

ORDINANCE NO. 91-4

AN ORDINANCE DECLARING IT TO BE THE POLICY OF OKALOOSA COUNTY, FLORIDA, TO ELIMINATE DISCRIMINATION IN HOUSING BASED UPON RACE, COLOR, ANCESTRY, NATIONAL ORIGIN, RELIGION, SEX, AGE (PROVIDED THE PERSON HAS THE CAPACITY TO CONTRACT), MARITAL STATUS, FAMILIAL STATUS, PHYSICAL HANDICAP; PROVIDING DEFINITIONS; SPECIFYING EXEMPTIONS, SPECIFYING UNLAWFUL ACTS OF DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING; SPECIFYING UNLAWFUL ACTS OF DISCRIMINATION OF BROKERAGE SERVICE; PROVIDING FOR THE ADMINISTRATION OF THIS ORDINANCE; PROVIDING FOR PROCEDURES FOR INITIATING AND ACTING UPON COMPLAINTS; PROVIDING FOR HEARINGS; PROVIDING FOR OTHER REMEDIES; PROVIDING PROCEDURES FOR FILING REPORTS WITH REAL ESTATE COMMISSION OF THE STATE OF FLORIDA; REPEALING CONFLICTING ORDINANCES; AND PROVIDING FOR LIMITED INVALIDATION.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. DECLARATION OF POLICY

It is hereby declared to be the policy of Okaloosa County, Florida, in the exercise of its police power for the safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age, to that end, to eliminate discrimination in housing.

SECTION 2. DEFINITIONS

When used herein:

- (a) "BCC" means Board of County Commissioners of Okaloosa, Florida.
- (b) "Age" means unless the context clearly indicates otherwise, the work age as used herein shall refer exclusively to persons who are 18 years of age or older;
- (c) "Familial Status" means when an individual who has not attained the age of 18 years is domiciled with a parent or other person having legal custody of such individual, or a designee of a parent or other person having legal custody, with the written permission of such parent or other person;
- (d) "Family" means one or more persons living together as a single housekeeping unit in a dwelling, "Family" will also include a single individual;
- (e) "Handicap" means a person who has a physical or mental impairment which substantially limits one or more life activities, or he/she has a record of having, or is regarded as having, such physical or mental impairment;
- (f) "Housing or housing accommodation (Dwelling)" means any building, structure, or portion thereof, mobile home or trailer, or other facility which is occupied as, or designed or intended for occupancy as, a residence by 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 portion thereof, mobile home or trailer other facility;

(g) "Lending Institution" means any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of lending money, guaranteeing loans, or sources of credit information, including but not limited to credit bureaus;

(h) "Owner" means any person, including but not limited to a lessee, sublessee, assignee, manager, or agent, or other sub-units, having the right of ownership or possession or the authority to sell or lease any housing accommodation;

(i) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, and fiduciaries.

(j) "Real Estate Agent" means any real estate broker, any real estate salesman, or any other person, employee, agent, or otherwise, engaged in the management or operation of any real property;

(k) "Real Estate Broker or Salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself or herself out as engaged in these activities, secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf or any of these;

(l) "Real Estate Transaction" includes the sale, purchase, exchange, rental or lease of real property, and any contract pertaining thereto;

(m) "To rent" includes to lease, sublease, assignment and/or rental, including any contract to do any of the foregoing, or otherwise granting for a consideration the right to occupy premises that are not owned by the occupant;

(n) "Respondent" means any person against whom a complaint is filed pursuant to this ordinance;

(o) "Sale" includes any contract to sell, exchange, or to convey, transfer or assign legal or equitable title to, or a beneficial interest in real property.

(f) "Discriminatory housing practice" means an act that is unlawful under Section 4, 5, 6 of this Ordinance.

SECTION 3. EXEMPTIONS

(a) Nothing in Section 4 (other than Subsection (b)) shall apply to:

(1) any single-family house sold or rented by an owner: PROVIDED, That such private individual owner does not own more than three such single-family houses at any one time: PROVIDED FURTHER, That in the case of sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was only with respect to one such sale or who was only with respect to one such sale within any twenty-four (24) month period: PROVIDED FURTHER, That such bona fide private individual does not own any interest in, nor is there owned or reserved in his behalf, under any express or voluntary agreement, title to any right to all or a portion of

the proceeds from the sale or rental or, more than three (3) single-family houses at any one time:
PROVIDED FURTHER, That after the effective date of this Ordinance, the sale or rental of any such single-family house shall be excepted from the application of this Ordinance only if such house is sold or rented (A) without the use of any manner of sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 4(C) of this title; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of Subsection (a), a person shall be deemed to be in the business of selling or renting dwelling if:

(1) he has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve (12) months, participated as agent, other than in the sale of his personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involved in the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designated or intended for occupancy by, or occupied by, five (5) or more families.

(c) Nothing in this Ordinance shall prohibit 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 same religion, or from giving preference to such persons, unless membership in such national origin. Nor shall anything in this Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings to its members or from giving preference to its members.

SECTION 4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by Section 3 and except as exempted by Sections 3(a) and 7, it shall be unlawful:

(a) To refuse to sell or rent after 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 race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age;

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in provision of services or facilities in connection therewith, because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age;

(c) 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 race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age; or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age; that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age;

SECTION 5. DISCRIMINATION IN THE FINANCING OF
HOUSING

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of amount, interest rate, durations, or other terms or conditions of such loan other financial assistance, because of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age; of such person or of 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 to be given: PROVIDED, that nothing contained in this Section shall impair the scope or effectiveness of the exception contained in Section 3.

SECTION 6. DISCRIMINATION IN THE PROVISION OF
BROKERAGE SERVICE

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age;

SECTION 7. ADMINISTRATION

(a) The authority and responsibility for administering this Ordinance shall be with the BCC.

(b) The BCC may delegate its functions, duties, and powers to an appointed board, including functions, duties, and powers with respect to investigating, conciliating with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Ordinance.

(c) The BCC or its appointed board shall:

(1) implement the provisions of this Ordinance and rules, and regulations promulgated hereunder and all ordinances, codes, rules, and regulations pertaining to housing discrimination.

(2) receive, initiate, and investigate any and all complaints alleging violations of the Ordinance, and take appropriate action to eliminate, conciliate, prevent and/or initiate prosecution of any violations.

(3) provide assistance in all matters relating to equal housing opportunity.

(4) publish and disseminate public information and educational materials relating to housing discrimination.

(5) enter into written working agreements, as may be necessary to effectuate the purposes of this Ordinance, with federal, state, and county agencies involved in reducing housing discrimination.

(6) administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the Commission or its appointed board.

(7) take other informational, educational, or persuasive actions to implement in the purposes of this Ordinance.

SECTION 8. PROCEDURE

(a) Any person aggrieved by an unlawful practice prohibited by this Ordinance must file a written complaint with the "General statements of facts of the offense including the basis of the discrimination (race, color, ancestry, national origin, religion, sex, marital status, familial status, handicap, or age);" with the BCC or its appointed board within forty-five (45) days after the alleged unlawful practice occurs.

(b) Upon receipt of a complaint, the commission or its appointed board shall serve upon the individual charged with a violation (hereinafter referred to as the respondent), the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the BCC or its appointed board.

(c) The BCC or its appointed board shall immediately investigate the complaint. Within sixty (60) days from the date of the receipt of the complaint, the BCC or its appointed board shall establish written report with findings of fact.

(d) Copies of the BCC's or its appointed board's report shall be sent to the complainant and the respondent. Either may within ten (10) days after such services, request a hearing before the BCC.

(e) When the complainant or the respondent requests a hearing by the BCC or its appointed board, or when the BCC or its appointed board itself determines that a hearing is desirable, the BCC or its appointed board shall call and conduct such hearing in accordance with Section 9, below.

(f) The BCC or its appointed board shall carry into execution the actions specified in its report, or, if a hearing is held, shall carry into execution the actions determined upon by the BCC or its appointed board in the hearing.

(g) The BCC or its appointed board in its review or its hearing may determine:

(1) that the complaint lacks ground upon which to base action for violation of this Ordinance, or

(2) that the complaint has been adequately dealt with by conciliation of the parties, or

(3) that the case warrants filing charges against the offending party in the appropriate court. In some cases both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.

(h) If the BCC or its appointed board issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this Ordinance, and the respondent refuses or fails to comply with or obey such adjudication, the BCC or its appointed board shall forthwith request that the State Attorney file a complaint in the appropriate court. The BCC or its appointed board shall, at all times, provide the complainant with full and timely information as to all the alternatives available to him or her under local, State and Federal law, including assistance to initiate judicial action if desired, under the circumstances.

(i) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this Ordinance.

(j) All papers or pleadings required by this Ordinance to be served may be served by certified mail or in accordance with the provisions of Rule 1.080 (b), Florida Rules of Civil Procedure.

SECTION 9. HEARINGS BEFORE THE BOARD OF COUNTY
 COMMISSIONERS

(a) When a hearing is required before the BCC or its appointed board, so specified in Section 8(c) above, the BCC or its appointed board shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than fifteen (15) days after service of such notice and of the BCC or its appointed board's written report (Section 8(d) above).

(b) The parties, or their authorized counsel, may file such statements with the BCC or its appointed board, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the BCC or its appointed board, in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross-examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The BCC or its appointed board shall not be bound by strict

rules of evidence prevailing in courts of law or equity but due process shall be observed. The BCC or its appointed board shall keep a full record of the hearing, which records shall be public or open to inspection by any person, and upon request by any principal party to the proceedings the BCC or its appointed board shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.

(c) The BCC or its appointed board shall make a finding of fact, and a determination of action to be taken (Section 8(g) above).

(d) The BCC or its appointed board may issue subpoenas to compel access to or the production or appearance or premises, records, documents, individuals, and other evidence or possible sources of evidence relative to the complaint at issue.

(e) Upon written application to the BCC or its appointed board, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the BCC or, to the same extent and subject to the same limitations as subpoenas issued by the BCC or its appointed board itself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(f) Witnesses summoned by subpoena of the BCC or its appointed board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the State courts of Florida. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him, unless he is indigent in which case the BCC shall bear the costs of said fees.

(g) Within ten (10) days after service of a subpoena upon any person, such person may petition the BCC or its appointed board to revoke or modify the subpoena. The BCC or its appointed board shall grant the petition if it finds that the subpoena requires appearance or attendance, at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(h) In case of refusal to obey a subpoena, the Board or its appointed board or the person at whose request it was issued may petition for its enforcement in the appropriate court.

SECTION 10. OTHER REMEDIES

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 11. REPORT TO REAL ESTATE COMMISSION

If a real estate broker, a real estate salesman, or an employee thereof has been found to have committed an unlawful practice in violation of this Ordinance, or has failed to comply with an order issued by the BCC or its appointed board, the BCC or its appointed board shall, in addition to the other procedures set forth herein, report the facts to the Real Estate Commission of the State of Florida.

SECTION 12. CONFLICTING ORDINANCES REPEALED

All other ordinances and parts of ordinances in conflict herewith to the extent of such conflicts are hereby repealed.

SECTION 13. LIMITED INVALIDATION

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of the provisions to other persons not similarly situated or to other circumstances shall not be affected thereby.

SECTION 14. EFFECTIVE DATE

This Ordinance shall become effective upon its adoption as provided by law.

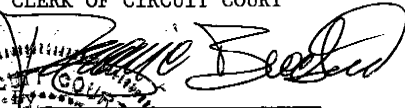
PASSED AND ADOPTED by the Board of County Commissioners of Okaloosa County, Florida, on the 15th day of January, 1991.

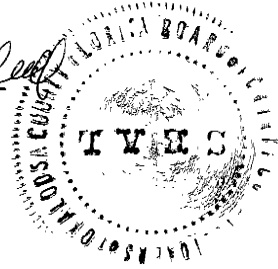
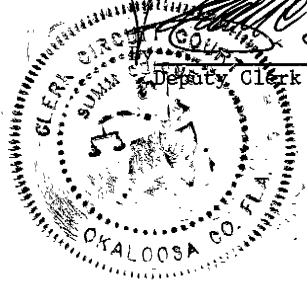
BOARD OF COUNTY COMMISSIONERS
OKALOOSA COUNTY, FLORIDA


MICHAEL M. MITCHELL
Chairman

ATTEST:

NEWMAN C. BRACKIN
CLERK OF CIRCUIT COURT


Deputy Clerk of Court



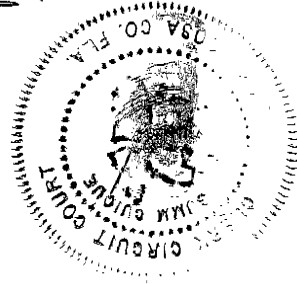
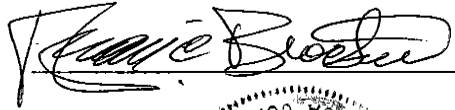
STATE OF FLORIDA

COUNTY OF OKALOOSA

I, Newman C. Brackin, Clerk of Circuit Court and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid, do hereby certify that the foregoing is a true and correct copy of an Ordinance which was duly passed and adopted at a regular meeting of the Board of County Commissioners on the 15th day of January, 1991, and appears on record in my office.

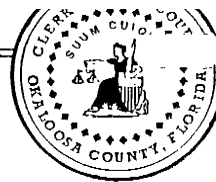
IN WITNESS WHEREOF, I hereunto set my hand and official seal this the 16th day of January, 1991

NEWMAN C. BRACKIN
CLERK OF CIRCUIT COURT



NEWMAN C. BRACKIN

CLERK OF THE CIRCUIT COURT, OKALOOSA COUNTY, FLORIDA



1/18/91

Mrs. Liz Cloud, Chief
Bureau of Administrative Code and Laws
Department of State
The Capitol, Room 1802G
Tallahassee, FL 32301

Dear Mrs. Cloud:

Please find enclosed a copy of Ordinance No. 91-3 & 91-4 and certification of same to be placed on file in your office, said ordinance adopted by the Board of County Commissioners of Okaloosa County, Florida, on January 15, 1991.

Thank you for your assistance.

Sincerely,

Newman C. Brackin
Clerk of Circuit Court

By *Joan Barberree*
Deputy Clerk

Enclosure

Certified Mail # P29 754 2239



- REPLY TO: 101 E. JAMES LEE BLVD. • P.O. Box 1265 • CRESTVIEW, FLORIDA 32536-1265 • (904) 682-2711 • SUNCOM 698-1269
 SHALIMAR ANNEX • 1250 EGLIN PARKWAY • SHALIMAR, FLORIDA 32579 • (904) 651-3710 • SUNCOM 699-1432



FLORIDA DEPARTMENT OF STATE

Jim Smith
Secretary of State

DIVISION OF ELECTIONS
Room 1802, The Capitol
Tallahassee, Florida 32399-0250
(904) 488-8427

January 23, 1991

Honorable Newman C. Brackin
Clerk of Circuit Court
Okaloosa County Courthouse
Post Office Box 1265
Crestview, Florida 32536-1265

Attention: Joan Barberree, Deputy Clerk

Dear Mr. Brackin:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of January 18, 1991 and certified copies of Okaloosa County Ordinance No's. 91-3 & 91-4, which were filed in this office on January 22, 1991.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb