

By: Mr. Thompson

Re: Ordinance Amendment
Chapter 154, Discrimination

The Common Council of the City of Buffalo does hereby ordain as follows:

That Chapter 154 of the Code of the City of Buffalo be amended to read as follows:

§154-12, Fair Housing Ordinance, Legislative Intent

It is the goal of the City of Buffalo to continue efforts to revitalize and strengthen its neighborhoods. The City finds it necessary to protect the rights of its citizens to equal access to housing, which will help prevent the decline in property values yet ensure housing choices for all residents.

§154-13, Definitions

a) Advertising – printing, circulating, placing or publishing or causing to be placed or published any written statement, including electronic media, with respect to the availability for sale or rent of a housing accommodation or the listing of a housing accommodation with any person, business or entity which maintains a referral list of available housing.

b) Disability – a physical, mental or medical impairment which substantially limits one or more major life activities; or a record of having such an impairment; or a condition regarded by others as such an impairment; or an association with a person with such an impairment.

c) Familial Status – any person who is pregnant or has a child or is the process of obtaining legal custody of an individual who has not attained the age of eighteen years; or one or more individuals who have not attained the age of eighteen years domiciled with a parent or another person having legal custody of such individual or the designee thereof.

d) Housing Accommodation – any building, structure or portion thereof located within the City of Buffalo which is occupied, intended or designed for occupancy as the home, residence, or sleeping place of one or more persons sharing living quarters.

e) Landlord – an owner, lessor, sub-lessor, owner's or lessor's assignee, or managing agent, or other person having the right to sell, rent or lease a housing accommodation constructed, or to be constructed, or any agent or employee thereof.

f) Marital Status – single, married, divorced, separated or widowed.

g) Military Status – a person's participation in the United States military or the military of a state

h) National Origin – ancestry.

i) Person – one or more individuals, partnerships, associations, corporations, their agents, assigns and representatives.

j) Rent – to lease, sublease, to let or to otherwise grant for a consideration the right to occupy a premises not owned by the occupant.

- k) Sexual Orientation – A person's actual or perceived homosexuality, heterosexuality, or bisexuality.
- l) Gender Identity and Expression shall include a person's actual or perceived gender, as well as a person's gender identity, self-image, appearance, expression or behavior, whether or not that gender identity, self-image, appearance, expression or behavior is different than that traditionally associated with the person's sex at birth.
- m) Source of Income – payments from a lawful occupation or employment, as well as other payments including, but not limited to, public assistance, supplemental security income, pensions, annuities, unemployment benefits, government subsidies such as Section 8 or other housing subsidies.

§154-14 – Rights of Landlords

This chapter does not prohibit a landlord from refusing to rent a housing accommodation to a person if one or more of the following conditions are met:

- a) The person's source of income is unstable, or insufficient to pay the rent or the source of said income is from an unlawful source; or
- b) The tenant has been unable to make timely rental payments in all or part of the preceding eighteen months; or
- c) The person has been the source of past complaints from neighbors in all or part of the preceding eighteen months, except where those complaints can be reasonably attributed to harassment or discriminatory intent; or
- d) The person intends to occupy the housing accommodation with a larger number of persons than can be accommodated under occupancy standards established by law; or
- e) For any other reason not prohibited by the laws of the United States, the State of New York or the discriminatory practices set forth in this Chapter, provided that such refusal is based upon legally permitted criteria and those criteria are applied equally to all prospective tenants.

§154-15, Promotion of Fair Housing Goals

Within 120 days of the effective date of this Ordinance, all landlords owning more than 20 rental units within the City of Buffalo, and all real estate offices within the City of Buffalo, selling more than 20 residential housing accommodations within a calendar year, shall be required to use the equal opportunity logotype or a statement of equal opportunity housing on applications and marketing materials, and to display in rental or real estate offices a public notice of equal opportunity in housing.

§154-16, Notification to Multiple Dwelling Owners

Every owner required to obtain a certificate of occupancy as detailed in Buffalo Code §129-6 shall also complete a certification prior to said certificate of occupancy may be issued that the owner is fully aware of the Fair Housing Ordinance for the City of Buffalo, and has received a copy of said Ordinance. The Department of Permit and Inspection Services shall ensure that such owners receive a copy of the Fair Housing Ordinance.

§154-17 – Unlawful Discriminatory Practices

It shall be unlawful for any person or entity engaged in the sale or rental of housing to do the following:

- a) Refuse to sell, rent, lease, make unavailable for inspection, sale or rental, or otherwise to deny or withhold from any person or persons housing accommodation because of race, creed, color, national origin, sex, disability, familial status, marital status, age, sexual orientation, gender identity and expression, military status or source of income.
- b) Discriminate against any person in the terms, conditions or privileges of sale, rental or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith because of race, creed, color, national origin, sex, disability, familial status, marital status, age, sexual orientation, gender identity and expression, military status or source of income.
- c) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form or application for the purchase, rental or lease of a housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, sex, disability, familial status, marital status, age, sexual orientation, gender identity and expression, military status or source of income.
- d) To induce or attempt to induce any person to sell or rent any housing accommodation by representations regarding the entry or prospective entry into the neighborhood of persons of a particular race, creed, color, national origin, sex, disability, familial status, marital status, age, sexual orientation, gender identity and expression, military status or source of income.
- e) Refusal to permit, at the expense of a person with disabilities, reasonable modifications of existing premises, if such modifications may be necessary to afford such person full enjoyment of the housing accommodation, and a refusal to make reasonable accommodations in rules, policies, practices or services which may be necessary to afford a person with disabilities equal opportunity to use and enjoy the housing accommodation.
- f) To incite, compel or coerce the doing of any acts forbidden by this Chapter, or to retaliate or discriminate against any person or entity because that person or entity has filed a complaint or testified or assisted in any proceeding commenced under this Chapter.

g) For any bank, savings or loan association, insurance company or other entity whose business consists in whole or part of the making of loans and arranging of financing for housing or secured by real property or the issuance of property insurance to discriminate in the issuance or terms and conditions of a loan or insurance policy because of race, creed, color, national origin, sex, disability, familial status, marital status, age, sexual orientation, gender identity and expression, military status or lawful source of income.

§154-18, Exemptions

The provisions of this Chapter shall apply to all housing accommodations within the City of Buffalo as well as land zoned for residential uses except the following:

- a) The rental of a housing accommodation on a parcel that contains housing accommodations for not more than three households living independently if the owner resides in one of the dwelling units, or the rental of a housing accommodation on a parcel that contains more than one residential dwelling in which no dwelling is for more than three households or less living independently if the owner resides in one of the dwelling units;
- b) The restriction of the rental of rooms in a housing accommodation to persons of the same sex;
- c) The rental of a room or rooms in a housing accommodation designed in such a way that the occupants would be required to share part of their living quarters with another occupant or occupants not of their own choice; and
- d) Restriction of the sale, rental or lease of a housing accommodation exclusively to persons 55 years of age or older and their spouses with respect to age and familial status only.

§154-19, Enforcement

- a) The Mayor of the City of Buffalo shall designate a Fair Housing Officer to receive, investigate and/or refer complaints under this Chapter to a qualified fair housing enforcement agency certified to investigate and handle fair housing complaints.
- b) Any person or organization, whether or not an aggrieved party, may file with the Fair Housing Officer a complaint alleging violation of this Chapter within one year from the date of the occurrence. Such complaint shall be in writing, and in such form as required by the Fair Housing Officer.
- c) The Fair Housing Officer shall notify the accused party within thirty (30) days of the date of the filing of the complaint, and request the accused party to answer the complaint in writing within twenty (20) days after the mailing of such notice. The date of the mailing of the Fair Housing Officer's notification shall be endorsed thereon. The Fair Housing Officer shall, thereafter, make a prompt investigation in connection with the complaint sufficient to determine whether there is probable cause to establish discriminatory conduct.
- d) If, in the judgment of the Fair Housing Officer, a conciliation agreement would satisfactorily resolve the complaint, he/she shall include in such agreement provisions requiring the accused party to refrain from unlawful discriminatory practices, and may

include such compensation and/or affirmative relief as is agreed upon by the parties. Conciliation agreements shall not be subject to confidentiality agreements.

e) Within 120 days of the date of the filing of the complaint, the Fair Housing Officer shall conclude the investigation and determine whether there is probable cause to support a finding of discriminatory conduct by the accused party under this Chapter, and refer the matter as detailed in section 154-20 below.

§154-20, Penalties

Upon certification by the Fair Housing Officer that there has been an affirmative finding of probable cause of discriminatory practice, the Fair Housing Officer may:

a) request the Corporation Counsel to file an action against the accused party, in a court of competent jurisdiction, seeking the imposition of the following penalties:

- 1) A fine not exceeding One Thousand Five Hundred Dollars (\$1,500) for each offense, with each act of discrimination being considered a separate offense; and/or
- 2) Revocation or suspension of any license or permit issued by the City of Buffalo, necessary to the operation of the housing accommodation(s) in question, and any other equitable relief necessary to effect the purposes of this Chapter; and/or
- 3) All costs, expenses and disbursements incurred by the City of Buffalo in effecting compliance with this Chapter; and/or
- 4) Such other relief directed by a court of appropriate jurisdiction; and/or

b) request a qualified fair housing enforcement agency to commence a civil action or proceeding for injunctive relief, damages, and other appropriate relief in law or equity against a person who violates this Chapter. In any such action or proceeding, the court, in its discretion, may allow the party commencing such action or proceeding, if such party prevails, a reasonable attorney's fee as part of the costs.

c) The Corporation Counsel may seek a Contempt Order from a court of appropriate jurisdiction if necessary, to enforce a conciliation agreement or penalties imposed under this Chapter.

d) The aggrieved party may commence a civil action or proceeding for injunctive relief, damages, and other appropriate relief in law or equity against a person who violates this Chapter. In any such action or proceeding, the court, in its discretion, may allow for the party commencing such action or proceeding, if such party prevails, a reasonable attorney's fee as part of the costs.

§154-21, Annual Report

The Fair Housing Officer shall prepare an annual report detailing the work performed including a statistical analysis of the caseload, a summary of dispositions of complaints filed and/or referred to housing agencies, and recommendations regarding fair housing practices. This report shall be submitted to the Mayor and filed with the City Clerk no later than March 1st of each year. Copies shall also be sent to the Commissioner of the

New York State Division of Human Rights, the Attorney General of the State of New York, and the Secretary of the United States Department of Housing and Urban Development.

§154-22, Other Remedies

Nothing in this Chapter shall limit or abridge the right of a Complainant to pursue any other remedies that may be available under the laws of the State of New York, the United States or any other applicable jurisdiction.

§154-23, Construction

Nothing in this Chapter shall be construed to invalidate or limit any law of the State of New York, the United States or any other jurisdiction that grants, guarantees or protects the same rights that are granted, guaranteed or protected by this Chapter.

§154-24, Severability

If any part of this Chapter shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder of this Chapter.

APPROVED AS TO FORM

Corporation Counsel

AAL:PJS:rmv

Eff. date: 5/17/06

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