

CITY OF CAMBRIDGE

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January 7, 1992

Mr. Robert W. Healy
City Manager
City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Fair Housing Ordinance

Dear Mr. Healy:

The enclosed Home Rule Legislation is submitted to you in its final form as adopted by the Legislature on December 17, 1991 and signed by the Governor on December 27, 1991. The Fair Housing Ordinance, as drafted by this Department and the Human Rights Commission, is incorporated in the legislation along with the emergency preamble, which immediately empowers the City Council to enact the Ordinance as it appears in the enclosed document.

As you are aware, the original deadline imposed by HUD for enactment of this Ordinance is January 13, 1992. However, based on several informational guidelines which have been received from HUD, we have reason to believe that there may be some flexibility in that date. This is because our Council has been granted the authority to enact the specific legislation and its enactment is actually pending. In fact, based on this information, Jan Platner previously made a formal request for an extension. However, HUD has not yet responded.

Having reached this point in the process, we now have two options available for final enactment of the Ordinance. Both options presume presentation to the City Council on Monday, January 13, 1992 via the Manager's agenda.

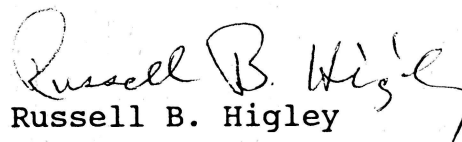
The first option is that the Council could suspend the Rules and move for immediate Ordination. The City Clerk would then send the ordinance for publication on Thursday, January 16, 1992. This

option has the advantage of meeting HUD's deadline without risking that HUD will deny our request for an extension. However, it also means that some groundwork will have to be laid, probably by Jan Platner, in order to assure that the Council members understand the reason for proceeding in this manner and that no Council member would therefore object to the Rules' suspension.

The second option is to present the Ordinance to the Council for passage to a second reading on Monday, January 13, 1992, bring it back to the Council for Ordination on Monday, January 27, 1992, and send it to publication on Thursday, January, 30, 1992. The obvious risk to this method is that HUD will deny our request for an extension and we will lose our substantial equivalency status for HUD funding.

Please advise this office as to how you would like us to proceed. Thank you for your attention in this regard.

Very truly yours,


Russell B. Higley

RBH/gsg
Enclosure

Whereas, the City Of Cambridge desires to adopt a Fair Housing Ordinance pursuant to a Home Rule Petition allowed by the Legislature on December 17, 1991 and signed by the Governor on December 27, 1991, with an emergency preamble; and

Whereas, HUD has set a deadline of January 13, 1992 for the City Council to adopt the Ordinance; and

Whereas, the deferred operation of this Act would tend to defeat its purpose which is, in part, to provide both for fair housing practices within the City of Cambridge and for federal funding to the City of Cambridge for those purposes and be thereby detrimental to the public peace, health, safety, and convenience.

Pg. 9 Section 3

Roll
Call
9-0-0-0.

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Pg. 9. Section 3 w/in legislation does not refer to

City of Cambridge

MASSACHUSETTS

In City Council _____ 199

| | YEA | NAY | ABSENT | PRESENT | |
|----------------------------|-----|-----|--------|---------|--|
| Mr. Ed Cyr | ✓ | | | | |
| Mr. Francis H. Duehay | ✓ | | | | |
| Mr. Jonathan S. Myers | ✓ | | | | |
| Mrs. Sheila T. Russell | ✓ | | | | |
| Mr. Walter J. Sullivan | ✓ | | | | |
| Mr. Timothy J. Toomey, Jr. | ✓ | | | | |
| Mr. William H. Walsh | ✓ | | | | |
| Ms. Alice K. Wolf | ✓ | | | | |
| Mayor Kenneth E. Reeves | ✓ | | | | |

9

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It is the intent of the city council, in adopting this ordinance, that the ~~house~~ ^{the intent of this} advance ~~be~~ ^{is} that

City Resolved by

It is the ^{F.H.A.} ~~intention~~ of this council that this advance does not allow for ^{nor is the council's intent that it allow for} discrimination - ^{that it allow for} ~~discrimination~~ against children, or for family status, in low income housing.

it

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City of Cambridge

Communication # 18

IN CITY COUNCIL

January 13, 1992

ORDERED: That the City Council of the City of Cambridge go on record accepting the provisions of Chapter 413 of the Acts of 1991 the same being "AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ENACT A FAIR HOUSING ORDINANCE."

In City Council January 13, 1992.

Adopted by a ye and nay vote:-

Yeas 9; Nays 0; Absent 0.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

A handwritten signature in cursive script that reads "Joseph E. Connarton".

ATTEST:-

Joseph E. Connarton,
City Clerk



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-Two

AN ORDINANCE

In amendment to the Municipal Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

That pursuant to Chapter 413 of the Acts of 1991 the Municipal Code of the City of Cambridge is hereby amended by adding a new Title Fourteen entitled "Fair Housing."

In City Council January 13, 1992.

Passed to be ordained by a yea and nay vote:- Yeas 9;
Nays 0; Absent 0.

ATTEST:- Joseph E. Connarton
City Clerk

NOTE:- Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Municipal Ordinance may be examined and obtain at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Pursuant to Chapter 43 Section 22 of the Massachusetts General Laws and Rule 19 of the City Council Rules this ordinance was passed to be ordained thru all its stages at the City Council meeting held on January 13, 1992 without objection on a yea and nay vote. Upon ordination the question came on reconsideration and reconsideration failed and the action stands.

ATTEST:- Joseph E. Connarton
City Clerk

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-one

AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ENACT A FAIR HOUSING ORDINANCE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The city council of the city of Cambridge is hereby authorized to enact the following ordinance entitled "Fair Housing":

FAIR HOUSING

Sections

- 14.04.010 Authority
- 14.04.020 Powers and duties of the Cambridge Human Rights Commission
- 14.04.030 Definitions
- 14.04.040 Unlawful practices
- 14.04.050 Complaint procedures
- 14.04.060 Remedies
- 14.04.070 Review of Commission's decision; Enforcement of Commission's order
- 14.04.080 Consistency
- 14.04.090 Severability

14.04.010 Authority

This Chapter is enacted pursuant to the power conferred by the Commonwealth on the City Council of the City of Cambridge by Chapter ___ of the Acts of 1991.

14.04.020 Powers and duties of the Cambridge Human Rights Commission

This Chapter shall be administered and enforced by the Cambridge Human Rights Commission established by Chapter 2.76 of this Code.

The Commission shall work with the city manager to provide for fair housing practices within the city of Cambridge.

This Ordinance is intended to incorporate the substantive provisions and protections of Title VIII of the Civil Rights Act of 1968, as amended.

RECEIVED BY
OFFICE OF CITY CLERK
CAMBRIDGE MA.
1992 JAN -6 AM 11:29

(42 U.S.C. Sections 3601 et seq., the Fair Housing Act) and chapter 151B of the General Laws, and is to be interpreted in a manner which is not inconsistent therewith.

1. The Commission, to carry out the policies of this Chapter, shall exercise the following powers and duties:

a. receive, process and investigate complaints and initiate its own investigations of violations of this Chapter, in accordance with §14.04.050;

b. transmit for filing with other government agencies copies of any complaint filed with the Commission, or of which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies;

c. engage in conciliation to resolve any complaint over which it has jurisdiction, and draft, approve, and monitor any conciliation agreement agreed to by the parties in the dispute;

d. hold hearings; summons witnesses and compel their attendance; administer oaths; take the testimony of any person under oath, and order the production of any relevant evidence, so as to permit reasonable discovery, in the same manner and to the same extent as exercised by the Massachusetts Commission Against Discrimination;

e. seek or apply remedies as enumerated in Section 14.04.060 and urge and use its best efforts to effect compliance with its recommendations and findings;

f. seek or accept grants, gifts, or bequests to help finance its activities.

2. Every power and duty enjoyed by the Commission as enumerated in Chapter 2.76 of this Code for protecting and advancing the human rights of the people of Cambridge shall be retained and exercised to enable the Commission to promulgate rules and procedures consistent with this Chapter and the laws of the commonwealth, in order to effectuate the goals, policies and provisions of this Chapter.

3. The provisions of this Chapter shall be liberally construed in order to accomplish the goals of fair housing in Cambridge.

14.04.030 Definitions

1. The term "accessible" means, with respect to buildings containing covered multifamily dwellings, that the public or common use areas to the building can be approached, entered and used by individuals with physical handi-

caps. "Accessible route" means a continuous unobstructed path connecting accessible elements and space in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe and usable by people with other disabilities.

2. The term "age" shall mean the actual or perceived chronological age of an individual eighteen years or older.

3. The term "aggrieved person" includes anyone who claims to have been injured or is about to be injured by any unlawful practice listed in Section 14.04.040 of this Ordinance.

4. The term "blockbusting" means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into a neighborhood of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. The term "covered multifamily dwelling" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units.

6. The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.

7. The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

8. The term "dwelling" as used herein means any building, structure, or portion thereof 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 thereupon of any such building, structure, or portion thereof. A "dwelling unit" is a unit of residence for a family of one or more persons.

9. The term "family" shall include a single individual.

10. The term "family status" shall mean the actual or supposed condition of having children below the age of eighteen (18) years domiciled with a par-

ent, or another person having legal custody of such child or children, or the designee of such parent or other person having such custody with the written permission of such parent or other person. The protection afforded against discrimination on the basis of family 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. Nothing herein shall limit the applicability of reasonable local, state, or federal restrictions regarding the maximum number of persons permitted to occupy a dwelling.

11. The term "handicap" means a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment, or being regarded as having such an impairment. This term does not include current illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This term also does not include an individual solely because that individual is a transvestite.

12. The term "housing set aside for, or limited to, the elderly" shall mean housing

a. provided under any state or federal program specifically designed and operated to assist elderly persons; or

b. intended for, and solely occupied by, persons 62 years of age or older; or

c. intended and operated for occupancy by at least one person fifty-five years of age or older per unit. Housing qualifies as housing for the elderly under this section if and only if

i. it has significant facilities and services designed to meet the physical or social needs of elderly persons, or if provision of such facilities and services is not practicable, or that such housing is necessary to provide important housing opportunities for elderly persons; and

ii. at least eighty percent of the units are occupied by at least one person fifty-five years of age or older; and

iii. there is publication and notice of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

13. The term "marital status" shall mean the actual or supposed state of being or having been single, married, separated, or divorced.

14. The term "military status" shall mean the actual or supposed condition of being, not being, having been or not having been in the service of the military.

15. The term "person" includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, mutual companies, joint-stock companies, unincorporated organizations, fiduciaries, trustees, trustees in bankruptcy, receivers, the City of Cambridge, and all political subdivisions, boards, and commissions thereof.

16. The term "real estate transaction" shall mean the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate; or the selling, brokering or appraising of residential real property.

17. The term "reasonable attorney's fees and costs" shall include the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees and costs awarded shall be based upon prevailing market rates for the kind and quality of services furnished.

18. The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.

19. The term "sexual orientation" shall mean the actual or supposed heterosexuality, homosexuality, or bisexuality of an individual.

20. The term "source of income" shall mean public assistance reciprocity. "Source of income" shall not include income derived from criminal activity.

14.04.040 *Unlawful Practices*

A. It shall be an unlawful practice:

1. For any person whose business includes granting mortgage loans or engaging in residential real estate transactions to discriminate against any person in the granting of, refusal to grant, in making available, refusing to make available, or in the terms or conditions of, a loan or transaction because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income. Such transactions shall include, but are not limited to:

a. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining

a dwelling; or the making or purchasing of loans or the provision of other financial assistance secured by residential or commercial real estate;

b. Any intercourse that involves the selling, brokering, inspection, repair, design, construction, alteration, leasing, subleasing, subletting, mortgaging, rental, or appraising of a building, structure, dwelling, or portion thereof, or parcel of land, developed, or undeveloped, whether privately or publicly owned. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property from considering factors other than race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

2. For any person to deny another person access to, or membership or participation in, a 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 such person in the terms or conditions of such access, membership, or participation, on account of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

3. For any person to refuse to rent, lease, sell, or negotiate for sale, or otherwise to deny or withhold from any person or persons a dwelling or any services or facilities in connection therewith, or to print, publicize, advertise, make any written or oral statement, or otherwise communicate publicly or privately, in a manner that indicates any preference, limitation, or discrimination because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

4. For any person to misrepresent that a dwelling is not available for inspection, sale, or rental because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. For any person to engage in blockbusting by making implicit or explicit representations regarding the entry or prospective entry into the neighborhood or representations regarding the effects or consequences of any such entry or prospective entry of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual

orientation, marital status, family status, military status, or source of income.

6. For any person to make false representations regarding the availability of a suitable dwelling within a particular neighborhood or area; or in not disclosing or offering to show all properties listed or held for sale or rent within a particular neighborhood or area, or within a requested price or rental range; or make false representations regarding the listing, prospective listing, sale, prospective sale, or rental of any dwelling because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

7. For any person to coerce, intimidate, threaten or interfere in any manner with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Ordinance.

8. For any person to restrict or attempt to restrict the housing choices of persons by engaging in any conduct relating to the sale or rental of a dwelling that otherwise makes unavailable or denies dwellings because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

9. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

B. For the purposes of this section, discrimination on the basis of disability includes:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the premises except that, in the case of a rental, that landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of

the premises to the condition that existed before the modification, reasonable wear and tear excepted;

2. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling;

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after March thirteenth, nineteen hundred and ninety-one, a failure to design and construct dwellings in such a manner that:

a. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

b. With respect to dwellings with a building entrance on an accessible route:

i. The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

ii. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

iii. All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing Accessibility and Usability for Physically Handicapped People ("ANSI A117.1") satisfies the requirements of this subsection.

C. The following practices shall not be deemed unlawful:

1. The leasing, rental, or other provision with or without a fee, of a space within a church, temple, synagogue, religious school, or other facility used for other than a commercial purpose, to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;

2. A private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a com-

mercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members;

3. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which are determined by the Commission to be specifically designed to assist elderly persons, the handicapped, or economically disadvantaged individuals, provided that such programs shall not discriminate among elderly persons, the handicapped, or economically disadvantaged on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

4. The establishment of housing set aside for, or limited to, elderly persons or the handicapped, provided that such establishment shall not discriminate among elderly persons or handicapped on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

5. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate among its residents on the basis of race, color, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income;

6. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, and shelters for the homeless.

D. The following practices shall be exempt from the provisions of this ordinance:

1. The leasing or renting of a room or rooms within a dwelling unit which is occupied by the owner as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such owner in order to gain access to the room or rooms thus let or rented;

2. The leasing or renting of a single apartment in a two family dwelling, the other residential unit of which is occupied by the owner as his or her residence.

14.04.050 *Complaint Procedures*

1. Any aggrieved person may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed a violation of this ordinance and the particulars and other information as may be required by the Commission. The Commission may, in like manner, make, sign, and file such a complaint whenever it has reason to believe that any person has engaged in, or is engaging in an unlawful practice.

2. No complaint shall be considered unless it is filed within 180 days after the occurrence of the alleged unlawful practice, or in the case of continuing unlawful practices, within 180 days after the termination of the unlawful practices. A complaint may be reasonably and fairly amended at any time. A complaint referred to the Commission by the Massachusetts Commission Against Discrimination after having been timely filed there will be considered filed for the purposes of this Ordinance.

3. The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar an aggrieved person from filing a civil action in the Superior Court within two years after the occurrence or termination of an alleged discriminatory practice; provided that, the aggrieved person may not initiate an action with respect to an alleged discriminatory practice that forms the basis of a charge issued by the Commission, if a Commission's hearing has begun with respect to the charge. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs. The plaintiff shall be liable for reasonable attorney's fees and costs only to the extent that the plaintiff's participation in the proceeding was frivolous or vexatious or was for the purpose of harassment; to the extent that the plaintiff is the prevailing party, the respondent shall be liable for reasonable attorney's fees and costs, unless special circumstances make recovery of such fees and costs unjust.

4. Upon the filing of the complaint, the Commission shall, by certified mail, return receipt requested, serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forum under the law. At any time after the filing of the complaint, the Commission, by its attorneys, may seek temporary or preliminary injunctive relief

in the Superior Court, pending final disposition of the complaint, if the Commission concludes such action is necessary to carry out the purposes of this Ordinance.

5. The Commission shall promptly serve a copy of the complaint and a notice upon the respondent advising him of his procedural rights and obligations under the law, by certified mail, return receipt requested. The respondent may, in response to said notice, file a verified answer with the Commission not later than 10 days after receipt of the notice of the complaint.

6. The chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to make, with the assistance of the staff of the Commission, a prompt investigation of the alleged discriminatory act. The investigation shall be commenced within thirty days after receipt of the complaint.

7. The Commission shall complete its investigation and issue a final investigative report consistent with Section 14.04.059 within one hundred days after receipt of the complaint unless impracticable, and if impracticable, shall notify the complainant and the respondent in writing and state the reasons for the delay.

8. Any conciliation agreement arising out of conciliation efforts by the Commission shall be an agreement between the respondent and the complainant and shall be approved by the Commission and shall be made public unless the complainant and the respondent otherwise agree and the Commission determines disclosure is not necessary to further the purposes of this Ordinance.

9. At the close of the investigation, the Commission shall issue a final investigative report. Said report shall conclude whether or not probable cause exists for crediting the allegations of the complaint.

10. If lack of probable cause is found, the Commission shall dismiss the complaint, notify the parties of its finding, and inform the complainant of his right to commence a private civil action in the Superior Court. Said action shall be commenced within ninety days from the date of the dismissal or within two years from the date of the violation alleged, whichever occurs later. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs as permitted under 15.24.053.

11. If probable cause is found, both the complainant and the respondent shall be notified in writing. Either party may elect, within twenty days from receipt of the Commission's finding, to file a civil action in the Superior Court.

A. If a timely election is made by either party, the Commission shall immediately notify the office of the Attorney General, who shall file a civil action on behalf of the aggrieved person within thirty days after a timely election is made. Any complainant may intervene as of right in said civil action. The Commission shall administratively close the case, without prejudice.

B. If a timely election is not made, the case shall proceed to a public hearing. No Commissioner participating in the aforementioned hearing shall have been involved in the prior investigation. The Massachusetts law of evidence shall apply at the Commissioner's hearing. At any such hearing before the Commission all parties and witnesses shall have the right to be advised and represented by counsel at their own expense. The Complainant shall be represented by the Executive Director of the Commission as prescribed by the Commission's Rules of Procedure.

C. Hearings shall be conducted in accordance with the Commission's Rules of Procedure which shall ensure that all parties are afforded due process of law.

12. The hearing Commissioners shall issue a report which lists findings of fact and conclusions of law within sixty days after the conclusion of the hearing. If the hearing Commissioners concludes that the charges of discriminatory conduct by the respondent cannot be substantiated, the case shall be dismissed with prejudice.

13. The decision of the hearing Commissioners is subject to review by the entire Commission. The review must be initiated within thirty days from the date of the decision or said decision becomes the Final Administrative Decision.

14. The Commission shall make a final administrative disposition of the complaint within one year from the date of the receipt of the complaint, unless impracticable. If impracticable, it must notify the complainant and the respondent in writing and list the reasons for not doing so.

14.04.060 *Remedies-Relief Sought and Granted*

1. After a finding of probable cause is made, the Commission may file a petition in equity in the Superior Court seeking injunctive relief against the respondent. If justice so requires, the court shall be authorized to grant relief including:

A. orders or decrees restraining the respondent from selling, renting, or otherwise making the real estate transaction unavailable to the complainant;

B. any appropriate injunctive relief the court deems necessary to protect the rights of the complainant.

2. If the Commission, in the Final Administrative Report of its Decision, finds that any respondent committed any unlawful practice under this Ordinance, said Commission may:

A. award to the complainant damages to reimburse him for expenses incurred including, but not limited to, moving, storage of furniture and personal effects, and alternative housing or space, because of the respondent's unlawful act. Damages for emotional distress may also be awarded to the complainant;

B. assess to the respondent civil penalties not to exceed ten thousand dollars for the first offense; twenty-five thousand dollars for the second offense within a five year period ending at the time of filing the complaint; fifty thousand dollars for a third or subsequent offense within a seven year period ending at the time of filing the complaint. In a proceeding involving two or more respondents, the hearing Commissioners may assess a civil penalty against each respondent that the hearing Commissioners determines has been engaged or is about to engage in a discriminatory housing practice;

C. seek relief from the Superior Court including any temporary or permanent injunction, temporary restraining order or other order it deems appropriate.

14.04.070 *Review of Commission's Final Administrative Decision, Enforcement of Order of Commission*

1. Any party aggrieved by the Commission's Final Administrative Decision may seek judicial review within 30 days from the date of service of said decision in the Superior Court pursuant to chapter thirty A of the General Laws.

2. The Commission's Final Administrative Decision may be enforced by the Commission, or any person entitled to relief, by filing a petition in the Superior Court seeking compliance with the Decision. The Commission may obtain

a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the decision.

14.04.080 Consistency

In the event that any provision of this Chapter conflicts with, or is inconsistent with any prior-enacted law, regulation, or ordinance of the City of Cambridge, then this Chapter shall control.

14.04.090 Severability

If any provision of this Ordinance or the application thereof to any person or circumstance shall for any reason, be held invalid, the remainder of this Chapter and the application thereof shall not be affected and shall continue to be in full force and effect.

SECTION 2. This act shall take effect upon its passage.

House of Representatives, December 17, 1991.

Passed to be enacted,

 , Speaker.

In Senate, December 17, 1991.

Passed to be enacted,

 , President.

27 December, 1991.

Approved,

at three o'clock and 2 minutes, P. M.



Governor.

CONSENT COMM. # 18

Advance copies of Chapter 413 of the Acts
of 1991 the same being AN ACT AUTHORIZING
THE CITY OF CAMBRIDGE TO ENACT A FAIR
HOUSING ORDINANCE.

In City Council,

January 13, 1992

*Referred to Agenda
12.*

Act accepted 9-0-0.

*Passed to a second
reading as amended to
include preamble on a
unanimous vote of 9 members*

*Passed to be ordained
9-0-0.*

*Order adopted re:
Discrimination on a
unanimous vote of
9 members*

Whereas, the City Of Cambridge desires to adopt a Fair Housing Ordinance pursuant to a Home Rule Petition allowed by the Legislature on December 17, 1991 and signed by the Governor on December 27, 1991, with an emergency preamble; and

Whereas, HUD has set a deadline of January 13, 1992 for the City Council to adopt the Ordinance; and

Whereas, the deferred operation of this Act would tend to defeat its purpose which is, in part, to provide both for fair housing practices within the City of Cambridge and for federal funding to the City of Cambridge for those purposes and be thereby detrimental to the public peace, health, safety, and convenience.

Uci MacN.

It is required by this CC that
the Fair Housing Act does not allow
for, nor is it the intent, that it allow
for, discrimination against children, or
for family status, ⁱⁿ low income housing
in Cambridge.

✓✓

C. C. W.
MS
MK

City of Cambridge

MASSACHUSETTS

PASSAGE TO BE ORDAINED
FAIR HOUSING ORDINANCE

In City Council January 13 1992

| | YEA | NAY | ABSENT | PRESENT | |
|----------------------------|-----|-----|--------|---------|--|
| Mr. Ed Cyr | ✓ | | | | |
| Mr. Francis H. Duehay | ✓ | | | | |
| Mr. Jonathan S. Myers | ✓ | | | | |
| Mrs. Sheila T. Russell | ✓ | | | | |
| Mr. Walter J. Sullivan | ✓ | | | | |
| Mr. Timothy J. Toomey, Jr. | ✓ | | | | |
| Mr. William H. Walsh | ✓ | | | | |
| Ms. Alice K. Wolf | ✓ | | | | |
| Mayor Kenneth E. Reeves | ✓ | | | | |

9 0 0

C. Wold
MS
NY

City

Fair Housing Ordinance

ACCEPTANCE OF CHAPTER 413 OF THE ACT OF 1991 - FAIR HOUSING ORDINANCE

1992

| | YEA | NAY | ABSENT | PRESENT |
|----------------------------|-----|-----|--------|---------|
| | ✓ | | | |
| Mr. Ed Cyr | ✓ | | | |
| Mr. Francis H. Duehay | ✓ | | | |
| Mr. Jonathan S. Myers | ✓ | | | |
| Mrs. Sheila T. Russell | ✓ | | | |
| Mr. Walter J. Sullivan | ✓ | | | |
| Mr. Timothy J. Toomey, Jr. | ✓ | | | |
| Mr. William H. Walsh | ✓ | | | |
| Ms. Alice K. Wolf | ✓ | | | |
| Mayor Kenneth E. Reeves | ✓ | | | |

9 0 0

City of Cambridge

MASSACHUSETTS

ACCEPTANCE OF CHAPTER 413 OF THE
ACT OF 1991 - FAIR HOUSING ORDINANCE

In City Council January 13 1992

| | YEA | NAY | ABSENT | PRESENT | |
|----------------------------|-----|-----|--------|---------|--|
| | ✓ | | | | |
| Mr. Ed Cyr | ✓ | | | | |
| Mr. Francis H. Duehay | ✓ | | | | |
| Mr. Jonathan S. Myers | ✓ | | | | |
| Mrs. Sheila T. Russell | ✓ | | | | |
| Mr. Walter J. Sullivan | ✓ | | | | |
| Mr. Timothy J. Toomey, Jr. | ✓ | | | | |
| Mr. William H. Walsh | ✓ | | | | |
| Ms. Alice K. Wolf | ✓ | | | | |
| Mayor Kenneth E. Reeves | ✓ | | | | |

9 0 0

City of Cambridge

MASSACHUSETTS

PASSAGE TO A SECOND READING
FAIR HOUSING ORDINANCE

In City Council

January 13

1992

as amended to include preamble

| | YEA | NAY | ABSENT | PRESENT | |
|----------------------------|-----|-----|--------|---------|--|
| Mr. Ed Cyr | | | | | |
| Mr. Francis H. Duehay | | | | | |
| Mr. Jonathan S. Myers | | | | | |
| Mrs. Sheila T. Russell | | | | | |
| Mr. Walter J. Sullivan | | | | | |
| Mr. Timothy J. Toomey, Jr. | | | | | |
| Mr. William H. Walsh | | | | | |
| Ms. Alice K. Wolf | | | | | |
| Mayor Kenneth E. Reeves | | | | | |

Passed to a second reading as amended on motion of Councillor Wolf on a voice vote of nine members.



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-Two

AN ORDINANCE

In amendment to the Municipal Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

That pursuant to Chapter 413 of the Acts of 1991 the Municipal Code of the City of Cambridge is hereby amended by adding a new Title Fourteen entitled "Fair Housing."

In City Council January 13, 1992.

Passed to be ordained by a yeas and nays vote:- Yeas 9;
Nays 0; Absent 0.

ATTEST:- Joseph E. Connarton
City Clerk

NOTE:- Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Municipal Ordinance may be examined and obtain at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Pursuant to Chapter 43 Section 22 of the Massachusetts General Laws and Rule 19 of the City Council Rules this ordinance was passed to be ordained thru all its stages at the City Council meeting held on January 13, 1992 without objection on a yeas and nays vote. Upon ordination the question came on reconsideration and reconsideration failed and the action stands.

ATTEST:- Joseph E. Connarton
City Clerk



City of Cambridge

Agenda # 12

IN CITY COUNCIL

January 13, 1992

VICE MAYOR CYR

ORDERED: That it is resolved by this City Council that the Fair Housing Ordinance does not allow for, nor is it the intent, that it allow for, discrimination against children, or for family status in low income housing in Cambridge.

In City Council January 13, 1992.

Adopted by the affirmative vote of nine members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy; *Joseph E. Connarton*

ATTEST:-

Joseph E. Connarton, City Clerk



City of Cambridge

Communication # 18

IN CITY COUNCIL

January 13, 1992

ORDERED: That the City Council of the City of Cambridge go on record accepting the provisions of Chapter 413 of the Acts of 1991 the same being "AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ENACT A FAIR HOUSING ORDINANCE."

In City Council January 13, 1992.

Adopted by a yea and nay vote:-

Yeas 9; Nays 0; Absent 0.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

A handwritten signature in cursive script that reads "Joseph E. Connarton".

ATTEST:-

Joseph E. Connarton,
City Clerk

ORDINANCE NO. 1130.
Final publication number 2572.



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-Two

AN ORDINANCE

In amendment to the Municipal Code of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

That pursuant to Chapter 413 of the Acts of 1991 the Municipal Code of the City of Cambridge is hereby amended by adding a new Title Fourteen entitled "Fair Housing."

In City Council January 13, 1992.

Passed to be ordained by a yeas and nays vote:- Yeas 9;
Nays 0; Absent 0.

ATTEST:- Joseph E. Connarton
City Clerk

NOTE:- Pursuant to the provisions of General Laws, Chapter 40, Section 32A, Tercentenary Edition, the ordinance as aforesaid which exceeds in length eight octavo pages of ordinary book print may be summarized for publication in a newspaper of general circulation in the city with the further provision that said Municipal Ordinance may be examined and obtain at the City Clerk's Office during office hours and that any objection to its invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

Pursuant to Chapter 43 Section 22 of the Massachusetts General Laws and Rule 19 of the City Council Rules this ordinance was passed to be ordained thru all its stages at the City Council meeting held on January 13, 1992 without objection on a yeas and nays vote. Upon ordination the question came on reconsideration and reconsideration failed and the action stands.

ATTEST:- Joseph E. Connarton
City Clerk



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-Two

AN ORDINANCE

In amendment to an ordinance entitled the "Municipal Code of the City of Cambridge."

WHEREAS, The City of Cambridge desires to adopt a Fair Housing Ordinance pursuant to a Home Rule petition allowed by the Legislature on December 17, 1991 and signed by the Governor on December 27, 1991, with an emergency preamble; and

WHEREAS, HUD has set a deadline of January 13, 1992 for the City Council to adopt the Ordinance; and

WHEREAS, The deferred operation of this Act would tend to defeat its purpose which is, in part, to provide both for fair housing practices within the City of Cambridge and for federal funding to the City of Cambridge for those purposes and be thereby detrimental to the public peace, health, safety, and convenience.

Now, therefore, be it ordained by the City Council of the City of Cambridge as follows:

That pursuant to Chapter 413 of the Acts of 1991 the Municipal Code of the City of Cambridge is hereby amended by adding a new Title Fourteen entitled "Fair Housing;" which reads as follows:

Preamble.

Whereas, the City Of Cambridge desires to adopt a Fair Housing Ordinance pursuant to a Home Rule Petition allowed by the Legislature on December 17, 1991 and signed by the Governor on December 27, 1991, with an emergency preamble; and

Whereas, HUD has set a deadline of January 13, 1992 for the City Council to adopt the Ordinance; and

Whereas, the deferred operation of this Act would tend to defeat its purpose which is, in part, to provide both for fair housing practices within the City of Cambridge and for federal funding to the City of Cambridge for those purposes and be thereby detrimental to the public peace, health, safety, and convenience.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

January 8, 1992

To The Honorable, The City Council:

I am transmitting to you a copy of the Special Act authorizing a Fair Housing Ordinance. I am also enclosing a copy of a memorandum from the City Solicitor which explains two options for adoption of the ordinance. I am delivering this packet to you sooner than the usual Friday package so that you will have additional business days before next Monday's City Council meeting to review it and discuss any questions you may have with Jan Platner, the City Solicitor, or myself. This should help in the event that the City Council decides to enact the ordinance as soon as next Monday, which is one of the options described in the City Solicitor's memorandum.

Very truly yours,

Robert W. Healy
City Manager

RWH/jml
Enclosures

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Ninety-one

AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ENACT A FAIR HOUSING ORDINANCE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The city council of the city of Cambridge is hereby authorized to enact the following ordinance entitled "Fair Housing":

FAIR HOUSING

Sections

- 14.04.010 Authority
- 14.04.020 Powers and duties of the Cambridge Human Rights Commission
- 14.04.030 Definitions
- 14.04.040 Unlawful practices
- 14.04.050 Complaint procedures
- 14.04.060 Remedies
- 14.04.070 Review of Commission's decision; Enforcement of Commission's order.
- 14.04.080 Consistency
- 14.04.090 Severability

14.04.010 Authority

This Chapter is enacted pursuant to the power conferred by the Commonwealth on the City Council of the City of Cambridge by Chapter 413 of the Acts of 1991.

14.04.020 Powers and duties of the Cambridge Human Rights Commission

This Chapter shall be administered and enforced by the Cambridge Human Rights Commission established by Chapter 2.76 of this Code.

The Commission shall work with the city manager to provide for fair housing practices within the city of Cambridge.

This Ordinance is intended to incorporate the substantive provisions and protections of Title VIII of the Civil Rights Act of 1968, as amended.

JANICE PLATNER
Human Rights
Commission
349-4669

(42 U.S.C. Sections 3601 et seq., the Fair Housing Act) and chapter 151B of the General Laws, and is to be interpreted in a manner which is not inconsistent therewith.

1. The Commission, to carry out the policies of this Chapter, shall exercise the following powers and duties:

a. receive, process and investigate complaints and initiate its own investigations of violations of this Chapter, in accordance with §14.04.050;

b. transmit for filing with other governmental agencies copies of any complaint filed with the Commission, or of which the Commission is otherwise aware, that relate to acts of discrimination under the jurisdiction of such agencies;

c. engage in conciliation to resolve any complaint over which it has jurisdiction, and draft, approve, and monitor any conciliation agreement agreed to by the parties in the dispute;

d. hold hearings; summons witnesses and compel their attendance; administer oaths; take the testimony of any person under oath, and order the production of any relevant evidence, so as to permit reasonable discovery, in the same manner and to the same extent as exercised by the Massachusetts Commission Against Discrimination;

e. seek or apply remedies as enumerated in Section 14.04.060 and urge and use its best efforts to effect compliance with its recommendations and findings;

f. seek or accept grants, gifts, or bequests to help finance its activities.

2. Every power and duty enjoyed by the Commission as enumerated in Chapter 2.76 of this Code for protecting and advancing the human rights of the people of Cambridge shall be retained and exercised to enable the Commission to promulgate rules and procedures consistent with this Chapter and the laws of the commonwealth, in order to effectuate the goals, policies and provisions of this Chapter.

3. The provisions of this Chapter shall be liberally construed in order to accomplish the goals of fair housing in Cambridge.

14.04.030 Definitions

1. The term "accessible" means, with respect to buildings containing covered multifamily dwellings, that the public or common use areas to the building can be approached, entered and used by individuals with physical handi-

caps. "Accessible route" means a continuous unobstructed path connecting accessible elements and space in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe and usable by people with other disabilities.

2. The term "age" shall mean the actual or perceived chronological age of an individual eighteen years or older.

3. The term "aggrieved person" includes anyone who claims to have been injured or is about to be injured by any unlawful practice listed in Section 14.04.040 of this Ordinance.

4. The term "blockbusting" means any effort, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into a neighborhood of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. The term "covered multifamily dwelling" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units.

6. The term "disability" shall mean any actual or supposed physical or mental handicap of an individual, other than the state of being presently legally incompetent.

7. The term "discrimination" shall mean a policy or practice that by design or effect segregates, creates unequal status, separates, or has a disproportionate impact on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

8. The term "dwelling" as used herein means any building, structure, or portion thereof 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 thereupon of any such building, structure, or portion thereof. A "dwelling unit" is a unit of residence for a family of one or more persons.

9. The term "family" shall include a single individual.

10. The term "family status" shall mean the actual or supposed condition

of having children below the age of eighteen (18) years domiciled with a par-

ent, or another person having legal custody of such child or children, or the designee of such parent or other person having such custody with the written permission of such parent or other person. The protection afforded against discrimination on the basis of family 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. Nothing herein shall limit the applicability of reasonable local, state, or federal restrictions regarding the maximum number of persons permitted to occupy a dwelling.

11. The term "handicap" means a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment, or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). This term also does not include an individual solely because that individual is a transvestite.

12. The term "housing set aside for, or limited to, the elderly" shall mean housing

a. provided under any state or federal program specifically designed and operated to assist elderly persons; or

b. intended for, and solely occupied by, persons 62 years of age or older; or

c. intended and operated for occupancy by at least one person fifty-five years of age or older per unit. Housing qualifies as housing for the elderly under this section if and only if

i. it has significant facilities and services designed to meet the physical or social needs of elderly persons, or if provision of such facilities and services is not practicable, or that such housing is necessary to provide important housing opportunities for elderly persons; and

ii. at least eighty percent of the units are occupied by at least one person fifty-five years of age or older; and

iii. there is publication and notice of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five years of age or older.

13. The term "marital status" shall mean the actual or supposed state of being or having been single, married, separated, or divorced.

14. The term "military status" shall mean the actual or supposed condition of being, not being, having been or not having been in the service of the military.

15. The term "person" includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, mutual companies, joint-stock companies, unincorporated organizations, fiduciaries, trustees, trustees in bankruptcy, receivers, the City of Cambridge, and all political subdivisions, boards, and commissions thereof.

16. The term "real estate transaction" shall mean the making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling; or secured by residential real estate; or the selling, brokering or appraising of residential real property.

17. The term "reasonable attorney's fees and costs" shall include the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees. The amount of fees and costs awarded shall be based upon prevailing market rates for the kind and quality of services furnished.

18. The term "religious creed" shall mean the actual or supposed faith, belief, or moral philosophy of an individual or the lack thereof.

19. The term "sexual orientation" shall mean the actual or supposed heterosexuality, homosexuality, or bisexuality of an individual.

20. The term "source of income" shall mean public assistance reciprocity. "Source of income" shall not include income derived from criminal activity.

14.04.040 *Unlawful Practices*

A. It shall be an unlawful practice:

1. For any person whose business includes granting mortgage loans or engaging in residential real estate transactions to discriminate against any person in the granting of, refusal to grant, in making available, refusing to make available, or in the terms or conditions of, a loan or transaction because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income. Such transactions shall include, but are not limited to:

a. The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing, or maintaining

a dwelling; or the making or purchasing of loans or the provision of other financial assistance secured by residential or commercial real estate;

b. Any intercourse that involves the selling, brokering, inspection, repair, design, construction, alteration, leasing, subleasing, subletting, mortgaging, rental, or appraising of a building, structure, dwelling, or portion thereof, or parcel of land, developed, or undeveloped, whether privately or publicly owned. Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property from considering factors other than race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

2. For any person to deny another person access to, or membership or participation in, a 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 such person in the terms or conditions of such access, membership, or participation, on account of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

3. For any person to refuse to rent, lease, sell, or negotiate for sale, or otherwise to deny or withhold from any person or persons a dwelling or any services or facilities in connection therewith, or to print, publicize, advertise, make any written or oral statement, or otherwise communicate publicly or privately, in a manner that indicates any preference, limitation, or discrimination because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

4. For any person to misrepresent that a dwelling is not available for inspection, sale, or rental because of race, color, religious creed, sex, age, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

5. For any person to engage in blockbusting by making implicit or explicit representations regarding the entry or prospective entry into the neighborhood or representations regarding the effects or consequences of any such entry or prospective entry of a person or persons of a particular race, color, sex, age, religious creed, disability, national origin or ancestry, sexual

orientation, marital status, family status, military status, or source of income.

6. For any person to make false representations regarding the availability of a suitable dwelling within a particular neighborhood or area; or in not disclosing or offering to show all properties listed or held for sale or rent within a particular neighborhood or area, or within a requested price or rental range; or make false representations regarding the listing, prospective listing, sale, prospective sale, or rental of any dwelling because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

7. For any person to coerce, intimidate, threaten or interfere in any manner with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Ordinance.

8. For any person to restrict or attempt to restrict the housing choices of persons by engaging in any conduct relating to the sale or rental of a dwelling that otherwise makes unavailable or denies dwellings because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

9. For any person to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income.

B. For the purposes of this section, discrimination on the basis of disability includes:

1. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full enjoyment of the premises except that, in the case of a rental, that landlord may, where it is reasonable to do so, condition permission for a modification on the renter's agreeing to restore the interior of

the premises to the condition that existed before the modification, reasonable wear and tear excepted:

2. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling:

3. In connection with the design and construction of covered multifamily dwellings for first occupancy after March thirteenth, nineteen hundred and ninety-one, a failure to design and construct dwellings in such a manner that:

a. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

b. With respect to dwellings with a building entrance on an accessible route:

i. The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

ii. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

iii. All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. Compliance with the appropriate requirements of the American National Standard for Buildings and Facilities providing Accessibility and Usability for Physically Handicapped People ("ANSI A117.1") satisfies the requirements of this subsection.

C. The following practices shall not be deemed unlawful:

1. The leasing, rental, or other provision with or without a fee, of a space within a church, temple, synagogue, religious school, or other facility used for other than a commercial purpose, to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin;

2. A private club not open to the public that, as an incident to its primary purpose, provides lodging that it owns or operates for other than a com-

mercial purpose from limiting the rental or occupancy of that lodging to its members or from giving preference to its members;

3. The establishment of government-sponsored housing programs operated either directly by government agencies or indirectly through government subsidization and regulation, which are determined by the Commission to be specifically designed to assist elderly persons, the handicapped, or economically disadvantaged individuals, provided that such programs shall not discriminate among elderly persons, the handicapped, or economically disadvantaged on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

4. The establishment of housing set aside for, or limited to, elderly persons or the handicapped, provided that such establishment shall not discriminate among elderly persons or handicapped on the basis of race, color, sex, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, military status, or source of income;

5. The establishment of same-sex dormitories or portions thereof by educational facilities, provided that such establishment shall not discriminate among its residents on the basis of race, color, age, religious creed, disability, national origin or ancestry, sexual orientation, marital status, family status, military status, or source of income;

6. The establishment of a hospital, convent, monastery, shelter, asylum, or residential facility for the care and lodging of persons in need of special medical, rehabilitative, social, or psychological support, including but not limited to half-way houses, drug treatment centers, detoxification facilities, and shelters for the homeless.

D. The following practices shall be exempt from the provisions of this ordinance:

1. The leasing or renting of a room or rooms within a dwelling unit which is occupied by the owner as his or her residence and in which the roomer or boarder must pass through the space or a portion thereof occupied by such owner in order to gain access to the room or rooms thus let or rented;

2. The leasing or renting of a single apartment in a two family dwelling, the other residential unit of which is occupied by the owner as his or her residence.

14.04.050 Complaint Procedures

1. Any aggrieved person may make, sign, and file with the Commission a verified complaint in writing which shall state the name and address of the person alleged to have committed a violation of this ordinance and the particulars and other information as may be required by the Commission. The Commission may, in like manner, make, sign, and file such a complaint whenever it has reason to believe that any person has engaged in, or is engaging in an unlawful practice.

2. No complaint shall be considered unless it is filed within 180 days after the occurrence of the alleged unlawful practice, or in the case of continuing unlawful practices, within 180 days after the termination of the unlawful practices. A complaint may be reasonably and fairly amended at any time. A complaint referred to the Commission by the Massachusetts Commission Against Discrimination after having been timely filed there will be considered filed for the purposes of this Ordinance.

3. The filing of a complaint, the failure to file a complaint, or the dismissal of a complaint by the Commission shall not bar an aggrieved person from filing a civil action in the Superior Court within two years after the occurrence or termination of an alleged discriminatory practice; provided that, the aggrieved person may not initiate an action with respect to an alleged discriminatory practice that forms the basis of a charge issued by the Commission, if a Commission's hearing has begun with respect to the charge. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs. The plaintiff shall be liable for reasonable attorney's fees and costs only to the extent, that the plaintiff's participation in the proceeding was frivolous or vexatious or was for the purpose of harassment; to the extent that the plaintiff is the prevailing party, the respondent shall be liable for reasonable attorney's fees and costs, unless special circumstances make recovery of such fees and costs unjust.

4. Upon the filing of the complaint, the Commission shall, by certified mail, return receipt requested, serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forum under the law. At any time after the filing of the complaint, the Com-

mission may grant preliminary injunctive relief

in the Superior Court, pending final disposition of the complaint, if the Commission concludes such action is necessary to carry out the purposes of this Ordinance.

5. The Commission shall promptly serve a copy of the complaint and a notice upon the respondent advising him of his procedural rights and obligations under the law, by certified mail, return receipt requested. The respondent may, in response to said notice, file a verified answer with the Commission not later than 10 days after receipt of the notice of the complaint.

6. The chairperson of the Commission shall designate the Executive Director or one or more of the Commissioners to make, with the assistance of the staff of the Commission, a prompt investigation of the alleged discriminatory act. The investigation shall be commenced within thirty days after receipt of the complaint.

7. The Commission shall complete its investigation and issue a final investigative report consistent with Section 14.04.059 within one hundred days after receipt of the complaint unless impracticable, and if impracticable, shall notify the complainant and the respondent in writing and state the reasons for the delay.

8. Any conciliation agreement arising out of conciliation efforts by the Commission shall be an agreement between the respondent and the complainant and shall be approved by the Commission and shall be made public unless the complainant and the respondent otherwise agree and the Commission determines disclosure is not necessary to further the purposes of this Ordinance.

9. At the close of the investigation, the Commission shall issue a final investigative report. Said report shall conclude whether or not probable cause exists for crediting the allegations of the complaint.

10. If lack of probable cause is found, the Commission shall dismiss the complaint, notify the parties of its finding, and inform the complainant of his right to commence a private civil action in the Superior Court. Said action shall be commenced within ninety days from the date of the dismissal or within two years from the date of the violation alleged, whichever occurs later. The court shall be empowered to award the plaintiff actual and punitive damages; grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order; and allow reasonable attorney's fees and costs as permitted under 15.24.053.

11. If probable cause is found, both the complainant and the respondent shall be notified in writing. Either party may elect, within twenty days from receipt of the Commission's finding, to file a civil action in the Superior Court.

A. If a timely election is made by either party, the Commission shall immediately notify the office of the Attorney General, who shall file a civil action on behalf of the aggrieved person within thirty days after a timely election is made. Any complainant may intervene as of right in said civil action. The Commission shall administratively close the case, without prejudice.

B. If a timely election is not made, the case shall proceed to a public hearing. No Commissioner participating in the aforementioned hearing shall have been involved in the prior investigation. The Massachusetts law of evidence shall apply at the Commissioner's hearing. At any such hearing before the Commission all parties and witnesses shall have the right to be advised and represented by counsel at their own expense. The Complainant shall be represented by the Executive Director of the Commission as prescribed by the Commission's Rules of Procedure.

C. Hearings shall be conducted in accordance with the Commission's Rules of Procedure which shall ensure that all parties are afforded due process of law.

12. The hearing Commissioners shall issue a report which lists findings of fact and conclusions of law within sixty days after the conclusion of the hearing. If the hearing Commissioners concludes that the charges of discriminatory conduct by the respondent cannot be substantiated, the case shall be dismissed with prejudice.

13. The decision of the hearing Commissioners is subject to review by the entire Commission. The review must be initiated within thirty days from the date of the decision or said decision becomes the Final Administrative Decision.

14. The Commission shall make a final administrative disposition of the complaint within one year from the date of the receipt of the complaint, unless impracticable. If impracticable, it must notify the complainant and the respondent in writing and list the reasons for not doing so.

14.04.060 Remedies-Relief Sought and Granted

1. After a finding of probable cause is made, the Commission may file a petition in equity in the Superior Court seeking injunctive relief against the respondent. If justice so requires, the court shall be authorized to grant relief including:

A. orders or decrees restraining the respondent from selling, renting, or otherwise making the real estate transaction unavailable to the complainant;

B. any appropriate injunctive relief the court deems necessary to protect the rights of the complainant.

2. If the Commission, in the Final Administrative Report of its Decision, finds that any respondent committed any unlawful practice under this Ordinance, said Commission may:

A. award to the complainant damages to reimburse him for expenses incurred including, but not limited to, moving, storage of furniture and personal effects, and alternative housing or space, because of the respondent's unlawful act. Damages for emotional distress may also be awarded to the complainant;

B. assess to the respondent civil penalties not to exceed ten thousand dollars for the first offense; twenty-five thousand dollars for the second offense within a five year period ending at the time of filing the complaint; fifty thousand dollars for a third or subsequent offense within a seven year period ending at the time of filing the complaint. In a proceeding involving two or more respondents, the hearing Commissioners may assess a civil penalty against each respondent that the hearing Commissioners determines has been engaged or is about to engage in a discriminatory housing practice;

C. seek relief from the Superior Court including any temporary or permanent injunction, temporary restraining order or other order it deems appropriate.

14.04.070 Review of Commission's Final Administrative Decision, Enforcement of Order of Commission

1. Any party aggrieved by the Commission's Final Administrative Decision may seek judicial review within 30 days from the date of service of said decision in the Superior Court pursuant to chapter thirty A of the General Laws.

2. The Commission's Final Administrative Decision may be enforced by the Commission, or any person entitled to relief, by filing a petition in the Superior Court seeking compliance with the Decision. The Commission may obtain

a decree of the court for enforcement of its order upon a showing that a copy of the petition for enforcement was served upon the party subject to the dictates of the decision.

14.04.080 Consistency

In the event that any provision of this Chapter conflicts with, or is inconsistent with any prior-enacted law, regulation, or ordinance of the City of Cambridge, then this Chapter shall control.

14.04.090 Severability

If any provision of this Ordinance or the application thereof to any person or circumstance shall for any reason, be held invalid, the remainder of this Chapter and the application thereof shall not be affected and shall continue to be in full force and effect.

SECTION 2. This act shall take effect upon its passage.

House of Representatives, December 17, 1991.

Passed to be enacted,

 , Speaker.

In Senate, December 17, 1991.

Passed to be enacted,

 , President.

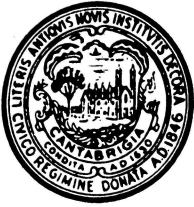
27 December, 1991.

Approved,

at three o'clock and 2 minutes, P. M.


Governor.

12.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

January 13, 1992

To The Honorable, The City Council:

I am hereby transmitting a copy of the Special Act authorizing a Fair Housing Ordinance as well as a copy of a memorandum from City Solicitor Russell B. Higley, which explains two options for adoption of the Ordinance, for your consideration.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachments

Enactment of a Fair Housing
Ordinance.

In City Council,

1/13/92

January 13, 1992

- ① Act accepted 9-0-0.
- ② Passed to a second reading as amended to include preamble and a voice vote of 9 members.
- ③ Passed to be ordained 9-0-0.
- ④ Order adapted re: discrimination - voice vote of 9 members.