

ORDINANCE NO. 7400

AN ORDINANCE AMENDING VARIOUS SECTIONS OF ARTICLE III, "FAIR HOUSING", OF CHAPTER 32, "PROPERTY SANITATION AND HOUSING SERVICES," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY UNDER THE PROVISIONS OF SECTION 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 32.86, "Declaration of policy" of Article III, "FAIR HOUSING," of Chapter 32, "PROPERTY SANITATION AND HOUSING SERVICES," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.86 Declaration of policy

It is the policy of the City, through fair, orderly, and lawful procedures, to promote the opportunity for each person to obtain housing without regard to race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing. This policy is grounded upon a recognition of the right of every person to have access to adequate housing of the person's own choice, and the denial of this right because of race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing is detrimental to the health, safety, and welfare of the inhabitants of the City and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent."

Section 2

That Section 32.88, "Discriminatory housing practices" of Article III, "FAIR HOUSING," of Chapter 32, "PROPERTY SANITATION AND HOUSING SERVICES," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.88 Discriminatory housing practices

(A) A person commits an offense if he, because of race, color, sex, religion, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing:

(1) Refuses to negotiate with a person for the sale or rental of a housing accommodation or otherwise denies or makes unavailable a housing accommodation to a person;

(2) Refuses to sell or rent, or otherwise makes unavailable, a housing accommodation to another person after the other person makes an offer to buy or rent the accommodation; or

(3) Discriminates against a person in the terms, conditions, or privileges of, or in providing a service or facility in connection with, the sale or rental of a housing accommodation.

(B) A person commits an offense if he, because of race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing:

(1) Represents to a person that a housing accommodation is not available for inspection, sale, or rental if the accommodation is available;

(2) Discriminates against a prospective buyer or renter in connection with the showing of a housing accommodation; or

(3) With respect to a multiple listing service, real estate brokers' organization, or other business relating to selling or renting housing accommodations:

(a) Denies a person access to or membership in the business; or

(b) Discriminates against a person in the terms or conditions of access to or membership in the business.

(C) A person commits an offense if he:

(1) For profit, induces or attempts to induce another person to sell or rent a housing accommodation by a representation that a person of a particular race, color, sex, religion, handicap, familial status, age national origin, sexual orientation, gender

identity or other non-merit based factors which may disproportionately impact access to housing is in proximity to, is present in, or may enter into the neighborhood in which the housing accommodation is located;

(2) Makes an oral or written statement indicating a policy of the respondent or a person represented by the respondent to discriminate on the basis of race, color, sex, religion, handicap, familial status, age national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing in the selling or renting of a housing accommodation; or

(3) Prints or publicizes or causes to be printed or publicized an advertisement that expresses a preference or policy of discrimination based on race, color, sex, religion, handicap, familial status, age national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing in the selling or renting of a housing accommodation.

(D) A person who engages in a residential real estate-related transaction commits an offense if he, because of race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing discriminates against a person:

(1) In making a residential real estate-related transaction available; or

(2) In the terms or conditions of a residential real estate-related transaction.

(E) A person commits an offense if he:

(1) Discriminates in the sale or rental of a housing accommodation of any buyer or renter because of a handicap of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in the housing accommodation after it is sold, rented or made available; or

(c) Any person associated with that buyer or renter;
or

(2) Discriminates against any person in the terms, conditions, or privileges of sale or rental of a housing accommodation, or in the provision of services or facilities in connection with the housing accommodation, because of a handicap of:

(a) That person;

(b) A person residing in or intending to reside in the housing accommodation after it is sold, rented, or made available; or

(c) Any person associated with that person.

(F) A person commits an offense if he:

(1) Refuses to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full use of the premises; except that, in the case of a rental, the landlord may, where reasonable to do so, condition permission for modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) Refuses to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a housing accommodation;

(3) Fails to design or construct a covered multifamily dwelling, for first occupancy after March 13, 1991, that has a building entrance on an accessible route in such manner that:

(a) The public and common use areas of the dwelling are readily accessible to and usable by a handicapped person;

(b) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by a handicapped person in a wheelchair; and

(c) All premises within a dwelling unit contain the following features of adaptive design:

(i) An accessible route into and through the dwelling unit;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in the bathroom walls to allow later installation of grab bars; and

(iv) Usable kitchens and bathrooms that allow a person in a wheelchair to maneuver about the space.

(G) A person commits an offense if he coerces, intimidates, threatens, or otherwise interferes with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this article.

(H) A person commits an offense if he retaliates against any person for making a complaint, testifying, assisting, or participating in any manner in a proceeding under this article."

Section 3

That Section 32.89, "Defense to criminal prosecution and civil action" of Article III, "FAIR HOUSING," of Chapter 32, "PROPERTY SANITATION AND HOUSING SERVICES," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.89 Defense to criminal prosecution and civil action

(A) It is a defense to criminal prosecution or civil action under section 32.98 that:

(1) The housing accommodation is owned, controlled, or managed by:

(a) A religious organization, or a nonprofit organization that exists in conjunction with or is operated, supervised, or controlled by a religious organization, and the organization sells or rents the housing accommodation only to individuals of the same religion as the organization; except that, this defense is not available if:

(i) The offense involves discrimination other than on the basis of religion;

(ii) The organization owns, controls, or manages the housing accommodation for a commercial purpose; or

(iii) Membership in the religion is limited to individuals on the basis of race, color, sex, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing.

(b) A nonprofit religious, educational, civic, or service organization or by a person who rents the housing accommodation to individuals, a predominant number of whom are associated with the same nonprofit religious, educational, civic, or service organization and the organization or person, for the purposes of privacy and personal modesty, rents the housing accommodation only to individuals of the same sex or provides separate accommodations or facilities on the basis of sex; except that, this defense is not available if the offense involves:

(i) Discrimination other than on the basis of sex; or

(ii) A sale of the housing accommodation; or

(c) A private organization and, incidental to the primary purpose of the organization, the organization rents the housing accommodation only to its own members; except that, this defense is not available if:

(i) The organization owns, controls, or manages the housing accommodation for a commercial purpose; or

(ii) The offense involves a sale of the housing accommodation; or

(2) Compliance with this article would violate a federal, state, or local law restricting the maximum number of occupants permitted to occupy a dwelling unit.

(B) It is a defense to criminal prosecution or civil action under all of section 32.88 except section 32.88(C) (2) and (3) that the housing accommodation is:

(1) A single-family dwelling owned by the respondent;

except that, this defense is not available if the respondent:

(a) Owns an interest or title in more than three single-family dwellings, whether or not located inside the City, at the time the offense is committed;

(b) Has not resided in the dwelling within the preceding 24 months before the offense is committed; or

(c) Uses the services or facilities of a real estate agent, or any other person in the business of selling or renting real estate, in connection with a sale or rental involved in the offense; or

(2) Occupied or intended for occupancy by four or fewer families living independently of each other, and the respondent is the owner of the accommodation and occupies part of the accommodation as a residence; except that, this defense is not available if the offense involves a sale of all or part of the housing accommodation.

(C) It is a defense to criminal prosecution or civil action under section 32.98 as it relates to familial status that the housing accommodation is:

(1) Provided under a state or federal program that is specifically designated and operated to assist elderly persons, as defined in the state or federal program;

(2) Intended for, and solely occupied by, a person at least 62 years of age, except that:

(a) An employee of the housing accommodation who performs substantial duties directly related to the management or maintenance of the housing accommodation may occupy a dwelling unit, with family members in the same unit; and

(b) A person under age 62 years residing in the housing accommodation on September 13, 1988 may occupy a dwelling unit, provided that all new occupants following that date are persons at least 62 years of age; and

(c) All vacant units are reserved for occupancy by persons at least 62 years of age; or

(3) Intended and operated for occupancy by at least one person 55 years of age or older per dwelling unit, provided that:

(a) The housing accommodation has significant facilities and services specifically designed to meet the physical and social needs of an older person or, if it is not practicable to provide such facilities and services, the housing accommodation is necessary to provide important housing opportunities for an older person;

(b) At least 80 percent of the dwelling units in the housing accommodation are occupied by at least one person 55 years of age or older per dwelling unit; except that a newly constructed housing accommodation for first occupancy after March 12, 1989 need not comply with this requirement until 25 percent of the dwelling units in the housing accommodation are occupied; and

(c) The owner or manager of the housing accommodation publishes and adheres to policies and procedures that demonstrate an intent by the owner or manager to provide housing to persons at least 55 years of age.

(D) It is a defense to criminal prosecution under section 32.88(D) that the aggrieved person has been convicted by the court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by section 481.002 of the Texas Health and Safety Code, as amended, or by section 802, title 21 of the United States Code Annotated, as amended.

(E) It is defense to criminal prosecution under section 32.88(D) that the person was engaged in the business of furnishing appraisals of real property and considered factors other than race, color, religion, sex, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing.

(F) Nothing in this article prohibits:

(1) Conduct against a person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by section 481.002 of the Texas Health and Safety Code, as amended, or by section 802, title 21 of the United States Code Annotated, as amended; or

(2) A person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing.

(G) It is a defense to criminal prosecution or civil action under section 32.88(D) that the person, in the purchasing of the loans, considered factors that were justified by business necessity and related to the transaction's financial security or the protection against default or reduction in the value of the security, but were unrelated to race, color, religion, sex, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing."

Section 4

That Section 32.91, "Complaint and answer" of Article III, "FAIR HOUSING," of Chapter 32, "PROPERTY SANITATION AND HOUSING SERVICES," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.91 Complaint and answer

(A) An aggrieved person, or any authorized representative of an aggrieved person, may report a discriminatory housing practice to the administrator and file a complaint with the administrator not later than one year after an alleged discriminatory housing practice has occurred or terminated. A complaint may also be filed by the administrator, not later than one year after the alleged discriminatory housing practice has occurred or terminated, if the administrator has reasonable cause to believe that a person has committed a discriminatory housing practice.

(B) The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, 42 U.S.C. section 3601, et. seq., as amended, or by the state commission on human rights under the Texas Fair Housing Act, chapter 301, Texas Property Code, as amended, as a complaint filed under subsection (A). No action will be taken under this article against a person for a discriminatory housing practice if the referred complaint

was filed with the governmental entity later than one year after an alleged discriminatory housing practice occurred or terminated.

(C) A complaint must be in writing, made under oath or affirmation, and contain the following information:

(1) Name and address of the respondent.

(2) Name, address, and signature of the complainant.

(3) Name and address of the aggrieved person, if different from the complainant.

(4) Date of occurrence or termination of the discriminatory housing practice and date of the filing of the complaint.

(5) Description and address of the housing accommodation involved in the discriminatory housing practice, if appropriate.

(6) Concise statement of the facts of the discriminatory housing practice, including the basis of the discrimination (race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing).

(D) Upon the filing of the complaint, the administrator shall, in writing:

(1) Notify the complainant, and the aggrieved person if different from the complainant, that a complaint has been filed; and

(2) Advise the complainant, and the aggrieved person if different from the complainant, of time limits applicable to the complaint and of any rights, obligations, and remedies of the aggrieved person under this article.

(E) Not more than 10 days after the filing of a complaint, the administrator shall, in writing:

(1) Notify the respondent named in the complaint that a complaint alleging the commission of a discriminatory housing practice has been filed against the respondent;

(2) Furnish a copy of the complaint to the respondent;

(3) Advise the respondent of the procedural rights and obligations of the respondent, including the right to file a written, signed, and verified informal answer to the complaint within 10 days after service of notice of the complaint; and

(4) Advise the respondent of other rights and remedies available to aggrieved person under this article.

(F) Not later than the 10th day after service of the notice and copy of the complaint, a respondent may file an answer to the complaint [containing]:

(1) Name, address, telephone number, and signature of the respondent or the respondent's attorney, if any.

(2) Concise statement of facts in response to the allegations in the complaint and facts of any defense or exemption.

(G) A complaint or answer may be amended at any time before the administrator notifies the City Attorney under section 32.96 of a discriminatory housing practice upon which the complaint is based. The administrator shall furnish a copy of each amended complaint or answer, respectively, to respondent or complainant, and any aggrieved person if different from the complainant, as promptly as is practicable.

(H) The administrator may not disclose or permit to be disclosed to the public the identity of a respondent before the administrator notifies the City Attorney under section 32.96 of a discriminatory housing practice alleged against the respondent in a complaint or while the complaint is in the process of being investigated and prior to the completion of all negotiations relative to a conciliation agreement.

(I) A complaint, except a referred complaint described in subsection (B) of this section, shall be finally disposed of either through dismissal, execution of a conciliation agreement, or issuance of a charge within one year after the date on which the complaint was filed unless it is impracticable to do so, in which case, the administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing, of the reasons for the delay."

Section 5

That Section 32.94, "Conciliation" of Article III, "FAIR HOUSING," of Chapter 32, "PROPERTY SANITATION AND HOUSING SERVICES," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 32.94 Conciliation

(A) During the period beginning with the filing of a complaint and ending with the issuance of a charge under section 32.96, the dismissal of the complaint under section 32.97, or the dismissal of the criminal action in municipal court, the administrator shall try to conciliate the complaint. In conciliating a complaint, the administrator shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the aggrieved person's rights and take action to assure the elimination of both present and future discriminatory housing practices.

(B) If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court, nor may the administrator issue a charge against the party, for the discriminatory housing practice specified in the agreement under subsection (D)(1) unless the administrator determines that the agreement has been violated and notifies the City Attorney in writing of the violation.

(C) A conciliation agreement must be in writing in the form approved by the City Attorney and must be signed and verified by the respondent, the complainant, and the aggrieved person if different from the complainant, subject to the approval of the administrator who shall indicate approval by signing the agreement. The conciliation agreement that is not executed before the expiration of 100 days after the date the complaint is filed must include the approval of the City Attorney. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

(D) A conciliation agreement executed under this section must contain:

(1) An identification of the discriminatory housing practice and corresponding respondent that give rise to the conciliation agreement under subsection (A) and the identification of any other discriminatory housing practice and respondent that the parties agree to make subject to the limitation on the

prosecution in subsection (B);

(2) An identification of the housing accommodation subject to conciliation agreement; and

(3) A statement that each party entering into the conciliation agreement agrees:

(a) Not to violate this article or the conciliation agreement; and

(b) That the respondent shall file with the administrator a periodic activity report, in accordance with the following regulations, if the discriminatory housing practice giving rise to the conciliation agreement under section 32.88 involves a respondent who engages in a business relating to selling or renting housing accommodations; a housing accommodation occupied or intended for occupancy on a rental or sale basis; or a violation of section 32.88.

(i) Unless the discriminatory housing practice involves a violation of section 32.88(C)(1), the activity report must state, with respect to each person of the specified class (the race, color, sex, religion, handicap, familial status, age, national origin, sexual orientation, gender identity, or other non-merit based factors which may disproportionately impact access to housing alleged as the basis of discrimination in the complaint on the discriminatory housing practice) who in person contacts a party to the conciliation agreement concerning either sale, rental, or financing of a housing accommodation or a business relating to selling or retiring housing accommodations, the name and address or telephone number of the person, the date of each contact, and the result of each contact.

(ii) If the discriminatory housing practice involves a violation of section 32.88(C)(1), the activity report must state the number and manner of solicitations concerning housing accommodations made by the party and the approximate boundaries of each neighborhood in which the solicitations are made.

(iii) The party who prepares the activity report must sign and verify the report.

(iv) An activity report must be filed each month

on the date specified in the conciliation agreement for a period of not less than three months nor more than 36 months, as required by the conciliation agreement.

(E) In addition to the requirements of subsection (D), a conciliation agreement may include any other term or condition agreed to by the parties, including, but not limited to:

(1) Monetary relief in the form of damages, including humiliation and embarrassment, and attorney fees; and

(2) Equitable relief such as access to the housing accommodation at issue, or to a comparable housing accommodation, and provision of services and facilities in connection with a housing accommodation.

(F) Nothing said during the course of conciliation may be made public or used as evidence in a subsequent proceeding under this article without the written consent of any person concerned.

(G) A conciliation agreement shall be made public, unless the aggrieved person and the respondent request nondisclosure and the administrator determines that disclosure is not required to further the purposes of this article. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the administrator may publish tabulated descriptions of the results of all conciliation efforts.

(H) If the aggrieved person brings a civil action under a local, state, or federal law seeking relief for the alleged discriminatory housing practice and the trial in the action begins, the administrator shall terminate efforts to conciliate the complaint unless the court specifically requests assistance from the administrator. The administrator may also terminate efforts to conciliate the complaint if:

(1) The respondent fails or refuses to confer with the administrator;

(2) The aggrieved person or the respondent fails to make good faith effort to resolve any dispute; or

(3) The administrator finds, for any reason, that voluntary agreement is not likely to result."

Section 6

That Chapter 32 of the Code of Ordinances for the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 7

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 8

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 9

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this the 7th day of February, 2023.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

PUBLISHED:

City Secretary