



SEATTLE CITY COUNCIL

MEMORANDUM

DATE: April 14, 1975

TO: Members of the Human Resources and Judiciary Committee

FROM: Suzi Forbes

SUBJECT: Briefing on Open Housing Ordinance

BACKGROUND

City law currently prohibits discrimination in housing due to race, color, religion, ancestry or national origin. In addition, the following practices are prohibited:

1. No one may discriminate in the sale, rent, lease, sublease, assignment, transfer or disposal of any Housing Accommodation.
2. No real estate broker, agent, salesman or employee may discriminate by:
 - a. Refusing or intentionally failing to list a housing accommodation for sale, rent, lease or sublease.
 - b. Refusing or intentionally failing to show a housing accommodation.
 - c. Refusing or intentionally failing to accept or transmit any reasonable offer.
3. No person, bank, banking organization, mortgage company, insurance or other financial institution or lender shall:
 - a. Discriminate by granting, withholding, extending, modifying, renewing or modifying rate, terms, conditions or privileges of financial assistance.
 - b. Use any form of application which expresses any limitation, specification or discrimination.
4. An owner, person, real estate broker, agent, salesman may not:
 - a. Require information or use any form of application that contains questions or entries concerning race, color, religion, ancestry or national origin.
 - b. Publish, circulate, issue, etc. any notice indicating any preference.
 - c. Aid, abet, incite, counsel or coerce the doing of any act prohibited herein.

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AMENDMENTS APPROVED BY COUNCIL

In August, 1974, the Council approved the following changes:

1. Prohibited discrimination due to sex and marital status, as well as the above.
2. Replaced all references to Housing Accommodations with references to real property.
3. Section 12A.44.020 UNFAIR HOUSING PRACTICES FORBIDDEN
 - a. All of the practices that are prohibited under the old law (above) are prohibited under the proposed new law with these additions:
 - (1) Section 12A.44.020 (4) (b) - A bank, owner, etc. would be allowed to keep records on race, etc. if they are required or authorized by law.
 - (2) Section 12A.44.020 (5) (c) - Intimidate, harass, and retaliate were added to this section.
 - (3) Section 12A.44.020 (6) - A new section on "blockbusting" was added.
 - (4) Section 12A.44.020 (7) - A new section on harassment was added.

Section 12A.44.030 ENFORCEMENT PROCEDURES

All of this section is new. It is now written in a manner similar to the Fair Employment Practices Ordinance, with the Hearing Examiner handling appeal hearings and writing out a proposed decision. A hearing panel of three members of the affected commission (Human Rights if race, etc., Women's Commission if sex, etc.) then either adopts the proposed decision or alters it.

Remedies which may be available include elimination of the unfair housing practice, rent refunds or credits, reinstatement to tenancy, or such other remedies as may be lawfully agreed upon by the parties and the Director.

Section 12A.44.050 EXCLUSIONS

Several new sections are added here, including allowing religious organizations to control their property, as long as they do not limit membership due to race, color or national origin. The Council also included a provision for religious, fraternal, fraternities or similar residential halls to persons of one sex. The Council has also requested

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an exclusion for singles/only apartment houses. NOTE: In an opinion dated March 12, 1975, the Corporation Council advises that although the Council may wish to exclude these apartments and dwellings from the purview of this ordinance, RCW 49.60.222 prohibits discrimination due to sex, marital status, race, creed, color or national origin, and recognizes no exclusions. An exclusion, therefore, under City law, would not authorize or make lawful any discrimination declared to be an unfair practice under RCW 49.60.222.

Section C PENALTIES

A civil fine of \$500 may be imposed.

FURTHER AMENDMENTS PROPOSED

1. SEXUAL ORIENTATION

Many letters have been received urging the Council to include sexual orientation in this ordinance. Should you decide to do so, you may wish to have a definition. Several definitions have been suggested. They include:

a. Law Department definition:

Male or female homosexuality, heterosexuality, and bisexuality by preference or practice.

b. Women's Commission definition:

Male or female heterosexuality, bisexuality or homosexuality, which includes a person's attitude, preferences, beliefs and practices pertaining to sex.

c. Union For Sexual Minorities definition:

Male or female homosexuality, heterosexuality, bisexuality, trans-sexuality or transvestism by preference or practice.

2. POLITICAL IDEOLOGY

Several comments have been made about including this term also. Should you wish to do so, the Human Rights Department has defined this term in relation to the Fair Employment Practices Ordinance as follows:

POLITICAL IDEOLOGY DEFINED: Political ideology, as used in Seattle's ordinances prohibiting discrimination and those cities, towns and clubs, unions, coordinated body of ideas or beliefs, relating to the conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group.

The term political ideology encompasses conduct which is reasonably related to a person's political ideology including membership or participation in the activities of a group with shared political ideology, that does not encompass conduct which involves force or violence or advocacy directed to conducting or inciting imminent force or violence to the person or property of such a person's employer, union or other persons associated with such a person's employer, union or other person in authority.

3. HEARING PANEL

When the hearing panel was first established in the Fair Employment Practices Ordinance, there was no Hearing Examiner. Jeanette Williams expressed concern about an advocate board making decisions of this nature then. It was established with the understanding that the whole concept be reexamined after the Hearing Examiner was in place.

Currently the Hearing Examiner conducts the administrative portion of the hearing and a panel of three Commission members are present also. They are free to question both sides. The Hearing Examiner then writes up his findings and conclusions and makes a recommended decision. The hearing panel either accepts or changes the recommendation of the Hearing Examiner. The decision, however, is made by the panel.

This procedure is not consistent with any other matters appealed to the Hearing Examiner. Several problems have come to light, and rather than establishing another hearing panel in this ordinance, it would seem a good idea to take a good look at the problems. A letter from Nancy Thomas (now of CPP) and from Bill Snell, are attached.

As might be anticipated, it has been difficult for the panel members to divorce themselves from their normal advocacy role in order to form objective opinions during the hearings. In one case, their questions became so biased as to be prosecutorial in nature. This questioning by so many people has eroded the control of the hearing also, and has led to a great deal of criticism by the public. In addition, if the panel takes their role seriously, which they generally do, they are bewildered by their role. They should be thoroughly trained in the law and their role before serving on a panel. With a group of volunteers, this is often difficult. I strongly recommend not establishing another hearing panel of the same nature.

ALTERNATIVES

1. I would suggest that the hearing panel be eliminated. In this case, the Hearing Examiner would make the final decision.

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2. If a hearing panel is continued, there are several suggestions for changes. I would strongly recommend that the hearing held by the Hearing Examiner be completely separate from any determination made by a panel. The panel should not sit in the hearing and question with witnesses during the Formal Fact Finding Hearing.

The hearing panel could be differently constituted. It has been suggested by the Women's Commission that an attorney be included on each panel, that members of the community at large be included, rather than Commission Members and that it be determined in advance that no conflict of interest exists.

With this type of composition, the Hearing Examiner might make the final decision, that is appealable to a hearing panel.

As an alternative, the Hearing Examiner might make a proposed decision in the same manner as he now does, and the hearing panel would make the final decision. As long as they did not participate in the original hearing, this might work.

Several other changes have been suggested by the Women's Commission.

1. Section 12A.44.020 UNFAIR PRACTICES FORBIDDEN (4) (b) (p.5)
They suggest that marital status be reinserted into the section, as well as the clause "unless required under State Community Property Law".
2. Section 12A.44.030 ENFORCEMENT PROCEDURES (7) (p. 12)
They suggest that an affirmative action of "putting one in possession of property", be added.
3. Section 12A.44.050 EXCLUSIONS (2) (p. 13)
They suggest this entire section be eliminated. NOTE: This section was the subject of considerable discussion previously, however, as the basis for refusing to rent due to credit or reference checks.

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