

PROPOSED ORDINANCE NO. 85-1

EMERGENCY ORDINANCE NO. 85-1

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE DECLARING IT TO BE THE POLICY OF FRANKLIN COUNTY TO ELIMINATE DISCRIMINATION IN HOUSING BASED UPON RACE, COLOR, RELIGION, SEX NATIONAL ORIGIN, PLACE OF BIRTH, AGE (PROVIDED THE PERSON HAS THE CAPACITY TO CONTRACT), MARITAL STATUS, MILITARY STATUS, ANCESTRY, OR PHYSICAL DISABILITY; PROVIDING DEFINITIONS; SPECIFYING UNLAWFUL PRACTICES; SPECIFYING EXEMPTIONS; PROVIDING FOR A FAIR HOUSING DIRECTOR; PRESCRIBING DUTIES AND POWERS OF THE FAIR HOUSING DIRECTOR; PROVIDING FOR A FAIR HOUSING BOARD; PRESCRIBING DUTIES AND POWERS OF THE FAIR HOUSING BOARD; PROVIDING PROCEDURES FOR INITIATING AND ACTING UPON COMPLAINTS; PROVIDING FOR REVIEW OF THE ACTIONS OR DECISIONS OF THE DIRECTOR; PROVIDING FOR HEARINGS OF THE FAIR HOUSING BOARD, PROVIDING FOR OTHER REMEDIES; PROVIDING FOR PENALTIES; PROVIDING PROCEDURE FOR FILING REPORTS WITH THE REAL ESTATE COMMISSION OF THE STATE OF FLORIDA; REPEALING CONFLICTING ORDINANCES; AND PROVIDING FOR LIMITED INVALIDATION.

BE IT ORDAINED BY FRANKLIN COUNTY, FLORIDA:

SECTION 1. Declaration of Policy. It is hereby declared to be the policy of Franklin County, in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, religion, sex, national origin, place of birth, age (provided the person has the

capacity to contract), marital status, ancestry, military status, or physical disability, and, to that end, to prohibit and eliminate discrimination in housing by any person.

SECTION 2. Definitions.

When used herein:

(a) BOARD means the Fair Housing Board established by this ordinance.

(b) DIRECTOR means the Fair Housing Director established by this ordinance.

(c) REAL PROPERTY includes buildings, structures, lands, tenements leaseholds, cooperatives and condominiums.

(d) DISCRIMINATION OR DISCRIMINATORY HOUSING PRACTICE means any difference in the treatment of persons based on race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability.

(e) PERSON includes one or more individuals, governments, governmental agencies, governmental departments, governmental programs, political subdivisions, labor unions, firms,

associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(f) OWNER includes a lessee, sublessee, co-tenant, assignee, managing agent, or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

(g) LENDING INSTITUTION OR FINANCIAL INSTITUTION includes any person, as defined herein, engaged in the business of lending money or guaranteeing loans.

(h) REAL ESTATE BROKER OR REAL ESTATE SALESMAN includes any individual, who, for a fee, commission, salary or for other valuable consideration who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities, or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accom-

modation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(i) HOUSING, HOUSING ACCOMMODATIONS, OR DWELLING means any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy as, a residence by one or more families, and any vacant land which if offered for sale or lease for the construction or location thereon of any such building, mobile home or trailer, structure, or portion thereof or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.

(j) MORTGAGE BROKER means an individual who is engaged in or performs the business or services of a mortgage broker as the same are defined by Florida Statutes.

(k) OPEN MARKET means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker, or by advertising by publication, signs or by any other advertising or other methods directed to the public or any portion thereof, indication that the property is available for sale, purchase, rental or lease.

(1) TO RENT includes to lease, to sublease, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

SECTION 3. Unlawful Practices. In connection with any of the transactions set forth in this section which affects any housing accommodation on the open market, or in connection with any public sale, purchase, rental, or lease of any housing accommodation, it shall be unlawful within Franklin County for a person, owner, financial institution, real estate broker, or real estate salesman, or any representative of the above to :

(a) Refuse to sell, purchase, rent or lease, or otherwise deny to or withhold any housing accommodation from a person, or to evict a person because of his race, color, religion, sex, national origin, place of birth, age (provided to person has the capacity to contract), marital status, military status, ancestry, or physical disability; or

(b) To discriminate against a person in the terms, conditions of privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith; or

[REDACTED] [REDACTED] [REDACTED]

(c) To refuse to receive or transmit a bonafide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability; or

(d) To evict or to refuse to negotiate for the sale, purchase, rental, or lease of any housing accommodation to a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, ancestry, or physical disability; or

(e) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease, when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability when such dwelling is in fact available to persons who are financially qualified; or

(f) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to an-

announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to discriminate; or

(g) To offer, solicit, accept, or use a listing of any housing accommodation for sale, purchase, rental, or lease knowing that a person may be subjected to discrimination in connection with such sale, purchase, rental, or lease, or in the furnishings of facilities or services in connection therewith; or

(h) To induce or discourage, or to attempt to induce or discourage:

- (1) the sale,
- (2) the purchase,
- (3) the rental,
- (4) the lease, or
- (5) the listing for (1), (2), (3), or (4) above, of any housing accommodations in an area, by means of:

- (i) causing panic,
- (ii) inciting unrest, or

(iii) creating or playing upon fear, by representing that the presence or anticipated presence in that area of persons of any particular race, color, religion, ancestry, sex, place of birth physical handicap or national origin, will or may result in:

(i) the lowering of property values in the area,

(ii) the increase in criminal or anti-social behavior in the area, or

(iii) a decline in the quality of the schools serving the area; or

(i) For any bank, building and loan association, insurance company or other corporation, association, firm, or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability of such person or of any person associated with him in connection with such

loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance to be made or given; or

(j) To deny any person who is otherwise professionally qualified by State Law access to, or membership or participation in, any multiple listing service, real estate brokers' organizations, or organizations, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability; or

(k) To make any misrepresentations concerning the listing for sale, purchase, rental, or lease, or the anticipated listing for any of the above, or the sale, purchase, rental, or lease of any housing accommodation in any area in Franklin County for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

(l) To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

(m) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, or participated in any manner in any investigation, proceeding, hearing or conference under this ordinance; or

(n) To aid, abet, incite, compel, or coerce any person to engage in any of the practices prohibited by this article; or to obstruct or prevent any person from complying with the provisions of this article, or any order issued thereunder; or

(o) To resist, prevent, impede, or interfere with the commission, or any of its members or representatives in the lawful performance of its or their duty under this article, or

(p) By canvassing, to commit any unlawful practices prohibited by this article; or

[REDACTED] [REDACTED] [REDACTED]

(q) Otherwise to deny to, or withhold any housing accommodation from a person because of his race, color, religion, sex, national origin, place of birth, age (provided the person has the capacity to contract), marital status, military status, ancestry, or physical disability.

SECTION 4. Exemptions. This ordinance shall not apply to:

(a) A religious organization, association, or society or any non-profit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, age (provided the person has capacity to contract), marital status, military status, or physical disability,

(b) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodging which it owns or operates for other than a commer-

cial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

(c) Any single-family house sold or rented by an owner; provided that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period; provided further, that such bona fide private individual owner does not own any interest in, or is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time; provided further, the sale or rental of any such single-family house shall be excepted from the application of this ordinance only if such house is sold or rented:

(1) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facili-

ties or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and

(2) Without the publication, posting, or mailing, after notice of any advertisement or written notice in violation of the provisions of 42 United States Code Section 3604 (c) or of Section 3 of this ordinance; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

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

SECTION 5. Fair Housing Director. The Office and position of Fair Housing Director, is hereby created and established. The director shall be appointed by and serve at the will of the Franklin County Commission. Such director shall be chosen by the Franklin County Commission on the basis of qualifications and experience. The Fair Housing Director shall serve under the supervision of the Franklin

County Commission. The Franklin County Commission shall appoint such assistants to the director as may be necessary, subject to budget limitations and shall provide the director required administrative support. This office shall be funded annually with Community Development Block Grant funds as approved by the Franklin County Commission.

SECTION 6. Duties and Powers of the Fair Housing Director. The duties, functions, powers and responsibilities of the Fair Housing Director shall include:

(a) To implement the provisions of this ordinance and rules and regulations promulgated hereunder and all Franklin County ordinances, codes, rules and regulations pertaining to housing discrimination.

(b) To investigate any and all complaints of unlawful practices in violation of this ordinance, to seek voluntary compliance with this ordinance by the respondent, and if in the opinion of the director such voluntary compliance is not made satisfactorily within 60 days of receipt of the complaint to report his findings and recommendations to the Fair Housing Board and to carry out the directives of the board.

(c) To provide assistance in all matters relating to equal housing opportunity within Franklin County.

(d) Subject to the approval of the Fair Housing Board, to enter into written working agreements, as may be necessary to effectuate the purposes of this ordinance, with Federal, State, and County agencies involved in reducing housing discrimination.

(e) To keep the Fair Housing Board fully currently informed of all complaints alleging violations of this ordinance and actions taken thereon, and of other actions taken by the director under the provisions of this section; and to attend all meetings of the Fair Housing Board.

(f) To implement recommendations received from the Fair Housing Board concerning this ordinance and the carrying out of its purpose. When in the opinion of the director, effectuating any such recommendation would be undesirable or infeasible, he will promptly so report to the board, with his reasons.

SECTION 7. The Fair Housing Board. Franklin County's Fair Housing Board is hereby created and established. The Franklin County Commission is hereby vested with the authority to act as the Fair Housing Board. The qualifica-

tions of members, term of office, organization of the board and meetings of the board will coincide with those of the Franklin County Commission.

SECTION 8. Duties and Powers of the Fair Housing Board.

The Board shall have the following duties, powers, functions, and responsibilities:

(a) To make recommendations to the director for the enforcement of this ordinance and the carrying out of its purpose.

(b) To review the director's actions and decisions on all complaints of housing discrimination received by or initiated by him or her.

(c) To conduct public hearings and make determinations concerning the director's actions and decisions on such complaints upon appeal by either complainant or respondent, at the request of the director, or when the board deems it desirable, on its own initiative.

(d) In carrying out the functions of Sub-sections 8(b) and 8(c) above, the board shall have the power to uphold, rescind, reverse, or modify the actions, decisions, and recommendations of the director.

[REDACTED] [REDACTED] [REDACTED]

(e) To administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the chairman of the board.

(f) To review and comment on the director's semiannual report, forwarding each comment to the Franklin County Commission.

(g) In coordination with the director, to take other informational, educational, or persuasive actions to implement the purpose of this ordinance.

SECTION 9. Procedure

(a) Any person aggrieved by an unlawful practice prohibited by this ordinance must file a written complaint with the director or his designated representative within forty-five (45) days after the alleged unlawful practice occurs.

(b) Upon receipt of a complaint, the director shall serve upon the individual with a violation (hereinafter referred to as the respondent) the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a fair and full hearing on the matter before adjudication by the Fair Housing Board. Such service may be by personal service or by certified mail.

[REDACTED] [REDACTED] [REDACTED]

(c) The director shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the director shall file a written report with the board, with findings of fact.

(d) Copies of the director's report shall also be sent to the complainant and the respondent. Either may, within (10) days after such services, request a hearing before the board.

(e) When the director, the complainant, or the respondent requests a hearing by the board, or when the board itself determines that a hearing is desirable, the board shall call and conduct such hearing in accordance with Section 10, below.

(f) Where no board hearing is requested or directed, the board will expeditiously review the report of the director, and shall approve, rescind, reverse, or modify the director's findings and determinations of action.

(g) The director shall carry into execution the actions specified in his report, as approved or altered by the board in its review, or, if a hearing is held, shall carry into execution the actions taken by the board in the hearing.

[REDACTED] [REDACTED] [REDACTED]

(h) The director in his report, as approved by the board, or the board after hearing may determine:

- (1) That the complaint is not meritorious or evidence supporting the complaint is insufficient, or
- (2) That the complaint has been adequately dealt with by conciliation of the parties or voluntary compliance by the respondent(s), or
- (3) That the complaint is meritorious.

(i) If the director's report as approved by the board, or if the board after hearing, determines that the complaint is meritorious, then the director shall order the respondent to comply with this ordinance within 30 days. If the director finds that the respondent has not timely complied with this ordinance, then the director may assist the complainant in prosecuting a civil action against the respondent for discriminatory housing practice or other violation of this ordinance or file in the office of the State Attorney an affidavit of criminal violation of this ordinance, when authorized by the board. Any assistance provided to a complainant pursuant to this section shall be limited to gathering and presenting evidence or testimony.

(j) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this ordinance.

(k) All papers or pleadings required by this article to be served by certified mail or in accordance with the provisions of Rule 1.080 (b), Florida Rules of Civil procedures.

SECTION 10. Hearings Before the Fair Housing Board.

(a) When a hearing is required before the Fair Housing Board as specified in Subsection 9 (e) above, the board shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice and of the director's written report (Subsection 9 (d) above).

(b) The parties, or their authorized counsel, may file such statements with the board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the board in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The board shall not be bound by strict rules of evidence prevailing in courts of law or equity

but due process shall be observed. The board shall keep a full records of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings the director shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.

(c) The board shall make a finding of fact, and a determination of action to be taken (Sub-section 9 (h) above).

(d) The board may issue subpoenas to compel access to or the production or appearance of premises, records, documents, individuals, and other evidence or possible sources of evidence relative to the complaint at issue.

(e) Upon written application to the board, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the board, to the same extent and subject to the same limitations as subpoenas issued respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(f) Witnesses summoned by subpoena of the board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the State courts of Florida. Fees payable to a

witness summoned by a subpoena issued at the request of the respondent shall be paid by him, unless he is indigent in which case the County shall bear the cost of said fees.

(g) Within ten (10) days after service of a subpoena upon any persons, such person may petition the board to revoke or modify the subpoena. The board shall grant the petition if it finds that the subpoena requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(h) In case of refusal to obey a subpoena, the board or the person at whose request it was issued may petition for its enforcement in the appropriate court.

SECTION 11. Criminal Penalties. Any person who willfully violates any provision of this ordinance shall be guilty of a misdemeanor of the second degree, punishable as provided in 775.082 or 775.083, Fla. Stat., or both.

SECTION 12. Other Remedies. Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing of any complaint with any complaint with any other agency or any court having proper jurisdiction.

SECTION 13. Report to Real Estate Commission. If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of this ordinance, or has failed to comply with an order issued by the director, the director shall, in addition to the other procedures and penalties set forth herein, report the facts to the Real Estate Commission of the State of Florida.

SECTION 14. Repealing Clause. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict or inconsistency.

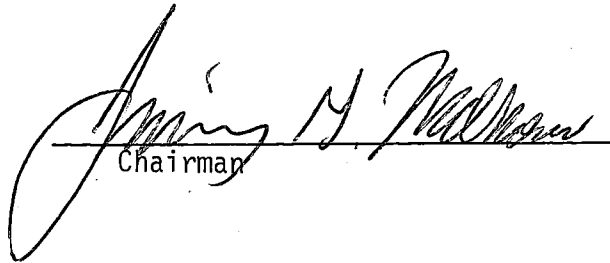
SECTION 15. Limited Invalidation. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of the provision to other persons not similarly situate or to other circumstances shall not be affected thereby.

SECTION 16. This Ordinance shall take effect immediately upon its passage by the Franklin County Commission and shall be published as required by law.


This Ordinance is enacted as an emergency ordinance pursuant to the provisions of Sec. 125.66 (3)(b) F. S. in order to allow filing of grant applications within the time limits established by the applicable agencies.

Consideration of this emergency ordinance on motion by Commissioner Vinson, seconded by Commissioner Mabrey.

The Ordinance was passed by unanimous vote of the Franklin County Commission the 3rd day of January, 1985.


Chairman

Attest


Clerk

Affirmed as to form

