

ARTICLE II. - HOUSING<sup>[2]</sup>

## Sec. 11A-11. - Definitions.

The definitions set out in Section 11A-2 shall apply to this article in addition to the definition set forth below. As used in this article:

- (1) *Dwelling or dwelling unit* shall mean any building, mobile home, trailer, structure or portion thereof which is occupied, designed, arranged or intended for occupancy as a home, residence or sleeping place of one (1) or more persons, or vacant land which is offered for sale or lease for the construction or location of any building, mobile home, trailer or structure or portion thereof.
- (2) *Financial institution* shall include any bank, insurance company, savings and loan association, credit union, mortgage company or any other person or organization engaged in the business of lending money, guaranteeing loans, or extending credit.
- (3) *Mortgage broker* shall mean an individual who is engaged in or performs the business or services of a mortgage broker as defined in Chapter 494, Florida Statutes, as amended.
- (4) *Owner* shall include a lessor, lessee, sublessee, co-tenant, assignee, managing agent, manager or other person having the right to sell, rent, lease or control any housing or office accommodation.
- (5) *Premises* shall mean the interior or exterior spaces, parts, components or elements of a building including individual dwelling units and the public and common use areas of a building.
- (6) *Real estate broker or real estate salesperson* shall include any individual or agent thereof who is engaged in or performs the business or the services of a real estate broker or salesperson as defined in Chapter 475, Florida Statutes, as amended.
- (7) *Real property* includes buildings, portions of buildings, structures, lands, tenements, leaseholds, cooperatives, condominiums or any interest therein.
- (8) *Single-family dwelling* shall include a single-family home, mobile home, apartment, townhouse unit, cooperative unit or condominium unit.
- (9) *To rent* shall mean to lease, sublease, let or otherwise grant for consideration

the right to occupy premises not owned by the occupant.

- (10) *Conciliation* shall mean the attempted resolution of issues raised by a complaint or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director.
- (11) *Person* shall mean one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 [of the United States Code], receivers, and fiduciaries.
- (12) *Source of income* shall mean the lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant, including, but not limited to, Section 8 Housing Choice Vouchers, Supplemental Security Income, Social Security, pensions and other retirement benefits.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 9, 12-5-06; Ord. No. 09-53, § 10, 6-30-09)

Sec. 11A-12. - Unlawful housing practices.

- (1) *Discrimination in sale or rental of housing and other prohibited practices.* It shall be unlawful for any person, owner, financial institution, real estate broker, real estate agent or any representative of the above to engage in any of the following acts because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status, gender identity, gender expression, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking, of a prospective buyer, renter, lessee.
  - (a) To refuse to sell, purchase, rent, lease, finance, negotiate or otherwise deny to or withhold any dwelling or to evict a person; or
  - (b) To discriminate against a person in the terms, conditions, or privileges of the sale, purchase, rental or lease or any dwelling, or in the furnishing of facilities or services in connection therewith; or
  - (c) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any dwelling; or
  - (d) To represent to a person that any dwelling is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any dwelling; or

- (e) To refuse to lend money, whether or not secured by mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, improvement, repair or maintenance of any dwelling, to impose different terms or conditions of such financing or refuse to provide title or insurance relating to the ownership or use of any interest in any dwelling, or to refuse to provide appraisal or brokerage services; or
- (f) To refuse to purchase loans, debts, or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling or which are secured by residential real estate or to impose different terms or conditions for such purchases; or
- (g) To make, publish, print, circulate, post, mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any dwelling, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation which indicates any discrimination, any discriminatory preference, any intent to discriminate or any intent to make a discriminatory preference; or
- (h) To discriminate in any financial transaction involving real property because of its location, or to "red-line"; or
- (i) To offer, solicit, accept or use a listing of any dwelling for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental, lease, or the furnishing of facilities or services in connection therewith; or
- (j) To directly or indirectly induce or attempt to induce for profit, the sale, purchase, rental, lease or the listing for any of the above, of any dwelling by representing that the presence or anticipated presence of a person of a particular race, color, religion, national origin, age, sex, disability, familial status, marital status, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking, will or may result in blockbusting, such as but not limited to:
  - (i) The lowering of property values in the area;
  - (ii) An increase in criminal or anti-social behavior in the area; or
  - (iii) A decline in the quality of the schools or other services or facilities in the

area; or

- (k) To make any representations concerning the listing for sale, purchase, rental, or lease, or the anticipated listing of any sale, purchase, rental, or lease of any dwelling for the purpose of inducing or attempting to induce any such listing for any of the above transactions; or
  - (l) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play upon fear with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental, lease or listing of any dwelling on any basis prohibited by this chapter; or
  - (m) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter, or to obstruct or prevent any person from complying with the provisions of this chapter or any other issued thereunder; or
  - (n) To resist, prevent, impede or interfere with the Commission on Human Rights, its members and/or representatives in the lawful performance of their duties under this chapter; or
  - (o) To canvas to commit any unlawful practice prohibited by this chapter; or
  - (p) To deny or withhold any dwelling from a person on any basis prohibited by this chapter, or
  - (q) To deny any qualified person access to or membership in 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 such person in the terms or conditions of such access, membership, or participation on any basis prohibited by this chapter; or
  - (r) To coerce, intimidate, make threats, or harass people who have aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.
- (2) *Reasonable modification and reasonable accommodation for disabled.* It shall be a discriminatory housing practice to:
- (a) Refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises occupied or to be occupied by such disabled person if such modifications may be necessary to afford such

persons full enjoyment of the premises; except that in the case of a rental a 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 excepted;

- (b) Refuse to make a reasonable accommodation in rules, policies, practices or services, when such an accommodation may be necessary to afford a disabled person equal opportunity to use and enjoy the dwelling unit;
- (c) In connection with the design and construction of covered multifamily dwellings submitted for building permit on or after January 13, 1990 to fail to design and construct those housing accommodations in such a manner, that:
  - (i) The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;
  - (ii) All the doors designed to allow passage into and within all premises within such housing accommodations are sufficiently wide to allow passage by persons in wheelchairs; and
  - (iii) All premises within such accommodations contain the following features of an adaptive design:
    - (I) An accessible route into and throughout the dwelling, unless it is impracticable to do so because of the terrain or unusual characteristics of the site;
    - (II) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
    - (III) Reinforcements in the bathroom walls to allow later installation of grab bars; and
    - (IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
  - (iv) As used in this section, "covered multifamily dwelling" means a building which consists of four (4) or more dwelling units and has one (1) or more elevators; or the ground floor dwelling units of a building which consists of four (4) or more dwelling units and does not have an elevator.
  - (v) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped persons,

commonly cited as "ANSI A117.1 (1986)" suffices to satisfy the requirements of this Subsection (c). Public areas shall also comply with the standards set forth in the Americans with Disabilities Act Accessibility Guidelines.

- (d) 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 or whose tenancy would result in substantial physical damage to the property of others.

(3) *Parking accessibility for disabled.*

- (a) If parking is provided at the dwelling site then designated accessible parking at the dwelling unit or parking most convenient to the entrance served, shall be provided on request of residents with disabilities on the same terms and with the full range of choices (for example surface parking or garage) that are provided for other residents of the dwelling site. Accessible parking on a route accessible to wheelchairs shall be in a number at least equal to one (1) and not less than two (2) percent of the total number of covered dwelling units. Accessible visitor parking shall be provided sufficient to provide access to grade level entrances of covered multifamily dwellings and accessible parking at facilities (for example, swimming pools) that serve accessible buildings shall also be provided.
- (b) To meet the requirements of this chapter, those accessible resident spaces required in new construction must meet the width requirements specified for accessible spaces under Section 316.1955, Florida Statutes, as amended, or its successor and be adjacent to a five-foot access aisle on the same level. The slope of the spaces, and the portion of the access aisles adjacent to the spaces, shall not exceed two (2) percent in any direction. It shall not be required that the spaces be outlined in blue nor is it required to have a sign stating "parking by disabled permit only," unless such signs and striping are necessary to effectively reserve those spaces for the individuals to whom they are assigned. The spaces may be temporarily assigned to persons who do not have disabilities. A written policy must be provided to all residents who purchase or rent dwelling units stating that those spaces will be assigned or reassigned as a reasonable accommodation to residents with disabilities on the basis of need.

- (c) When the space is assigned to a resident with a disability the space must be marked in a manner that will effectively reserve that space for the individual to whom it is assigned. Where visitor or guest parking is provided at a residential building, parking for persons with disabilities shall be provided in the same numbers and with the same configuration and specifications as required in Section 316.1955, Florida Statutes, with the following exceptions. Where all of the spaces provided for visitors provide relatively equal convenience to the building served, are level, meet the width requirements specified for accessible spaces under Section 316.1955, Florida Statutes, are on an accessible route to the building, and have an adjacent access aisle at least five (5) feet wide on the same level, then no visitor spaces need to be marked or signed or otherwise reserved for visitors with disabilities.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 10, 12-5-06; Ord. No. 09-53, § 11, 6-30-09; Ord. No. 14-118, § 2, 12-2-14; Ord. No. 14-113, § 3, 11-5-14)

Sec. 11A-13. - Exceptions to unlawful housing practices.

(1) *Private individual owner.*

- (a) Dwelling site. The provisions of this article shall not apply to the rental, lease or sale of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of one another, if the owner actually maintains and occupies one (1) of the living quarters as his or her residence.

(2) The provisions of this article shall not apply to any private individual owner who sells or rents a single-family dwelling when the following conditions exist:

- (i) The private individual owner does not own more than three (3) such single-family dwellings at any one (1) time; and
- (ii) In the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period; and
- (iii) The private individual owner does not own any interest in, 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 (1) time; and
- (iv)

The sale or rental of any such single-family residence occurs without the use of sales or rental facilities or services of any real estate agent, broker or salesperson or his or her employee or agent or any person in the business of selling or renting dwellings and without the publication, posting or mailing, after notice of any advertisement or written notice in violation of this article.

However, nothing in this subsection shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

- (3) *Religious organization.* Nothing in this article shall prohibit a religious organization, association, society or any non-profit institution or 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 person, unless that religious organization, association or society restricts membership based on race, color, national origin, ancestry, or disability. Furthermore, nothing in this article relating to unlawful housing practices based on gender identity, gender expression or sexual orientation shall pertain to any religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.
- (4) *Private club.* Nothing in this article shall 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.
- (5) *Maximum occupancy laws.* Nothing in this article limits the applicability of any reasonable state law, County ordinance or municipal ordinance or restriction regarding the maximum number of occupants permitted to occupy a dwelling.
- (6) *Housing for older persons.* Nothing in this article regarding familial status shall apply to housing for older persons. As used in this article, "housing for older persons" means housing:
  - (a)



Under any state or federal government program that the Secretary of the United States Department of Housing and Urban Development or his or her designee or successor determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

- (b) Intended for and solely occupied by persons sixty-two (62) years of age or older; or
  - (c) Intended and operated for occupancy by persons fifty-five (55) years of age or older; and
    - (i) At least eighty (80) percent of the occupied dwelling units are occupied by at least one (1) person who is fifty-five (55) years of age or older; and
    - (ii) The dwelling facility or community complies with rules issued by the Secretary of Housing and Urban Development or his or her designee for verification of occupancy.
  - (d) A dwelling facility shall not fail to meet the requirements for "housing for older persons" by reason of:
    - (i) Persons residing in such housing as of October 1, 1989 who do not meet the age requirements of Section 11A-13(5)(b) or (c) provided that new occupants of such housing shall meet the age requirements of Section 11A-13(5)(b) or (c); or
    - (ii) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of Section 11A-13(5)(b) or (c).
- (7) *Furnishing appraisals.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, marital status, national origin, sexual orientation, source of income, or actual or perceived status as a victim of domestic violence, dating violence or stalking.
- (8) *Conviction for illegal manufacture or distribution of controlled substance.* Nothing in this chapter prohibits conduct against any person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 893.03, Florida Statutes, as amended, or its successor statute.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 14-118, § 2, 12-2-14; Ord. No. 14-113, § 4, 11-5-14)

## Sec. 11A-14. - Procedures for housing discrimination complaint..

- (1) *Filing a housing discrimination complaint.* Any person aggrieved by an unlawful housing practice prohibited by this article must file a written, signed complaint with the Director within one (1) year after the alleged unlawful practice has occurred or terminated. The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent. Such complaint may be amended; however, the amended complaint must be filed within one (1) year after the alleged unlawful practices occurs.
- (2) *Director's actions upon receipt of housing discrimination complaint.* Upon the filing of such complaint, the Director shall serve notice upon the complainant acknowledging such filing and advising the complainant of the time limits provided under this article including procedural rights and obligations. In a case of a housing discrimination complaint filed under Title VIII of the Civil Rights Act of 1968, as amended, the complainant shall also be advised of the choice of forums provided under the Act.
- (3) *Respondent.*
  - (a) Within ten (10) days of the filing of the complaint, the Director shall serve a copy of the complaint and a written notice on the respondent identifying the alleged discriminatory housing practice and setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the Commission on Human Rights or a Hearing Officer. Such service shall be by certified mail.
  - (b) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of an investigation, may be joined as an additional or substitute respondent upon written notice to such person from the Director. Notice shall be served upon such additional or substitute respondent within ten (10) days of such joinder or substitution and shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.
  - (c) The respondent may file an answer to the complaint, not later than ten (10) days after receipt of the complaint and notice from the Director.
- (4) *Investigation of housing discrimination complaint.*
  - (a) The Director shall commence the investigation of a housing discrimination

case within thirty (30) days of the filing of the complaint.

- (b) In conducting an investigation of any housing complaint, the Director shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence relevant to the complaint and may examine, record, photograph and copy such materials and take and record the testimony or statements of such persons and issue such interrogatories as are reasonably necessary for the furtherance of the investigation. The Commission may enter an order compelling answers to interrogatories. The Commission may issue subpoenas to compel access to or the production of materials, or appearance of persons, to the same extent and subject to the same limitations as all other subpoenas issued by the County Court of Miami-Dade County, Florida.

(5) *Subpoenas.*

- (a) Witnesses summoned by subpoena of the Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the County Court of Miami-Dade County, Florida. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by the party, or where the party is unable to pay due to indigence, shall be paid by the Commission.
- (b) Within ten (10) days after service of a subpoena upon any person, such person may petition the Commission to revoke or modify the subpoena. The Commission shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.
- (c) In the case of the contumacy or refusal to obey a subpoena, the Commission or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in the County Court of Miami-Dade County, Florida.
- (d)

In any enforcement proceeding authorized by this chapter, the court may award to the prevailing party all or part of the costs and Attorney's fees incurred in obtaining the court order as authorized by the Florida Rules of Civil Procedure;

- (e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.
  - (f) Any person who, with intent thereby to mislead the Commission or the Director, makes or causes to be made any false entry or statement of fact in any report, account, record or other document submitted to the Commission pursuant to its subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.
- (6) *Applicability of Florida Rules of Civil Procedure; applicable to all complaints.*
- (a) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed or allowed by this article or by rules, regulations or orders adopted pursuant to this article.
  - (b) All papers or pleadings required by this chapter to be served may be served by certified mail or in accordance with Rule 1.080, Florida Rules of Civil Procedure.
- (7) *Finding related to probable cause.*
- (a) The Director shall make a finding related to probable cause not later than one hundred (100) days from receipt of the complaint or amended complaint; provided, however, if the Director is unable to make a finding related to probable cause within one hundred (100) days after the filing of the complaint, the Director shall notify the complainant and the respondent in writing of the reasons for not doing so.
  - (b)

At the end of any investigation under this chapter, the Director shall prepare a finding related to probable cause consisting of a final investigative report and recommended order. The Director's final investigative report and recommended order shall contain:

- (i) The names and dates of contacts with witnesses;
  - (ii) A summary and the dates of correspondence and other contracts with the complainant and the respondent;
  - (iii) A summary description of other pertinent records;
  - (iv) A summary of witness statements;
  - (v) Any responses to requests for discovery; and
  - (vi) Recommendations including, but not limited to the issues of liability for a violation of this article, affirmative action, reasonable accommodation, quantifiable damages, costs, attorney's fees, interest and civil fines.
- (c) The Director's recommended order shall become final twenty (20) days after issuance, unless a hearing is requested in writing as provided in 11A-14(9)(a). The investigative report and final order may be amended if additional evidence is later discovered and if amended shall become final ten (10) days thereafter.
- (d) If the Director determines that no probable cause exists to believe that a violation of this chapter has occurred or is about to occur, the Director shall promptly dismiss the complaint. The Director shall publicly disclose each such dismissal.
- (8) *Conciliation.*
- (a) It is the policy of the Director and the Commission to encourage conciliation of complaints. The Director will work with the parties in an attempt to conciliate the complaint. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Director. Consistent with federal fair housing laws, a conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required to further the purpose of the federal Fair Housing Act or this article.
  - (b)

Whenever the Director has reasonable cause to believe that a party has breached a conciliation agreement, the Director shall refer the matter to the County Attorney with a recommendation that a civil action be filed in a court of competent jurisdiction for enforcement of such agreement.

- (c) Nothing said or done in the course of attempting conciliation under this chapter may be used as evidence in any subsequent proceeding under this chapter or otherwise without the written consent of the parties to the underlying complaint of unlawful conduct.

(9) *Hearing in front of Commission on Human Rights or Hearing Officer.*

- (a) If within twenty (20) days after receipt of the Director's finding related to probable cause under Title VIII of the Civil Rights Act of 1968 as amended, the complainant or respondent does not elect to have the findings decided in a civil action by a court of competent jurisdiction as prescribed in 11A-16 and a conciliation agreement has not been reached, then the Director shall provide an opportunity for a hearing before the Commission or a Hearing Officer.
- (b) The written request for a hearing shall be made by the complainant or respondent within twenty (20) days after receipt of the Director's determination. A written request for a hearing submitted more than twenty (20) days after receipt of the Director's determination may be granted only upon showing of good cause. The Director shall have the final authority in deciding whether a good cause has been shown. No hearing may be had from a Director's decision that good cause has not been shown. No hearing may be had from the Director's finding of lack of jurisdiction.
- (c) The hearing shall commence no later than one hundred twenty (120) days after the issuance of the Director's finding related to probable cause, unless it is impracticable to do so. If the Commission is not able to commence the hearing within one hundred twenty (120) days after the issuance of the Director's finding, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.
- (d) The Commission shall make findings of fact and conclusions of law within sixty (60) days after completion of the hearing, unless it is impracticable to do so. If the Commission does not make findings of fact and conclusions of law within sixty (60) days, then the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

- (e) The Commission shall not continue to conduct a hearing after the commencement of a trial of civil action by the complainant seeking relief with respect to the discriminatory housing practice which was the basis of the hearing.
  - (f) In any hearing before the Commission or Hearing Officer pursuant to this section, the respondent may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath. Upon written application to the Commission, a party shall be entitled to the issuance of a reasonable number of subpoenas to compel the attendance of witnesses and/or the production of documents at a hearing or at a deposition in connection with a hearing. Subpoenas issued at the request of a party shall show on their face the name and address of such party, shall state that they were issued at the party's request and shall be subject to the same limitations as subpoenas issued by the County Court of Miami-Dade County, Florida.
  - (g) Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.
  - (h) The Chairperson may direct that the parties to submit a pre-hearing statement addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.
  - (i) Upon the conclusion of the hearing, an adjudicative final order shall be issued and serviced upon the parties.
  - (j) In any proceeding under this article, the burden of proof rests upon the complainant.
  - (k) Copies of current rules of procedures shall be available at the office of the Director.
- (10) *Final administrative disposition.* The Commission or Director shall make a final administrative disposition of a complaint within one (1) year of the date of receipt of the complaint, unless it is impracticable to do so. If the Commission or Director is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 11, 12-5-06; Ord. No. 09-53, § 12, 6-30-09)

Sec. 11A-15. - Enforcement by private persons.

- (1) A complainant may file a civil action in a court of competent jurisdiction no later than two (2) years after the alleged discriminatory housing practice has occurred or terminated or after a breach of a conciliation agreement. A person aggrieved by an alleged housing discrimination practice or breach may file a civil action regardless of whether he or she has filed a complaint under this article and regardless of the status of any complaint filed under this article.
- (2) Any sale, encumbrance or rental consummated prior to the filing of a complaint of discrimination pursuant to this chapter, and involving a bona fide purchaser, encumbrance or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter shall not be affected.
- (3) If, in a private enforcement proceeding under this chapter, the court finds that a discriminatory practice has occurred or is about to occur it may issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including temporary or permanent injunctive and other equitable relief, temporary restraining order, actual and punitive damages, reasonable Attorney's fees, interest, costs or other order.
- (4) Upon request of the Commission, the County Attorney may intervene on behalf of the County in an action brought under the provisions of this article, if the Commission certifies that the case is of public importance to the citizens of Miami-Dade County.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 12, 12-5-06; Ord. No. 09-53, § 13, 6-30-09)

Sec. 11A-16. - Election of judicial determination.

- (1) This section shall pertain only to those housing discrimination complaints filed under Title VIII of the Civil Rights Act of 1968, as amended that result in the Director issuing a finding that probable cause exists to believe that a discriminatory act has occurred or is about to occur.
- (2) When the Director issues a finding that probable cause exists to believe that a discriminatory act has occurred or is about to occur under Title VIII of the Civil Rights Act of 1968, as amended, the complainant may elect to have the discrimination findings decided in a civil action by a court of competent jurisdiction in lieu of a hearing by the Commission as prescribed in Section 11A-14(9).



- (3) The decision to elect a civil action in lieu of a hearing by the Commission or a Hearing Officer must be made not later than twenty (20) days after the receipt of the Director's finding related to probable cause. The person who elects to pursue a civil action shall give notice of this election to the Commission, and to all other complainants and respondents to whom the complaint relates.
- (4) If the decision to elect a civil action is made, then the Commission shall authorize the election, and the Director shall provide complainant with an Attorney without cost to the complainant. Such Attorney shall commence a civil action on behalf of the complainant not later than thirty (30) days after election for civil action is made.
- (5) Any person aggrieved by the alleged discriminatory housing practices to be determined in the civil action may intervene as of right in that civil action.
- (6) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the complainant actual and punitive damages, court costs and reasonable Attorney fees and may grant any relief such as permanent or temporary injunction, temporary restraining order, or other order as may be appropriate.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 09-53, § 14, 6-30-09)

#### Sec. 11A-17. - Civil fines.

- (1) At the conclusion of a hearing and upon a finding of housing discrimination in violation of Title VIII of the Civil Rights Act of 1968 as amended, the Board may recommend that the County Attorney commence a civil action for fines without cost to the complainant. Such civil action shall be commenced within ninety (90) days of the issuance of the final order by the Board. If such civil action is brought the court may impose the following fines:
  - (a) Up to ten thousand dollars (\$10,000.00) if the respondent has not previously been found guilty of a violation of this article;
  - (b) Up to twenty-five thousand dollars (\$25,000.00) if the respondent has been found guilty of one (1) prior violation of this article within the preceding five (5) years prior to filing of a complaint;
  - (c) Up to fifty thousand dollars (\$50,000.00) if the respondent has been found guilty of two (2) or more violations of this article within the preceding seven (7) years prior to filing of a complaint.

- (2) In imposing a fine under this section, the court shall consider the nature and circumstances of the violation, the degree of culpability, the history of prior violations of this article, the financial circumstances of the respondent and the goal of deterring future violations of this article.
- (3) All fines imposed pursuant to this article shall be paid to the Board of County Commissioners.

(Ord. No. 97-17, § 1, 2-25-97)

Sec. 11A-18. - Real Estate Salespersons and Brokers, report to Real Estate Commission.

If a Real Estate Broker or any representative or employee thereof fails to comply with any order issued by the Director or Board or a designated representative thereof, or has been found to have committed an unlawful practice in violation of this chapter, the Director shall, in addition to the other procedures and penalties set forth herein, report the Real Estate Broker to the Real Estate Commission of the State of Florida.

(Ord. No. 97-17, § 1, 2-25-97)

Sec. 11A-18.1. - Required notices in connection with application to purchase or rent a dwelling.

- (a) Within fifteen (15) days after receipt of any incomplete or incorrectly completed application (or amended application) to purchase or rent a dwelling, the condominium association, homeowners' association, or cooperative association shall provide the applicant with written notice specifically identifying any and all items in the application that need to be completed or corrected.
- (b) Within forty-five (45) days after receipt of a correctly completed application, the condominium association, homeowners' association, or cooperative association shall either reject or approve the application and shall provide the applicant with written notice of same. If the application is rejected, the written notice must state with specificity each reason for the rejection.
- (c) If the condominium association, homeowners' association, or cooperative association fails to comply with the provisions of Section 11A-18.1 (a) and (b), of this article, the Director or the Commission may send a demand letter requesting that the condominium association, homeowners' association, or cooperative association, within ten (10) days after the date of the demand letter, provide to the applicant and the Director or the Commission a written acknowledgement of

application receipt, notice of approval or rejection of the application, and notice specifying each reason for the rejection (if applicable). The failure of the condominium association, homeowners' association, or cooperative association to timely comply with this provision may be considered in determining whether reasonable cause exists to believe the association's decision or action was discriminatory.

(Ord. No. 14-63, § 1, 7-1-14)