

CHAPTER 32

EQUAL OPPORTUNITIES IN HOUSING

32.01 DEFINITIONS. Terms used in this chapter mean as follows:

Housing: Any building, structure, or portion thereof which is occupied as, or designed 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, but does not include the rental, lease or sub-lease of rooms in a one family building or structure in which one of the units is occupied by the owner as his/her residence.

Agent: Any person designated by the Commission, and may be a member of the Commission.

Commission: The Brown County Commission on Equal Opportunities in Housing or a quorum of at least four members thereof when acting as the Commission, and "Commissioner" shall mean a member thereof.

Complainant: Any person who files a complaint with the Commission pursuant to this chapter.

Discriminatory practice: Any type of act or refusal to act prohibited by Section 32.05 which is based on a consideration of race, color, religion, ancestry, national origin, gender, handicap, age, lawful source of income, or marital status of person maintaining a household.

Family: Includes a single individual.

Hearing: A hearing under the jurisdiction of the Commission except where otherwise indicated.

Person: 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.

Respondent: Any person who, according to the allegations contained in any complaint filed with the Commission, has committed any discriminatory practice prohibited by this chapter and has been named in the complaint as a respondent.

To rent: Includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

Disability: Means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. "Disability" does not include the current illegal use of a controlled substance, as defined in s. 161.01(4) of the Wisconsin Statutes, unless the individual is participating in a supervised drug rehabilitation program.

Family Status: Means any of the following conditions that apply to a person seeking to rent or purchase housing or to a member or perspective member of the person's household regardless of the person's marital status:

1. A person is pregnant.
2. A person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child.
3. A person's household includes one or more minor or adult relatives.
4. A person's household includes one or more adults or minor children in his or her legal custody or physical placement or with whom he or she has visitation rights.
5. A person's household includes one or more adults or minor children placed in his or her care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child.

32.02 CREATION. There is hereby created a Brown County Commission on Equal Opportunities in Housing which is given the power and duty to enforce equal and fair opportunity in housing for all persons.

32.03 COMMISSION; FORMATION. The purposes and provisions of this chapter shall be implemented by:

(1) The Brown County Commission on Equal Opportunities in Housing, whose seven members shall be appointed by the County Executive and approved by the County Board of Supervisors to serve five-year terms.

(2) Initial terms of Commission members shall be as follows: Two shall be initially appointed for one year; two shall be initially appointed for two years; one shall be initially appointed for three years; one shall be initially appointed for four years; and one shall be initially appointed for five years. Thereafter all Commissioners shall be appointed to serve five-year terms. Any appointments to fill vacancies on the board shall be for the duration of the unexpired term only. A member of the Commission may be removed by the County Executive and the County Board of Supervisors only for inefficiency, neglect of duty, misconduct or malfeasance in office or other cause; provided, however, the Commissioner is first given a written statement of the charges and an opportunity to be heard thereon by the County Executive and the County Board of Supervisors. Commission members shall be residents of the County of Brown and shall be reimbursed for all actual and necessary expenses, but shall receive no other compensation.

32.04 COMMISSION; POWERS AND DUTIES. The Commission shall have the following powers and duties:

(1) To adopt, amend, publish and rescind rules and regulations governing its meetings and hearings and for the enforcement of this chapter;

(2) To appoint such other employees, agents and staff as are necessary to promote the purposes of this chapter, and to prescribe their duties;

(3) To receive, initiate, and investigate all complaints alleging any discriminatory practice prohibited by this chapter;

(4) To appoint mediators who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences;

(5) If necessary, to hold hearings after efforts at settlement based on complaints made against any person and a determination of probable cause; to administer oaths and take testimony; to compel the production of books, papers and any other documents relating to any matters involved in the complaint; and to subpoena witnesses and compel their attendance;

(6) To issue, after hearing, such final orders as are necessary to promote the purposes of this chapter;

(7) To issue temporary orders effective for a maximum of 20 days, restraining the respondent from taking action which would tend to render ineffectual or unenforceable any order which the Commission might issue;

(8) To make available to the public, in writing, copies of:

(a) Transcripts of all its proceedings except initial settlement efforts by its mediators;

(b) All temporary and final orders; and

(c) All decisions and opinions rendered;

(9) To require a written report of the manner of compliance with any final order it may issue; and

(10) To recommend to the County Board of Supervisors any legislation necessary to further promote the purposes of this chapter, and to file annual written reports of its work with the County Board of Supervisors;

(11) To carry on a continuing educational and interpretational program in the county about the philosophy and goals of this chapter.

32.05 PROHIBITED ACTS. It shall be a prohibited discriminatory practice for any person to, on the basis of his/her race, color, religion, ancestry, national origin, gender, disability, including handicapped persons assisted by animals as set forth in Sec. 101.32 (2p), Wis. Stats., age, lawful source of income, family status, and sexual orientation as defined in Sec. 111.32(13m), Wis. Stats.:

(1) Print, publish, circulate, issue, display, post, mail, or communicate in any other way an announcement, statement, advertisement, publication, or sign the import of which indicates to any substantial degree a decision or purpose to impair in any way the access of any person.

(2) Refuse to sell, rent, or in any other manner deny, withhold, or impair the transfer of title, leasehold or any other interest in any part of any housing.

(3) Refuse to lend money or security, guarantee any loan, accept any mortgage or in any other manner make available any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing.

(4) Refuse to furnish any facilities or services for any housing when ordinarily provided pursuant to legal duty or local custom.

(5) Refuse to list for sale or rent any housing to any person.

(6) To differentiate in the price of rental or in the terms or conditions of sale or rent of any housing between persons.

(7) Induce or attempt to induce any person to sell or rent any dwelling by representations regarding the prospective or present entry into the neighborhood or by representations to the effect that such present or prospective entry will or may result in:

(a) The lowering of real estate values in the area concerned;

(b) A deterioration in the character of the area concerned;

(c) An increase in criminal or antisocial behavior in the area concerned; or

(d) A decline in the quality of the schools or other public facilities serving the area.

(8) Refuse to make reasonable accommodations to persons with disabilities in rules, policies, practices or services that are associated with the housing, when such accommodations may be necessary to afford the person equal opportunity to use and enjoy housing, unless the accommodation would impose an undue hardship on the owner of the housing.

32.06 ENFORCEMENT PROCEDURES.

(1) Complaint. Any complaint alleging any discriminatory practice shall be in writing. Such complaints may be initiated by:

(a) The complainant who may mail his complaint to the Commission or dictate it to an agent of the Commission;

(b) Any agent of the complainant, including any agent who himself/herself has solicited offers to buy, or rent, or in any other manner seek access to any interest in any part of any housing for the complainant; or

(c) Any member of the Commission on his/her own initiative.

(2) Contents of Complaint. All complaints shall contain the following;

(a) The name and address and signature of the complainant; the name and address and signature of the agent; if any, of the complainant and the name and address of the person allegedly discriminated against;

(b) The name and address of the respondent or respondents;

(c) A statement setting forth the particulars of the alleged discriminatory practice; and

(d) The date or dates of the alleged discriminatory practice.

(3) Filing Complaints. Complaints shall be filed with the Brown County Commission on Equal Opportunities in Housing by the complainant, his/her duly authorized agent or a member of the Commission, and may be filed in person or by mail.

Complaints alleging any discriminatory practice shall be filed no later than 90 days after the person allegedly discriminated against knew or should reasonably have known that the alleged act or acts occurred.

(4) Notice to Respondent. Upon filing of a complaint, the Commission shall serve a copy thereof in the manner provided for the service of a summons upon the respondent within 10 days of filing.

(5) Amendment and Withdrawal. A complaint may be amended or withdrawn at any time with and subject to the approval of the Commission or its designated agent and under such terms as the Commissioner or agent shall direct.

(6) Investigation, Hearings, Determinations, Appeal. (a) An agent designated by the Commission shall promptly investigate all duly filed complaints. If said agent shall find, after such investigation, that any filed complaint is frivolous, sham, or without substance in fact, he/she shall, within 10 days of the filing of such complaint, issue to the complainant and respondent a determination of such in writing setting forth the basis of his/her determination.

Should such a determination be made that the complaint is frivolous, sham, or without substance in fact, the complainant shall be afforded an opportunity to appeal such decision to the Commission. Should the Commission decide that the complaint is frivolous, sham, or without substance in fact, the complainant may appeal by certiorari to the Circuit Court of Brown County. Said agent may at any time after the complaint is filed, issue a determination in writing to the complainant and respondent that the complaint is not frivolous, sham, or without substance in fact.

(b) Unless a finding is made that the complaint is frivolous, sham, or without substance in fact under the procedure set forth in paragraph (a) above or upon a finding that the complaint is not frivolous, sham, or without substance in fact, the Commission shall designate an agent who shall endeavor by means of conference, conciliation or persuasion to eliminate the alleged discriminatory practice.

(c) Within 30 days after the filing of the complaint, the agent designated pursuant to paragraph (b) above shall report to the Commission the results of the settlement efforts. If the efforts of settlement have failed to eliminate the discriminatory practice alleged in the complaint, the Commission shall promptly cause to be issued a notice of hearing before the Commission to determine the merits of the complaint. Such hearing before the Commission shall be a hearing of record.

(d) After such hearing, the Commission shall make written findings of fact and conclusions thereon and an order of such action to be taken by the respondent and, where necessary, by the complainant, as will effectuate the purposes of this chapter.

A certified copy of such findings, conclusions, and orders of the Commission, together with a summary of the findings of fact, shall be mailed to the last known addresses of the complainant and respondent.

After such determination by the commission, either party may appeal by certiorari to the Circuit Court of Brown County.

(7) Transfer of Proceedings. At any time after 10 days after the filing of the complaint the Commission may transfer the proceedings to itself by issuing to all interested parties a notice of hearing before the Commission to determine the merits of the complaint.

(8) Disqualification of Commissioners. No Commissioner, who, pursuant to this chapter has filed a complaint on his/her own initiative shall participate in any subsequent hearing or proceeding except as a witness, nor shall he/she participate in the deliberations of the Commission in such case.

32.07 REMEDIES. The Commission shall have the power and duty, after investigation and hearing, to issue and implement such orders as may be necessary to effectuate the purpose of this chapter. Such orders may include: (a) cease and desist orders; (b) affirmative action required of the respondent and, where necessary, of the complainant; and (c) any other orders which may be necessary to effect the purpose of this chapter.

32.08 JUDICIAL ENFORCEMENT AND PENALTIES.

(1) Violation of orders of the Commission shall constitute violations of this chapter.

(2) Penalties:

(a) The Commission may assess a forfeiture against a respondent who is not a natural person in an amount not to exceed \$10,000, unless the respondent who is not a natural person has been adjudged to have committed any prior discriminatory act. If a respondent who is not a natural person has been adjudged to have committed one other discriminatory act during the preceding 5 year period, based on the offense date of the prior discriminatory act, the hearing examiner may assess a forfeiture in an amount not exceeding \$25,000. If a respondent who is not a natural person has been adjudged to have committed 2 or more prior discriminatory acts during the preceding 7 year period, based on the offense date of the prior discriminatory act, the Commission may assess a forfeiture in an amount not exceeding \$50,000.

(b) In addition to any damages ordered under subd. a, the commission may assess a forfeiture against a respondent who is a natural person in an amount not exceeding \$10,000, unless the respondent who is a natural person has been adjudged to have committed any prior discriminatory act. If a respondent who is a natural person has been adjudged to have committed one other prior discriminatory act based on an offense date that is before the effective date of this subdivision, the commission may assess a forfeiture in an amount not exceeding \$25,000. If a respondent who is a natural person has been adjudged to have committed 2 or more prior discriminatory acts based on an offense date that is before the effective date of this subdivision, the commission may assess a forfeiture in an amount not exceeding \$50,000.

(3) In the event of violation of a Commission order, the Commission may proceed to initiate enforcement in the Brown County Court.