

FAIR HOUSING ORDINANCE

GENERAL ORDINANCE 02A, 2003

WHEREAS, in accordance with the Civil Rights Act of 1968, as amended, the Housing and Community Development Act of 1974, as amended and Indiana Code 22-9.5-1, et. seq., the following provisions are necessary and appropriate to prevent discrimination in the area of housing because of race, color, religion, sex, handicap, familial status, or national origin;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MARTIN COUNTY, INDIANA, AS FOLLOWS:

Section 1. POLICY STATEMENT:

It shall be the policy of the Martin County Board of Commissioners to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the federal Civil Rights Act of 1968, as amended, the federal Housing and Community Development Act of 1974, as amended, and Indiana Code 22-9.5 et. seq.

Section 2. DEFINITIONS:

The definitions set forth in this Section shall apply throughout this ordinance:

- (a) "Dwelling" means any building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residency by one (1) or more families; or any vacant land which is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure that is occupied as, or designed or intended for occupancy as a residence by one (1) or more families.
- (b) "Family" includes a single individual with the status of such family being further defined in subsection (h) of this Section.
- (c) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers, and fiduciaries.
- (d) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.
- (e) "Discriminatory Housing Practice" means an act that is unlawful under sections 4, 5, 6, 7, or 8 of this ordinance.
- (f) "Handicap" means, with respect to a person:

- (1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
- (2) a record of having such an impairment, or
- (3) being regarded as having such an impairment.

The term "handicap" does not include current illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21 of the United States Code (I.C. 22-9.5-2-10(b)); nor does the term "handicap" include an individual solely because that individual is a transvestite.

- (g) "Aggrieved person" includes any person who:
- (1) claims to have been injured by a discriminatory housing practice; or
 - (2) believes that such person will be injured by a discriminatory housing practice that is about to occur.
- (h) "Familial status" means one or more individuals (who have not attained the age of eighteen (18) years being domiciled with:
- (1) a parent or another person having legal custody of such individual or the written permission of such parent or other person. The protections afforded against discrimination on this basis of familial 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 eighteen (18) years.
- (i) "Complainant" means a person, including the commission, who files a complaint under this ordinance.
- (j) "Respondent" means a person accused of a discriminatory housing practice in a complaint under this ordinance.

Section 3. UNLAWFUL PRACTICE:

Subject to the provisions of Subsection (b) of this Section, and Section 9 of this ordinance, the prohibitions against discrimination in the sale or rental or housing set forth in Section 4 of this Ordinance shall apply to:

- (a) All dwellings except as exempted by Subsection (b).
- (b) Other than the provisions of Subsection (c) of this Section, nothing in Section 4 shall apply to:

- (1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three (3) such single-family houses at any one time; provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale, the exemption shall apply only to one such sale within any twenty-four (24) month period. The private individual owner may not own any interest in, nor have owned or reserved on his behalf, title to or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this Section only if such house is sold or rented:
 - (A) without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesman, or any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent or salesman, or person and
 - (B) without the publication, posting or mailing, after notice of advertisement or written notice in violation of Section 4(c) of this ordinance, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title, or
 - (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
- (c) For the purposes of Subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) he has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (2) he has, within the preceding twelve (12) months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - (3) he is the owner of any dwelling unit designed or intended for occupancy by, or occupies by, five (5) or more families.

Section 4.

**DISCRIMINATION IN THE SALE OR RENTL OF
HOUSING:**

As made applicable by Section 3 and except as exempted by Section 3(b) and 9, it shall be unlawful:

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, handicap, or national origin.
- (b) 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, religion, sex, familial status, handicap, or national origin.
- (c) This Section does not prohibit discrimination against a person because the person has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.
- (d) To make, print, or publish, or cause to be made printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
- (e) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
- (f) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.
- (g) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--
 - (A) that buyer or renter;
 - (B) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - (C) any person associated with that person.

- (2) To discriminate against any person in the terms, conditions, or privileges or sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:
 - (A) that person; or
 - (B) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - (C) any person associated with that person.
- (3) For purposes of this Subsection, discrimination includes:
 - (A) a refusal to permit, at the expense of the handicap person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear expected;
 - (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
 - (C) in connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in such a manner that:
 - (i) the dwellings have at least one (1) building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;
 - (ii) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
 - (iii) all doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - (iv) all premises within such dwellings contain the following features of adaptive design:
 - (I) an accessible route into and through the dwelling;

- (II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (III) all doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
 - (IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (4) Compliance with the appropriate requirements of Americans With Disabilities Act of 1990 and the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of paragraph (3) (C) (iii).
 - (5) Nothing in this Subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals of whose tenancy would result in substantial physical damage to the property of others.

**Section 5. DISCRIMINATION IN RESIDENTIAL REAL ESTATE
RELATED TRANSACTIONS:**

- (a) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.
- (b) As used in this Section, the term “residential real estate-related transaction” means any of the following:
 - (1) The making or purchasing of loans or providing other financial assistance:
 - (A) for purchasing, construction, improving, repairing, or maintaining a dwelling; or
 - (B) secured by residential real estate.
 - (2) The selling, brokering, or appraising of residential real property.

- (c) Nothing in this ordinance prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Section 6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any 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 him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status or national origin.

Section 7. INTERFERENCE, COERCION, OR INTIMIDATION:

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercises or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Sections 3, 4, 5, or 6 in this ordinance.

Section 8. EXEMPTIONS:

- (a) Nothing in this ordinance shall prohibit a religious organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates 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. Nor shall anything in this ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (b)
 - (1) Nothing in this ordinance limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this ordinance regarding familial status apply with respect to housing for older persons.
 - (2) As used in this Section, "housing for older persons" means housing:
 - (A) provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or
 - (B) intended for, and solely occupies by, persons 62 years of age or older; or

- (C) intended and operated for occupancy by a least one (1) person fifty-five (55) years of age or older per unit if the following requirements are met:
 - (i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and
 - (ii) that at least 80 percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and
 - (iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Section 9.

ADMINISTRATIVE ENFORCEMENT OF ORDINANCE:

- (a) The authority and responsibility for properly administering this Ordinance shall be vested in the Chief Executive Officer of the Martin County Board of Commissioners, Martin County, Indiana.
- (b) The Martin County Board of Commissioners, Martin County, Indiana shall establish a local commission with the author and responsibility for properly administering this ordinance. The local commission will administratively enforce all formal complaints alleging a violation of the articles of this Ordinance for the purpose of investigation, resolution, and appropriate relief as provided for under Title 22-9.5-6 of the Indiana Code.
- (c) All executive departments and agencies of the Martin County Board of Commissioners, Martin County, Indiana shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this ordinance and shall cooperate with the Chief Executive Officer and the commission to further such purposes.
- (d) The Chief Executive Officer of the Martin County Board of Commissioners, Martin County, Indiana, or the Chief Executive Officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information.
- (e) Each complaint must be in writing and must be signed and affirmed by the aggrieved person filing the complaint or, if the complaint is filed by the commission, by any commission member, or the director, if one is appointed pursuant to Section 11(b). The signature and affirmation may be made at any

time during the investigation. The commission may require complaints to be made on prescribed forms.

- (1) Complaint forms will be made available in the commission's offices or in the office of the Chief Executive Officer of the Martin County Board of Commissioners, Martin County, Indiana.
 - (2) Notwithstanding any requirement for the use of a prescribed form, the commission will accept any written statement which substantially sets forth the allegations of a discriminatory housing practice under this ordinance.
 - (3) An aggrieved person may provide information to be contained in a complaint by telephone to the commission's offices. The commission or staff of the commission will reduce the information provided by telephone to writing on the prescribed complaint form and send the form to the aggrieved person to be signed and affirmed.
 - (4) Each complaint must contain substantially the following information:
 - (A) The name and address of the aggrieved person.
 - (B) The name and address of the respondent.
 - (C) A description and the address of the dwelling which is involved, if appropriate.
 - (D) A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.
 - (5) Except as provided in paragraph (6) of this Subsection, a complaint is filed when it is received by the commission in a form that reasonably meets the standards of Section 9(e) (4)(A)-(D).
 - (6) The commission may determine that a complaint is filed for the purposes of the one year period for filing complaints, upon the submission of written information (including information provided by telephone and reduced to writing by the commission or staff of the commission) identifying the parties and describing generally the alleged discriminatory housing practice.
 - (7) Where a complaint alleges a discriminatory housing practice that is continuing, as manifested in a number of incidents of such conduct, the complaint will be timely filed within one (1) year of the last alleged occurrence of that practice.
- (f) An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, whichever is later,

file a complaint with the commission alleging the discriminatory housing practice.

- (g) A complaint under this ordinance may be reasonably and fairly amended at any time.
- (h) When a complaint is filed under this ordinance, the commission shall do the following:
 - (1) Give the aggrieved person notice that the complaint has been received.
 - (2) Advise the aggrieved person of the time limits and choice of forums under the ordinance.
 - (3) Not later than ten (10) days after the filing of the complaint or the identification of an additional respondent, serve on each respondent:
 - (A) a notice identifying the alleged discriminatory housing practice and advising the respondent of the procedural rights and obligations of a respondent under this ordinance; and
 - (B) a copy of the original complaint.
 - (4) A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation as a person who is alleged to have engaged, or is about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under Subsection (3) of this Section within then (10) days of the identification. If the person is not named in the complaint, but is being joined as an additional or substitute respondent, the notice will explain the basis for the commission's belief that the joined person is properly joined as a respondent.
- (i) Not later than ten (10) days after the receipt of the notice and copy of the complaint, a respondent may file an answer to the complaint. An answer must be:
 - (1) in writing;
 - (2) signed under oath; and
 - (3) in the form prescribed by the commission.
- (j) An answer may be reasonably and fairly amended at any time with the consent of the commission.
- (k) An answer does not inhibit the investigation of a complaint.
- (l) The commission shall determine based on the facts whether reasonable cause

exists to believe that a discriminatory housing practice has occurred or is about to occur. The commission shall make this determination not later than one hundred (100) days after a complaint is filed unless:

- (1) the commission has approved a conciliation agreement relating to the complaint; or
 - (2) it is impracticable to make the determination within that time period in which case the commission shall notify the complainant and respondent.
- (m) If the commission determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall promptly issue a short and plain statement of the facts upon which the commission has based the no reasonable cause determination; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of the facts). The fact of the dismissal, including the names of the parties, shall be public information available on request.
- (n) The commission may not issue a finding of reasonable cause under this ordinance regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under federal or state law seeking relief with respect to that discriminatory housing practice.
- (o) If the commission determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall immediately issue a finding of reasonable cause consisting of a short and plain statement of the facts on which the commission found reasonable cause on behalf of the aggrieved person.
- (p) Not later than twenty (20) days after the commission issues a finding of reasonable cause, the commission shall send a copy of the finding of reasonable cause to each respondent and each aggrieved person with the following information:
- (1) A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action.
 - (2) The election must be made not later than twenty (20) days after the date of receipt of the reasonable cause notice by the electing person.
 - (3) The person making the election shall give notice to the commission and to all other complainants and respondents to whom the finding of reasonable cause relates.
- (q) If a timely election is made under Section (p) (1), the commission shall not later than thirty (30) days after the election is made, file and maintain a civil action on behalf of the aggrieved person in a circuit or superior court that is located in the

county in which the alleged discriminatory housing practice occurred. If a timely election is not made, the commission shall provide for a hearing on the finding of reasonable cause.

Section 10. HUMAN RIGHTS COMMISSION:

- (a) To assist in the elimination of discrimination in the Martin County Board of Commissioners, Martin County, Indiana, there is hereby created a commission to be known as the Martin County Human Rights Commission, composed of seven (7) members not more than four (4) of whom shall be of the same political party. Members must be residents of Martin County, Indiana.
- (b) All members of the Human Rights Commission shall be appointed by the Chief Executive Officer of the Martin County Board of Commissioners, Martin County, Indiana within thirty (30) days of the effective date of this ordinance subject to the advice and consent of the Common Council.
- (c) Of the seven (7) members first appointed: two (2) shall be appointed for a term of one (1) year; two (2) shall be appointed for a term of two (2) years; and three (3) shall be appointed for a term of three (3) years. Thereafter, each appointment shall be for a period of three (3) years.
- (d) Upon the death or resignation of any member, a successor shall be appointed by the Chief Executive Officer of the Martin County Board of Commissioners, Martin County, Indiana, subject to the advice and consent of the Board of Commissioners, to serve for the unexpired term of the member.
- (e) The members of the Commission shall serve without compensation, but they may be reimbursed for all expenses necessarily incurred in the performance of their duties in accordance with appropriations made by the Board of Commissioners.
- (f) The Chief Executive Officer may remove Commission member for cause.
- (g) The expenses for carrying on the Commission's activities shall be budgeted for and paid out of the general treasury and appropriated by the Board of Commissioners for such purposes; however, the Commission shall also have the authority to accept grants, or other payments to help finance its activities. The Commission may receive federal or state funds by worksharing or cooperative agreements or grants with such funds deposited in designated non-reverting funds.
- (h) At its first meeting, which shall be called by the Chief Executive Officer, and thereafter at its April meeting, the Commission shall select from its membership a Chairperson and Vice-Chairperson. These officers elected at the April meeting shall assume their offices June first (1st).

- (i) The Commission shall meet once each month at a regularly published time and place and shall hold special meetings as the chairperson deems necessary or at the call of a majority of its members. Four (4) members of the Commission shall constitute a quorum for the transaction of business. No official action shall be taken by the Commission except by an affirmative vote of an absolute majority of the a quorum of members of said Commission; provided that a majority of the entire Commission shall be required for a finding of a violation of this Ordinance.

Section 11. POWERS AND DUTIES:

The Commission shall have the following powers and duties:

- (a) To establish and maintain in Martin County, Indiana a permanent office to be provided by the Martin County Board of Commissioners, Indiana.
- (b) To appoint a Director and other staff as it may deem necessary and prescribe their duties.
- (c) To adopt, promulgate, amend and rescind such rules and regulations, procedural and substantive, as are consistent with the provisions of this ordinance or its intent and purpose as the commission may deem necessary. Such rules and regulations shall be adopted, amended, or rescinded by the commission only after a public hearing thereon, notice of which shall be given by two (2) publications in a newspaper of general circulation printed in Martin County, Indiana, such publications to be one (1) week apart. The first publication to be not more than thirty (30) days nor less than fifteen (15) days before the date of such hearings.
- (d) To receive and investigate the merits, allegations, and factual basis of complaints of discriminatory practices under this ordinance, and to hold hearings on such complaints. All investigations of complaints shall be investigated by staff members or commission members. Such investigations shall be impartial and shall be limited in each instance to the discriminatory practices alleged in the complaint. At the end of each investigation the commission or a staff member of the commission will prepare a final investigative report. The investigative report will contain:
 - (1) The names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses that request anonymity. The commission, however, may be required to disclose the names of such witnesses in the course of an administrative hearing under this ordinance or a civil action under the Federal Fair Housing Act or the Indiana Fair Housing Act;

- (2) A summary and the dates of correspondence and other contracts with the aggrieved person and the respondent;
- (3) A summary of description of other record;
- (4) A summary of witness statements' and
- (5) Answers to interrogatories.

A final investigative report may be amended at any time, if additional evidence is discovered. Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in Section 11 (j) (9), the commission will make information derived from an investigation, including the final report, available to the aggrieved person and the respondent that the final investigative report is complete and will be provided upon request.

- (e) To initiate complaints, except that no member of the commission who initiates a complaint may participate as a member of the commission in the hearing or disposition of the complaint.
- (f) To prevent any person from discriminating or retaliating against any other person because he/she filed a complaint with the commission, has testified in any hearing before the commission, or has in any way assisted the commission in any matter under investigation.
- (g) To seek prompt judicial action. If the commission concludes at any time following the filing of the complaint that prompt judicial action is necessary to carry out the purposes of this article, the commission may file a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint in a circuit or superior court that is located in the county in which the alleged discriminatory housing practice has occurred.
 - (1) A temporary restraining order or other order granting preliminary or temporary relief under this Subsection is governed by the Indiana Rules of Trial Procedure.
 - (2) The filing of civil action under this Subsection does not affect the initiation or continuation of administrative proceedings under this ordinance.

- (h) To hold hearings, subpoena witnesses, administer oaths, take the testimony of any such person under oath, and require the production for examination of any books and papers relating to any manner under investigation or in question before the commission. All hearings shall be held within Martin County, Indiana at a location determined by the commission. The commission shall have the authority to institute actions for appropriate legal or equitable relief in a circuit or superior court to obtain enforcement of any commission order or subpoena. All subpoenas and orders emanating from the commission shall be served pursuant to the Indiana Rules of Civil Procedure applicable to service in civil actions.
- (i) To appoint hearing officers, other than commissioners, when an appointment is deemed necessary by a majority of the commission. The hearing officers shall be members in good standing before the Indiana bar and shall be appointed by the Chairperson of the commission. A hearing officer appointed under this Subsection shall have the same powers and duties as a commissioner sitting as a hearing officer, except the power to issue subpoenas.
- (j) To attempt reconciliation between the parties. If such reconciliation efforts fail, the commission shall conduct hearings to find facts, reach conclusions, and issue orders.
 - (1) During the period beginning with the filing of the complaint and ending with the reasonable or no reasonable cause determination, the commission will, to the extent feasible, attempt to conciliate the complaint.
 - (2) In conciliating the complaint, the commission will attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory housing practices, or the prevention of their occurrence in the future.
 - (3) Generally, members of the commission or staff of the commission engaged in the investigation of a complaint will not participate or advise in the conciliation of the same complaint or in any factually related complaint. Where the rights of the aggrieved party and the respondent can be protected and the prohibitions with respect to disclosure of information can be observed, the investigator of the complaint may suspend fact finding and engage in efforts to resolve the

complaint by conciliation.

- (4) The terms of a settlement of a complaint will be reduced to a written conciliation agreement. The conciliation agreement shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. The types of relief that may be sought are:

For the aggrieved person:

- (A) Monetary relief in the form of damages, including damages caused by humiliation or embarrassment, and attorney's fees;
- (B) Other equitable relief including, but not limited to, access to the dwelling at issue, or to a comparable dwelling, the provision of services or facilities in connection with a dwelling, or other specific relief; or
- (C) Injunctive relief appropriate to the elimination of discriminatory housing practices affecting the aggrieved person or other persons.
- (D) The conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Arbitration may award appropriate relief as described in this Subsection. The aggrieved person and the respondent may, in the conciliation agreement, limit the types of relief that may be awarded under binding arbitration.

For the public interest:

- (E) Elimination of discriminatory housing practices.
 - (F) Prevention of future discriminatory housing practices.
 - (G) Remedial affirmative activities to overcome discriminatory housing practices.
 - (H) Reporting requirements.
 - (I) Monitoring and enforcement activities.
- (5) The agreement must be executed by the respondent and the complainant. The agreement is subject to approval by the commission. The commission will indicate approval by having a majority of the commission sign the agreement. The

commission will approve the agreement and, if the commission is the complainant, will execute the agreement, only if:

- (A) The complainant and the respondent agree to the relief accorded to the aggrieved person;
 - (B) The provisions of the agreement will adequately vindicate the public interest; and
 - (C) If the commission is the complainant, all aggrieved persons named in the complaint are satisfied with the relief provided to protect their interest.
- (6) The commission may issue a reasonable cause determination if the aggrieved person and the respondent have executed a conciliation agreement that has not been approved by the commission.
- (7) The commission may terminate its efforts to conciliate the complaint if the respondent fails or refuses to confer with the commission; the aggrieved person or the respondent fail to make a good faith effort to resolve any dispute; or the commission finds, for any reason, that voluntary agreement is not likely to result.
- (8) Where the aggrieved person has commenced a civil action under federal or state law seeking relief with respect to the alleged discriminatory housing practice, and the trial in the action has commenced, the commission will terminate conciliation unless the court specifically requests assistance from the commission.
- (9) Except as provided in paragraph (10) of this Subsection and in Section 11 (d), nothing that is said or done in the course of conciliation may be made public or used as evidence in a subsequent administrative hearing under this ordinance or in civil actions under the Federal Fair Housing Act or the Indiana Fair Housing Act without the written consent of the persons concerned.
- (10) Conciliation agreements shall be made public unless the aggrieved person and respondent request nondisclosure and the commission determines that disclosure is not required to further the purposes of this ordinance. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the commission may publish tabulated descriptions of the results of all conciliation efforts.

- (11) The commission may, from time to time, review compliance with the terms of any conciliation agreement. Whenever the commission has reasonable cause to believe that a respondent has breached a civil action under Section 11 (h) of this ordinance for the enforcement of the terms of the conciliation agreement.
- (k) To state findings of fact and conclusions of law after a hearing. If the commission determines, after a hearing, that the respondent has engaged in a discriminatory practice in violation of this ordinance, the commission may order the appropriate relief, including actual damages, reasonable attorney's fees, court costs, and other injunctive or equitable relief. To vindicate the public interest, the commission may assess a civil penalty against the respondent in an amount that does not exceed the following:
 - (1) Ten thousand dollars (\$10,000) if the respondent has not been adjudged by order of the commission or a court to have committed a prior discriminatory housing practice.
 - (2) Except as provide by Subsection (1), twenty-five thousand dollars (\$25,000) if the respondent has been adjudges by order of the commission or a court to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of the finding of reasonable cause.
 - (3) Except as provided by Subsection (1), fifty thousand dollars (\$50,000) if the respondent has been adjudges by order of the commission or a court to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of the finding of reasonable cause.
- (l) If the acts constituting the discriminatory housing practice that is the object of the finding of reasonable cause are committed by the same individual who has been previously adjudges to have committed acts constituting a discriminatory housing practice, the civil penalties in Subsection (k)(2) and (k)(3) may be imposed without regard to the period of time within which any other discriminatory housing practice occurred. The commission may sue to recover a civil penalty due under this section.
- (m) If after the hearing the commission shall find that the respondent has not engaged in any practice in violation of this ordinance, the

commission shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint.

- (n) Judicial review of commission orders shall be obtained in accordance with the provisions of Indiana Code 4-21.5.5.
- (o) To prepare and submit to the Chief Executive Officer and Board of Commissioners once each year a detailed report of the commission's activities, including the investigations, reconciliations, and hearing it has conducted and their outcome.

Section 12. ENFORCEMENT BY PRIVATE PERSONS

- (a) An aggrieved person may file a civil action in the circuit or superior court located in the county in which the alleged discriminatory practice occurred not later than one (1) year after the occurrence of the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this ordinance, whichever occurred last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.
- (b) The one (1) year period does not include any time during which an administrative hearing under this ordinance is pending with respect to a complaint or finding of reasonable cause under this ordinance based on the discriminatory housing practice. This Subsection does not apply to actions arising from a breach of a conciliation agreement.
- (c) An aggrieved person may file an action under this Section whether or not a complaint has been filed under this ordinance and without regard to the status of any complaint filed under this ordinance.
- (d) If the commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this Section with respect to the alleged discriminatory housing practice that forms the basis for the complaint, except to enforce the terms of the agreement.
- (e) An aggrieved person may not file an action under this Section with respect to an alleged discriminatory housing practice that forms the basis of a finding of reasonable cause issued by the commission if the commission has begun a hearing on the record under this ordinance with respect to the finding of reasonable cause.
- (f) If the court finds that a discriminatory housing practice has occurred or is about to occur in an action under this Section, the court may award to the prevailing party the following:

- (1) Actual and punitive damages.
 - (2) Reasonable attorney's fees.
 - (3) Court costs.
 - (4) Subject to Subsection (g) of this Section, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or ordering appropriate affirmative action.
- (g) Relief under this Section does not affect the contract, a sale, an encumbrance, or a lease that:
- (1) was consummated before the granting of the relief; and
 - (2) involved a bona fide purchaser, an encumbrances, or a tenant who did not have actual notice of the filing or a complaint or a civil action under this ordinance.
- (h) The commission may intervene in an action under this Section if the commission determines that the case is of general public importance. The commission may obtain the same relief available to the commission under Section 13 of this ordinance.

Section 13. ENFORCEMENT BY THE COMMISSION

- (a) The commission may file a civil action for appropriate relief if the commission has reasonable cause to believe that:
- (1) a person is engaged in a pattern or practice of resistance to the full enjoyment of any right granted by this ordinance; or
 - (2) a person has been denied any right granted by this ordinance and that denial raises an issue of general importance.
- (b) An action under this Section may be filed in a circuit or superior court located in the county in which the alleged pattern, practice, or denial has occurred. The court may do the following:
- (1) Award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for the violation of this ordinance as necessary to assure the full enjoyment of the rights granted by this ordinance.

- (2) Award other appropriate relief, including monetary damages, reasonable attorney's fees, and other court costs.
- (3) To vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed the following:
 - (A) Fifty Thousand Dollars (\$50,000) for a first violation.
 - (B) One Hundred Thousand Dollars (\$100,000) for a second or subsequent violation.
- (c) A person may intervene in an action under this Section if the person is:
 - (1) an aggrieved person to the discriminatory housing practice; or
 - (2) a party to a conciliation agreement concerning the discriminatory housing practice

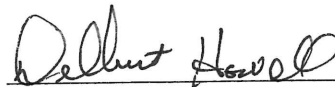
Section 14.

SEPARABILITY OF PROVISIONS:

If any provision of this Ordinance or the application thereof to any person or circumstance shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to the other circumstances shall not be affected thereby.

PASSED AND ADOPTED this 18th day of March, 2003.

**THE BOARD OF COMMISSIONERS
OF THE COUNTY OF MARTIN**



DELBERT HOWELL, President



PAUL MCFEATERS, Commissioner



WILLIAM SANDERS, Commissioner

ATTEST: 
FRANCES K. TAYLOR, Auditor