

CHAPTER 309. FAIR HOUSING

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Section 309.01. Declaration of policy.

It is the policy of Indian River County, in keeping with the laws of the United States of America, 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, national origin, religion, sex, familial status or handicap, and, to that end, to prohibit discrimination in housing by any person. (Ord. No. 957, § 1, 3-14-95; Ord. No. 96-23, § 1, 12-3-96)

Section 309.02. Definitions.

The terms as used herein shall be defined as follows:

Administrator means that person appointed by the county commission pursuant to section 309.06 hereof.

Age unless the context clearly indicates otherwise, the word age as used herein shall refer exclusively to persons who are eighteen (18) years of age or older.

Discriminatory housing practice means an act that is unlawful under section 309.04 hereof.

Family means one (1) or more persons living together as a single housekeeping unit in a dwelling.

Familial status is established when an individual who has not obtained the age of eighteen (18) years is domiciled with: (1) a parent or other person having legal custody of such individual, or (2) a designee of a parent or other person having legal custody, with the written permission of such parent or other person.

Handicap means a person who has a physical or mental impairment which substantially limits one (1) or more major life activities, or who has a record of having, or is regarded as having, such physical or mental handicap, or a person who had a developmental disability as defined in F.S. 393.063.

Housing or housing accommodation 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 (1) 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.

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.

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

Person means one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mortgage companies, joint stock companies, trusts, unincorporated organizations, or public corporations, including but not limited to the county or any department or sub-unit thereof.

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.

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, 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.

Real estate transaction includes the sale, purchase, exchange, rental or lease of real property, and any contract pertaining thereto.

Rent includes 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.

Respondent means any person against whom a complaint is filed pursuant to this chapter.

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. (Ord. No. 957, § 2, 3-14-95)

Section 309.03. Unlawful housing practices.

(1) *Unlawful housing practices; sale or rental and advertising in connection therewith.* Except as provided in section 309.04 hereof, it shall be unlawful and a discriminatory housing practice for an owner, or any other person engaging in a real estate transaction, or for a real estate broker, as defined in this chapter, because of race, color, national origin, religion, sex, familial status or handicap:

- a. To refuse to engage in a real estate transaction with a person or otherwise make unavailable or rent housing to any person;
- b. To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith, or because of such person's exercise of his or her right to free association;
- c. To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;
- d. To refuse to negotiate for a real estate transaction with a person;

- e. 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 such person's attention, or to refuse to permit him or her to inspect the housing;
- f. To steer any person away from or to any housing;
- g. To make, print, publish, circulate, post, 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 written inquiry in connection with a prospective real estate transaction, which indicates directly or indirectly an intent to make a limitation, specification, or discrimination with respect thereto;
- h. 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 services in connection therewith;
- i. To induce or attempt to induce any person to transfer an interest in any housing by representation regarding the existing or potential proximity of housing owned, used or occupied by any person protected by the terms of this chapter;
- j. 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 the county for the purpose of inducing or attempting to induce any such listing or any of the above transactions;
- k. To retaliate or discriminate in any manner against any person because of his or her opposing a practice declared unlawful by this chapter, or because he or she has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under this chapter;

- l. To aid, abet, incite, compel, or coerce any person to engage in any of the practices prohibited by the provisions of this chapter, or to obstruct or prevent any person from complying with the provisions of this chapter, or any conciliation agreement entered into thereunder;
 - m. To compel any unlawful practices prohibited by the provisions of this chapter;
 - n. Otherwise to deny to, or withhold, any housing accommodations from a person;
 - o. 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, 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, national origin, religion, sex, familial status, or handicap of actual or anticipated neighbors, tenants or other prospective buyers of any housing;
 - p. 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, national origin, religious, sex, familial status, or handicap, 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 sufficient basis to judge its truth or falsity to warrant making the statement, or to make any other material misrepresentations in order to obtain such listing, sale, removal from, lease, assignment, transfer or other disposition of said housing;
 - q. 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.
- (2) *Unlawful housing practices; 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 therefore 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, national origin, religion, sex, familial status, or handicap of such person or of any person associated with 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 in the subsection shall impair the scope or effectiveness of the exceptions contained in section 309.04 of this chapter.
- (3) *Unlawful housing practices; 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, 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, national origin, religion, sex, familial status, or handicap.
- (4) Nothing in section 309.04 hereof shall be construed to 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.
(Ord. No. 957, § 3, 3-14-95; Ord. No. 96-23, § 2, 12-3-96)

Section 309.04. Exemptions and exceptions.

(1) Nothing contained in section 309.03 hereof 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 chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.

(2) Nothing in section 309.03 hereof, other than subsection (1)g. thereof, 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 (3) such single-family houses at any one (1) 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 such sale within any twenty-four-month period; provided further that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on such owner's 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 (3) 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 em-

ployee 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 subsection g. of subsection (1) of section 309.03 hereof, 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 containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as such owner's 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 sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in 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 subsection g. of subsection (1) of section 309.03 hereof, but nothing in this proviso 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 (2), a person shall be deemed to be in the business of selling or renting housing if: (1) he has, within the preceding twelve (12) months, participated as principal, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in three (3) or more transactions involving the sale or rental of any housing or any interest therein; or (2) he has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving

the sale or rental of any housing or any interest therein; or (3) he is the owner of any housing designed or intended for occupancy by, or occupied by, five (5) or more families.

(3) Nothing in section 309.03 hereof 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 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 for, and occupied exclusively by, individuals of one sex, to any individual of the opposite sex;
- d. Bar any person from selling, renting, or advertising any housing which is planned exclusively for, and occupied exclusively 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. Bar any person from restricting sales, rentals, leases or occupancy to persons over age fifty-five (55), to the extent allowed by state or federal law.

(Ord. No. 957, § 4, 3-14-95)

Section 309.05. Administrator; authority and responsibilities.

(1) *County commission to appoint.* The authority and responsibility for administering this chap-

ter shall be vested in the county commission who shall appoint the deputy county attorney as the administrator.

(2) *General powers and duties.* The administrator shall:

- a. Receive written complaints as hereinafter provided in section 309.06 relative to alleged unlawful acts under this chapter when a complainant seeks the administrator's good offices to conciliate;
- b. Upon receiving a written complaint, make such investigations as the administrator deems appropriate to ascertain facts and issues;
- c. Utilize methods of persuasion, conciliation, and mediation or information for adjustment of grievances;
- d. Establish, administer or review programs at the request of the county commission and make reports on such programs to the county commission;
- e. Bring to the attention of the county commission items that may require the county commission's notice or action to resolve;
- f. Render to the county commission annual written reports of his activities under the provisions of this chapter along with such comments and recommendations as he may choose to make;
- g. 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 chapter.

(3) *Determination of probable cause.* Whenever the administrator determines that there is probable cause to believe that there has been a violation of the provisions of this chapter, but only after having fully processed the complaint in which such violation is alleged in the manner hereinafter provided, he shall refer the matter, along with the facts he has gathered in his investigations, to the proper county, state or federal authorities for appropriate legal action.

(4) *Promulgation of forms and regulations.* The administrator shall promulgate, publish and distribute the necessary forms, rules, and regulations to implement the provisions of this chapter. (Ord. No. 957, § 5, 3-14-95)

Section 309.06. Complaints.

(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 of the date of the alleged discriminatory housing practice and not later.

(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 subsection (1).

(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 and address of the offending party;
- b. Date of the offense and date of filing the informal complaint;
- c. General statements of facts of the offense including the basis of the discrimination (race, color, national origin, religion, sex, familial status, or handicap);
- d. Name and signature of the complainant.

(4) Each complaint shall be held in confidence by the administrator unless and until the complainant and the offending party(ies) consent in writing that it shall be public, or until it becomes a "public record" within the meaning of F.S. § 119.07(3)(t).

(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.

(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 offending party(ies) or complainant, respectively, as promptly as practicable.

(7) The administrator shall assist complainants or offending parties when necessary in the preparation and filing of informal complaints or answers or any amendments thereto. (Ord. No. 957, § 6, 3-14-95; Ord. No. 96-23, § 3, 12-3-96)

Section 309.07. Processing complaints.

(1) Within thirty (30) days after the filing of an informal complaint, the administrator shall make such investigations as he 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, he shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives 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 offending party(ies). The administrator or any employee of the administrator who shall make public any information in violation of this provision shall be deemed guilty of a violation of a county ordinance and shall be subject to penalty as set forth in section 3-09.11 of this chapter.

(2) If the parties desire to conciliate, the terms of the conciliation shall be in writing in the form approved by the administrator and must be signed and verified by the complainant and the offending party(ies) and approved by the administrator. The conciliation agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

(3) If the administrator deems that there is not probable cause to believe that a particular alleged

discriminatory housing practice has been committed, the administrator shall take no further action with respect to the alleged offense.

(4) If the administrator, with respect to any 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 the complainant and the offending party(ies) within thirty (30) days of the failure or the determination, and he shall proceed as provided in paragraph (3) of section 309.05 hereinabove.

(Ord. No. 957, § 7, 3-14-95)

Section 309.08. 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 States or the State of Florida, and the provisions of this chapter shall be in addition to those provided by such other laws.

(Ord. No. 957, § 8, 3-14-95)

Section 309.09. Education and public information.

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

(Ord. No. 957, § 9, 3-14-95)

Section 309.10. Untruthful complaints or testimony.

It shall be a violation of this article for any person knowingly and willfully to make false or untrue statements, accusations or allegations in a complaint filed hereunder or to give false testimony concerning violations of this chapter.

(Ord. No. 957, § 10, 3-14-95)

Section 309.11. Penalty.

Any person who violates any provisions of this chapter 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 such fine and imprisonment.

(Ord. No. 957, § 11, 3-14-95)