

Letter written to City Council by Edwards E. Morges, attorney for Seattle's Apartment Operator's Association, arguing against the addition of sexual orientation to the Open Housing Ordinance, 1975. Folder 1, Box 3, Jeanette Williams Human Resources & Judiciary Committee Records, 4693-08. Seattle Municipal Archives.

8, 9, 10  
REMARKS AND ANALYSIS UPON PROPOSED OPEN  
HOUSING ORDINANCE REPEALING ORDINANCE 10

The stated purpose of the proposed ordinance is "to promote the availability and accessability of housing and real property to all persons; to prohibit discriminatory practices in real property transactions, whether direct or indirect, which inexcusably and unjustifiably deny those persons equal rights and opportunities in acquiring or disposing of real estate; and to provide enforcement mechanisms for the accomplishment of such purpose: . . . ."

This proposed ordinance will do the opposite, but first let me address you on behalf of the children who live in apartment houses. You must agree that they are the most important asset we have and will be running this city and paying the taxes to do so long after we are not.

You wish to add the words, "sexual orientation" and paint anyone who refuses a tenant on that basis with the tainted and costly brush of "discrimination." "Sexual orientation," though high-sounding, is a meaningless combination of words to cover up the underlying filth appearing in the ordinance definition. Webster's New Collegiate Dictionary describes 'heterosexuality' as "the manifestation of sexual desire for one or more members of the opposite sex." 'Homosexuality' is defined as "the manifestation of sexual desire toward a member of one's own sex."

Even this doesn't sound so bad but YOU KNOW AND I KNOW WHAT SOME OF THESE PEOPLE DO TO CHILDREN.

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I know from experience and because when I was a young attorney and during those days of depression, which some of you will remember, I was glad to get most any kind of a defense case I could find and I justified myself in defending these cases with the feeling that everyone is entitled to a fair trial. I still feel this way and I mention this experience I have had only to point up to you with certainty that I know what I am talking about when I say that I have come upon many instances where homosexuals have approached little boys and girls and let's not fool ourselves about the traumatic effect such approaches have on these children. I do not wish to say that all homosexuals are dangerous to children but I will say that many are and how is a landowner going to know which homosexual will bother his tenants' children and which will not? Now I am going to ask you all a direct question: Do you want to penalize an owner who wants to protect his tenants' children against such things? Do you, as elected public officials, wish to thus jeopardize our children in the guise of individual liberty? The choice is yours and the values are in the balance.

But can we say that the right of individual liberty to which an owner is entitled as well as a homosexual is less than that of a homosexual? Does the owner not have the right to the individual liberty of protecting his tenants with children, and do not their parents have the individual liberty of seeking and maintaining premises without fear of the intrusion of homosexuals? It is not as if the homosexuals had nowhere else to go. They can indeed find accommodations and have been doing so over a considerable period of time. It seems rather tardy and somewhat of

a stale claim at this time to have them say that without this ordinance they would be denied the right to adequate housing.

But let us look further at the definition of "sexual orientation" contained in the proposed ordinance found in (22), page 4. The definition goes even further than I have already pointed out when it further defines the words as ". . . practices pertaining to sex, . . ." Now practices pertaining to sex can include by its very phraseology almost anything or, indeed, anything. The most perverted, vile, revolting practices are included in the definition and thereby condoned by the ordinance. The "practices pertaining to sex" would include the sexual violation of little girls and little boys and strikes at the very fundamental concepts of our laws of decency. So are you going to say that for an owner to refuse to rent to such a person is "discrimination" on the part of the owner? Are you going to say that no matter how filthy, rotten, vile and degrading a prospective tenant's sexual practices may be, the owner cannot refuse to rent to him? This proposed ordinance is a legislative Frankenstein.

#### POLITICAL IDEOLOGY

Now they include in this ordinance what is termed as "political ideology" in paragraph (14), page 3 of the ordinance.

This definition reads as follows:

"Political ideology" means any idea or belief, or 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. This term includes membership or participation in the activities of a group with shared political ideology, provided such membership or participation does not involve force or violence or conduce or incite imminent force or violence toward persons or property."

I must confess that even after more than forty years of practicing law, I have trouble knowing what this means, but distilled as finely as possible it would seem to say that as long as one's belief does not involve "force or violence," you've got to take the person as a tenant no matter whether or not his beliefs are dangerous. Much danger can be involved without force or violence as anyone knows. What about such a thing as loyalty to your country? What about such a thing as a "peaceful" rent strike or a tendency to stir up trouble and discontent among the employees and/or tenants of a building? There are such people and no owner should be compelled to take them in his building if he doesn't want them and honestly feels that he will be avoiding trouble if he does not take them or courting trouble if he does. Many a government has been overthrown without "force or violence." Are you going to penalize an owner who believes that an individual, because of his "ideas or beliefs" will harm or degrade his country or cause him trouble, must be taken as a tenant and that the owner's refusal to do so constitutes "discrimination?" Never forget that it has been the independent businessman who has been able to hold the democratic system in this United States together. His judgment and knowledge have enabled us to feed our people and defend our country. We had better allow him at least some "free rein" to run his business. And I think the people generally have had about all the government regulation they need, and they should be allowed at least the opportunity to digest what has thus far been given to them.

SALARIES

Do you know that the salaries alone of those enforcing the

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present ordinance cost the taxpayers \$245,268 a year or \$20,439 a month right out of the taxpayers' pockets, not counting their buildings, their heat, their light, their telephone, their office expenses and of course, the "miscellaneous."

Do you know that there are two other bureaus set up and now operating in this city, one state and one federal, who are already doing the same thing the city bureau is doing, and summoning dozens of owners into their offices and questioning them and cross-examining them on a basis of the mere filing of a complaint? I know it because I have been through it with a number of my clients as have numerous other attorneys in this city.

#### CONCILIATION

Webster's New Collegiate Dictionary defines the word, 'conciliation' as "to assemble, unite, win over; to gain (as goodwill) by pleasing acts; to make compatible; to become friendly or agreeable."

Do you know that in a number of cases your Human Rights Department has attempted "conciliation" by asking the owner to pay mosey to the complainant and directing a hearing upon his failure and refusal to do so? This, of course, serves to alienate the owner and encourage the filing of complaints. This does not, in my opinion, comport with the definition of conciliation which is the present requirement of the ordinance, and I merely point this out to you in order to show what the present owners are up against even under the present ordinance. Requiring the owner to pay a homosexual because he, the owner, has refused to allow him to rent, would in my opinion be the ultimate in unfairness.

The ordinance, as presently proposed, would be the sire of ill-feeling, and needless expense to both the owners and to the taxpayers, but now let us go into the procedure as outlined in the ordinance.

#### PROCEDURE

The enforcement procedure prescribed by this ordinance is a complicated, bureaucratic maze. This legal Frankenstein has, in substance, the following provisions:

1. Any person may file a complaint;
2. Complaints pertaining to race, color, creed, religion, ancestry, national origin, or political ideology shall be filed with the Department of Human Rights;
3. Complaints pertaining to sex, marital status, sexual orientation shall be filed with the Office of Women's Rights;
4. A complaint having a combination of the above may be filed with the office having jurisdiction of any one of them. The receiving office shall then notify the other;
5. A complaint shall not be rejected for insufficient information;
6. After a complaint is filed, the director shall serve notice on the respective parties and "investigate." NOTE: We are not advised just what the director does to investigate, nor how many persons he may employ to do it.
7. The director shall reduce his findings to writing;
8. Give findings to the parties;
9. The charging party may appeal;
10. The director shall endeavor to eliminate by "conciliation and persuasion" which may include "rent refunds or credits."

NOTE: No limit is placed upon the rent refunds or credits which the director shall allow and by this ordinance he is made the sole judge:

11. Reduce settlement agreement to writing and respondent signs. Copies to all parties and filed with the City Clerk. If no agreement, findings to each party;

12. If no agreement, send the whole business to a "Hearing Examiner" for hearing. Notice of hearing to all;

13. Hearing by Hearing Examiner or deputy or a pro tem;

14. The Hearing Examiner may set up rules for a hearing and until such rules are adopted, the director may set up his own rules. NOTE: No limit to his power insofar as rent refunds or credits is specified in this ordinance so I suppose he may as well make his own rules with the approval of no one but himself. No limit is specified for the time in which the director has to set up his own rules;

15. Where joint enforcement, the president of the Human Rights Commission and of the Women's Commission may appoint a "hearing panel" of three (at least one an attorney) "with the majority determined by the nature of the complaint, who may attend the hearing but not participate in the proceedings." NOTE: This provision quote is unintelligible to me and whatever it means, your guess is as good as mine.

16. No hearing panel member who has a conflict of interest or has exhibited any bias or prejudice in the case may act. NOTE: The ordinance does not say who determines what hearing panel member has any bias or prejudice or how such a determination should be made.

17. The Hearing Examiner presiding shall prepare a written decision;

18. When a hearing panel has attended the hearing, a decision will be made in thirty days after receiving the Hearing Examiner's proposed decision. The Hearing Examiner's findings shall not be set aside unless clearly contrary to the weight of the evidence. NOTE: Apparently, but not clearly, the hearing panel is suppose to review the Hearing Examiner's decision but can't reverse it unless it is contrary to the weight of the evidence. Who determines whether it is "contrary to the weight of the evidence" is not specified.

19. If they find an unfair practice in their decision ("including but not limited to, rent refund, or credit"), they may include a report on compliance and may further order a "civil penalty up to \$500." NOTE: In addition to ordering among other things, a rent refund or credit, the director or hearing panel is authorized to include a civil penalty of up to \$500.

20. If a respondent fails to comply with any order, the record is sent to the Corporation Counsel who shall go to court and seek compliance. NOTE: Just how this is done or what court is involved is not specified in the ordinance.

21. The ordinance next provides that there may be a "judicial review" sought by either party but it doesn't say how, nor what the Corporation Counsel may be doing in the meantime with his action "to seek compliance."

22. Religious organizations are apparently exempt from the tenacles of this proposed ordinance. NOTE: The thought occurs to

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me that each multiple dwelling unit owner, the apartment operators associations and/or the real estate board might declare themselves to be "religious organizations" and thereby avoid the ordinance. This strategy has worked before though under different circumstances.

23. Under the heading "PENALTIES" this ordinance provides that any person who shall "resist, prevent, impede or interfere with a Director, Hearing Examiner or Hearing Panel in the performance of duties pursuant to this ordinance, or who shall fail, refuse, or neglect to comply with any lawful decision or order of a Director, Hearing Examiner or Hearing Panel, shall be liable for a civil penalty of up to Five Hundred Dollars (\$500) for each such violation in addition to any other penalty, sanction, injunction or remedial decree imposed by order of any court." NOTE: As I read this, any respondent in a case who resists the Hearing Examiner or any respondent's attorney or representative who might do so, is subject to a \$500 fine for each resistance. Also, and still more shocking, the ordinance provides that anyone who refuses to comply with the decision of the director shall be liable for a \$500 fine. If one appeals, he naturally would refuse to comply with the order of the director, otherwise his appeal would be meaningless. Does this then mean that by refusing to comply with the Hearing Examiner's order, the respondent is subject to a fine? In other words, if you appeal you are fined \$500. I don't know how close to a police state this city will become if this ordinance and the procedures prescribed thereunder are passed, but it seems to me that it is much too close.

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COMMENT AND CONCLUSION

1. This ordinance violates fundamental principles of human decency.
2. It is a costly burden upon the taxpayers and the proposed changes will make it doubly expensive to enforce.
3. The enforcement procedures are complicated, conflicting and create a dictatorship which most of us have sacrificed a lot to avoid.
4. Actually the whole ordinance should be thrown out and certainly the sexual part should be deleted and the enforcement procedures simplified and made understandable.

Respectfully submitted,

Edwards E. Morges