

ORDINANCE 91-15

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING CHAPTER 5.5, ARTICLE II, FAIR HOUSING, OF THE CODE OF ORDINANCE BY INCORPORATING IN ACCORDANCE WITH THE FEDERAL REGULATION PROMULGATED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, 24 CFR, PART 14, ET AL; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Be it ordained by the City Council of the City of Fellsmere, Indian River County, Florida that Chapter 5.5, Article II, Fair Housing, be amended to read as follows:

SECTION 1. That the Code of Ordinances of the City of Fellsmere, Florida, is hereby amended by incorporating, in accordance with federal regulations promulgated by the Department of Housing and Urban Development, 24 CFR, Part 14, et al.

SECTION 5.5-16. DECLARATION OF POLICY.

It is hereby declared to be the policy of the city to foster the public health, public safety and general welfare by promoting equal opportunity for all persons, or classifying individuals, such as minority, handicapped and the elderly, regardless of race, color, religion, national origin, sex, age, handicapped or familial status in obtaining adequate housing, and to that end to eliminate discrimination in housing.

SECTION 5.5-17. OBJECTIVES.

The objective of this article is to provide a positive means to implement the policy stated in section 5.5-16 by promoting equal housing opportunity and to discourage and eliminate discriminatory practices by timely processing of complaints, by conciliation and mediation, and by public hearings.

SECTION 5.5-18. RIGHTS OF THE SELLER, LESSOR, PROPERTY OWNER OR HIS AUTHORIZED AGENT.

Nothing contained in this article shall preclude the seller, lessor, property owner or his authorized agent from setting forth reasonable rules, regulations, terms and conditions pertaining to the sale or lease or disposal of his or her property provided such rules, regulations, terms and conditions are not based on a classification of individuals, such as minority, handicap and the elderly, not based on race, color, religion, national origin, sex, age, handicapped or familial status.

SECTION 5.5-19. DEFINITIONS.

For the purpose of this article, the following words and phrases shall have the meanings indicated:

- (1) DEPARTMENT: The Building Department of the City of Fallsmere.
- (2) DIRECTOR: The building official or the person so designated by him to act on his behalf.
- (3) HOUSING: Any building, facility or structure, or portion thereof, which is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one (1) or more individuals, groups or families any vacant land offered for sale or lease for the construction or location thereon of such building, facility or structure.
- (4) FAMILY: A group lawfully living together as a unit, and includes an individual.
- (5) LENDING INSTITUTION: Any bank, insurance company, savings and loan association, or any other person or organization regularly engaged in the business of lending money or guaranteeing loans.
- (6) PERSONS: Includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (7) REAL ESTATE BROKER: Any person duly licensed as a real estate salesman in accordance with the laws of the state.
- (8) REAL ESTATE SALESMAN: Any person duly licensed as a real estate salesman in accordance with the laws of the state.
- (9) 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 5.5-20. DISCRIMINATORY HOUSING PRACTICES.

Except as provided in section 5.5-23 hereof, it shall be a discriminatory housing practice:

- (1) To refuse to sell or rent after the making of a bona fide 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 a classification of individuals such as minority, handicapped and the elderly, or because of race, color, religion, national origin, age, sex or familial status.

- (2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of a classification of individuals such as minority, handicapped and the elderly, or because of race, color, religion or national origin, age, sex or familial status.
- (3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on a classification of individuals such as minority, handicapped and the elderly, or because of race, color, religion, national origin, age, sex or familial status, or an intention to make any such preference, limitation or discrimination.
- (4) To represent to any person because of a classification of individuals such as minority, handicapped and the elderly, or because of race, color, religion, national origin, age, sex or familial status that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available to persons who are financially qualified.
- (5) To induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of real property owned, used or occupied by any person of a classification of individuals such as minority, handicapped and the elderly, or because of any particular race, color, religion, national origin, age, sex or familial status, by direct or indirect methods.
- (6) To promote, induce, influence or attempt to promote, induce or influence by the use of postal cards, letters, circulars, telephone, visitation of any other means, to list for sale, sell, remove from, lease, assign, transfer or otherwise dispose of any housing by referring to a community tension or fear of racial, color, religious, partiality or other area to classified individuals, such as minority, handicapped and the elderly, race, color, religion, national origin, age, sex or familial status of actual or anticipated neighbors, tenants or other prospective buyers of any housing.

SECTION 5.5-21. DISCRIMINATION IN THE FINANCING OF HOUSING.

It shall be discriminatory housing practice 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 any financially qualified person applying therefor for the purpose of purchasing, construction, 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 loan or other financial assistance because of classified individuals, such as minority, handicapped and the elderly, race, color, religion, national origin, age, sex or familial status of such person or any person associated with him in connection with 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 is to be made or give; provided, that nothing contained in this section shall impair the scope of effectiveness of the exceptions in section 5.5-23 hereof.

SECTION 5.5-22. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be a discriminatory housing practice 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 broker's organization 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 classified individuals, such as minority, handicapped and the elderly, race, color, religion or national origin, age, sex or familial status.

SECTION 5.5-23. EXCEPTIONS.

Nothing contained in section 5.5-16 through 5.5-22 shall apply to:

- (1) 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 a dwelling 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 classified individuals, such as minority, handicapped and the elderly, race, color, religion or national origin, age, sex or familial status.

- (2) Rooms or units in dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (3) A single-family house or duplex sold or rented by an owner, who does not own more than three (3) such single-family houses or duplexes at any one (1) time, if such house is sold and rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker or real estate salesman or person in the business of selling or renting dwellings and without the publication, posting or mailing of any advertisement or written document in contravention of section 5.5-20; but this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies and such other professional assistance as is necessary to perfect or transfer title to a dwelling. For the purpose of subsections (2) and (3), a person shall be deemed to be in the business of selling or renting dwellings if:
- (a) He has, within the preceding twelve (12) months, participated as agent other than in the sale of transactions involving the sale or rental of any dwelling or any interest therein; or
 - (b) He has, within the preceding twelve (12) months, participated as agent other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - (c) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

SECTION 5.5-24. DEPARTMENT OF BUILDING AND CODE ENFORCEMENT.

The department of building and code enforcement for the city shall be charged with the duty of enforcing this article.

SECTION 5.5-25. FILING OF COMPLAINTS.

Any person subjected to a discriminatory act or practice in contravention of this article may file with the department a complaint in writing, sworn to or affirmed, which shall state the name and address of the complainant and the person or persons against whom the complaint is made. It shall also state the alleged facts surrounding the alleged commission of an unfair housing practice and such other information as the department may require. The department may initiate a complaint in accordance with the provisions set forth above.

SECTION 5.5-26. HEARING OFFICER.

Within ninety (90) days after the passage of this article, the city council shall appoint a hearing officer to preside at the public hearings as set forth in section 5.5-27 of this article. The hearing officer shall be a duly qualified elector of the city and shall serve without compensation for a term of two (2) years. The hearing officer may be removed with cause by the city council. The same individual may be reappointed to be the hearing officer for successive terms.

SECTION 5.5-27. PROCESSING COMPLAINTS.

- (a) Upon the filing of a complaint as set forth in section 5.5-25, the department shall make such investigation as it deems appropriate to ascertain facts and issues to be determined. If the department shall determine that there are reasonable grounds to believe a violation has occurred and is susceptible of conciliation, it shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal.
- (b) The terms of conciliation agreed to by the parties may be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the department by the head of the department or his designated representative.
- (c) If the department determines that the complaint lacks reasonable grounds upon which to base a violation of this article, the department may in its discretion close the matter or order such further investigation as may be necessary.
- (d) If the department, with respect to a matter which involves a contravention of this article:
 - (1) Fails to conciliate a complaint after the parties have, in good faith, attempted such conciliation; or
 - (2) Fails to effect an informal conciliation agreement or a formal consent agreement; or
 - (3) Determines that a complaint is not susceptible of conciliation.

the department shall thereafter schedule a public hearing to

determine the facts. The hearing shall be held before the hearing officer who is duly authorized and designated by the city council by the department. The department shall serve upon all interested parties notice of the time and place of the hearing. The respondent or his authorized counsel may file such statements with the department prior to the hearing date as it deems necessary in support of its position. The hearing shall be open to the public. The hearing shall be held not less than fifteen (15) days after service of the statement of charges and notice to the respondent. The interested parties may, at their option, appear before the hearing officer in person or by duly authorized representatives and may have the assistance of an attorney. The parties may present testimony, and evidence shall be given under oath or by affirmation. The parties shall not be bound by strict rules of evidence prevailing in courts of law or equity. The department shall keep a full record 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 department shall furnish such party a copy of the hearing records, if any, provided that the party making the request shall bear cost incurred in the preparation of the hearing record. The hearing officer shall make a finding of fact.

(e) The purpose and effect of the procedure before the hearing officer and of his findings is to obtain:

- (1) The resolution of differences and postures not consistent with the law of the land; and
- (2) Where conciliation has failed to resolve the discriminatory postures, to clarify the issues and to assist an aggrieved person to solve the discriminatory postures, to clarify the issues and to assist an aggrieved person to formulate his case, if he elects to seek remedies afforded by the laws of the land, particularly, but not limited to the United States Civil Rights Act of 1968.

However, if in the opinion of the hearing officer such action is warranted, the matter shall be turned over by the department in accordance with this article to the state attorney's office or the appropriate authority for further investigation with a view towards filing charges against the offending party in the appropriate court. 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 other agency or any court having proper jurisdiction.

SECTION 5.5-28. PENALTY.

Any person who shall violate the provisions of this article shall be subject, upon conviction in the appropriate court, to a fine up to but not exceeding the sum of five hundred dollars

(\\$500.00), or imprisonment in the county jail for not exceeding sixty (60) days, or by both such fine and imprisonment at the discretion of the judge.

SECTION 2.

All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict therewith are hereby contained in full force and effect.

SECTION 3.

It is the intention of the City Council of the City of Fellsmere that the provisions of this ordinance shall be made a part of the City of Fellsmere Code of Ordinances.

SECTION 4.


Should any section, sentence clause or part or provision of this ordinance be declared either by a court of competent jurisdiction or by statute, state or federal, or any appropriate regulatory agency or body to be invalid, the same shall not affect the validity of this ordinance as a whole, or any other section, sentence, clause part or provision thereof.

SECTION 5.

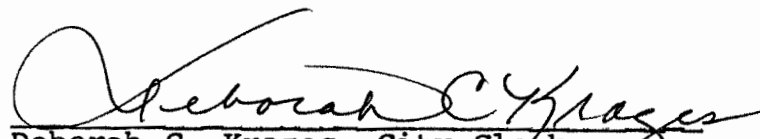
This ordinance shall take effect immediately upon its adoption.

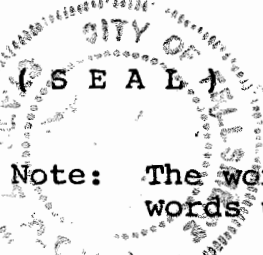
Read by title only on the 11th day of April, 1991, Public Hearing was held on the 9th day of May, 1991, and Second and Final reading was held on the 9th day of May, 1991.

CITY OF FELLSMERE, FL.


J. P. Brooks, Sr., Mayor

ATTEST:


Deborah C. Krages, City Clerk



Note: The words that are stricken have been deleted and those words underlined have been incorporated.