

RESOLUTION 97-56

AUTHORIZING AND APPROVING THE COMMUNITY DEVELOPMENT BLOCK GRANT FAIR HOUSING RESOLUTION

WHEREAS, It is the policy of Torrance County to provide, within constitutional limitations, for fair housing throughout Torrance County.

SECTION 1. POLICY

NOW THEREFORE, be it resolved that the Torrance County Commission establish the following governing rules as official policy.

SECTION 2. DEFINITIONS

1. "Aggrieved Person" includes any person who—
 - A. Claims to have been injured by a discriminatory housing practice; or
 - B. Believes that they will be injured by a discriminatory housing practice that is about to occur.
2. "Chief Elected Official" means the person who holds the highest elected position of the local unit of government and who is signatory to the Small Cities Community Development Block Grant agreement with the Local Government Division.
3. "Complaint" means the person (including the chief elected official) who files a complaint under Section 10.
4. "Discriminatory housing practice" means an act that is unlawful under Section 4,5 or 6 of this resolution.
5. "Dwelling" means any building, structure or portion thereof which is occupied as, designated or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
6. "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—
7. A. A parent or another person having legal custody of such individual or individuals; or
8. B. The designee of such parent or other person having such custody, with the

Resolution 97-56 continued

written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant, or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

7. "Family" includes a single individual.
8. "Handicap" means, with respect to a person—
 - A. A physical or mental impairment which substantially limits one or more of such person's major life activities;
 - B. A record of having such an impairment; or
 - C. Being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to, a controlled substance (as defined in Section 102 of the Controlled Substances Act [21 U.S.C. 802]).
9. "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.
10. "Respondent" means—
 - A. The person or other entity accused in a complaint of an unfair housing practice; and
 - B. Any other person or entity in the course of investigation and notified as required with respect to respondents so identified under Section 10.
11. "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises by the occupant.

SECTION 3. UNLAWFUL PRACTICE

Subject to the provisions of subsection (b) and Section 7, the prohibitions against discrimination in the sale or rental of housing set forth in Section 3 shall apply to:

1. All dwellings except as exempted by subsection (b).
2. Nothing in Section 4 shall apply to:
 - A. Any single house sold or rented by an owner: Provided, that such

Resolution 97-56 continued

private individual owner does not own more than three such single family houses at any time: Provided further, that 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 such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this resolution only if such house is sold or rented

- without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson or person, and
 - without the publication, posting or mailing, after notice of any advertisement or written notice in violation of Section 4 (c) of this resolution, but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or
- B. Rooms or units in dwellings contained living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as their residence.
3. For the purpose of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:
- A. They have, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or
 - B. They have, within the preceding twelve months, participated as agent, other than in the sale of their own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any

interest therein; or

- C. They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

SECTION 4. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

As made applicable by Section 3 and except as exempted by Sections 3(b) and 7, it shall be unlawful:

1. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, handicap, familial status or national origin.
2. To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, handicap, familial status or national origin.
3. To make, print or publish, or cause to be made, printed or publishes any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin, or an intention to make any such preference, limitation or discrimination.
4. To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.
5. For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status or national origin.

SECTION 5. DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

1. In general--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion,

sex, handicap, familial status or national origin.

2. Definition--As used in this Section, the term "residential real estate-related transaction" means any of the following:
 - A. The making or purchasing of loans or providing other financial assistance---
 - for purchasing, constructing, improving, repairing or maintaining a dwelling; or
 - secured by residential real estate.
3. Appraisal Exemption--Nothing in this resolution prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, sex, handicap, familial status or national origin.

SECTION 6. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership or participation because of race, color, religion, sex, handicap, familial status or national origin.

SECTION 7. EXEMPTION

Nothing in this resolution shall prohibit a religious organization, association or society or any nonprofit 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 persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this resolution 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.

SECTION 8. ADMINISTRATION

Resolution 97-56 continued

1. The authority and responsibility for administering this resolution shall be in the chief elected official of Torrance County.
2. The chief elected official may delegate any of these functions, duties and powers to employees of Torrance County or to boards of such employees, including functions, duties and powers with respect to investigating, conciliating, hearing, determining ordering, certifying, reporting or otherwise acting as to any work, business or matter under this resolution. The chief elected official shall by rule prescribe such rights of appeal from the decisions of their hearing examiners, to other hearing examiners or to other officers in Torrance County, to boards of officers or to themselves, as shall be appropriate and in accordance with law.
3. All Torrance County departments and agencies shall administer their programs and activities relating to housing and community development in a manner affirmatively to further the purpose of this resolution and shall cooperate with the chief elected official to further such purposes.

SECTION 9. EDUCATION AND CONCILIATION

Immediately after the enactment of this resolution, the chief elected official shall commence such educational conciliatory activities as will further the purposes of this resolution. They shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this resolution and the suggested means of implementing it and shall endeavor with their advise to work out programs of voluntary compliance and enforcement.

SECTION 10. ENFORCEMENT

Any person who claims to have been injured by a discriminatory housing practice or who believes that he/she will be irrevocably injured by a discriminatory housing practice that is about to occur may file a complaint with the Chief Elected Official. Complaints shall be in writing and shall contain such information and be in such form as the Chief Elected Official requires. At minimum, the complaint will meet New Mexico Human Rights Division standards. Within 10 days of receiving such a complaint, the Chief Elected Official will forward a copy of the complaint to the respondent. If the complaint and the respondent cannot reach an agreement independently, the chief Elected Official or his/her designee (s) will attempt to resolve the alleged discriminatory housing practice through conciliation and will document such an attempt. If, after good-faith efforts, no resolution is reached, the Chief Elected Official shall promptly forward the complaint to the New Mexico Human Rights Division, which must receive the complaint within 180 days of the alleged discriminatory housing practice, for such action as may be deemed

Resolution 97-56 continued

appropriate by the New Mexico Human Rights Division under Chapter 28-1-1 through 28-1-15, NMSA, 1978 as amended. The Chief Elected Official shall also forward a report of his/her efforts at conciliation.

2. Torrance County recognizes that the New Mexico Human Rights Division and/or the United States Department of Housing and Urban Development have primary jurisdiction over complaints of discriminatory housing practices and that they are equipped to investigate and process such complaints and to impose appropriate sanctions and penalties for denial of equal housing opportunity.

DONE, at Estancia, Torrance County, New Mexico this 23rd day of December, 1997.

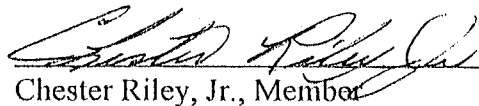
Torrance County Commission



Bill R. Williams, Chairman

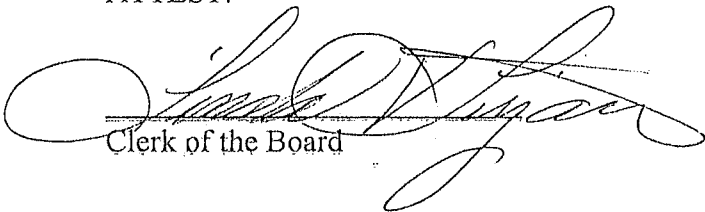


Rodger Rayner, Member



Chester Riley, Jr., Member

ATTEST:



Clerk of the Board