

ORDINANCE NO. 80-2

AN ORDINANCE MAKING IT UNLAWFUL: TO REFUSE TO SELL OR RENT A DWELLING TO ANY PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN; TO DISCRIMINATE FOR SUCH REASONS IN THE TERMS, CONDITIONS, OR PRIVILEGES OF SALE OR RENTAL OF THE SAME, TO PUBLICLY INDICATE ANY PREFERENCE ON ACCOUNT OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN; TO REPRESENT FALSELY THAT A DWELLING IS NOT AVAILABLE FOR INSPECTION, SALE, OR RENTAL FOR SUCH REASONS; TO MAKE ANY DISCRIMINATION FOR SUCH REASONS IN THE PROVISION OF BROKERAGE SERVICES; PROVIDING FOR CONCILIATION AND AFFIRMATIVE ACTION WITH RELATION TO COMPLIANCE AND ENFORCEMENT OF THIS ORDINANCE; MAKING EXCEPTIONS UNDER STATED CONDITIONS AS TO RELIGIOUS ORGANIZATIONS, ASSOCIATIONS, AND SOCIETIES; DEFINING TERMS USED IN THIS ORDINANCE AND PROVIDING PENALTIES FOR VIOLATIONS HEREOF; AND TO FIX THE EFFECTIVE DATE OF SUCH ORDINANCE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SPRING HILL as follows:

SECTION 1. Definitions. Except where the context clearly indicates otherwise, the following terms as used in this chapter shall have the following meanings:

A. "Hearing Committee" means the Town Committee

Said committee shall hear, make determinations, and issue findings in all cases of discriminatory practices in housing resulting from conciliation failure.

B. "Conciliation Agreement" means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both compliantant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

C. "Conciliation Failure" means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

D. "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of person or persons because of race, color, religion, national origin, or sex, or the aiding, abetting, inciting, coercing, or compelling thereof.

E. "Real Property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

F. "Housing Accommodations" includes improved and unimproved property and means a building, structure, lot, or part thereof which is used or occupied, or is intended, arranged, or designed to be used or occupied as a home or residence of one or more individuals.

G. "Real Estate Operator" Means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the (city/county) or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting or leasing real estate, or the improvements thereof, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental or lease of real estate; or an individual employed by or acting on behalf of any of these.

H. "Real Estate Broker" or "Real Estate Salesman" means an individual whether licensed or not who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements to negotiate on behalf of others such an activity; or who advertises or holds themselves out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, 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, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

SECTION II. Purposes of Law, Construction: Effect. The general purposes of this Ordinance are:

A. To provide for execution, within the Town of Spring Hill of the policies embodied in Title VIII of the Federal Civil Rights Act of 1968, as amended.

B. To safeguard all individuals within the (city/county) from discrimination in housing opportunities because of race, color, religion, national origin, or sex; thereby to protect their interests in personal dignity and freedom from humiliation; to secure the (city/county) against domestic strife and unrest which would menace its democratic institutions; to preserve the public health and general welfare; and to further the interests, rights, and privileges of individuals within the (city/county).

Nothing contained in the ordinance shall be deemed to repeal any other law of this (city/county) relating to discrimination because of race, color, religion, national origin, or sex.

SECTION III. Unlawful Housing Practices. It is an unlawful practice for a real estate owner or operator for a real estate broker, real estate salesman, or any individual employed by or acting on behalf of any of these:

A. To refuse to sell, exchange, rent, or lease or otherwise deny to or withhold real property from an individual because of his or her race, color, religion, national origin, or sex.

B. To discriminate against an individual because of his or her race, color, religion, national origin, or sex in the terms, conditions, or privileges of this sale, exchange, rental, or lease of real property or in the furnishing of facilities or services in connection therewith.

C. To refuse to receive or transmit a bonafide offer to purchase, rent, or lease real property from an individual because of his or her race, color, religion, national origin, or sex.

D. To refuse to negotiate for the sale, rental, or lease of real property to an individual because of his or her race, color, religion, national origin, or sex.

E. To represent to an individual that real property is not available for inspection, sale, rental, or lease when, in fact, it is so available, or to refuse to permit an individual to inspect real property because of his or her race, color, religion, national origin, or sex.

F. To print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, national origin, or sex or an intent to make such a limitation, specification, or discrimination.

G. To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or lease with the understanding that an individual may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of race, color, religion, national origin, or sex.

H. To otherwise deny to or withhold real property from an individual because of race, color, religion, national origin, or sex.

SECTION IV. Blockbusting. It is an unlawful practice for a real estate owner or operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which he may benefit financially:

A. To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or areas in which the real property is located.

B. To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION V. Exemptions from Housing Provisions

A. Nothing in Section III shall apply:

1. To the rental of housing accommodations in a building which contains housing accommodations for not more than four families living independently of each other, if the owner or member of his family resides in one of the housing accommodations.

2. To the rental of one room or one rooming unit in a housing accommodation by an individual if he or a member of his family resides therein.

3. To a landlord who refuses to rent to an unmarried male-female couple.

B. 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 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 a religion is restricted on account of race, color, sex, or national origin.

C. Single sex dormitory rental property shall be excluded from the provisions of this act which relate to discrimination based on sex.

SECTION VI. Provisions for Enforcement

A. The violation of any of the provisions of this ordinance shall subject the violator to a civil penalty in the amount of \$50.00 to be recovered in a civil action, provided that in the case of a continuing violation, the total penalty shall not exceed \$1,000.00.

B. The (city/county) may sue in a civil act through the General Court of Justice for appropriate remedies to enforce the provisions of this ordinance, including temporary restraining orders and mandatory and prohibitory injunctions.

C. In addition to appropriate civil and/or equitable remedies for enforcement of this ordinance, a violation of this ordinance shall constitute a misdemeanor punishable as provided by law.

SECTION VII. Agency No Defense in Proceeding Against Real Estate Dealer.
It shall be no defense to a violation of this ordinance by a real estate owner or operator, real estate broker, real estate salesman, a financial institution, or other person subject to the provisions of this chapter, that the violation was requested, sought, or otherwise procured by a person not subject to the provisions of this chapter.

SECTION VIII. Establishment of Procedures for Conciliation.

A. The (city/county) shall designate an agent(s) to investigate, make determinations of probable cause, and seek to conciliate apparent violations of this ordinance. Conciliation efforts may be initiated by any person(s) said to be subject to discrimination as defined in this ordinance.

B. The Mayor of the Town of Spring Hill shall establish a hearing committee which in turn shall adopt formal rules and procedures to hear complaints and make appropriate findings. Such procedures shall be made known to all parties given charge of discrimination. Hearings by the committee shall commence whenever the agent(s) acting on behalf of the (city/county) decides a conciliation failure has occurred and the respondent agrees to participate in the hearing committee proceedings. Hearing open to the public may be initiated by the responding party at any time during the conciliation process.

SECTION IX. Findings of Hearing Committee; Nature of Affirmative Action.

A. If the hearing committee determines that the respondent has not engaged in an unlawful practice, the committee shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the respondent, the (city/county) Attorney, and such other public officials, officers, and persons as the committee deems proper.

B. If the hearing committee determines that the respondent has engaged in an unlawful practice, it shall state its findings of fact and conclusions of law and shall negotiate such affirmative action as in its judgement will carry out the purposes of this chapter. A copy of the findings shall be delivered to the respondent, the complainant, the (city/county) Attorney and such other public officials, officers, and persons as the committee deems proper.

C. Affirmative action negotiated under this section may include, but not be limited to:

1. Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent.

2. Reporting as to the manner of compliance.

3. Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the hearing committee.

4. Sale, exchange, lease, rental, assignment, or sublease of real property to an individual.

5. Payment to the complainant of damages for injury caused by an unlawful practice, including compensation for humiliation and embarrassment, and expenses incurred by the complainant as a direct result of such unlawful practices.

D. The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this ordinance.

SECTION X. Investigations, Powers, Records

A. In connection with an investigation of a complaint filed under this ordinance, the enforcing agent(s) at any reasonable time may request voluntary access to premises, records, and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence.

B. Every person subject to this ordinance shall make, keep, and preserve records relevant to the determination of whether unlawful practices have been or are being committed, such records being maintained and preserved in a manner and to the extent required under the Civil Rights Act of 1968 and any regulations promulgated thereunder.

C. A person who believes that the application to him of a regulation or order issued under this section would result in undue hardship may apply to the hearing committee for an exemption from the application of the regulational order. If the committee finds that the application of the regulation or order to the person in question would impose an undue hardship, it may grant appropriate relief.

SECTION XI. Conspiracy to Violate This Ordinance Unlawful. It shall be an unlawful practice for a person or for two or more persons to conspire:

A. To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this ordinance, or because he or she has made a charge, filed a complaint, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this ordinance.

B. To aid, abet, incite, compel, or coerce a person from complying with the provisions of this ordinance or any order issued thereunder.

C. To obstruct or prevent a person from complying with the provisions of this ordinance or any order issued thereunder.

D. To resist, prevent, impede, or interfere with the enforcing agent(s), hearing committee, or any of its members or representatives in the lawful performance of duty under this ordinance.

SECTION XII. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

SECTION XII. This ordinance shall be effective immediately after its passage; provided that, it shall cease to be effective upon receipt by the (city/county) of written notification from the United States Department of Housing and Urban Development (HUD) that HUD will not recognize this ordinance, including thereto, to be substantially equivalent to the provisions of the Civil Rights Act of 1968 so as to require HUD to refer housing discrimination complaints to the Town of Spring Hill in accordance with federal laws and regulations.

SECTION XIV. If any provision of this ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect any other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are declared to be severable. The Town Council of the Town of Spring Hill hereby declares that it has adopted this ordinance and each and every portion thereof notwithstanding any invalidity of any other portions.

By: George E. Jones
Title: 7-21-80

ATTEST:

By: Jane Quick
Title: Recorder

Approved as to Form and Correctness:

By: _____
(City/County Attorney)

Passed on First Reading: 7-21-80

Passed on Second Reading: 8-18-80