

CITY OF BRADENTON, FLORIDA, ORDINANCE NO. 2592

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA AMENDING, IN THEIR ENTIRETY, ARTICLES I AND II OF CHAPTER 46 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, BY ADOPTING A FAIR HOUSING ORDINANCE IN ACCORDANCE WITH THE PROVISIONS OF TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968, AS AMENDED BY THE FAIR HOUSING AMENDMENTS OF 1988 (THE FAIR HOUSING ACT); PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AS FOLLOWS:

WHEREAS, the City Council of the City of Bradenton finds that in the City of Bradenton, with its population consisting of people of both sexes, married and unmarried, the physically and mentally impaired and people of every race, age, color, creed, national origin, and ancestry, of different education, social and economic status, the existence of people in groups prejudiced against each other and antagonistic to each other because of these differences is of great danger to the health, morals, safety and welfare of the City and its inhabitants; and

WHEREAS, the City Council of the City of Bradenton finds that acts of prejudice, intolerance, discrimination, and disorder occasioned thereby threaten the rights and privileges of its inhabitants and menace the institutions and foundations thereof; and

WHEREAS, the City Council of the City of Bradenton finds that a community relations board is necessary and desirable to encourage and foster mutual understanding, assist the efforts of citizens and groups striving to eliminate prejudice, privation, intolerance, bigotry, and disorder occasioned thereby, and give effect to the guarantee of the equal rights for all insured by the constitution and laws of the State of Florida and of the United States of America; and

WHEREAS, the City Council of the City of Bradenton finds and declares that any violation of the provisions and standards set out in this ordinance shall constitute an irreparable injury to the citizens of the City; and

WHEREAS, the City Council of the City of Bradenton declares that the provisions of this ordinance serve the dual purposes of providing for execution within the City of the policies embodied in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (The Fair Housing Act), and of securing for all individuals within the City the freedom from discrimination because of race, color, religion, national origin, sex, familial status, or handicap, in connection with housing.

NOW THEREFORE, be it further ordained by the City Council of the City of Bradenton in session duly assembled that Articles I and II of Chapter 46 of the Code of Ordinances of the City of Bradenton are hereby amended in their entirety, as follows:

Section 1. Article I, Chapter 46 of the Code of Ordinances of the City of Bradenton is hereby amended in its entirety to read as follows:

"Article I. In General.

Section 46-1. Policy and Finding.

(1) The City Council of the City of Bradenton finds and declares that any violation of the provisions and standards set out in this chapter shall constitute an irreparable injury to the citizens of the City, and the City acting on behalf of its citizens and to insure compliance with the policy set out in this chapter, shall have authority to seek injunctive relief to terminate or prevent any such violation.

(2) The provisions of this chapter shall be liberally construed to preserve the public safety, health and general welfare and to further the purposes stated in this chapter.

Section 46-2. Definitions.

As used in this chapter:

Aggrieved person includes any person who -

(a) Claims to have been injured by a discriminatory housing practice; or

(b) Believes that such person would be injured by a discriminatory housing practice that is about to occur.

Broker or Agent includes any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate related transactions.

Circuit Court means the Circuit Court for the Twelfth Judicial Circuit of Florida, in and for Manatee County.

City Attorney means the Chief Legal Counsel for the City of Bradenton or his designee.

Community relations board means the community relations board of the City.

Complainant means any person who files a complaint under this chapter.

Conciliation means the attempted resolution of issues, raised by a complaint or by the investigation of the complaint, through informal negotiations involving the aggrieved person, the respondent and the office of community relations.

Conciliation agreement means a written agreement setting forth the resolution of the issues and conciliation.

Covered multi-family dwelling means a building consisting of four or more dwelling units, if the building has one or more elevators, or the ground floor dwelling units in any building consisting of four or more dwelling units but having no elevator.

Director means the director of the office of Community Relations.

Discriminatory housing practice means an act prohibited by Section 46-32.

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

Employee does not include any individual employed by parents, spouse or child.

Employer means any person who has 15 or more full-time employees in each of 13 or more calendar weeks in the current or preceding calendar year.

Employment agency includes any person undertaking to procure employees or opportunities for work.

Fair Housing Act means the U.S. Fair Housing Act, derived from Public Law 90-284, as amended by Public Law 100-430, and as may otherwise be amended, and as codified at Title 42, United States Code, Section 3601 et seq. In this ordinance, section references to the Fair Housing Act are references to the United States Code.

Familial status means the condition or fact of a person's being pregnant or domiciled with an individual younger than 18 years of age in regard to whom the person is the parent or legal custodian, or has the written permission of the parent or legal custodian to be domiciled with that person, or is in the process of obtaining legal custody of an individual younger than 18 years of age. A discriminatory act is committed because of familial status if the act is committed because the person who is the subject of the act is pregnant or domiciled with an individual younger than 18 years of age under the circumstances set forth in this definition.

Family includes a single individual or two or more individuals living together in the same household.

Handicap means a mental or physical impairment which substantially limits at least one major life activity, a record of having such an impairment, or being regarded as having such an impairment. The term does not include current illegal use of or addiction to any controlled substance as defined by the Controlled Substances Act, 21 U.S.C. Section 802. The term does not apply to an individual solely because of that individual's sexual orientation or because that individual is a transvestite.

Housing accommodation means any building, 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 or more human beings.

Interested party means the person filing a complaint or the person against whom a complaint has been filed.

Labor organization includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

Office of community relations means the agency of the City charged with the duties of implementing and enforcing the terms of this chapter.

Person shall mean as defined in Section 1-2 of this code.

Rent and to rent include to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Residential real estate-related transaction means:

- (1) Making or purchasing loans or providing other financial assistance:
 - (a) To purchase, construct, improve, repair, or maintain a dwelling; or
 - (b) Secured by residential real estate; or
- (2) Selling, brokering, or appraising residential real property.

Respondent means the person accused of a violation of a provision of this chapter, or any person identified as an additional or substitute respondent or an agent of an additional or substitute respondent.

Section 46-3. Director.

The City Council shall employ a director and such other personnel as may be provided for in the annual operating budget of the City. It shall be the responsibility of the director to serve as staff aide to the community relations board, to perform the duties assigned to the director by this chapter, and to perform such other duties of an administrative nature as may be assigned by the City Council."

Section 2. Article II, Chapter 46 of the Code of Ordinances of the City of Bradenton is hereby amended in its entirety to read as follows:

"Article II. Discrimination

Section 46-32. Prohibited acts.

(1) Sale or rental.

(a) A person shall not refuse to sell or to rent after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, sex, familial status, or handicap.

(b) A person shall not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in providing services or facilities in connection with the sale or rental, because of race, color, religion, national origin, sex, familial status, or handicap.

(c) This section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.

(2) Publication. A person shall not 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 race, color, religion, national origin, sex, familial status, or handicap, or an intention to make such a preference, limitation, or discrimination.

(3) Falsely representing availability. A person shall not represent to any person because of race, color, religion, national origin, sex, familial status, or handicap that a dwelling is not available for inspection for sale or rental when the dwelling is available for inspection, sale or rent.

(4) Entry into neighborhood. A person shall not, for profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into a neighborhood of a person of

a particular race, color, religion, national origin, sex, familial status, or handicap.

(5) Handicap.

(a) A person shall not discriminate in the sale or rental or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

1. That buyer or renter;
2. A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
3. Any person associated with that buyer or renter.

(b) A person shall not 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 with the dwelling because of a handicap of:

1. That person;
2. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
3. Any person associated with that person.

(c) For purposes of this subsection only, discrimination includes:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises;
2. A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling; or
3. In connection with the design and construction of a covered multi-family dwelling for first occupancy after March 13, 1991 (the date that is 30 months after the

date of enactment of the Fair Housing Amendments Act of 1988 (Public Law 100-430)), a failure to design and construct the dwelling in a manner that:

- a. The public use and common use portions of the dwelling are readily accessible.
- b. All doors designed to allow passage into and within all premises within the dwelling are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
- c. All premises within the dwelling contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space. Provided, however, that compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A117.1-1986, is sufficient to satisfy the requirements of this subsection c. (Reference: Fair Housing Act, Section 3604(f)(3)).

(d) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others. (Reference: Fair Housing Act, Section 3604(f)(9)).

(6) Residential real estate related transaction. A person whose business includes engaging in residential real estate related transactions shall not discriminate against a person in making a real estate

related transaction available or in the terms or conditions of a real estate related transaction because of race, color, religion, national origin, sex, familial status, or handicap. (Reference: Fair Housing Act, Section 3605.)

(7) Brokerage services. A person shall not deny any person access to, or membership or participation in, a multiple-listing service, organization, or facility relating to the business of selling or renting dwellings, or discriminate against a person in the terms or conditions of access, membership, or participation, on the basis of race, color, religion, national origin, sex, familial status or handicap. (Reference: Fair Housing Act, Section 3606.)

(8) Interference, coercion, or intimidation. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person because of the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section. (Reference: Fair Housing Act, Section 3617.)

(9) Effect on other laws.

(a) This section shall not affect or supersede any reasonable restriction imposed by law or rule on the maximum number of occupants permitted to occupy a dwelling.

(b) This section shall not affect or supersede a requirement of nondiscrimination in any state or federal law.

Section 46-33. Exemptions.

(1) Certain sales and rentals exempted. The provisions of subsections 46-32(1) and 46-32(3) through (5) shall not apply to:

(a) The sale or rental of a single-family house sold or rented by an owner:

1. If the owner does not:

- a. Own more than three single family houses at any one time; or
- b. Own any interest in, nor is there owned or reserved on his behalf, under any express, written or oral agreement, title to or any right to any part of the proceeds from the sale or rental of more than three single family houses at any one time; and

2. If the house was sold or rented without the use of the sales or rental facilities or services of a real estate broker, agent, or salesman, or of an employee or agent of a broker, agent, or salesman, and there has been no making, printing, publication, posting, or mailing of a notice, statement, or advertisement prohibited by subsection 46-32(2); provided, however, that

3. This exemption applies only to one sale or rental in a 24 month period if the owner was not the most recent resident of the house at the time of the sale or rental.

(b) The sale or rental of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of the living quarters as the owner's residence.

(2) Religious organization and private club exemption.

(a) The provisions of section 46-32 do not prohibit a religious organization, association, or society, or a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from:

1. Limiting the sale, rental, or occupancy of dwellings that it owns or operates for other than a commercial purpose to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin; or

2. Giving preference to persons of the same religion, unless membership in the religion is restricted because of race, color, or national origin.

(b) The provisions of section 46-32 do not prohibit a private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a commercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members.

(3) Housing for elderly exempted.

(a) The provisions of section 46-32 relating to familial status do not apply to housing intended for, and occupied solely by, persons 62 years of age or older. Such housing qualifies for this exemption even though:

1. There were persons residing in such housing on September 13, 1988, who were under 62 years of age, provided that all those who become occupants after September 13, 1988, are persons 62 years of age or older;
2. There are unoccupied units, provided that all such units are reserved for occupancy by persons 62 years of age or older;
3. There are units occupied by employees of the housing, and family members residing in the same unit, who are under 62 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

(b) The provisions of section 46-32 relating to familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing satisfies the requirements specified in subsection (3)(b)1 or 2 and in subsection (3)(b)3 of this section as follows:

1. The housing facility has significant facilities and services specifically designed

to meet the physical or social needs of older persons. Significant facilities and services specifically designed to meet the physical or social needs of older persons include, but are not limited to, the following: social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, an accessible physical environment, emergency and preventive health care services or programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them; or

2. It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons, and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this subsection, the owner or manager of the housing facility shall demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this subsection:

a. Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons, either by the owner or by some other entity; however, demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable;

b. The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale;

c. The income range of the residents of the housing facility;

d. The demand for housing for older persons in the relevant geographic area;

e. The range of housing choices for older persons within the relevant geographic area;

f. The availability of other similarly priced housing for older persons in the relevant geographic area; however if similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements of this subsection; and

g. The vacancy rate of the housing facility.

3. In addition to satisfying subsection (3)(b)1 or 2 of this section, the housing shall satisfy each of the following:

a. At least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this subsection until 25 percent of the units in the facility are occupied; and

b. The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons

55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subsection:

- i. The manner in which the housing facility is described to prospective residents;
- ii. The nature of any advertising designed to attract prospective residents;
- iii. Age verification procedures;
- iv. Lease provisions;
- v. Written rules and regulations; and
- vi. Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

4. Housing satisfies the requirements of this subsection even though:

- a. On September 13, 1988, under 80 percent of the occupied units in the housing facility were occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one person 55 years of age or older;
 - b. There are unoccupied units, provided that at least 80 percent of such units are reserved for occupancy by at least one person 55 years of age or over; and
 - c. There are units occupied by employees of the housing, and family members residing in the same unit, who
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are under 55 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

(4) Appraisal exemption. This section does not prohibit 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, or national origin.

Section 46-34. Procedures.

(1) Duties and responsibilities of community relations board.

(a) The community relations board through the office of community relations is empowered to administer the provisions of this article. The community relations board may adopt procedural rules for the implementation of this article subject to the review and approval of the City Council.

(b) The community relations board through the office of community relations shall receive, investigate, seek to conciliate, and act on complaints alleging violations of section 46-32.

(c) The community relations board shall cooperate with and, as appropriate, may provide technical and other assistance to federal, state, local, and other public or private entities that are formulating or operating programs to prevent or eliminate discriminatory housing practices.

(d) The community relations board may issue subpoenas and order discovery as provided by this section in aid of investigations and hearings as required. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as subpoenas and discovery in a civil action under the Florida Rules of Civil Procedure.

(e) The community relations board through the office of community relations shall investigate alleged discriminatory housing practices, or where applicable, institute or refer to the appropriate governmental

authorities for proceedings under applicable federal, state, or local law.

(2) Complaints.

(a) Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later:

1. An aggrieved person may file a complaint with the office of community relations.
2. The community relations board may file its own complaint with the office of community relations.

(b) A complaint shall be in writing, in the form prescribed by the community relations board, shall allege the discriminatory housing practice, and shall be executed under oaths or affirmation before an official authorized to administer oaths.

(c) A complaint may be amended at any time.

(3) Notices. Upon the filing of a complaint, or the identification of an additional respondent, the office of community relations shall:

(a) Give the complainant or aggrieved person notice that the complaint has been filed, and advise the complainant or aggrieved person of the time limits and choice of forums under this section; and

(b) Not later than the 20th day after the filing of the complaint or the identification of an additional respondent, serve on each respondent:

1. A notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this section; and
2. A copy of the original complaint.

(4) Answer.

(a) Not later than the tenth day after receipt of the notice and copy of the complaint, a respondent shall file an answer to the complaint.

(b) An answer shall be in writing, in the form prescribed by the community relations board, and shall be executed under oath or affirmation before an official authorized to administer oaths.

(c) An answer may be amended at any time.

(d) An answer does not inhibit the investigation of a complaint.

(5) Investigation; time limits.

(a) For complaints filed with the office of community relations as provided in this section and for all complaints that the federal government has referred to the office of community relations or has deferred jurisdiction over the subject matter of the complaint to the office of community relations, the office of community relations shall commence investigation of the allegations set forth in the complaint within 30 days after receipt of the complaint.

(b) The office of community relations shall investigate all complaints, and may investigate by using personal interviews, depositions, affidavits, interrogatories, investigators, and any other legal means of obtaining information, including the issuance of subpoenas and ordering discovery.

(c) Except as provided by subsection (d) of this subsection, the office of community relations shall, not later than the 100th day after the date the complaint is filed, complete an investigation and shall determine, based upon the facts, whether reasonable cause exists, or does not exist, to believe that a discriminatory housing practice has occurred or is about to occur (see subsection (9), below), and shall issue a charge or dismiss the complaint unless it is impracticable to make the determination or the office of community relations has approved a conciliation agreement relating to the complaint. The office of community relations shall make a final administrative

disposition of a complaint not later than one year after the date the complaint is filed.

(d) If the office of community relations is unable to complete an investigation, make a determination regarding probable cause, issue a charge or dismiss the complaint, or make a final administrative disposition of a complaint within the time periods prescribed in subsection (c) of this subsection, the office of community relations shall notify the complainant, aggrieved person, and respondent in writing of the reasons for the delay, unless the reason is the approval by the office of community relations of a conciliation agreement.

(6) Additional or substitute respondent.

(a) The office of community relations may join a person not named in the complaint as an additional or substitute respondent if in the course of the investigation it determines that the person should be accused of a discriminatory housing practice.

(b) In addition to the information required in the notice of filing a complaint, the office of community relations shall include in a notice to a respondent joined under this section an explanation of the basis for the determination that the person is properly joined as a respondent.

(7) Conciliation.

(a) The office of community relations shall, during the period beginning with the filing of a complaint and ending with the filing of a charge or a dismissal by the office of community relations, to the extent feasible, engage in conciliation with respect to the complaint.

(b) The complainant and the respondent may enter into a conciliation agreement, which agreement shall be subject to approval by the office of community relations. A conciliation agreement may provide for binding arbitration or other methods of dispute resolution. Dispute resolution that results from a conciliation agreement may authorize appropriate relief, including monetary relief.

(c) Nothing said or done in the course of conciliation may be used as evidence in a subsequent proceeding under this section without the written consent of the persons concerned.

(d) Conciliation agreements shall be deemed public records pursuant to the Florida Public Records Law, F.S. ch. 119.

(8) Investigative report.

(a) The office of community relations shall prepare a final investigative report showing:

1. The names and dates of contacts with witnesses;
2. A summary of correspondence and other contacts with the complainant or aggrieved person and the respondent showing the dates of the correspondence and contacts;
3. A summary description of other pertinent records;
4. A summary of witness statements; and
5. Answers to interrogatories.

(b) A final investigative report may be amended if additional evidence is discovered.

(9) Reasonable cause determination.

(a) The office of community relations shall determine, based upon the facts, whether reasonable cause exists, or does not exist, to believe that a discriminatory housing practice has occurred or is about to occur. For the purposes of this section, reasonable cause shall be based upon sufficiently trustworthy information which would lead an impartial observer to a belief that a discriminatory housing practice has occurred or is likely to occur.

(b) If the office of community relations determines that reasonable cause exists to believe that a

discriminatory housing practice has occurred or is about to occur, it shall immediately issue a charge on behalf of the aggrieved person.

(10) Charge.

(a) A charge:

1. Shall consist of a short and plain statement of the facts upon which the office of community relations has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;
2. Shall be based on the final investigative report; and
3. Need not be limited to the facts or grounds alleged in the complaint.

(b) Not later than three business days after the office of community relations issues a charge, the office of community relations shall cause a copy thereof, with information as to how to make an election of judicial determination as provided for in this section and the effect of such an election, to be served upon each respondent named in the charge, together with a notice of opportunity for a hearing at a time and place specified in the ordinance, unless an election of judicial determination has been made, and to each complainant or aggrieved person on whose behalf the complaint was filed.

(11) Land use law. If the office of community relations determines that the matter involves the legality of a state or local law, health, safety, zoning, land use or other similar ordinance, the office of community relations may not issue a charge without first referring the matter to the city attorney for advice or appropriate action.

(12) Dismissal. If the office of community relations determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, it shall promptly dismiss the complaint and advise each complainant or aggrieved person and respondent.

(13) Pending civil trial. The office of community relations may not issue a reasonable cause finding under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person under federal or state law seeking relief with respect to that discriminatory housing practice.

(14) Election of judicial determination.

(a) A complainant, an aggrieved person, or a respondent may elect to have the claims asserted in the complaint decided in a civil action pursuant to subsection 46-35(3).

(b) The person making the election shall give written notice thereof within 20 days after the date of receipt by the electing person of service of a copy of the charge or, in the case of the community relations board, not later than 20 days after the charge was issued. Such notice of election shall be given to the office of community relations and to all other complainants and respondents to whom the complaint relates.

(15) City attorney action for enforcement.

(a) If notice of election is timely given pursuant to subsection (14) above, the community relations board shall authorize the city attorney to file a civil action in the circuit court seeking relief under this section on behalf of the aggrieved person, and such action shall be filed within 30 days of giving such authorization.

(b) A complainant or aggrieved person may petition the court for leave to intervene in the action.

(16) Administrative hearing.

(a) If notice of election is not timely given pursuant to subsection (14) above, the community relations board shall provide for a hearing on the charge.

(b) The community relations board shall, in every case, arrange for the hearing to be conducted by a hearing office from the state division of administrative hearings.

(c) The hearing officer shall follow a hearing procedure providing all parties the right to be heard, to be represented by counsel, to present evidence on their own behalf and to conduct cross-examination of witnesses, similar to the procedure for formal proceedings set forth in F.S. § 120.57(1).

(d) The city attorney shall provide legal representation for the complainant or aggrieved person in such administrative proceedings; however, representation by the city attorney shall not preclude representation by private legal counsel.

(e) The community relations board shall review the hearing officer's recommended order and the record and issue its final order within 30 calendar days of the date it receives the recommended order.

(f) A hearing under this section may not continue regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved person seeking relief with respect to that discriminatory housing practice.

(g) The final order of the community relations board shall be subject to judicial review in the circuit court by petition for writ of certiorari in the manner provided by law and the rules of the court.

(17) Effect of community relations board order. A community relations board order shall not affect a contract, sale, encumbrance, or lease that:

(a) Was consummated before the community relations board issued the order; and

(b) Involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the charge filed under this section.

(18) Licensed or regulated business. If the community relations board issues an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the community relations board shall,

not later than the 30th day after the date of the issuance of the order:

(a) Send copies of the findings and the order to the governmental agency;

(b) Recommend to the governmental agency appropriate disciplinary action.

(19) Order in preceding five years. If the community relations board issues an order against a respondent against whom another order was issued within the preceding five years, the community relations board shall send a copy of each order issued under that section to the city attorney.

Sec. 46-35. Remedies; penalties.

(1) Temporary or preliminary relief.

(a) If the community relations board concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this section, the city commission shall authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint, in accordance with F.S. § 760.34(8).

(b) On receipt of the city commission's authorization, the city attorney shall promptly file the action.

(c) The filing of a civil action under this section does not affect the initiation or continuation of administrative proceedings under this section.

(2) Administrative penalties.

(a) Upon the conclusion of a hearing pursuant to section 46-34(16), if the community relations board believes a respondent has engaged in or is about to engage in a discriminatory housing practice, the community relations board may order the appropriate relief to the aggrieved person, including actual damages for quantifiable injuries, reasonable attorney's fees, costs, and other injunctive or equitable relief, to the extent permitted under applicable federal or state law.

(b) After a finding that a particular charge has been sustained, the community relations board may assess a civil penalty against the respondent in an amount that does not exceed:

1. Ten thousand dollars if the respondent has not been adjudged by order of the community relations board or a court to have committed a prior discriminatory housing practice;
2. Except as provided in subsection (2)(c) of this section, \$25,000.00 if the respondent has been adjudged by order of the community relations board or a court to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and
3. Except as provided by subsection (2)(c) of this section, \$50,000.00 if the respondent has been adjudged by order of the community relations board or a court to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.

(c) If the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in subsections (2)(b)2 and 3 of this section may be imposed without regard to the period of time within which any other discriminatory housing practice occurred.

(d) Funds collected under this subsection shall be paid to the city and shall be used to offset expenses incurred by the city in enforcing this article, and in carrying out other efforts to further fair housing within the city.

(e) The penalties provided for in subsection (2) of this section are applicable regardless of whether the community relations board or an aggrieved party initiated the investigation.

(3) Private civil actions.

(a) A complainant or aggrieved person may file a civil action in the circuit court pursuant to F.S. § 760.35, not later than two years after an alleged discriminatory housing practice has occurred.

(b) An aggrieved person may file an action regardless of whether he or she has filed a complaint, and regardless of the status of any complaint filed under this section.

(c) In such civil action, the plaintiff may seek a declaratory judgment, preliminary or temporary and permanent injunctive relief, actual and punitive damages, and costs and reasonable attorney's fees, as permitted by the court, or other order as the court determines is just and proper.

(d) Upon authorization by the City council, the city attorney may intervene in a private civil action brought by a complainant or aggrieved person, if the city commission certifies that the case is of significant public importance to the citizens of the city.

(4) Judicial review. Any party to the complaint shall have the right to petition for judicial review of the final order of the community relations board in a court of competent jurisdiction. Such review shall be limited to a review of the final order and the record of the proceedings conducted by the community relations board under this section. A reviewing court may modify, revoke or remand the final order only upon a finding that such order is not supported by substantial competent evidence or that the proceedings did not comply with the essential requirements of law.

(5) Petitions for enforcement. The community relations board or any person entitled to relief under a final order issued under section 46-34 may seek enforcement of the order by filing a petition for enforcement in the circuit court. Such petition for enforcement may request declaratory relief, temporary or permanent equitable relief, a fine, forfeiture, penalty, or money judgment for actual damages, attorney's fees, and costs, or combination thereof, as provided in the community relations board's final order, or other order as the court determines is just and proper.

(6) Pattern or practice cases.

(a) Upon request of the City Council, the city attorney shall file a civil action in the circuit court for appropriate relief if the city commission has reasonable cause to believe that:

1. A person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this article; or
2. A person has been denied any right granted by this article and that denial raises an issue of general public importance.

(b) In an action under this subsection, the court may make such awards and order such relief as is provided for under F.S. § 760.35."

Section 3. Effective Date. This Ordinance shall take effect on the 23RD day of DECEMBER, 1998.

PASSED AND DULY ADOPTED, by the City Council, with a quorum present and voting, this 23RD day of DECEMBER, 1998.

First Reading/
Public Hearing: DECEMBER 9, 1998
Second Reading/
Public Hearing: DECEMBER 23, 1998

ATTEST: CARL CALLAHAN
City Clerk

BY: Carl Callahan
Clerk/Deputy Clerk

CITY OF BRADENTON, FLORIDA,
BY AND THROUGH THE CITY COUNCIL
OF THE CITY OF BRADENTON

BY: Bill Evers
Bill Evers, Mayor

