



Legislation Text

File #: CB 118686, Version: 1

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

AN ORDINANCE relating to the Open Housing Ordinance; adding antidiscrimination protections based on a renters' use of a subsidy or verifiable alternative source of income; amending Sections 14.08.015, 14.08.020, 14.08.040, 14.08.045, 14.08.060, 14.08.070 and 14.08.190 of the Seattle Municipal Code. WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Mayor and Council jointly convened the Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee to evaluate potential strategies to make Seattle more affordable, equitable, and inclusive; in particular to promote the development and preservation of affordable housing for residents of the City; and WHEREAS, in July 2015, HALA published its Final Advisory Committee Recommendations and the Mayor published *Housing Seattle: A Roadmap to an Affordable and Livable City*, which outlines a multi-prong approach of bold and innovative solutions to address Seattle's housing affordability crisis; and WHEREAS, in October 2015 Council proposed and adopted, with the Mayor concurring, Resolution 31622 declaring the City's intent to expeditiously consider strategies recommended by the HALA Advisory Committee; and WHEREAS, in 2015 the HALA Advisory Committee recommended the City develop legislation to remove barriers based on income type and the Mayor included this recommendation in his Action Plan to address Seattle's Housing Affordability Crisis; WHEREAS, for over 25 years, the City of Seattle has protected a person's right to housing using a Section 8 housing voucher (Seattle Municipal Code Chapter 14.08); WHEREAS, Seattle's protection of a person's right to housing using a Section 8 housing voucher was

unanimously passed in 1989 in response to the housing affordability crisis, at the time when between 3,000-5,000 people a night were experiencing homelessness and thousands more faced rental restrictions due to their use of the U.S. Housing and Urban Development (HUD) programs that helped offset their rent payments. Many of them were elderly, disabled, or low-income people of color;

WHEREAS, in the last eight years, ten percent of housing discrimination cases investigated by the Seattle Office for Civil Rights involved denial based on a Section 8 housing voucher;

WHEREAS, due to existing racial inequities, people of color face disproportionate rates of poverty and are overrepresented as Section 8 voucher holders in Seattle. African Americans, Native Americans, and Asian Pacific Islanders are doubly represented as voucher holders compared to their total proportion of the Seattle population, meaning that discrimination on the basis of a Section 8 voucher has a disproportionate impact on communities of color;

WHEREAS, in 2016 Seattle continues to face a challenge of housing affordability, with individuals and families experiencing a denial of housing based on their use of subsidies and verifiable alternative sources of income such as child support payments, Social Security, Supplemental Security Income, unemployment insurance, short-term rental assistance, or veteran's benefits;

WHEREAS, communities of color, people with disabilities, parents, and others who are disproportionately impacted by Section 8 discrimination are also impacted by a denial of housing based on the use of other subsidies and alternative sources of income to pay their rent;

WHEREAS, furthering fair housing for all Seattle's residents is an affirmation of The City of Seattle's longstanding commitment to race and social justice;

WHEREAS, the City convened a diverse group of stakeholders comprised of landlords, nonprofit housing providers, social service agencies, and tenant advocates to review the issue and provide input on legislation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 14.08.015 of the Seattle Municipal Code, last amended by Ordinance 123014, is amended as follows:

14.08.015 Seattle Open Housing Poster ((-))

All persons required to post a fair housing poster pursuant to 24 CFR 110 shall also post a Seattle Open Housing Poster at the same locations required in the federal regulation. A person who fails to post a Seattle Open Housing Poster as required in this section is subject to a fine of ~~((One Hundred Twenty-Five Dollars (~~))\$125~~((-)))~~ for a first violation and a fine of ~~((Five Hundred Dollars (-)))~~\$500~~((-)))~~ for each subsequent violation. The Seattle Open Housing Poster shall provide a notice that it is illegal in the City of Seattle to discriminate against any person because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, participation in a section 8 or other subsidy program, alternative source of income, the presence of any disability, or the use of a trained dog guide or service animal by a disabled person. The Department shall adopt a rule or rules to enforce this ~~((section))~~ Section 14.08.015 ~~((which))~~ that shall include the availability of such posters from the Department.

Section 2. Section 14.08.020 of the Seattle Municipal Code, last amended by Ordinance 124829, is amended as follows:

14.08.020 Definitions ((-))

Definitions as used in this ~~((chapter))~~ Chapter 14.08, unless additional meaning clearly appears from the context, shall have the meanings subscribed:

~~((A-))~~ "Aggrieved person" includes any person who:

1. Claims to have been injured by an unfair practice prohibited by this ~~((chapter))~~ Chapter 14.08;

or

2. Believes that he or she will be injured by an unfair practice prohibited by this ~~((chapter))~~

Chapter 14.08 that is about to occur.

“Alternative source of income” means lawful, verifiable income derived from sources other than wages, salaries, or other compensation for employment. It includes but is not limited to monies derived from Social Security benefits, supplemental security income, unemployment benefits, other retirement programs, child support, the Aged, Blind or Disabled Cash Assistance Program, Refugee Cash Assistance, and any federal, state, local government, private, or nonprofit-administered benefit program.

~~((B-))~~ "Blockbusting" means, for profit, to promote, induce, or attempt to promote or induce any person to, engage in a real estate transaction by representing that a person or persons of a particular race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, alternative source of income, or who participates in a Section 8 or other subsidy program, or who is disabled, or who is a disabled person who uses a service animal has moved or may move into the neighborhood.

~~((C-))~~ "Charge" means a claim or set of claims alleging an unfair practice or practices prohibited under this ~~((chapter))~~ Chapter 14.08.

~~((D-))~~ "Charging party" means any person who files a charge alleging an unfair practice under this ~~((chapter))~~ Chapter 14.08, including the Director.

~~((E-))~~ "City" means The City of Seattle.

~~((F-))~~ "City department" means any agency, office, board, or commission of the City, or any department employee acting on its behalf, but shall not mean a public corporation chartered under Chapter~~((-))~~ 3.110 ~~((SMC))~~, or any contractor, consultant, or concessionaire or lessee.

~~((G-))~~ "Commission" means the Seattle Human Rights Commission.

~~((H-))~~ "Department" means the Seattle Office for Civil Rights.

~~((F.))~~ "Director" means the Director of the Seattle Office for Civil Rights or the Director's designee.

~~((J.))~~ "Disabled" means a person who has a disability.

~~((K.))~~

~~((L.))~~ "Disability" means the presence of a sensory, mental, or physical impairment that: ~~((a. Is))~~ is medically cognizable or diagnosable; or ~~((b. Exists))~~ exists as a record or history; or ~~((c. Is))~~ is perceived to exist whether or not it exists in fact. ~~((2.))~~ A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, ~~((e.))~~ whether or not it limits the ability to work generally or work at a particular job, or whether or not it limits any other activity within the scope of this ~~((chapter))~~ Chapter 14.08. ~~((3.))~~ For purposes of this definition, "impairment" includes, but is not limited to:

~~((a.))~~ 1. Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

~~((b.))~~ 2. Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

~~((L.))~~ "Discriminate" means to do any act which constitutes discrimination.

~~((M.))~~ "Discrimination" means any conduct, whether by single act or as part of a practice, the effect of which is to adversely affect or differentiate between or among individuals or groups of individuals, because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a service animal by a disabled person.

~~((N.))~~ "Dual-filed" means any charge alleging an unfair practice that is filed with both the Department of Housing and Urban Development and the Seattle Office for Civil Rights without regard to which of the two agencies initially processed the charge.

~~((O.))~~ "Dwelling" means any building, structure, or portion thereof which is occupied as, or is designed or intended for occupancy as, a residence by one or more individuals or families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

~~((P.))~~ "Gender identity" means a person's gender-related identity, appearance, or expression, whether or not traditionally associated with one's biological sex or one's sex at birth, and includes a person's attitudes, preferences, beliefs, and practices pertaining thereto.

~~((Q.))~~ "Hearing Examiner" means the Seattle Hearing Examiner.

~~((R.))~~ "Lender" means any bank, insurance company, savings or building and loan association, credit union, trust company, mortgage company, or other person or agent thereof, engaged wholly or partly in the business of lending money for the financing or acquisition, construction, repair, or maintenance of real property.

~~((S.))~~ "Marital status" means the presence or absence of a marital relationship and includes the status of married, separated, divorced, engaged, widowed, single, or cohabiting.

~~((T.))~~ "Occupant" means any person who has established residence or has the right to occupy real property.

~~((U.))~~ "Owner" means any person who owns, leases, subleases, rents, operates, manages, has charge of, controls or has the right of ownership, possession, management, charge, or control of real property on their own behalf or on behalf of another.

~~((V.))~~ "Parental status" means being a parent, step-parent, adoptive parent, guardian, foster parent, or custodian of a minor child or children under the age of 18 years, or the designee with written permission of a

parent or other person having legal custody of a child or children under the age of 18 years, which child or children shall reside permanently or temporarily with such parent or other person. In addition, parental status shall refer to any person who is pregnant or who is in the process of acquiring legal custody of a minor child under the age of 18 years.

~~((W.))~~ "Party" means the person charging or making a charge or complaint or upon whose behalf a complaint is made alleging an unfair practice, the person alleged or found to have committed an unfair practice, and the Seattle Office for Civil Rights.

~~((X.))~~ "Person" means one or more individuals, partnerships, organizations, trade or professional associations, corporations, legal representatives, trustees, trustees in bankruptcy and receivers. It includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons, and any political or civil subdivision or agency or instrumentality of the City.

~~((Y.))~~ "Political ideology" means any idea or belief, or coordinated body of ideas or beliefs, relating to the purpose, conduct, organization, function or basis of government and related institutions and activities, whether or not characteristic of any political party or group. ~~((This term))~~ "Political ideology" includes membership in a political party or group and includes conduct, reasonably related to political ideology, which does not interfere with the property rights of the landowner as it applies to housing.

~~((Z.))~~ "Prospective borrower" means any person who seeks to borrow money to finance the acquisition, construction, repair, or maintenance of real property.

~~((AA.))~~ "Prospective occupant" means any person who seeks to purchase, lease, sublease, or rent real property.

~~((BB.))~~ "Real estate agent, salesperson or employee" means any person employed by, associated with, or acting for a real estate broker to perform or assist in the performance of any or all of the functions of a real estate broker.

~~((CC.))~~ "Real estate broker" means any person who for a fee, commission, or other valuable

consideration, lists for sale, sells, purchases, exchanges, leases or subleases, rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange, lease, sublease, or rental of real property of another, or holds themselves out as engaged in the business of selling, purchasing, exchanging, listing, leasing, subleasing, or renting real property of another, or collects the rental for use of real property of another.

~~((DD.))~~ "Real estate transaction" means the sale, purchase, conveyance, exchange, rental, lease, sublease, assignment, transfer, or other disposition of real property.

~~((EE.))~~ "Real estate-related transaction" means any of the following:

1. The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining real property, or
 - b. Secured by real property; or
2. The selling, brokering, or appraising of real property; or
3. The insuring of real property, mortgages, or the issuance of insurance related to any real estate

transaction.

~~((FF.))~~ "Real property" means dwellings, buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and any interest therein.

~~((GG.))~~ "Respondent" means any person who is alleged to have committed an unfair practice prohibited by this ~~((chapter))~~ Chapter 14.08.

~~((HH.))~~ "Section 8 or other subsidy program" means short or long term federal, state or local government, private nonprofit, or other assistance programs in which a tenant's rent is paid either partially by the ~~((government))~~ program (through a direct contract between the ~~((government))~~ program and the owner or lessor of the real property), and partially by the tenant or completely by the program. Other subsidy programs include but are not limited to HUD-Veteran Affairs Supportive Housing (VASH) vouchers, Housing and Essential Needs (HEN) funds, and short-term rental assistance provided by Rapid Rehousing subsidies.

~~((I.))~~ "Service animal" means an animal that provides medically necessary support for the benefit of an

individual with a disability.

((~~JJ~~)) "Sexual orientation" means actual or perceived male or female heterosexuality, bisexuality, or homosexuality, and includes a person's attitudes, preferences, beliefs, and practices pertaining thereto.

((~~KK~~)) "Steering" means to show or otherwise take an action which results, directly or indirectly, in steering a person or persons to any section of the City or to a particular real property in a manner tending to segregate or maintain segregation on the basis of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a service animal by a disabled person.

"Verifiable" means the source can be confirmed as to its amount or receipt.

((~~LL~~)) "Honorably discharged veteran or military status" means:

1. A veteran, as defined in RCW 41.04.007; or
2. An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

Section 3. Section 14.08.040 of the Seattle Municipal Code, last amended by Ordinance 121593, is amended as follows:

14.08.040 Unfair practices-Generally((~~r~~))

A. It is an unfair practice for any person to discriminate by:

1. Undertaking or refusing to engage in a real estate transaction or otherwise deny or withhold such real property; or
2. Refusing to negotiate a real estate transaction; or
3. Representing that such real property is not available for inspection, sale, rental, or lease when in fact it is so available; or
4. Expelling or evicting an occupant from real property or otherwise making unavailable or

denying a dwelling; or

5. Applying different terms, conditions, or privileges of a real estate transaction, including but not limited to the setting of rates for rental or lease, ~~((or))~~ establishment of damage deposits~~((;))~~ or other financial conditions for rental or lease, ~~((or))~~ in the furnishing of facilities, or services in connection with such transaction.

B. It is an unfair practice for any real estate broker, real estate agent, salesperson, or employee to discriminate by:

1. Refusing or intentionally failing to list real property for sale, rent, or lease; or
2. Refusing or intentionally failing to show real property listed for sale, rental, or lease; or
3. Refusing or intentionally failing to accept and/or transmit any reasonable offer to purchase, lease, or rent real property.

C. It is an unfair practice to discriminate by denying a person access to, or membership or participation in, a multiple listing service or real estate brokers' organization or other service, or to discriminate in the terms and conditions of such access, membership, or participation.

D. It is an unfair practice to prohibit reasonable modifications needed by a disabled tenant. Whether or not the landlord permits tenants in general to make alterations or additions to a structure or fixtures, it is an unfair practice for a landlord to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy any dwelling, or to refuse to allow a person to make alterations or additions to existing premises occupied or to be occupied by a disabled person which are necessary to make the rental property accessible by disabled persons, under the following conditions:

1. The landlord is not required to pay for the alterations, additions, or restoration unless otherwise required by federal law;
2. The landlord has the right to demand assurances that all modifications will be performed

pursuant to local permit requirements, in a professional manner, and in accordance with applicable building codes;

3. The landlord may, where it is reasonable to do so, condition permission for modification on the tenant's agreement to restore the interior of the premises to its pre-existing condition, reasonable wear and tear excepted.

E. It is an unfair practice under this chapter for any person to design or construct a building or structure that does not conform with 42 U.S.C. ((§)) 3604, the Washington State Barrier Free Act, WAC ((Ch. 51-40 or)) Ch. 51-50 as required by chapters 19.27 RCW and 70.92 RCW, other regulations adopted under 42 U.S.C. 3604 and chapters 19.27 RCW and 70.92 RCW, any other applicable laws pertaining to access by disabled persons, or any rules or regulations promulgated thereunder. If the requirements of the applicable laws differ, those which require greater accessibility for disabled persons shall govern.

F. It is an unfair practice for an owner or lessor of real property, when determining tenant eligibility for purposes of leasing, subleasing, or renting real property, to apply income screening criteria (such as an income to rent ratio) in a manner inconsistent with the following:

1. Any payment from a Section 8 or other subsidy program that reduces the amount of rent for which the tenant is responsible must be subtracted from the total of the monthly rent.

2. All sources of income must be included as a part of the tenant's total income except in situations where the rental housing unit is subject to income and/or rent restrictions in a housing regulatory agreement or subsidy agreement and income is determined pursuant to the agreement.

G. For purposes of applying the definitions of "discriminate" and "discrimination" in Section 14.08.020 to this Section 14.08.040, "discrimination" only includes "alternative source of income" when referring to a person leasing, subleasing, or renting real property or who seeks to lease, sublease, or rent real property.

Section 4. Subsection 14.08.045.B of the Seattle Municipal Code, which section was last amended by Ordinance 123014, is amended as follows:

14.08.045 Retaliation, harassment, or coercion((-))

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B. It is an unfair practice for any person, whether or not acting for profit, to harass, intimidate, discriminate against, or otherwise abuse any person or person's friends or associates because of race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a trained dog guide or service animal by a disabled person with the purpose or effect of denying to such person the rights granted in this chapter or the right to quiet or peaceful possession or enjoyment of any real property.

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Section 5. Section 14.08.060 of the Seattle Municipal Code, last amended by Ordinance 121593, is amended as follows:

14.08.060 Discrimination in real estate-related transactions((-))

It is an unfair practice for any lender, or any agent or employee thereof, to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any real property, or any other person whose business includes engaging in real estate related transactions, to:

A. Discriminate against any person, prospective occupant, or occupant of real property in the granting, withholding, extending, making available, modifying, or renewing, or in the rates, terms, conditions, or privileges of a real estate related transaction, or in the extension of services in connection therewith; or

B. Discriminate by using any form of application for a real estate related transaction or making any record of inquiry in connection with applications for a real estate related transaction which expresses, directly or indirectly, an intent to discriminate unless required or authorized by local, state, or federal laws or agencies to prevent discrimination in real property; provided that, nothing in this provision shall prohibit any party to a credit transaction from requesting designation of marital status for the purpose of considering application of

community property law to the individual case or from taking reasonable action thereon or from requesting information regarding age, parental status, or participation in a Section 8 or other subsidy program when such information is necessary to determine the applicant's ability to repay the loan.

Section 6. Section 14.08.070 of the Seattle Municipal Code, last amended by Ordinance 123527, is amended as follows:

14.08.070 Unfair inquiries or advertisements ((-))

It is an unfair practice for any person to:

A. Require any information, make or keep any record, or use any form of application containing questions or inquiries concerning race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, participation in a Section 8 or other subsidy program, the presence of a disability, or the use of a trained dog guide or service animal by a disabled person in connection with a real estate transaction unless used solely:

1. For making reports required by agencies of the federal, state, or local government to prevent and eliminate discrimination or to overcome its effects or for other purposes authorized by federal, state, or local agencies or laws or rules adopted thereunder,

2. As to "marital status," for the purpose of determining applicability of community property law to the individual case, or

3. As to "age," for the purpose of determining that the applicant has attained the age of majority, or in the case of housing exclusively for older persons as described in ((SMC)) subsection 14.08.190.E, for the purpose of determining the eligibility of the applicant;

B. Publish, print, circulate, issue, or display, or cause to be published, printed, circulated, issued, or displayed, any communication, notice, advertisement, statement, or sign of any kind relating to a real estate transaction or listing of real property which indicates directly or indicates an intention to make any preference, limitation, or specification based on race, color, creed, religion, ancestry, national origin, age, sex, marital

status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, alternative source of income, the participation in a Section 8 or other subsidy program, the presence of a disability, or the use of a service animal by a disabled person.

Section 7. Subsection 14.08.190.B of the Seattle Municipal Code, which section was last amended by Ordinance 123014, is amended as follows:

14.08.190 Exclusions((=))

Nothing in this chapter shall:

* * *

B. Be interpreted to prohibit any person from making a choice among prospective purchasers or tenants of real property on the basis of factors other than race, color, creed, religion, ancestry, national origin, age, sex, marital status, parental status, sexual orientation, gender identity, political ideology, honorably discharged veteran or military status, alternative source of income, participation in a Section 8 or other subsidy program, the presence of any disability, or the use of a trained dog guide or service animal by a disabled person where such factors are not designed, intended or used to discriminate;

* * *

Section 8. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2016, and signed by me in open session in authentication of its passage this ____ day of _____, 2016.

President _____ of the City Council

Approved by me this ____ day of _____, 2016.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)