

ORDINANCE #94 - 01

AN ORDINANCE OF LIBERTY COUNTY, FLORIDA, AMENDING ORDINANCES, 85-1, 87-01 AND 90-06 OF LIBERTY COUNTY, FLORIDA, TITLED "THE FAIR HOUSING ORDINANCE" TO PROHIBIT DISCRIMINATION ON THE BASIS OF RACE, HANDICAP, COLOR, ANCESTRY, NATIONAL ORIGIN, RELIGION, SEX, MARITAL STATUS, FAMILIAL STATUS OR AGE IN HOUSING; PROVIDING A COMMON TITLE; ENUNCIATING COUNTY POLICY RELATING TO THIS TYPE OF DISCRIMINATION; DEFINING THE TERMS USED; PRESCRIBING UNLAWFUL DISCRIMINATORY PRACTICES IN CONNECTION WITH THE SALE, LEASING, FINANCING, AND PROVISIONS OF BROKERAGE SERVICES RELATING TO HOUSING; PROVIDING CERTAIN EXEMPTIONS AND EXCEPTIONS, PROVIDING FOR THE DESIGNATION OF ADMINISTRATOR; PRESCRIBING THE ADMINISTRATORS POWERS AND DUTIES; PROVIDING FOR CONCILIATION HEARINGS AND AGREEMENTS; PRESCRIBING PENALTIES FOR VIOLATIONS; PROVIDING FOR DUTIES OF ADMINISTRATOR WHEN PROBABLE CAUSE OF VIOLATION EXISTS; PROVIDING ACTION TO BE TAKEN BY ADMINISTRATOR WHEN CONCILIATION OF A VIOLATION FAILS OR CANNOT BE RESOLVED; PROVIDING AN INVALIDITY OR UNCONSTITUTIONALITY LAWS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Liberty County, Florida finds that there are three Ordinances (Ordinance 85-1, Ordinance 87-01 and Ordinance 90-06) which pertain to fair housing; and

WHEREAS, the Board of County Commissioners of Liberty County, Florida decided to combine said ordinances into one ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LIBERTY COUNTY, FLORIDA, that Ordinance 85-1, 87-01 and 90-06 are hereby amended and combined as follows.

ARTICLE I: TITLE AND POLICY

1.0 Common Title

This Ordinance shall be known and may be cited as the Fair Housing Ordinance of Liberty County, Florida.

2.0 Declaration of Policy.

It is the policy of Liberty County, Florida in keeping with the laws of the United States of America and the State of Florida, to promote through fair, orderly and lawful procedure the opportunity for each person so desiring to obtain housing of such person's choice in this County, without regard to race, color, ancestry,

329

national origin, handicap, religion, sex, marital status, familial status or age, and to that end, to prohibit discrimination in housing by any person.

ARTICLE II: DEFINITIONS

1.0 General Definitions

Except where specifically defined herein, all words used in these regulations shall convey their usual and customary meanings. Words used in the present tense include the future tense; words in the singular number include the plural and words in the plural include the singular. The word "shall" is mandatory and the word "may" is discretionary.

2.0 Specific Definitions

When used in this Ordinance, the following words and phrases shall have the meaning given in this section.

2.1 Administrator - That person appointed by the County pursuant to Article IV.

2.2 Age - Unless context clearly indicates otherwise, the word "age" as used in this ordinance shall refer exclusively to persons who are 18 years of age or older.

2.3 Discriminatory Housing Practice - An act that is unlawful under Article III of this Ordinance.

2.4 Family - One or more persons living together as a single housekeeping unit in a dwelling.

2.5 Housing or Housing Accommodation - 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 or other facility.

2.6 Lending Institution - Any bank, insurance company, savings and loan association or any other person or organization regularly engaged in the business of

330

lending money, guaranteeing loans, or sources of credit information, including but not limited to credit bureaus.

2.7 Owner - Any person, including but not limited to a lessee, sublease, assignee, manager, or agent, and also including the County and its departments or other sub-units, having the right or ownership or possession or the authority to sell or lease any housing accommodation.

2.8 Person - One or more individuals, corporations, partnerships, associations, labor organizations, legal companies, trusts, unincorporated organizations, or public corporations, including but not limited to Liberty County or any department or sub-unit thereof.

2.9 Real Estate Agent - 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.

2.10 Real Estate Broker or Salesman - 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 out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be 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 of any of these.

2.11 Real Estate Transaction - Includes the sale, purchase, exchange, rental or lease of real property or any contract pertaining thereto.

2.12 Rent - Includes lease, sublease, assignment 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.

2.13 Respondent - Any person against whom a complaint is filed pursuant to this ordinance.

331

2.14 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.

2.15 Handicap - A person who has a physical impairment which substantially limits one or more major life activities or who has a record of having, or is regarded as having, such physical impairment.

2.16 Familial Status - means one or more individuals (who have not attained the age of 18 years) being domiciled with

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or their person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

ARTICLE III: UNLAWFUL HOUSING PRACTICES

1.0 Sale or Rental and advertising in connection therewith.

Except as provided in 5.0 of this article, it shall be unlawful and a discriminatory housing practice for an owner, or any other person in a real estate transaction, or for a real estate broker, as defined in this ordinance, because of race, color, ancestry, national origin, handicap, religion, sex, marital status, familial status or age:

1.1 To refuse to engage in a real estate transaction with a person or otherwise make unavailable or deny housing to any person.

1.2 To discriminate against a person in terms, conditions or privileges of a real estate transaction, or in the furnishing of facilities or services in connection therewith, or because of his exercise of his right to free association.

1.3 To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction with a person.

1.4 To refuse to negotiate for a real estate transaction with a person.

1.5 To represent to a person that housing is not available for inspection, sale, rental or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to permit him to inspect the housing.

1.6 To steer any person away from or to any housing.

1.7 To make, print, publish, post or mail or cause to be made, printed, published or circulated, any notice, statement, advertisement, or sign, or to use a form of application or photograph for a real estate transaction or, except in connection with a written affirmative action plan, to make a record or oral or written inquiry in connection with a prospective real estate transaction, which indicated directly or indirectly an intent to make a limitation, specifically, or discrimination with respect thereto.

1.8 To offer, solicit, accept, use or retain a listing of housing with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or service in connection therewith.

1.9 To induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existing or potential proximity of housing owned, used or occupied by any person protected by the terms of this ordinance.

1.10 To make any misrepresentations concerning the listing for sale or rental, or the anticipated listing for sale or rental, or the sale or rental of any housing in any area in Liberty County for the purpose of inducing or attempting to induce any such listing or any of the above transactions.

1.11 To retaliate or discriminate in any manner against any person because of his opposing a practice declared unlawful by this chapter, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under this chapter.

1.12 To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by the provisions of this ordinance, or to obstruct or

prevent any person from complying with the provisions of this ordinance, or any conciliation agreement entered into thereunder.

1.13 By canvassing to compel any unlawful practices prohibited by the provisions of this ordinance.

1.14 Otherwise to deny to, or withhold, any housing accommodations from a person.

1.15 To promote, induce, influence or attempt to promote, induce or influence by the use of postal cards, letters, circulars, telephone, visitation or any other means, directly or indirectly, a property owner, occupant or tenant to list for sale, sell, remove from, lease, assign, transfer or otherwise dispose of any housing by referring as a part of a process or pattern of inciting neighborhood unrest, community tension, or fear of racial, color, religious, nationality or ethnic change in any street, block, neighborhood, or any other area, to the race, color, religion or national origin of actual or anticipated neighbors, tenants or other prospective buyers of any housing.

1.16 To cause to be made any untrue or intentionally misleading statement or advertisement, or in any other manner, attempt as part of a process or pattern of inciting neighborhood unrest, community tension or fear of racial, color, religious, nationality or ethnic change in any street, block, neighborhood, or any other area, to obtain a listing of any housing for sale, rental, assignment, transfer or other disposition, where such statement, advertisement or other representation is false or materially misleading, or where there is insufficient basis to judge its truth or falsity to warrant making the statement, or to make any other material misrepresentation in order to obtain such listing, sale, removal from, lease, assignment, transfer or other disposition of said housing.

1.17 To place a sign or display any other device either purporting to offer for sale, lease, assignment, transfer or other disposition or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer or other disposition.

334

2.0 Block Busting

It shall be unlawful and a discriminatory housing practice for a person, for the purpose of inducing a real estate transaction for which he may benefit financially:

2.1 To represent that a change has occurred or will or may occur in the composition, with respect to race, color, ancestry, national origin, religion, sex, marital status, familial status or age, of the owners or occupants in the block, neighborhood, or area in which the housing accommodation is located.

2.2 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 housing accommodation is located.

2.3 To make, as part of a process or pattern of discouraging the purchase, rental, occupancy or otherwise of any housing in a particular block, neighborhood or area, any representation to a person known to be a prospective purchaser, that such block or neighborhood, or area may undergo, is undergoing, or has undergone a change with respect to racial, color, religious, nationality, or ethnic composition of such block or neighborhood area.

2.4 To engage in, or hire to be done, or to conspire with others to commit actions or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing or attempting to induce, the sale, purchase, rental or lease or the listing for any of the above, of any housing accommodation.

2.5 For profit, to induce or attempt to induce any person to sell or not to sell or rent or not to rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons protected by the provisions of this ordinance.

335

3.0 Financing

It shall be unlawful and a discriminatory housing practice for any lending institution, as defined herein, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining housing, or to discriminate against such person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, ancestry, national origin, handicap, religion, sex, marital status, familial status or age of such person in connection with such loan or other financial assistance or for purposes of such loan or other assistance, or of the present or prospective owners, lessees, tenants, or occupants of the housing in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained herein shall impair the scope of effectiveness of the exceptions contained in Section 5 of this Article.

4.0 Brokerage Services

It shall be unlawful and a discriminatory housing practice 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 related to the business of selling, or renting housing, or to discriminate against such person in the terms or conditions of such access, membership or participation because of race, color, ancestry, national origin, religion, sex, marital status, familial status or age.

5.0 Exemptions and Exceptions

5.1 Nothing in this ordinance shall prohibit a religious organization, association, or society, or any nonprofit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting or from advertising the sale, rental or occupancy of housing which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons. Nor shall anything in this ordinance prohibit a private club not in fact to open to the public, which as incidental to its primary purpose or purposes provides lodgings which

it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

5.2 Nothing in this ordinance, other than Article III-1.7 shall apply to:

a) 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 the 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 not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twelve-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any rights to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time: Provided, further, that the owner sells or rents such housing (1) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting housing, or of any employee or agency of any broker, agent, salesperson, or person and (2) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Article III-1.7; 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

b) Rooms or units in housing containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence, provided that the owner sells or rents such rooms or units (1) without the use in any manner of the sales or rental facilities or the sale or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person

in the business of selling or renting housing, or of any employee or agency of any such broker, agent, salesperson, or person and (2) without the publication, posting or mailing after notice, of any advertisement or written notice in violation of Article III-1.7, 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.

For the purpose of this subsection III-5.2 a person shall be deemed to be in the business of selling or renting housing if:

c) He has, within the preceding twelve months, participated as principal, other than in the sale of his own personal residence, in providing sales or rental services in three or more transactions involving the sale or rental of any housing or any interest therein; or

d) He has, within the preceding twelve months participated as agent, other than in the sale of his own personal residence, in providing sale or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any housing or any interest therein; or

e) He is the owner of any housing designed or intended for occupancy by, or occupied by, five or more families.

5.3 Nothing in Article III shall be construed to:

a) Bar any person from restricting sales, rentals, leases or occupancy, or from giving preference, to persons of a given age for bona fide housing intended solely for the elderly or bona fide housing intended solely for minors.

b) Make it an unlawful act to require that a person have legal capacity to enter into a contract or lease.

c) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively by individuals of one sex, to any individual of the opposite sex.

338

d) Bar any person from selling, renting or advertising any housing which is planned exclusively for, and occupied by, unmarried individuals to unmarried individuals only.

e) Bar any person from advertising or from refusing to sell or rent any housing which is planned exclusively for married couples without children or from segregating families with children to special units of housing.

f) Bar any person from refusing to sell or rent any housing to unmarried individuals cohabiting contrary to law.

g) Bar any person from refusing a loan or other financial assistance to any person whose life expectancy, according to generally accepted mortality tables, is less than the term for which the loan is requested.

h) Require any person renting or selling a dwelling to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

ARTICLE IV: ADMINISTRATION

1.0 Appointment

The authority and responsibility for administering this chapter shall be vested in the County who shall appoint an administrator.

2.0 Power and Duties of the Administrator

2.1 The administrator shall receive written complaints as hereinafter provided in Article IV-3.0 relative to alleged unlawful acts under this chapter when a complainant seeks the administrator's good offices to conciliate.

2.2 Upon receiving a written complaint, the administrator shall make such investigations as the administrator deems appropriate to ascertain facts and issues.

2.3 The administrator shall utilize methods of persuasion, conciliation, and mediation to achieve adjustment of grievances.

2.4 The administrator shall establish, administer or review programs at the request of the Board of County Commissioners and make reports on such programs upon request.

2.5 The administrator shall bring to the attention of the Board of County Commissioners items that may require their notice or action to resolve.

2.6 The administrator shall render to the Board of County Commissioners annual written reports of the administrator's activities under the provisions of this chapter along with such comments and recommendations as the administrator may choose to make.

2.7 The administrator shall cooperate with and render technical assistance to federal, state, local and other public and private agencies, organizations and institutions which are formulating or carrying on programs to prevent or eliminate the unlawful discriminatory practices covered by the provisions of this ordinance.

2.8 Whenever the administrator determines that there is probable cause to believe that there has been a violation of the provisions of this chapter, the administrator shall refer the matter, along with the facts the administrator has gathered in the investigation to the proper county, state or federal authorities for appropriate legal action.

2.9 The administrator shall promulgate, publish and distribute the necessary forms, rules and regulations to implement the provisions of this chapter.

2.10 The administrator may conduct educational and public informational activities that are designed to promote the policy of this ordinance.

3.0 Receiving Complaints

3.1 A person who claims that another person has committed a discriminatory housing practice against him may report that offense to the administrator by filing an informal complaint within sixty (60) days after that date of the alleged discriminatory housing practice and not later.

3.2 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, Public Law 90-284, as an informal complaint filed under 3.1.

340

3.3 An informal complaint must be in writing, verified or affirmed, on a form to be supplied by the administrator and shall contain the following:

- a) Identity of the respondent.
- b) Date of offense and date of filing the informal complaint.
- c) General statement of facts of the offense including the basis of the discrimination (race, color, ancestry, national origin, religion, sex, marital status, familial status or age).
- d) Name and signature of the complainant.

3.4 Each complaint shall be held in confidence by the administrator unless and until the complainant and the respondent(s) consent in writing that it shall be made public.

3.5 Within fifteen (15) days after the filing of the informal complaint, the administrator shall transmit a copy of the same to each respondent named therein by certified mail return receipt requested. Thereupon the respondent(s) may file a written, verified informal answer to the informal complaint within twenty (20) days of the date of receipt of the informal complaint.

3.6 An informal complaint or answer may be amended at any time, and the administrator shall furnish a copy of each amended informal complaint or answer to the respondent(s) or complainant, respectively, as promptly as practicable.

3.7 The administrator shall assist complainants or respondents when necessary in the preparation and filing of informal complaints or answers or any amendments thereto.

4.0 Processing Complaints

4.1 Within thirty (30) days after the filing of an informal complaint, the administrator shall make such investigation as the administrator deems appropriate to ascertain facts and issues. If the administrator shall deem that there are reasonable grounds to believe that a violation has occurred and can be resolved by conciliation the administrator shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives

341

as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done in the course of the informal conference with the individuals to resolve the dispute may be made public or used as evidence in a subsequent proceeding by either party without the written consent of both the complainant and the respondent(s). The administrator or any employee of the administrator who shall make public any information violation of this provision shall be declared guilty of a violation of a duly adopted ordinance and shall be subject to penalty as set forth in Article IV-7.0 of this Ordinance.

4.2 If the parties desire to conciliate, the terms of the conciliation shall be reduced to writing in the form approved by the administrator and must be signed and verified by the complainant and respondent(s) and approved by the administrator. The conciliation agreement is for conciliation purposes only and does not constitute an admission by any party that rights have been violated. If such a conciliation agreement is reached, the administrator shall take no further action with respect to the alleged offense.

4.3 If the administrator with a particular matter which involves a contravention of this chapter:

a) Fails to conciliate a complaint after the parties, in good faith, have attempted such conciliation; or

b) Determines that the violation alleged in the complaint cannot be resolved by conciliation,

he shall notify both complainant and the respondent(s) within thirty (30) days of the failure or the determination, and he shall proceed as provided in Article IV-2.8 above.

5.0 Additional Remedies

The procedures prescribed by this chapter do not constitute an administrative prerequisite to another action or remedy available under other law. Further, nothing in this chapter shall be deemed to modify, impair or otherwise affect any right or remedy conferred by the Constitution or laws of the United State or the

342

State of Florida, and the provisions of this Chapter shall be in addition to those provided by such other laws.

6.0 Untruthful Complaints or Testimony

It shall be a violation of this ordinance for any person knowingly and willfully to make false or untrue statements, accusation or allegations in his complaint or to give false testimony concerning violations of this ordinance.

7.0 Penalty

7.1 Any person who violates any provision of this ordinance shall be subject, upon conviction, to a fine up to but not exceeding the sum of Five Hundred Dollars (\$500.00), or imprisonment for a term not exceeding six (6) months, or by both fine and imprisonment.

7.2 If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, the remainder of the ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, 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.

ARTICLE V: CONFLICT

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

ARTICLE VI: SEVERABILITY

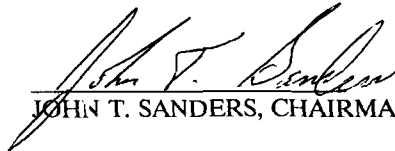
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

343

ARTICLE VII: EFFECTIVE DATE

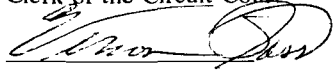
In accordance with Section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment, and this Ordinance shall take effect upon receipt of official acknowledgement that said Ordinance has been filed.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Liberty, County, Florida this 10th day of March, 1994.


JOHN T. SANDERS, CHAIRMAN

ATTEST:

Vernon Ross
Clerk of the Circuit Court



APPROVED AS TO FORM:


COUNTY ATTORNEY