

ORDINANCE NO. 80-6

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS, DECLARING THE POLICY OF THE CITY OF CUMBY; DEFINING TERMS; PROHIBITING DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING; PROHIBITING DISCRIMINATION IN THE FINANCING OF HOUSING; PROHIBITING DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES; PROVIDING FOR CERTAIN EXEMPTIONS AND EXCLUSIONS; DESIGNATING A FAIR HOUSING PROGRAM ADMINISTRATOR; PROVIDING FOR THE RECEIPT, INVESTIGATION AND CONCILIATION OF COMPLAINTS ALLEGING DISCRIMINATION IN HOUSING; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE LEGAL PROCEEDINGS; FORBIDDING INTIMIDATION; PROVIDING FOR COOPERATION WITH THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT; PROVIDING FOR EDUCATION AND PUBLIC INFORMATION; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND, PROVIDING THAT SAID ORDINANCE SHALL TAKE EFFECT AND BE IN FULL FORCE ON AND AFTER ITS PASSAGE AND PUBLICATION

WHEREAS, it is hereby declared to be the policy of the City of Cumby, Texas, to bring about, through fair, orderly and lawful procedures, the opportunity for each person to obtain housing without regard to his race, color, sex, religion or national origin; and,

WHEREAS, it is further declared that this policy is based upon a recognition of the right of every person to have access to adequate housing of his own choice without regard to race, color, sex, religion, or national origin; and further that the denial of such right through considerations based on race, color, sex, religion or national origin is detrimental to the health, safety and welfare of the inhabitants of the City of Cumby and constitutes an unjust denial or deprivation of such rights which is within the power and proper responsibility of government to prevent;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS:

SECTION 1. Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

A. "Discriminatory housing practice" means an act that is unlawful under Section 2,3, or 4 of this ordinance.

B. "Dwelling" means any building, structure or portion thereof which is occupied as, or designed and intended for occupancy as a residence by one or more families or any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

C. "Family" includes a single individual.

D. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

E. "To rent" includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

SECTION 2. Discrimination in the Sale or Rental of Housing.

Except as exempted by Section 5, it shall be unlawful for any person to:

A. Refuse to sell or rent, after the making of a bonafide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion or national origin;

B. Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion or national origin;

C. Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion or national origin, or an intention to make any such preference, limitation or discrimination;

D. Represent to any person because of race, color, sex religion or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

E. For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, sex, religion or national origin.

F. For profit or with the hope or expectation of profit to influence or attempt to influence, by any words, acts, or failure to act any seller, purchaser, landlord or tenant of a dwelling so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

SECTION 3. Discrimination in the Financing of Housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance because of:

A. The race, color, sex, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance: or,

B. The race, color, sex, religion, or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

SECTION 4. Discrimination in the Provision of Brokerage Services. It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation on account of race, color, sex, religion or national origin.

SECTION 5. Exemptions and Exclusions.

A. There shall be exempted from the application of Section 2 thereof all transactions involving:

occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupied one of such units as his residence;

2. The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

3. The sale or rental of any single house by a private individual who owns such house, provided that:

a. The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman or person; and,

b. The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of Section 2 (C) of this ordinance (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title) and,

c. The owner does not own more than three single-family houses at the time of the sale; and,

d. The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.

e. If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period.

B. Nothing in this ordinance shall prohibit a religious organization, association, or society or any no-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin.

C. Nothing in this ordinance shall prohibit a bona fide private club, not in fact open to the public, which as to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

D. Nothing in this ordinance shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

SECTION 6. Fair Housing Administrator

The Mayor of the City of Cumby is hereby appointed as the Fair Housing Administrator (hereinafter referred to as "Administrator") who shall have the responsibility for implementing this ordinance, establishing such rules as he determines necessary to perform the duties of the office. The Administrator may delegate his authority to investigate and conciliate

SECTION 7. Complaints

A. Only the person who claims to have been injured by a discriminatory housing practice or who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereafter referred to as "person aggrieved") may file a complaint with the Administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The Administrator shall prepare complaint forms and furnish them without charge to any person, upon request.

B. If at any time the Administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the Administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.

C. The Administrator shall receive and accept notification and referral complaints from the U.S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to paragraph (A) of this Section.

D. All complaints shall be filed within 60 days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the Administrator shall provide notice of the complaint by furnishing a copy of such complaint to the person or persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.

E. All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

SECTION 8 Investigation.

A. Upon the filing or referral of a complaint as herein provided, the Administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

B. During or after the investigation, but subsequent to the mailing of the notice of complaint, the Administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this ordinance. Nothing said or done in the course of such informal endeavors may be made public by the Administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.

C. Upon completion of the investigation and informal endeavors at conciliation by the Administrator, but within thirty (30) days of the filing of the complaint with the Administrator, if the efforts of the Administrator to secure voluntary compliance have been unsuccessful, and if the Administrator has made a determination that a discriminatory housing practice has in fact occurred, the Administrator shall recommend to the City Attorney that such violation be prosecuted in the Municipal Court of the City of Cumby. With such recommendation, the Administrator shall refer his entire file to the City Attorney. The City Attorney shall, within thirty (30) days after such referral make a determination as to whether to proceed with prosecution of such complaint in Municipal Court. If the City Attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination, or as soon thereafter as practicable.

SECTION 9 Cumulative Legal Effect.

This ordinance is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.

SECTION 10 Unlawful Intimidation.

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this ordinance, because he or they have exercised his or their rights under this ordinance, or enjoyed the benefits of this ordinance, or because he or they have made a charge, testified or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the Administrator.

SECTION 11 Cooperation with Secretary of Housing and Urban Development.

The Administrator and the City Attorney are authorized to cooperate with the Secretary for Housing and Urban Development and the U.S. Attorney General Pursuant to the provisions of the Fair Housing Act of 1968, Public Law 90-284, and may render such service to the Secretary as they shall deem appropriate to further the policies of the ordinance.

SECTION 12. Education and Public Information.

In order to further the objectives of this ordinance, the Administrator may conduct educational and public information programs.

SECTION 13. Penalty.

Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined a sum not to exceed Two Hundred Dollars (\$200.00) for each violation. Each day a violation continues after passage of seventy-five days from date of the filing of the initial complaint with the Administrator shall constitute a separate and distinct offense.

Any person, firm, or corporation violating any provision of this ordinance may be enjoined by a suit filed by the City in a court of competent jurisdiction, and this remedy is in addition to any other provision.

SECTION 14.

If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Commission of the City of Cumby in adopting this ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation, and to this end all provisions of this ordinance are declared to be severable.

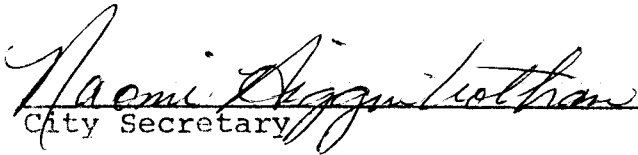
SECTION 15.

This ordinance shall take effect and be in full force on and after its passage and publication, and it is so ordained.

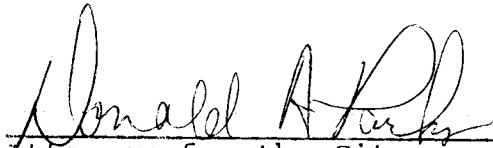
PASSED AND APPROVED, this the 5th day of November. 1980.


MAYOR

ATTEST


City Secretary

APPROVED AS TO FORM:


Attorney for the City