

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 864  
HOUSE BILL 2273

AN ACT AMENDING THE CHARTER OF THE CITY OF WINSTON-SALEM  
RELATING TO FAIR HOUSING.

The General Assembly of North Carolina enacts:

Section 1. Article XII of the Charter of the City of Winston-Salem, being Chapter 232, Private Laws of 1927, as amended by Chapter 608, Session Laws of 1981, is rewritten to read:

"ARTICLE XII.  
"Fair Housing.

"Sec. 45. Equal Housing.

The Board of Aldermen may adopt ordinances prohibiting discrimination on the basis of race, color, sex, religion, national origin, handicap or familial status in real estate transactions. Such ordinances may regulate or prohibit any act, practice, activity or procedure related directly or indirectly, to the sale or rental of public or private housing, which affects or may tend to affect the availability, accessibility or desirability of housing on an equal basis to all persons; may provide that the city may apply to the General Court of Justice or the aggrieved person(s) in a private right of action instituted under the ordinance; may apply to the General Court of Justice for appropriate legal and equitable remedies including mandatory and prohibitory injunctions, temporary restraining orders, orders of abatement, actual and punitive damages, the assessment of civil penalties in accordance with the Fair Housing Amendments Act of 1988, attorney's fees to the prevailing party and the court shall have the power to grant such remedies. The ordinance adopted by the Board of Aldermen shall provide that the aggrieved person(s) or respondent has the right to elect to have all claims and issues asserted, after a reasonable cause determination has been made by the Human Relations Director, decided in a civil action commenced and maintained by the City thereby foregoing the City's administrative hearing process.

"Sec. 46. Exemptions.

(a) Any ordinance enacted pursuant to this Article may provide for exemption from its coverage:

- (1) The sale or rental of any single-family house by an owner; provided that such private individual owner does not own or have any interest in more than three such single-family houses at any one 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 may only apply with respect to one such sale within any 24-month period; provided further, that any single-family house under this exemption may not be sold or rented (i) with the use in any manner of the sales or rental facilities of any person in the business of selling or renting dwellings or the sales or rental services of any real estate broker, agent, salesman or of any employee of any such broker, agent or salesman, or (ii) with the publication, or posting or any advertisement in violation of the ordinance. Nothing in this provision shall prohibit the use of the attorneys, escrow agents, abstractors, title companies and other such provisional assistance as necessary to perfect or transfer the title.

- (2) Rooms or units in dwellings containing 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 his or her residence.
  - (3) With respect to discrimination based on sex, the rental or leasing of housing accommodations in single-sex dormitory property.
  - (4) The rental of a room or rooms in a private house, not a boarding house, if the lessor or a member of his family resides in the house.
  - (5) Housing accommodations owned and operated for other than a commercial purpose by 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 shall not be prohibited by this Article from limiting the sale, rental or occupancy of dwellings which it owns or operates 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.
  - (6) The sale, rental, exchange or lease of commercial real estate, which is real estate not intended for residential use.
  - (7) A private club, not in fact, open to the public, which as an incident to its primary purpose or purposes, provides lodging which it owns or operates for other than commercial purposes limiting the rental or occupancy of such lodging to its members or giving preference to its members.
  - (8) The provisions of this Article regarding familial status shall not apply with respect to housing for older persons.
- (b) As used in this section 'housing for older persons' means, housing:
- (1) Provided under any State or federal program that is specifically designed and operated to assist elderly persons (as defined in the State or federal program); or
  - (2) Intended for, and solely occupied by, persons 62 years of age or older; or

- (3) Intended and operated for occupancy by at least one person 55 years of age or older as shown by the following factors:
  - a. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and
  - b. That at least eighty percent (80%) of the dwellings are occupied by at least one person 55 years of age or older per unit; and
  - c. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
- (c) Housing shall not fail to meet the requirements of 'housing for older persons' by reason of:
  - (1) Persons residing in such housing as of the date of enactment of this act who do not meet the requirements of subsection (b)(2) and (3).
  - (2) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of subsection (b)(2) and (3).
- (d) Housing facilities newly constructed for first occupancy after the date of enactment of this Article shall satisfy the requirements of subsection (b)(3) if:
  - (1) When twenty-five percent (25%) of the units are occupied, eighty percent (80%) of the occupied units are occupied by at least one person 55 years or older thereafter; and
  - (2) Eighty percent (80%) of all newly occupied units are occupied by at least one person 55 years or older until such time as eighty percent (80%) of all units in the housing facility are occupied by at least one person 55 years or older.

"Sec. 47. Enforcement.

The Board of Aldermen may create or designate a committee or commission to assume the duty and responsibility of enforcing ordinances adopted pursuant to this Article. Such body may be granted any authority deemed necessary by the Board of Aldermen for the proper enforcement of any fair housing ordinance, including the power to:

- (1) Promulgate rules for the receipt, initiation, investigation and conciliation of complaints of violations of the ordinance.
- (2) Conduct public hearings regarding complaints of alleged violations of the ordinances; issue subpoenas, request and require answers to interrogatories; request and require the production of documents and things, and the entry upon land and premises in the possession of a party to a complaint alleging a violation of the ordinances and compel the attendance of witnesses at public hearings under oath or affirmation.

- (3) Apply to the General Court of Justice, upon the failure of any person to respond to or to comply with a lawful interrogatory, request for production of documents and things, request to enter upon land and premises, or subpoena, for an order requiring such person to respond or comply.
- (4) Apply to the General Court of Justice for mandatory and prohibitory injunctions or temporary restraining orders.
- (5) Upon finding reasonable cause to believe that a violation of ordinances has occurred, to petition, with the permission of the Board of Aldermen, the General Court of Justice for appropriate civil relief.
- (6) In the event that the U.S. Department of Housing and Urban Development pursuant to 42 U.S.C. 3610(f) determines that it is required that the commission or committee be able to make final decisions and apply to the General Court of Justice without the permission of the Board of Aldermen, the commission or committee shall have the power to:
  - a. Make final decisions regarding complaints of violations of the ordinances, and
  - b. Petition the General Court of Justice for appropriate civil relief upon a finding of reasonable cause to believe that a violation of the ordinances has occurred.
- (7) If it is further determined by the U.S. Department of Housing and Urban Development that pursuant to 42 U.S.C. 3610(f) the commission or committee must be able to make final decisions reviewable by the General Court of Justice and assess actual damages and civil penalties upon a finding of reasonable cause to believe a violation has occurred, the commission or committee shall have the power to:
  - a. Make final decisions subject to review by the General Court of Justice within 15 days of the decision of the commission or committee, and
  - b. Assess actual damages and/or civil penalties and injunctive or other equitable relief in accordance with the Fair Housing Amendments Act of 1988.

"Sec. 48. Complaints and Other Records.

Neither complaints filed with the Board of Aldermen or any committee or commission designated the duty or responsibility of enforcing ordinances adopted pursuant to this Article nor the results of that body's investigations, discovery or attempts at conciliation shall be subject to examination or copying under the provisions of what is now Chapter 132 of the General Statutes. Each conciliation agreement shall be public record unless the aggrieved person and respondent otherwise agree and the Board of Aldermen or the designated commission or committee determine that disclosure is not required to further the purposes of this Article.

"Sec. 49. Committee Meetings.

The Board of Aldermen may provide that the statutory provisions relating to meetings of governmental bodies, presently embodied in Article 33C of Chapter 143 of the General Statutes, shall not apply to the activity of any body authorized to enforce the ordinances, to the extent that said body is receiving a complaint or conducting an investigation, discovery or conciliation pertaining to a complaint filed pursuant to the ordinances.

"Sec. 50. Occupancy Standards.

Nothing in this Article should be construed to prohibit reasonable local, State, and federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of July, 1990.