

**Shalley, Nicole M.**

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**From:** Marshall, Teneeshia L  
**Sent:** Friday, April 12, 2019 11:37 AM  
**To:** Arreola, David I; Warren, Helen K.; Hayes-Santos, Adrian; Simmons, Gigi G  
**Cc:** Murry, Fredrick J.; Shalley, Nicole M.; Look, Jeffrey S.  
**Subject:** Follow-up items from the April 2 Rental Housing Subcommittee Meeting  
**Attachments:** April 2 2019 Follow-up memo.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Members of the Rental Housing Subcommittee,

This email and attached documents are in response to part 5 of your motion on April 2, 2019, which was to provide information on Alachua County's immigration status prohibited practices, as well as information regarding source of income protections from Broward County, Miami-Dade County and other counties.

The attached document and exhibits will provide the requested information. Should you have any questions, please feel free to contact me. Thank you.

Teneeshia L. Marshall  
City of Gainesville  
Equal Opportunity Director  
(352) 393-8722  
[marshalltl@cityofgainesville.org](mailto:marshalltl@cityofgainesville.org)



**DATE:** April 12, 2019  
**TO:** Rental Housing Subcommittee Members  
**FROM:** Teneeshia L. Marshall, Equal Opportunity Director  
**SUBJECT:** Requested follow-up on landlord/tenant topics

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During the April 2, 2019 meeting of the Rental Housing Subcommittee, you requested that staff report back on the following topics:

1. Alachua County's immigration status prohibited practices;
2. Source of income protections from Broward County;
3. Source of income protections from Miami-Dade County;
4. Source of income information from other counties.

When considering the above, this Office offers the following:

**1. Alachua County's immigration status prohibited practices.**

Alachua County defined "citizenship status" in their draft ordinance as "a perception that the person has a particular citizenship status, or that the person is associated with a person who has, or is perceived to have a particular citizenship status."

Alachua County's draft ordinance would prohibit any landlord or agent to 1) require or request that any tenant, prospective tenant, occupant, prospective occupant, or guest of residential rental property disclose or make any statement, representation or certification concerning his or her citizenship status. 2) Disclose to any person or entity information regarding or relating to citizenship status of any tenant, prospective tenant, occupant, or prospective occupant of the residential rental property for the purpose of, harassing or intimidating a tenant, prospective tenant, occupant, or prospective occupant, retaliating against a tenant or occupant for the exercise of his or her rights, influencing a tenant or occupant to vacate a dwelling, or recovering possession of the dwelling. A copy is attached as **Exhibit A**.

Currently, the Federal Fair Housing Act, nor the City's Fair Housing Code currently include immigration status as a protected class; however, both include national origin as a protected class. Procedures to screen tenants on the basis of citizenship or immigration status may violate the prohibitions on national origin housing discrimination. As such, HUD and the City EO Department will investigate complaints alleging that a landlord inquired into a person's immigration status or citizenship to see whether national origin discrimination may have occurred. If immigration status or citizenship status is added as a

protected class, staff will have to ensure that a complaint is taken based on national origin AND immigration/citizenship status. Because immigration status is not a designated protected class, in order to preserve the complainants rights under federal laws, the City's staff would also be required to investigate the complaint based on national origin.

Again, landlords are allowed to request documentation and conduct inquiries to determine whether a potential renter meets the criteria for rental, so long as the same procedure is applied to all potential renters. Landlords can ask for identity documents and institute income and credit verification to ensure ability to pay rent. However, they cannot be treated differently because of their national origin. Please see attached Immigration Status and Housing Discrimination Frequently Asked Questions from the U.S. Department of Housing and Urban Development as **Exhibit B**.

It is also illegal to coerce, intimidate, threaten, or interfere with a person's exercise or enjoyment of rights granted or protected by the Fair Housing Act. This includes threats to U.S. Immigration and Customs Enforcements (ICE) if they report housing discrimination. Currently, ICE has a policy for individuals pursuing legitimate civil rights complaints, which includes Fair Housing complaints with HUD. Please see attached June 17, 2011 memo from John Morton, ICE Director on "Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs," as **Exhibit C**.

## **2. Source of income protections from Broward County.**

On December 6, 2017, Broward County added lawful source of income as an additional protection to their Housing Code. Lawful source of income is defined as "the origin or cause of a legal gain or recurrent benefit, often measured in money or currency, including, but not limited to, income derived from social security, supplemental security income, child support, alimony, veteran's benefits, disability benefits, unemployment, pension and retirement benefits, an annuity, a gift, an inheritance, the sale or pledge of or interest in property, or any form of federal, state, or local public or housing assistance or subsidy, including Housing Choice Voucher Program or 'Section 8' vouchers, whether such income is received directly or indirectly by the renter or purchaser and even if such income includes additional federal, state, or local requirements."

Attempts to reach out to Broward County were unsuccessful.

[https://library.municode.com/FL/broward\\_county/codes/code\\_of\\_ordinances?nodeId=PTICCOOR\\_CH16\\_1-2HURI\\_ARTIIDIPR](https://library.municode.com/FL/broward_county/codes/code_of_ordinances?nodeId=PTICCOOR_CH16_1-2HURI_ARTIIDIPR)

## **3. Source of income protections from Miami-Dade County.**

Miami-Dade County has also added lawful source of income as a protected class under their fair housing ordinances. Source of income is defined as "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."

Currently, the ordinance is enforced by the Miami-Dade County Commission on Human Rights. Potential violations can be reported via their discrimination complaint process online. The ordinance is

enforced through the complaint process and is investigated by the Commission staff and Human Resources, which is one in the same.

In the event that the Director and/or Commission finds cause to believe that discrimination has taken place, they will make such necessary recommendations to put the aggrieved party in the same position as he/she would have been, absent the discrimination. These recommendations may include, but not be limited to, training and/or civil fines. The Miami-Dade County Commission on Human Rights' recommendations will become final after 15 days, unless either party appeals to the Commission or pursues the matter in a court of appropriate jurisdiction.

Miami-Dade County has taken several complaints based on source of income. Current information reflects they've had six (6) closed citing violations of the ordinance and three (3) have been settled through their mediation process.

[https://library.municode.com/fl/miami -  
dade county/codes/code\\_of\\_ordinances?nodeId=PTMICOOR\\_CH11ADI\\_ART11HO](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTMICOOR_CH11ADI_ART11HO)

#### **4. Source of income information from other counties.**

Currently, the City of Seattle, WA covers source of income as a protected class under their Fair Housing code, which was adopted on September 19, 2016. The City currently has a very thorough Frequently Asked Questions link on their website that addresses some of the most common questions that have been received regarding their new protection.

<https://www.seattle.gov/civilrights/civil-rights/fair-housing/source-of-income-protections/faq-alternative-source-of-income-subsidies-and-preferred-employer-programs>

Currently, their new ordinance is enforced by the Seattle Office of Civil Rights. Complaints can be filed in person, over the phone or through their online web form. Complaints are investigated by the Seattle OCR staff.

In the event a violation is found, it is typically resolved through early resolution. The remedies could result in a fine and also requires the posting of a fair housing poster, the attendance of training and possible revisions of policies. If early resolution is not reached, the case would go to the City Attorney's Office or be filed with the Hearing Examiner. Through this process, a landlord could potentially be fined higher fines. There could also be other civil penalties imposed as well as the reimbursement of attorney's fees.

The City of Seattle is currently receiving between 10-20 source of income complaints a year.

<http://www.seattle.gov/civilrights/civil-rights>



# **EXHIBIT A**

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ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 2019-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, AMENDING CHAPTER 111, HUMAN RIGHTS; PROVIDING FOR ADDITIONAL PROTECTIONS FROM DISCRIMINATION IN HOUSING AND REAL ESTATE TRANSACTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALING CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

SECTION 1. Article I, Sections 111.01 through 111.08 of Chapter 111, HUMAN RIGHTS, are hereby amended as follows:

CHAPTER 111. HUMAN RIGHTS

ARTICLE I. GENERAL PROVISIONS

Sec. 111.01 Legislative Findings.

It is hereby declared by the Alachua County Board of County Commissioners that:

(a) It is a matter of concern to the Board to protect and safeguard the right and opportunity of all individuals to be free from discrimination, including discrimination based on race, color, national origin, religion, sex, marital status, ~~familial status~~, age, disability, sexual orientation, gender identity or expression; and

(b) The Board's purpose in enacting this ordinance is to promote the personal dignity, public safety, health and general welfare of all individuals who live in, visit and work in Alachua County; and

(c) Discriminatory practices are contrary to the public policy of Alachua County and are a menace to the personal dignity, public safety, health and general welfare of our citizens and, as such, the Board shall direct its efforts toward eliminating discriminatory practices within Alachua County in the areas of employment, housing and public accommodations.

1 **Sec. 111.02 Title of chapter.**

2 Chapter 111, Articles I-IV shall be known and cited as the "Human Rights Ordinance" of  
3 Alachua County.

4  
5 **Sec. 111.03 Intent of chapter.**

6 It is the intent of this chapter to:

7 (a) secure for all individuals within Alachua County freedom from discrimination  
8 because of race, color, national origin, religion, sex, marital status, age, disability,  
9 sexual orientation, gender identity or expression in connection with employment,  
10 housing or public accommodations; and

11 (a)(b) prohibit discrimination in housing and real estate transactions based on familial  
12 status, veterans or service member status, lawful source of income, citizenship status,  
13 or being the victim of dating violence, domestic violence or stalking.  
14

15 **Sec. 111.04 Territorial jurisdiction.**

16 This chapter shall be applicable to incidents of alleged discriminatory practices within the  
17 geographic boundaries of Alachua County. If any municipality in Alachua County has in force  
18 or adopts its own human rights ordinance, such municipal ordinance shall prevail over the  
19 Human Rights Ordinance of Alachua County to the extent of any conflict between the two  
20 ordinances.

21  
22 **Sec. 111.05 Definitions.**

23 The following words, terms, and phrases, when used in this chapter, shall have the  
24 meanings ascribed to them in this section, except where the context clearly indicates a different  
25 meaning:

26 Age means ~~P~~person(s) who are 18 years of age or older.

27  
28 Aggrieved person means ~~A~~any person who claims to have been injured by a  
29 discriminatory practice or believes that he or she will be injured by a discriminatory practice that  
30 is about to occur.

31  
32 Because of sex or on the basis of sex includes but is not limited to, because of or on the  
33 basis of pregnancy, childbirth or related medical conditions.

34  
35 Board means the Alachua County Human Rights Board created by this chapter.

36  
37 Citizenship status includes a perception that the person has a particular citizenship status,  
38 or that the person is associated with a person who has, or is perceived to have, a particular  
39 citizenship status.

40  
41 Complainant means ~~A~~a person who files a complaint with the county pursuant to this  
42 chapter.



1 Covered multifamily dwelling means:

- 2
- 3 (1) A building which consists of four or more units and has an elevator; or
- 4
- 5 (2) Ground floor units of a building which consists of four or more units and does not
- 6 have an elevator.
- 7

8 Disability means, as the term pertains to an individual:

9

- 10 (1) A physical or mental impairment that substantially limits one or more of the major
- 11 life activities of such individual;

12 (a) Major life activities mean basic activities that the average person in the

13 general population can perform with little or no difficulty including

14 but not limited to, caring for oneself, performing manual tasks,

15 walking, sitting, standing, lifting, seeing, hearing, speaking, breathing,

16 learning, thinking, concentrating, working and interacting with other

17 people. Major life activities also includes major bodily functions

18 including, but not limited to, functions of the immune system, normal

19 cell growth, digestive, bowel, bladder, neurological, brain, respiratory,

20 circulatory, endocrine, and reproductive functions.

21 (b) Substantially limits means how an impairment affects the ability to

22 perform a major life activity and is to be construed broadly in favor of

23 expansive coverage, to the maximum extent permitted by the terms of

24 federal or state anti-discrimination laws and regulations.

- 25 ~~(1)(2)~~ A record of such impairment; or
- 26

- 27 (3) Being regarded as having such an impairment.
- 28

29 For purposes of the sections of this chapter as they relate to employment, such term does

30 not include any individual who is an alcohol or drug abuser whose current use of alcohol or

31 drugs prevents such individual from performing the duties of the job in question or whose

32 employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to

33 the property or safety of others.

34

35 Discriminatory practice means an act that is unlawful under this chapter.

36

37 Domestic partner means a person in a legal or personal relationship between two

38 individuals (not related by blood) who live together and share a common domestic life but are

39 neither joined by marriage nor a civil union, pursuant to a state or municipal Domestic Partner

40 Registry.

41

- 42 (1) Domestic partnership as recognized under this ordinance shall not be construed to
- 43 rise to the level of marriage as defined under state or federal law.

1  
2 *Employee* means any individual employed by or seeking employment from an employer.  
3

4 *Employer* means any person employing five (5) or more employees for each working day  
5 in each of four (4) or more consecutive calendar weeks in the current or preceding calendar year,  
6 and any agent of such person. Such term shall include Alachua County Board of County  
7 Commissioners, but shall not include:  
8

9 (1) The United States or a corporation wholly owned by the government of the  
10 United States; the State of Florida, any municipal government within Alachua County, or other  
11 governmental entity within Alachua County;  
12

13 (2) An Indian tribe; or  
14

15 (3) A bona fide private membership club (other than a labor organization) which is  
16 exempt from taxation under section 501(c) of title 26, United States Code.  
17

18 *Employment agency* means any person regularly undertaking, with or without  
19 compensation, to procure employees for an employer, or to procure for employees opportunities  
20 to work for an employer, and includes an agent of such a person.  
21

22 *Familial status* means a status that is established when an individual who has not attained  
23 the age of 18 years is domiciled with:  
24

25 (1) A parent or other person having legal custody of such individual; or  
26

27 (2) A designee of a parent or other person having legal custody, with the written  
28 permission of such parent or other person.  
29

30 *Family* ~~includes~~ a single individual.  
31

32 *Genetic information* ~~includes~~ information about an individual's genetic tests and the  
33 genetic tests of an individual's family members, as well as information about the manifestation  
34 of a disease or disorder in an individual's family members (i.e. family medical history).  
35

36 *Gender identity or expression* ~~shall mean~~ an individual's physical appearance,  
37 presentation or representation of being a male or a female, regardless of that individual's  
38 assigned sex at birth.  
39

40 *Housing accommodation* ~~means Any building, structure, or portion thereof, mobile~~  
41 home, or trailer, or other facility which is occupied as, or designed or intended for occupancy as,  
42 a residence by one or more families, and any vacant land which is offered for sale or lease for the  
43 construction or location thereon of any such building, structure, or portion thereof, mobile home  
44 or trailer, or other facility.  
45  
46

1 Housing and real estate transaction means The sale, purchase, exchange, rental, or  
2 lease of real property, and any agreement or contract pertaining thereto, or housing  
3 accommodation. Any building, structure, or portion thereof, mobile home, or trailer, or other  
4 facility which is occupied as, or designed or intended for occupancy as, a residence by one or  
5 more families, and any vacant land which is offered for sale or lease for the construction or  
6 location thereon of any such building, structure, or portion thereof, mobile home or trailer, or  
7 other facility.

8  
9 Immigration or citizenship status includes a perception that the person has a particular  
10 immigration status or citizenship status, or that the person is associated with a person who has, or  
11 is perceived to have, a particular immigration status or citizenship status.

12  
13 *Labor organization means:*

14  
15 (1) An organization of any kind representing employees in dealing with employers  
16 concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of  
17 employment;

18  
19 (2) A conference, general committee, joint or system board, or joint council which is  
20 subordinate to a national or international labor organization; or

21  
22 (3) An agent of a labor organization.

23  
24 Lending institution means Any bank, insurance company, savings and loan association,  
25 mortgage company, or any other person or organization regularly engaged in the business of  
26 lending money or guaranteeing loans, or sources of credit information, including, but not limited  
27 to, credit bureaus.

28  
29  
30 Lawful source of income. Shall means the lawful, verifiable income paid directly to a  
31 tenant or paid to a representative of a tenant, including but not limited to, income derived from  
32 social security, supplemental security income, child support, alimony, veteran's benefits,  
33 disability benefits, pension and retirement benefits, or any form of federal, state, or local public,  
34 food, or housing assistance or subsidy, including assistance from the Supplemental Nutrition  
35 Assistance Program (SNAP) and the Housing Choice Voucher Program or "Section 8" vouchers,  
36 whether such income is received directly or indirectly by the renter or purchaser and includes  
37 supplemental income. Lawful source of income does not require a landlord to participate in U.S.  
38 Department of Housing and Urban Development housing choice voucher program.

39  
40 Major life activities mean basic activities that the average person in the general  
41 population can perform with little or no difficulty including, but not limited to, caring for  
42 oneself, performing manual tasks, walking, sitting, standing, lifting, seeing, hearing, speaking,  
43 breathing, learning, thinking, concentrating, working and interacting with other people. Major  
44 life activities also includes major bodily functions including, but not limited to, functions of the  
45 immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory,  
46 circulatory, endocrine, and reproductive functions.

1  
2 *Manager* means the manager of the Alachua County Equal Opportunity Office.  
3

4 *Marital Status* means an individual's status of being married, separated, or unmarried,  
5 including being single, divorced, widowed or a domestic partner.  
6

7 *National Origin* means to be from a particular country or part of the world by ancestry,  
8 naturally, by marriage, or by adoption.  
9

10 *Owner* means ~~Any~~ person, including, but not limited to, a lessee, sub-lessee, assignee,  
11 manager, or agent, and also including Alachua County government, having the right of  
12 ownership or possession, or the authority to sell or lease any housing accommodation.  
13

14 *Person* includes an individual, association, corporation, joint apprenticeship committee,  
15 joint-stock company, labor union, legal representative, mutual company, partnership, receiver,  
16 trust, trustee in bankruptcy, or unincorporated organization, any other legal or commercial entity,  
17 the state, or any other governmental entity or agency.  
18

19 *Place of public accommodation* means an establishment which serves or holds itself out  
20 to serve the public, including where a member of the public would go to seek the goods, services  
21 and facilities which are held out as being open to the public.  
22

23 *Private membership club* means ~~A~~ private organization which is exempt from taxation  
24 under section 501 (c) of title 26, United States Code; has meaningful conditions on limited  
25 membership and eligibility requirements; is controlled or owned by club members and restricts  
26 facilities and services to members and their guests.  
27

28 *Protected status or characteristic* means ~~R~~race, color, national origin, religion, sex,  
29 marital status, age, disability, sexual orientation, gender identity or expression.  
30

31 *Protected status or characteristic in housing and real estate transactions* means ~~R~~race,  
32 color, national origin, religion, sex, marital status, age, disability, sexual orientation, gender  
33 identity or expression, familial status, veteran or service member status, lawful source of income,  
34 immigration/citizenship status, or being the victim of dating violence, domestic violence, or  
35 stalking.  
36

37 *Real estate broker or salesperson* means ~~A~~ person, whether licensed or not, who lists,  
38 sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to  
39 negotiate any of these activities, or who holds himself or herself out as engaged in these  
40 activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage  
41 or other encumbrance upon real property, or who is engaged in the business of listing real  
42 property in a publication; or a person employed by or acting on behalf of any of these.  
43

44 *Real estate transaction* ~~The sale, purchase, exchange, rental, or lease of real property,~~  
45 ~~and any contract pertaining thereto.~~  
46

1 *Readily achievable* means easily accomplishable and able to be carried out without much  
2 difficulty or expense.  
3

4 *Rent* means ~~lease~~, sublease, assignment, and/or rental, including any contract to do any  
5 of the foregoing, or otherwise granting for a consideration the right to occupy premises that are  
6 not owned by the occupant.  
7

8 *Respondent* means ~~Any~~ person against whom a complaint is filed pursuant to this  
9 chapter.  
10

11 *Sale* means ~~Any~~ contract to sell, exchange, or to convey, transfer, or assign legal or  
12 equitable title to, or a beneficial interest in, real property.  
13

14 *Service member status* means ~~is a status as defined by federal law and includes the state~~  
15 ~~erof serving on active duty in the armed forces of the United States, including the Reserves and~~  
16 National Guard.  
17

18 *Sexual orientation* means an individual's actual or perceived heterosexuality,  
19 homosexuality or bisexuality.  
20

21 ~~Substantially limits means how an impairment affects the ability to perform a major life~~  
22 ~~activity and is to be construed broadly in favor of expansive coverage, to the maximum extent~~  
23 ~~permitted by the terms of federal or state anti-discrimination laws and regulations.~~  
24

25 *Transgender* means an individual whose gender identity or expression differs from his or  
26 her assigned sex at birth.  
27

28 *Transitioning* means the process of permanently changing one's gender.  
29

30 *Veteran status* means the state of having served in any branch of the armed forces of the  
31 United States, including the Reserves and National Guard, and having been discharged or  
32 released under conditions other than dishonorable as defined under federal law.  
33

34 *Victim of dating violence* means a person who has been subjected to acts or threats of  
35 violence, not including acts of self-defense, during the course of a significant relationship of a  
36 romantic or intimate nature, committed by another person under the following circumstances:

- 37 (1) The nature of the relationship was characterized by the expectation of affection or  
38 sexual involvement between the individuals; and  
39 (2) The frequency and type of interaction between the individuals was on a continuous  
40 basis during the course of the relationship

41 This does not include violence between individuals involved in a casual acquaintanceship  
42 or individuals who have engaged only in ordinary fraternization in a business or social  
43 context.  
44



1 Victim of domestic violence means a family or household member who has been  
2 subjected to acts or threats of violence, not including acts of self-defense, by another family or  
3 household member.

4 For purposes of this ordinance, "family or household member" includes:

5 (1) A current or former spouse of the victim;

6 (2) A person with whom the victim shares a child in common;

7 (3) A person who is cohabitating with or has cohabitated with the victim; or

8 (4) A person who is or has continually or at regular intervals lived in the same household  
9 as the victim.

10  
11 Victim of stalking means a victim of acts that constitute or are deemed under state law to  
12 be willful, malicious, and repeated following, harassing or cyberstalking of another person, or  
13 the making of a credible threat with the intent to place that victim in reasonable fear of death or  
14 bodily injury of the person, or the person's spouse, child, parent, sibling or dependent. The term  
15 "cyberstalking" means engaging in a course of conduct to communicate or cause to be  
16 communicated, words, images or language by or through the use of electronic mail or electronic  
17 communication, directed at a specific person, causing substantial emotional distress to that  
18 person and serving no legitimate purpose.

19  
20 **Sec. 111.06 Generally.**

21 It is a violation of this chapter for a person who owns or operates a place of employment,  
22 housing or public accommodation, either personally or through the actions of an employee or  
23 independent contractor, to:

24  
25 (a) discriminate against a person in employment, housing or public accommodations  
26 because of that individual's protected status or characteristic; or

27  
28 (b) display or publish any written communication which is to the effect that a person  
29 is unwelcome, objectionable or unacceptable because of that individual's protected status or  
30 characteristic.

31  
32  
33 **Sec. 111.07 Incorporation of federal and state regulations.**

34 With respect to the provisions of this chapter which relate to the prohibition of  
35 discrimination in employment, housing or public accommodations, the applicable provisions of  
36 federal and state anti-discrimination laws and regulations promulgated pursuant thereto are  
37 hereby incorporated by reference as if set out in full herein.

38  
39 **Sec. 111.08 Retaliation, coercion, interference, obstruction, or prevention of compliance**  
40 **with this chapter.**

41 It is an unlawful discriminatory practice for a person to conspire to:

42  
43 (a) Retaliate or discriminate against a person because he or she has opposed a  
44 discriminatory practice, or because he or she has made a charge, filed a complaint, testified,  
45 assisted, or participated in an investigation, proceeding, or hearing under this chapter.

(b) Aid, abet, incite, or coerce a person to engage in an unlawful discriminatory practice.

(c) Willfully interfere with the performance of a duty or the exercise of a power by the board or manager, or one of their staff members or representatives.

(d) Willfully obstruct or prevent a person from complying with the provisions of this chapter or an order issued hereunder.

**SECTION 2.** Article III of Chapter 111, HUMAN RIGHTS, is hereby amended as follows:

### **ARTICLE III. FAIR HOUSING**

#### **Sec. 111.40 Discrimination in housing.**

Except as provided in section 111.41, the following shall be unlawful and discriminatory housing practices, by an owner, real estate broker, as defined in this chapter, or any other person engaging in a real estate transaction, on the basis of a protected status or characteristic in housing.

(a) *Sale or rental; advertising of sale or rental.*

(1) *Refusal.* To refuse to engage in a real estate transaction or otherwise make unavailable or deny housing to any person;

(2) *Terms; free association.* To discriminate against a person in the terms, conditions, or privileges of a real estate transaction, or in the furnishing of facilities or services in connection therewith, or because of such person's exercise of his right to free association;

(3) *Offer.* To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from any person;

(4) *Negotiation.* To refuse to negotiate for a real estate transaction with a person;

(5) *Availability; inspection.* To represent to a person that housing is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to such person's attention, or to refuse to permit him or her to inspect the housing;

(6) *Leading.* To steer any person away from or to any housing:

1  
2 (7) *Notice; record.* To make, print, publish, circulate, post, or mail, or cause  
3 to be made, printed, published, or circulated, any notice, statement, advertisement, or sign, or to  
4 use a form of application or photograph for a real estate transaction or, except in connection with  
5 a written affirmative action plan, to make a record or oral or written inquiry in connection with a  
6 prospective real estate transaction, which indicates directly or indirectly an intent to make a  
7 limitation, specification, or discrimination with respect thereto;  
8

9 (8) *Listing.* To offer, solicit, accept, use, or retain a listing of housing with the  
10 understanding that a person may be discriminated against in a real estate transaction or in the  
11 furnishing of facilities or services in connection therewith;  
12

13 (9) *Proximity of certain housing.* To induce or attempt to induce any person to  
14 transfer an interest in any housing by representations regarding the existing or potential  
15 proximity of housing owned, used, or occupied by any person protected by the terms of this  
16 article;  
17

18 (10) *Misrepresentation of listing.* To make any misrepresentation concerning  
19 the listing for sale or rental, or the anticipated listing for sale or rental, or the sale or rental of any  
20 housing for the purpose of inducing or attempting to induce any such listing or any of the above  
21 transactions;  
22

23 (11) *Retaliation.* To retaliate or discriminate in any manner against any person  
24 because of their opposition to a practice declared unlawful by this article, or because he or she  
25 has filed a complaint, testified, assisted, or participated in any manner in any investigation,  
26 proceeding, or conference under this article;  
27

28 (12) *Opposition.* To aid, abet, incite, compel, or coerce any person to engage in  
29 any of the practices prohibited by the provisions of this article, or to obstruct or prevent any  
30 person from complying with the provisions of this article, or any conciliation agreement entered  
31 into hereunder;  
32

33 (13) *Causing violation.* By causing any person to compel any practice  
34 prohibited by the provisions of this article;  
35

36 (14) *Denying accommodation.* Otherwise to deny to, or withhold, any housing  
37 accommodations from a person;  
38

39 (15) *Inciting unrest.* To promote, incite, influence, or attempt to promote,  
40 induce, or influence by the use of postal cards, letters, circulars, telephone, visitation, or any  
41 other means, directly or indirectly, a property owner, occupant, or tenant to list for sale, sell,  
42 remove from, lease, assign, transfer, or otherwise dispose of any housing by referring, as a part  
43 of a process or pattern of inciting neighborhood unrest, community tension based on a protected  
44 status or characteristic of actual or anticipated neighbors, tenants, or other prospective buyers of  
45 any housing;  
46



1 (16) *False information to obtain listing.* To cause to be made any untrue or  
2 intentionally misleading statement or advertisement or, in any other manner, attempt, as a part of  
3 a process or pattern of inciting neighborhood unrest, community tension in any street, block,  
4 neighborhood, or any other area, to obtain a listing of any housing for sale, rental, assignment,  
5 transfer, or other disposition, where such statement or other representation is false or materially  
6 misleading, or where there is insufficient basis to judge its truth or falsity to warrant making the  
7 statement, or to make any other material misrepresentation in order to obtain such listing, sale,  
8 removal from, lease, assignment, transfer, or other disposition of said housing; or  
9

10 (17) *Signs.* To place a sign or display any other device, either purporting to  
11 offer to sell, lease, assign, transfer, or make other disposition or tending to lead to the belief that  
12 a bona fide offer is being made to sell, lease, assign, transfer, or otherwise dispose of any  
13 housing that is not in fact available or offered for sale, lease, assignment, transfer, or other  
14 disposition.  
15

16 (18) *Immigration or Citizenship Status.* A landlord or any agent of a landlord,  
17 shall not do ~~any~~ either of the following:  
18

19 a. Require or request that any tenant, prospective tenant, occupant,  
20 prospective occupant, or guest of the residential rental property disclose or make any statement,  
21 representation, or certification concerning his or her immigration or citizenship status.  
22

23 b. Disclose to any person or entity information regarding or relating  
24 to the immigration or citizenship status of any tenant, prospective tenant, occupant, or  
25 prospective occupant of the residential rental property for the purpose of, harassing or  
26 intimidating a tenant, prospective tenant, occupant, or prospective occupant, retaliating against a  
27 tenant or occupant for the exercise of his or her rights, influencing a tenant or occupant to vacate  
28 a dwelling, or recovering possession of the dwelling.  
29

30 c. This section does not prohibit a landlord or any agent of a landlord  
31 ferom doing any either of the following:  
32

33 i. Complying with any legal obligation under state or federal  
34 law, including, but not limited to, any legal obligation(s)  
35 under any state or federal government program(s) that provide  
36 for rent limitations or rental assistance to a qualified tenant, or  
37 a subpoena, warrant, or other order issued by a court,  
38

39 i. Requesting information or documentation necessary to  
40 determine or verify the financial or background qualifications  
41 of a prospective tenant, or to determine or verify the identity  
42 of a prospective tenant or prospective occupant,  
43

44 ii. \_\_\_\_\_

1 (b) *Financing and residential real estate transactions.*

2  
3 (1) It shall be unlawful and a discriminatory housing practice for any lending  
4 institution, as defined in this chapter, to deny a loan or other financial assistance to a person  
5 applying therefor for the purpose of purchasing, constructing, improving, repairing, or  
6 maintaining housing, or to discriminate against such person in the fixing of the amount, interest  
7 rate, duration or other terms or conditions of such loan or other financial assistance, because of a  
8 protected status or characteristic of such person or of any person associated with such person in  
9 connection with such loan or other financial assistance, or for purposes of such loan or other  
10 assistance, or of the present or prospective owners, lessees, tenants, or occupants of the housing  
11 in relation to which such loan or other financial assistance is to be made or given; provided that  
12 nothing contained in this subsection shall impair the scope or effectiveness of the exceptions  
13 contained in section 111.41  
14

15 (2) It is unlawful for any person or entity whose business includes engaging in  
16 residential real estate transactions to discriminate against any person in making available such a  
17 transaction, or in the terms or conditions of such a transaction, because of a protected status or  
18 characteristic. The term "residential real estate transaction" means any of the following:  
19

- 20 a. The making or purchasing of loans or providing other financial  
21 assistance:  
22  
23 i. For purchasing, constructing, improving, repairing, or maintaining  
24 a dwelling; or  
25  
26 ii. Secured by residential real estate.  
27  
28 b. The selling, brokering, or appraising of residential real property.  
29

30 (c) *Brokerage services.* It shall be unlawful and a discriminatory housing practice to  
31 deny any person access to or membership or participation in any multiple-listing service, real  
32 estate brokers' organization, or other service organization, or facility related to the business of  
33 selling or renting housing, or to discriminate against such person in the terms or conditions of  
34 such access, membership, or participation because of a protected status or characteristic.  
35

36 (d) *Familial status.* The protection afforded under subsections (a), (b), and (c) of this  
37 section against discrimination on the basis of familial status applies to any person who is  
38 pregnant or is in the process of securing legal custody of any individual who has not attained the  
39 age of 18 years.  
40

41 (e) *Discrimination against persons with disabilities in sale or rental.* It is unlawful to  
42 discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any  
43 buyer or renter because of a disability of:  
44

- 45 (1) That buyer or renter;  
46

1 (2) A person residing in or intending to reside in that dwelling after it is sold,  
2 rented, or made available; or  
3

4 (3) Any person associated with the buyer or renter.  
5

6 (f) *Same—Discrimination in terms or conditions.* It is unlawful to discriminate  
7 against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the  
8 provision of services or facilities in connection with such dwelling, because of a disability of:  
9

10 (1) That buyer or renter;  
11

12 (2) A person residing in or intending to reside in that dwelling after it is sold,  
13 rented, or made available; or  
14

15 (3) Any person associated with the buyer or renter.  
16

17 (g) *Same—Person acting as agent.* The prohibitions on discrimination because of a  
18 disability, as provided for in subsections (e) and (f), are applicable although another person who  
19 may be acting as agent or representative for the disabled person in the real estate transaction.  
20

21 (h) *Same—Accessibility standards.* For purposes of subsections (e) and (f),  
22 discrimination includes:  
23

24 (1) A refusal to permit, at the expense of the person with a disability,  
25 reasonable modifications of existing premises occupied or to be occupied by such person if such  
26 modifications may be necessary to afford such person full enjoyment of the premises;  
27

28 (2) A refusal to make reasonable accommodations in rules, policies, practices,  
29 or services, when such accommodations may be necessary to afford such person equal  
30 opportunity to use and enjoy a dwelling; or  
31

32 (3) In connection with the design and construction of covered multifamily  
33 dwellings for first occupancy on or after March 13, 1991, a failure to design and construct those  
34 dwellings in such a manner that:  
35

36 a. The public use and common use portions of such dwellings are  
37 readily accessible to and usable by persons with disabilities.  
38

39 b. All doors designed to allow passage into and within all premises  
40 within such dwellings are sufficiently wide to allow passage by a person in a wheelchair.  
41

42 c. All premises within such dwellings contain the following features  
43 of adaptive design:  
44

45 i. 4.—An accessible route into and through the dwelling.  
46

- 1  
2  
3  
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8  
9
- ii. ~~2.~~—Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
  - iii. ~~3.~~—Reinforcements in bathroom walls to allow later installation of grab bars.
  - iv. ~~4.~~—Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.

10 (4) Compliance with the appropriate requirements of the Florida Accessible  
11 Building Code, providing accessibility and usability for persons with physical disabilities,  
12 suffices to satisfy the requirements of subsection (h)(3)c. State agencies with building  
13 construction regulation responsibility or local governments, as appropriate, shall review the plans  
14 and specifications for the construction of covered multifamily dwellings to determine  
15 consistency with the requirements of this subsection.  
16

17 (5) For the purposes of subsection (h)(1) above, in the case of a rental, a  
18 landlord may, where it is reasonable to do so, condition permission for a modification on the  
19 renter agreeing to restore the interior of the premises to the condition that existed before the  
20 modification, reasonable wear and tear excepted. The landlord may not increase for persons with  
21 disabilities any customarily required security deposit. However, where it is necessary in order to  
22 ensure with reasonable certainty that funds will be available to pay for the restorations at the end  
23 of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision  
24 requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a  
25 reasonable amount of money, not to exceed the cost of the restorations. The interest in any such  
26 account shall accrue to the benefit of the tenant. A landlord may condition permission for a  
27 modification on the renter providing a reasonable description of the proposed modifications, as  
28 well as reasonable assurances that the work will be done in accordance with applicable building  
29 codes and that any required building permits will be obtained.  
30

31 **Sec. 111.41 Exceptions.**

32 (a) *Religious societies.* Nothing contained in section 111.40 shall prohibit a religious  
33 organization, association, or society, or any nonprofit charitable or educational institution or  
34 organization operated, supervised, or controlled by or in conjunction with a religious  
35 organization, association, or society, from limiting or from advertising the sale, rental, or  
36 occupancy of housing which it owns or operates for other than a commercial purpose to persons  
37 of the same religion, or from giving preference to such persons, unless membership in such  
38 religion is restricted on the basis of a protected status or characteristic.  
39

40 (b) *Single-family houses.* Nothing in section 111.40, other than subsection (a)(7)  
41 thereof, shall apply to:  
42

43 (1) Any single-family house sold or rented by its owner, provided that such  
44 private individual owner does not own more than three such single-family houses at any one  
45 time; provided further that, in the case of the sale of any such single-family house by a private  
46 individual owner not residing in such house at the time of such sale or who was not the most

1 recent resident of such house prior to such sale, the exemption granted by this subsection shall  
2 apply only with respect to one such sale within any 24-month period; provided further that such  
3 bona fide private individual owner does not own any interest in, nor is there owned or reserved  
4 on such owner's behalf, under any express or voluntary agreement, title to or any right to all or a  
5 portion of the proceeds from the sale or rental of more than three such single-family houses at  
6 any one time; provided further that the owner sells or rents such housing:  
7

8 a. Without the use in any manner of the sales or rental facilities or the  
9 sales or rental services of any real estate broker, agent, or salesperson,  
10 or of such facilities or services of any person in the business of selling  
11 or renting housing, or of any employee or agent of any such broker,  
12 agent, salesperson, or person; and  
13

14 b. Without the publication, posting, or mailing, after notice, of any  
15 advertisement or written notice in violation of subsection 111.40(a)(7);  
16 however, nothing in this provision shall prohibit the use of attorneys,  
17 escrow agents, abstractors, title companies, and other such  
18 professional assistance as necessary to perfect or transfer the title; or  
19

20 (2) Rooms or units in housing containing living quarters occupied or intended  
21 to be occupied by no more than four families living independently of each other if the owner  
22 actually maintains and occupies one of such living quarters as such owner's residence, provided  
23 that the owner sells or rents such rooms or units:  
24

25 a. Without the use in any manner of the sales or rental facilities or the  
26 sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or  
27 services of any person in the business of selling or renting housing, or of any employee or  
28 agency of any such broker, agent, salesperson, or person; and  
29

30 b. Without the publication, posting, or mailing, after notice, of any  
31 advertisement or written notice in violation of subsection 111.40(a)(7).  
32

33 (3) Nothing in this section shall prohibit the use of attorneys, escrow agents,  
34 abstractors, title companies, and other such professional assistance as necessary to perfect or  
35 transfer the title. For the purpose of this section, a person shall be deemed to be in the business of  
36 selling or renting housing if:  
37

38 a. Within the preceding 12 months, a person participated as principal  
39 in three or more transactions involving the sale or rental of any housing or any interest therein; or  
40

41 b. Within the preceding 12 months, a person participated as agent,  
42 other than in the sale of his or her own personal residence, in providing sales or rental facilities  
43 or sales or rental services in two or more transactions involving the sale or rental of any housing  
44 or any interest therein; or  
45  
46

1 c. A person is the owner of any housing designed or intended for  
2 occupancy by, or occupied by, five or more families.  
3

4 (c) *Physical accessibility.* Nothing in section 111.40 requires any person renting or  
5 selling a dwelling constructed for first occupancy before March 13, 1991, to modify, alter, or  
6 adjust the dwelling in order to provide physical accessibility, except as otherwise required by  
7 law.  
8

9 (d) *Housing for older persons—Definition.* Any provision of this article regarding  
10 familial status or age does not apply with respect to housing for older persons. As used in this  
11 subsection, the term "housing for older persons" means housing:  
12

13 (1) Provided under any local, state, or federal program that the Secretary of  
14 the United States Department of Housing and Urban Development determines is specifically  
15 designed and operated to assist elderly persons, as defined in the local, state, or federal program;  
16

17 (2) Intended for, and solely occupied by, persons 62 years of age or older; or  
18

19 (3) Intended and operated for occupancy by at least one person 55 years of  
20 age or older per unit. In determining whether housing qualifies as housing for older persons  
21 under this subparagraph, the manager shall consider at least the following factors:  
22

23 a. The existence of significant facilities and services specifically  
24 designed to meet the physical or social needs of older persons; or, if providing such facilities and  
25 services is not practicable, such housing is necessary to provide important housing opportunities  
26 for older persons;  
27

28 b. At least 80 percent of the units are occupied by at least one person  
29 55 years of age or older per unit; and  
30

31 c. The publication of and adherence to policies and procedures which  
32 demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or  
33 older.  
34

35 (e) *Same—Additional criteria.* Housing shall not fail to be considered housing for  
36 older persons if:  
37

38 (1) A person who resides in such housing on or after September 13, 1988,  
39 does not meet the age requirements of this subsection, provided that any new occupant meets  
40 such age requirements; or  
41

42 (2) One or more units are unoccupied, provided that any unoccupied units are  
43 reserved for occupancy by persons who meet the age requirements of this subsection.  
44  
45

1 (f) *Miscellaneous exceptions.* Nothing in section 111.40

2 (1) Prohibits a person engaged in the business of furnishing appraisals of real  
3 property from taking into consideration factors other than a protected status or characteristic.

4 (2) Limits the applicability of any reasonable local restriction regarding the  
5 maximum number of occupants permitted to occupy a dwelling.

6 (3) Requires that a dwelling be made available to an individual whose tenancy  
7 would constitute a direct threat to the health or safety of other individuals or whose tenancy  
8 would result in substantial physical damage to the property of others.

9 (4) Prohibits conduct against a person because such person has been convicted  
10 by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled  
11 substance as defined under F.S. ch. 893.  
12

13 **SECTION 3. Severability.** It is the declared intent of the Board of County  
14 Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this  
15 ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity  
16 or unconstitutionality shall not be so construed as to render invalid or unconstitutional the  
17 remaining provisions of this ordinance.

18 **SECTION 4. Repealing Clause.** All ordinances or portions thereof in conflict herewith  
19 are, to the extent of such conflict, hereby repealed on January 1, 2014 (see Sec. 111.15).

20 **SECTION 5. Inclusion in the Code.** It is the intention of the Board of County  
21 Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this  
22 ordinance shall become and be made part of the Alachua County Code of Ordinances of Alachua  
23 County, Florida; that the Code may be renumbered or relettered to accomplish this intention.

24 **SECTION 6. Effective Date.** A certified copy of this ordinance shall be filed with the  
25 Department of State by the Clerk of the Board of County Commissioners within ten (10) days  
26 after enactment by the Board of County Commissioners, and shall take effect upon filing with  
27 the Department of State.

1 DULY ADOPTED in regular session, this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2019.  
2  
3

4 BOARD OF COUNTY COMMISSIONERS OF  
5 ALACHUA COUNTY, FLORIDA  
6  
7

8 ATTEST  
9

By: \_\_\_\_\_  
Charles S. Chestnut, IV, Chair

10  
11 J.K. "Jess" Irby, Esq.  
12

APPROVED AS TO FORM

13  
14 (SEAL)  
15

16 \_\_\_\_\_  
Alachua County Attorney  
17  
18

19  
20 APPROVED AS TO CORRECTNESS  
21

22  
23 \_\_\_\_\_  
Equal Opportunity Office  
24  
25  
26



# **EXHIBIT B**



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000

ASSISTANT SECRETARY FOR  
FAIR HOUSING AND EQUAL OPPORTUNITY

## **Immigration Status and Housing Discrimination Frequently Asked Questions**

### **1. Does immigration status affect whether a person is covered by the Fair Housing Act?**

No. Every person in the United States is protected by the Fair Housing Act. A person's immigration status does not affect his or her federal fair housing rights or responsibilities. The Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability. Such discrimination is illegal regardless of the victim's immigration status.

#### **Examples:**

- If a landlord refuses to rent to someone because of a person's religion, that is illegal discrimination regardless of immigration status.
- If a landlord charges a different price or asks for additional identification documents because of a person's national origin, that is illegal discrimination regardless of immigration status.
- If a lender offers different terms on a mortgage to a prospective homebuyer because of the homebuyer's race, that is illegal discrimination regardless of immigration status.

### **2. Does the Office of Fair Housing and Equal Opportunity (FHEO) inquire into the immigration status of people who file fair housing complaints?**

No, FHEO does not ask about immigration status when people file complaints.

### **3. Does the Fair Housing Act apply in my town, city, or state even if there is a local law that does not provide the same protections?**

Yes. Local laws may provide fewer or additional fair housing protections, but, the federal Fair Housing Act continues to prohibit discrimination and is enforceable whether or not a local ordinance or state law exists.

### **4. What is National Origin discrimination?**

National origin discrimination is different treatment in housing because of a person's ancestry, ethnicity, birthplace, culture, or language, and it is illegal. This means people cannot be denied housing opportunities because they or their family are from another country, because they have a name or accent associated with a national origin group, because they participate in certain customs associated with a national origin group, or because they are married to or associate with people of a certain national origin.

Examples of potential national origin discrimination include:

- refusing to rent to persons whose primary language is other than English;
- offering different rent rates based on ethnicity;
- steering prospective buyers or renters to or away from certain neighborhoods because of their ancestry; and
- failing to provide the same level of service or housing amenities because a tenant was born in another country.

**5. What can I do if a landlord or neighbor is threatening to report me, a family member or friends to ICE if we report housing discrimination to HUD?**

It is illegal to coerce, intimidate, threaten, or interfere with a person's exercise or enjoyment of rights granted or protected by the Fair Housing Act. This includes threats to report a person to U.S. Immigration and Customs Enforcement (ICE) if they report housing discrimination to HUD. HUD does not inquire about immigration status when investigating claims of housing discrimination.

If you have filed or are considering filing a complaint with HUD but are concerned that you or someone in your household will be reported to ICE, please consult ICE's policy on individuals pursuing legitimate civil rights complaints. If you do come into contact with ICE after you have filed a HUD complaint, you should let ICE know that you are pursuing a Fair Housing complaint with HUD.

For more information, see the Memorandum issued on June 17, 2011, by ICE Director John Morton "Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs." Available at: <http://www.ice.gov/doclib/secure-communities/pdf/domestic-violence.pdf>. For the most up to date version of this policy, please check <http://www.ice.gov>."

**6. Can landlords ask for immigration documents?**

Landlords are allowed to request documentation and conduct inquiries to determine whether a potential renter meets the criteria for rental, so long as this same procedure is applied to all potential renters. Landlords can ask for identity documents and institute credit checks to ensure ability to pay rent. However, a person's ability to pay rent or fitness as a tenant is not necessarily connected to his or her immigration status.

Procedures to screen potential and existing tenants for citizenship and immigration status may violate the Fair Housing Act's prohibitions on national origin housing discrimination. HUD will investigate complaints alleging that a landlord inquired into a person's immigration status or citizenship to see whether national origin discrimination may have occurred.

Landlords should remember that their policies must be consistent. If they ask for information from one person or group, they must ask for the same information from all applicants and tenants. Potential renters and home buyers cannot be treated differently because of their race, color, national origin, religion, sex, disability or familial status.

## 7. How can I report incidents of housing discrimination?

There are several ways you can file a complaint.

You can call:

1-800-669-9777 (English and Spanish Voice)

1-800-927-9275 (TTY)

You can file a complaint using our online form. (It is recommended that all pop-up blockers be turned off in order to access this form. Otherwise press the "Ctrl" button as you click on the link.)

You can print out a form, complete it, and mail it to:

Office of Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
Room 5204  
451 7<sup>th</sup> St. SW  
Washington, DC 20410-2000

You can write us a letter with:

- Your name and address
- The name and address of the person your complaint is about
- The address of the house or apartment you were trying to rent or buy
- The date when this incident occurred
- A short description of what happened
- Then mail it to the Fair Housing HUB closest to you

## 8. Is HUD assistance available in languages other than English and Spanish?

Yes. HUD has documents and informational brochures translated into eighteen languages (Amharic, Arabic, Armenian, Cambodian, Chinese, Creole, Farsi, French, Hmong, Khmer, Korean, Polish, Portuguese, Russian, Spanish, Tagalog, Vietnamese, and English). HUD also uses phone interpreter services that allow us to assist people in over 175 languages. For more information on HUD's Limited English Proficiency implementation plan and to download documents in multiple languages, visit HUD's LEP Resource Page.

# EXHIBIT C

JUN 17 2011



**U.S. Immigration  
and Customs  
Enforcement**

**MEMORANDUM FOR:**

All Field Office Directors  
All Special Agents in Charge  
All Chief Counsel

**FROM:**

John Morton  
Director

**SUBJECT:**

Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs

**Purpose:**

This memorandum sets forth agency policy regarding the exercise of prosecutorial discretion in removal cases involving the victims and witnesses of crime, including domestic violence, and individuals involved in non-frivolous efforts related to the protection of their civil rights and liberties. In these cases, ICE officers, special agents, and attorneys should exercise all appropriate prosecutorial discretion to minimize any effect that immigration enforcement may have on the willingness and ability of victims, witnesses, and plaintiffs to call police and pursue justice. This memorandum builds on prior guidance on the handling of cases involving T and U visas and the exercise of prosecutorial discretion.<sup>1</sup>

**Discussion:**

Absent special circumstances or aggravating factors, it is against ICE policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime. In practice, the vast majority of state and local law enforcement agencies do not generally arrest victims or witnesses of crime as part of an investigation. However, ICE regularly hears concerns that in some instances a state or local law enforcement officer may arrest and book multiple people at the scene of alleged domestic violence. In these cases, an arrested victim or witness of domestic violence may be booked and fingerprinted and, through the operation of the Secure

<sup>1</sup> For a thorough explanation of prosecutorial discretion, see the following: Memorandum from Peter S. Vincent, Principal Legal Advisor, Guidance Regarding U Nonimmigrant Status (U visa) Applicants in Removal Proceedings or with Final Orders of Deportation or Removal (Sept. 25, 2009); Memorandum from William J. Howard, Principal Legal Advisor, VAWA 2005 Amendments to Immigration and Nationality Act and 8 U.S.C. § 1367 (Feb. 1, 2007); Memorandum from Julie L. Myers, Assistant Secretary of ICE, Prosecutorial and Custody Discretion (Nov. 7, 2007); Memorandum from William J. Howard, Principal Legal Advisor, Prosecutorial Discretion (Oct. 24, 2005); Memorandum from Doris Meissner, Commissioner, Immigration and Naturalization Service, Exercising Prosecutorial Discretion (Nov. 17, 2000).

**Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs**  
Page 2

Communities program or another ICE enforcement program, may come to the attention of ICE. Absent special circumstances, it is similarly against ICE policy to remove individuals in the midst of a legitimate effort to protect their civil rights or civil liberties.

To avoid deterring individuals from reporting crimes and from pursuing actions to protect their civil rights, ICE officers, special agents, and attorneys are reminded to exercise all appropriate discretion on a case-by-case basis when making detention and enforcement decisions in the cases of victims of crime, witnesses to crime, and individuals pursuing legitimate civil rights complaints. Particular attention should be paid to:

- victims of domestic violence, human trafficking, or other serious crimes;
- witnesses involved in pending criminal investigations or prosecutions;
- plaintiffs in non-frivolous lawsuits regarding civil rights or liberties violations; and
- individuals engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions) who may be in a non-frivolous dispute with an employer, landlord, or contractor.

In deciding whether or not to exercise discretion, ICE officers, agents, and attorneys should consider all serious adverse factors. Those factors include national security concerns or evidence the alien has a serious criminal history, is involved in a serious crime, or poses a threat to public safety. Other adverse factors include evidence the alien is a human rights violator or has engaged in significant immigration fraud. In the absence of these or other serious adverse factors, exercising favorable discretion, such as release from detention and deferral or a stay of removal generally, will be appropriate. Discretion may also take different forms and extend to decisions to place or withdraw a detainer, to issue a Notice to Appear, to detain or release an alien, to grant a stay or deferral of removal, to seek termination of proceedings, or to join a motion to administratively close a case.

In addition to exercising prosecutorial discretion on a case-by-case basis in these scenarios, ICE officers, agents, and attorneys are reminded of the existing provisions of the Trafficking Victims Protection Act (TVPA),<sup>2</sup> its subsequent reauthorization,<sup>3</sup> and the Violence Against Women Act (VAWA).<sup>4</sup> These provide several protections for the victims of crime and include specific provisions for victims of domestic violence, victims of certain other crimes,<sup>5</sup> and victims of human trafficking.

Victims of domestic violence who are the child, parent, or current/former spouse of a U.S. citizen or permanent resident may be able to self-petition for permanent residency.<sup>6</sup> A U nonimmigrant visa provides legal status for the victims of substantial mental or physical abuse as

<sup>2</sup> Pub. L. No. 106-386, §§101-113, 114 Stat. 1464, 1466 (codified as amended in scattered sections of the U.S.C.).

<sup>3</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

<sup>4</sup> Pub. L. No. 106-386, §§1001-1603, 114 Stat. 1464, 1491 (codified as amended in scattered sections of the U.S.C.).

<sup>5</sup> For a list of the qualifying crimes, see INA §101(a)(15)(U)(ii).

<sup>6</sup> See INA §101(a)(51).

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a result of domestic violence, sexual assault, trafficking, and other certain crimes.<sup>7</sup> A T nonimmigrant visa provides legal status to victims of severe forms of trafficking who assist law enforcement in the investigation and/or prosecution of human trafficking cases.<sup>8</sup> ICE has important existing guidance regarding the exercise of discretion in these cases that remains in effect. Please review it and apply as appropriate.<sup>9</sup>

Please also be advised that a flag now exists in the Central Index System (CIS) to identify those victims of domestic violence, trafficking, or other crimes who already have filed for, or have been granted, victim-based immigration relief. These cases are reflected with a Class of Admission Code "384." When officers or agents see this flag, they are encouraged to contact the local ICE Office of Chief Counsel, especially in light of the confidentiality provisions set forth at 8 U.S.C. § 1367.

No Private Right of Action

These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

<sup>7</sup> See INA § 101(a)(15)(U).

<sup>8</sup> See INA § 101(a)(15)(T).

<sup>9</sup> See Memorandum from John P. Torres, Director, Office of Detention and Removal Operations and Marcy M. Forman, Director, Office of Investigations, Interim Guidance Relating to Officers Procedure Following Enactment of VAWA 2005 (Jan. 22, 2007).