

100-0-93

AN ORDINANCE

Amending Chapter 5 Of Title 5
Of The Evanston City Code
Relating To Fair Housing

WHEREAS, the City of Evanston has enacted a Fair Housing Ordinance to secure to all persons living and/or working in the City an equal opportunity to view, purchase, lease, rent or occupy real estate without discrimination; and

WHEREAS, the Department of Housing and Urban Development (HUD) provides federal funding for the enforcement of said Ordinance; and

WHEREAS, HUD has directed that said Ordinance be amended to comply with current regulations,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON:

Section 1: That section 5-5-5 of the Evanston City Code of 1979, as amended be and hereby is further amended as follows:

COVERED MULTI-FAMILY DWELLING: For the purposes of this Chapter the term "covered multifamily dwelling", applies only to newly constructed dwellings as defined in Section 5-5-6 (W)2(c), and shall consist of:

(A) Any dwelling containing four (4) or more living units ~~exclusive of any unit for the owner of the premises~~ if such building has an elevator; and

(B) Ground floor units of other buildings consisting of four (4) or more units that do not contain an elevator.

DWELLING UNIT: A room or group of rooms designed for occupancy by one family with eating, sleeping, and living facilities or lodging rooms as defined in the Evanston Zoning Ordinance. Dwelling unit shall include any vacant land which is offered for sale or lease, for the construction or location thereon

of any structure or building for occupancy as a residence for one or more persons. The term "existing dwelling unit" as used in 5-5-6(W)(2)(a) of the Evanston Fair Housing Ordinance shall include the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of the building.

STEERING: To encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin of the individual and/or persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin of the individual and/or persons in the area or purported to be moving into the area.

Section 2: That Section 5-5-6 of the Evanston City Code of 1979, as amended, be and hereby is further amended as follows:

5-5-6:DISCRIMINATION PROHIBITED: No person, including but not limited to, any owner, manager, lessee or sublessee of real property, real estate broker, lender, financial institution, advertiser, real estate appraiser, or agent of any of the foregoing, shall discriminate against any other person (or discriminate against such person because of the race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin of the friends or associates of such person) in regard to the sale or rental of or dealings concerning real property. Any such discrimination shall be unlawful. Without limiting the foregoing, it shall also be unlawful discrimination for any person to:

- (C) **Discriminate in Lending:** Discriminate or to participate in discrimination in connection with borrowing or lending money, guaranteeing loans, accepting mortgages, the making or purchasing of loans or the provision of other financial assistance secured by residential real estate, or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repairs or maintenance of any real property in the City. (See Section 5-5-8 of this Chapter).
- (K) **Steering:** Encourage or discourage the sale or rental of real property because of the race, color, religion, sex, age,

sexual orientation, marital status, disability, familial status, or national origin of the individual and/or persons in the neighborhood in which the property is located. This shall include but is not limited to directing persons into or away from areas because of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status or national origin of the individual/and or persons in the area or purported to be moving into the area.

(W) Discrimination due to a Disability:

1. To discriminate because of a disability of:

- a. That person;
- b. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
- c. Any person associated with that disability.

2. For purposes of this subsection, discrimination includes:

- a. A refusal to permit, at the expense of the disabled person, reasonable modifications of an existing multi-family dwelling unit occupied or to be occupied by such person if such modifications may be necessary to afford such 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 agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted; a person with disabilities may make reasonable modification as provided in this section of the Fair Housing Ordinance to the interior or exterior public and common use areas of a building as well as to his and her individual dwelling unit.

Section 3: That Sections 5-5-7 and 5-5-8 of the Evanston City Code of 1979, as amended, be and hereby are further amended as follows:

5-5-7: EXEMPTIONS: This Chapter shall not:

- (A) Bar any religious or denominational institution or organization, or any charitable or educational organization operated, supervised or controlled by or in connection with a

religious organization, from limiting the sale, rental or occupancy of dwellings, which it owns or operates for other than commercial purposes or giving preference with respect thereto, to persons of the same religion or denomination, unless membership in such religion is restricted on account of race, color, or national origin.

- (B) Except for Section 5-5-6(A) of this Chapter, apply to the leasing of rooms to roomers in a dwelling unit occupied by the owner as a family household having not more than two (2) roomers, living independently, exclusive of salaried household employees living on premises.
- (C) Prohibit (due to the Familial Status provision of this Chapter) the operation of housing for older persons. If the following provision are satisfied:

1. As used in this section "housing for older persons" means housing:

a. Provided under any State or Federal program that the U.S. Department of Housing and Urban Development 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 sixty-two (62) years of age or older; or

c. Intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this Section, the Administrator shall require at least the following factors to be met:

(1) 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 is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(2) That at least eighty percent (80%) of the units are occupied by at least one person fifty-five (55) years of age or older per unit; and

(3) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

2. 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 Chapter September 13, 1988,~~ who do not meet the age requirements of subsections (C)1(b) or (c) herein; provided, that new occupants of such housing meet the age requirements of subsections (C)1(b) or (c) herein; or

b. Unoccupied units: provided, that such units are reserved for occupancy for persons who meet the age requirements of subsections (C)1(b) or (c) herein.

3. The Administrator shall determine, based on the factors listed in this Section, the applicability of any claimed exemption under this Chapter.

(D) Bar any ~~charitable or~~ educational organization from limiting to persons of the same sex the rental of living accommodations ~~in facilities primarily providing single room occupancy.~~

5-5-8: DISCRIMINATION IN LENDING: It shall be unlawful and a violation of this Chapter for any lending institution to discriminate in making, agreeing to make, arranging, or negotiating any loan or guarantee of funds for the purpose of financing the purchase or sale, construction, lease, rehabilitation improvement, renovation, or repair of any real property, or to offer, seek or agree to terms conditions or privileges that discriminate on account of race, color, religion, sex, age, sexual orientation, marital status, disability, familial status, or national origin. (See 5-5-6(C) of this Chapter).

Section 4: That Section 5-5-12 of the Evanston City Code of 1979, as amended, be and hereby is further amended as follows:

5-5-12:PROCEEDINGS BEFORE COMMISSION:

(G) If, in the judgment of the Administrator after consultation with the Commission, immediate court action is necessary, he may at any time direct the Corporation Counsel or outside counsel to file a complaint in any court of competent jurisdiction for a fine, injunction, or other appropriate relief. Such action may be taken at any time after a complaint has been filed with the Commission.

(I) All parties shall have the right to counsel. After a charge is issued the complainants shall be appointed legal representation at the expense of the Commission, from a list approved by the Corporation Counsel and with the approval of

the City Manager, (or the corporation counsel shall be appointed) and will be empowered to prosecute violations and represent complainants under this chapter or to otherwise act as would the corporation counsel. All rules of procedure and regulations adopted by the Commission shall preserve the right of due process under the Illinois and United States Constitutions. The burden of proof shall be on the complainant. A determination sustaining the charge of discrimination shall be by a preponderance of the evidence.

(J) The Commission shall be empowered at the conclusion of such proceedings, and as part of its final order, to direct that any person who shall have been found, as a result of such proceedings, to have violated this Chapter, to forthwith take any one or more of the following actions:

1. Comply with this Chapter in respect of each violation found.

2. Perform any contract or agreement previously made with or offered by or to the complainant for sale, lease, exchange, transfer, conveyance or assignment of the particular real property with respect to which a violation shall have been found.

3. Reimburse the complainant for his actual and reasonable out-of-pocket expenses and costs necessarily incurred and to be incurred as a direct result of each violation found, the amount of which shall be specified by the Commission in its report and may include, but need not be limited to, reimbursement for expenses and costs for temporary living, moving and storage of household furnishings, additional expenditures relating to the lease or rental of real property necessarily obtained to provide alternative housing accommodations, additional expenditures resulting from failure or refusal to sublease or assign leased real property, and reasonable attorney's fees and disbursements.

4. Award compensatory damages to the complainant and against the Respondent. Compensatory damages may include damages caused by humiliation and embarrassment.

5. Pay a penal sum of not less than one hundred (\$100.00) nor more than five hundred dollars (\$500.00) for each violation found. Every day a violation continues may be deemed a separate offense by appropriate finding.

6. Such order may, to vindicate the public interest, assess a civil penalty against the respondent (in favor of the City of Evanston):

a. In an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

b. In an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the five (5) year period ending on the date of the filing of such charge; and

c. In an amount not to exceed \$50,000 if the respondent has been adjudged to have committed two or more discriminatory housing practice during the seven (7) year period ending on the date of the filing of such charge.

7. Comply with such other and further relief as may be deemed appropriate by the Commission for the enforcement of this Chapter and the elimination of violations thereof.

- (K) The Commission may, by written order served upon the respondent at any time pending final order, order that the particular real property, with respect to which a violation of this Chapter has been filed, shall not be sold, leased, exchanged, transferred, conveyed or assigned to any person other than the complainant.
- (L) Any complainant or respondent may apply for and obtain judicial review of a final order of the Commission entered under this Chapter in accordance with the provisions of the Illinois Administrative Review Act.

Section 5: That Section 5-5-13(B) (1) of the Evanston City Code of 1979, as amended, be and hereby is further amended as follows:

5-5-13: Election of Judicial Determination:

- (B) Civil Action for Enforcement when Election is Made for Such Civil Action:

1. If an election is made under subsection (A), of this section, the Commission shall authorize, and not later than 30 days after the election is made the Corporate Counsel or his designee as specified in section 5-5-12(I) of this Chapter shall commence and maintain, a civil action on behalf of the aggrieved person in a court of competent jurisdiction seeking relief under this subsection, at the expense of the Commission.

Section 6: That Section 5-5-14 of the Evanston City Code of 1979, as amended, be and hereby is further amended as follows:

5-5-14: PRIVATE REMEDIES: Any person aggrieved in any manner by the violation of this Chapter, may commence a civil action in any court of competent jurisdiction 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 Chapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach. If the court finds that a discriminatory housing practice has occurred, the court may grant the following relief:

- (A) An order compelling compliance with this Chapter.
- (B) An order to prohibit any person found by the court to have violated any provision of this Chapter from the sale, lease, exchange, transfer, conveyance or assignment of any real property, by any person who in violation of this Chapter refuses or fails to perform such contract.
- (C) Compensatory damages and punitive damages, including damages caused by humiliation and embarrassment.
- (D) Such other and further relief as may seem appropriate to the court for the enforcement of this Chapter and the elimination of violations thereof.
- (E) In a civil action under this Chapter, the court may allow the prevailing party a reasonable attorney's fee and costs.

These remedies shall be available notwithstanding the imposition of other penalties provided by this Chapter.

Section 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: September 3, 1993

Adopted: September 13, 1993

Approved: September 16, 1993

Lorraine H. Morton
Mayor

ATTEST:

Kristen Davis
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

