any form of discrimination
32 proscribed by this chapter(~~(+ PROVIDED, That)~~). The imposition of
33 such administrative remedies shall be subject to judicial review. The
34 superior courts shall have jurisdiction to hear all matters relating to
35 violation and enforcement of such resolutions or ordinances, including
36 petitions for preliminary relief, the award of such remedies and civil
37 penalties as are consistent with this chapter, and enforcement of any
38 order of a county or city administrative law judge or hearing examiner

1 pursuant to such resolution or ordinance. Any local resolution or
2 ordinance not inconsistent with this chapter may provide, after a
3 finding of reasonable cause to believe that discrimination has
4 occurred, for the filing of an action in, or the removal of the matter
5 to, the superior court.

6 NEW SECTION. Sec. 17. If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

--- END ---

93-155

City of Seattle

Executive Department—Office of Management and Budget

Diana Gale, Director
Norman B. Rice, Mayor



June 1, 1993

*OK as to form,
as revised
High R. Tobi
8/3/93*

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Human Rights

SUBJECT: AN ORDINANCE relating to Unfair Housing Practices, to establish substantial equivalency with the Federal Fair Housing Amendments Act of 1988; amending Seattle Municipal Code (SMC) Chapter 14.08 (Open Housing and Public Accommodations Ordinance 104839, as last amended by Ordinance 114864); by amending SMC sections 14.08.010, 14.08.020, 14.08.040, 14.08.050, 14.08.060, 14.08.070, 14.08.080, 14.08.090, 14.08.100, 14.08.110, 14.08.120, 14.08.130, 14.08.150, 14.08.160, 14.08.170 A, 14.08.180, and 14.08.190 E; and adding new SMC sections 14.08.045, 14.08.055, 14.08.095, 14.08.135, 14.08.165, 14.08.185, and 14.08.187.

*Note
title
changes*

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Judith Noble, at 4-8080.

Sincerely,

Norman B. Rice
Mayor

by

*Judith Noble
for*

DIANA GALE
Budget Director

DGjnlw

Enclosure

cc: Director, Human Rights

FILED CITY ATTORNEY
59 JUN -1 PM 4:53

STATE OF WASHINGTON - KING COUNTY

34321
City of Seattle

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD:116818

was published on
08/30/93

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

A. Gardner

Subscribed and sworn to before me on

08/30/93

[Signature]

Notary Public for the State of Washington,
residing in Seattle

City of Seattle Ordinances

City of Seattle ORDINANCE 116818

AN ORDINANCE relating to Open Housing and Public Accommodations, to establish substantial equivalency with the Federal Fair Housing Amendments Act of 1988; amending Seattle Municipal Code (SMC) Chapter 14.08 (Open Housing and Public Accommodations Ordinance 104839, as last amended by Ordinance 114864); by amending SMC sections 14.08.010, 14.08.020, 14.08.030, 14.08.040, 14.08.050, 14.08.060, 14.08.070, 14.08.080, 14.08.090, 14.08.100, 14.08.110, 14.08.120, 14.08.130, 14.08.150, 14.08.160, 14.08.170, 14.08.180, and 14.08.190 E; and adding new SMC sections 14.08.045, 14.08.055, 14.08.095, 14.08.135, 14.08.165, 14.08.185, and 14.08.187.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code ("SMC") 14.08.010 (as last amended by §1 of Ordinance 113610) is hereby further amended as follows:

14.08.010 Short title and purposes.

A. This chapter shall be known as and may be cited as the "Open Housing and Public Accommodations Ordinance." The general purposes of this chapter are to promote the availability and accessibility of housing and real property to all persons; to prohibit ((discriminatory)) unfair practices in real property transactions, whether direct or indirect, which inexcusably and unjustifiably deny those persons equal rights and opportunities in acquiring ((or)), disposing of or occupying real property; to assure all persons equal opportunity to the full enjoyment of places of public accommodation; to eliminate and to prevent unlawful discrimination in places of public accommodation; to provide enforcement mechanisms for the accomplishment of such purposes; and to these ends the provisions of this chapter shall be liberally construed. The role of the Human Rights Department is to enforce the provisions of this chapter in furtherance of this policy.

B. This chapter shall not be construed to endorse specific beliefs, practices or lifestyles.

C. Nothing in this chapter shall be deemed to deny any person the right to institute any action or to pursue any civil or criminal remedy for the violation of such person's civil rights.

D. To avoid duplication of efforts or otherwise conserve agency resources, the Director may suspend or close a case for any reason consistent with this chapter, including the reason that the case is being actively pursued in another forum. The commencement of a civil action by the Department to enjoin any unfair practice in violation of this chapter shall not preclude the initiation or continuation of administrative proceedings under this chapter.

E. Remedies under this chapter should include such relief authorized by law as may be appropriate and reasonable to provide appropriate temporary or preliminary relief as well as to make the aggrieved person whole and eliminate the unfair practice.

F. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from or by reason of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City by its officers, employees or agents.

Section 2. SMC 14.08.020 (as last amended by §1 of Ordinance 114864) is hereby further amended as follows:

14.08.020 Definitions.

Definitions as used in this chapter, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

A. "Charging party" means the person aggrieved by an unfair practice, or the person making a charge on another person's behalf, or the Director when the Director files a charge

licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates or assembles for amusement, recreation or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two (2) or more tenants, or by the owner and one (1) or more tenants, or any public library or private educational institution, or private schools of special instruction, or nursery schools, or day care centers or children's camps.

U.I. "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. This term includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with the property rights of the landowner as it applies to housing, or which does not cause substantial and material disruption of the property rights of the provider of a place of public accommodation.

V.II. "Prospective borrower" includes any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.

W.Y. "Prospective occupant" includes any person who seeks to purchase, lease, sublease or rent real property.

X.W. "Real estate agent, salesperson or employee" includes any person employed by, associated with or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

Y.X. "Real estate broker" includes any person who for a fee, commission, or other valuable consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.

Z.Y. "Real estate-related transaction" means any of the following:

- 1. The making or purchasing of loans or providing other financial assistance a. for purchasing, constructing, improving, repairing, or maintaining real property; b. secured by real property; or
- 2. The selling, brokering, or appraising of real property.

Z. "Real property" includes housing accommodations, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

AA. "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this chapter.

BB. "Rooming unit" includes one (1) or more rooms within a dwelling unit or rooming house containing space for living and sleeping.

CC. "Section 8 rent certificate" means a document issued by a government agency declaring the holder thereof eligible to participate in the Section 8 program and stating the terms and conditions of such participation.

DD. "Section 8" means a federal, state or local government program in which a