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AN ORDINANCE PROHIBITING DISCRIMINATION AGAINST
FAMILIES WITH MINOR CHILDREN IN RESIDENTIAL
RENTAL HOUSING

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

SECTION 1. NAME. This ordinance shall be known as the Child Discrimination Ordinance.

SECTION 2. PURPOSE. The purpose of this ordinance is to prohibit discrimination against persons with minor children in rental housing.

SECTION 3. FINDINGS. The City Council of the City of Hayward hereby finds and determines that:

- (a) Arbitrary discrimination against persons with minor children exists in the City of Hayward;
- (b) The existence of discrimination against persons with minor children poses a substantial threat to the public health and welfare of a large segment of the community; namely, families with children;
- (c) A low vacancy rate exists in all housing throughout the City of Hayward. The existence of discrimination against persons with minor children exacerbates the shortage of housing available for families with children;
- (d) The overall effect of discrimination against persons with minor children is to encourage the flight of families from the City of Hayward, resulting in the decline of stable, intergenerational neighborhoods, the closure of schools, and the reduction of social and recreational services for children and their families;
- (e) It is consistent with the housing element of the general plan to promote and ensure open and free choice of housing without discrimination on the basis of family composition;
- (f) Because housing is a fundamental necessity of life, it is against the public policy of the City of Hayward to discriminate in housing against persons based upon their parenthood, pregnancy, or the potential or actual tenancy of a minor child; and

- (g) Certain economic practices exist in the rental of housing which, even though applied uniformly to all persons, have a disproportionate impact on persons with minor children. To the extent that such practices have any legitimate purpose, the purpose can be served by alternate means which do not have a discriminatory impact.

SECTION 4. DEFINITIONS. For the purpose of this ordinance, certain terms are defined as follows:

- (a) "Housing accommodation" shall mean any residential rental unit consisting of one or more rooms in which cooking facilities are available;
- (b) "Minor child" shall mean any natural person under the age of eighteen years;
- (c) "Nighttime hours" shall mean the hours between 10:00 p.m. and 8:00 a.m. the following day;
- (d) "Person" shall mean any individual, firm, partnership, joint venture, association, corporation, estate, or trust; and
- (e) "School hours" shall mean the hours between 8:00 a.m. and 3:00 p.m. Monday through Friday except legal holidays recognized by the state of California, between each Labor Day holiday of any year and June 30 of the following year.

SECTION 5. PROHIBITED ACTIVITIES. It shall be unlawful for any person having a housing accommodation for rent or lease, or any agent or employee of that person, to do or attempt to do any of the following:

- (a) Refuse to rent or lease a housing accommodation, refuse to negotiate for the rental or lease of a housing accommodation, or otherwise deny to or withhold from any person or persons, a housing accommodation on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child;
- (b) Represent to any person on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child that a housing accommodation is not available for inspection, rental, or lease when such housing accommodation is, in fact, available;

- (c) Make, print, or publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a housing accommodation offered by that person that indicates any preference, limitation, or discrimination with respect to parenthood, pregnancy, or the potential or actual tenancy of a minor child;
- (d) Include in any rental agreement or lease for a housing accommodation, a clause or condition providing that as a condition of continued residence the occupants shall remain childless or shall not bear children or otherwise not maintain a household with a minor child;
- (e) Refuse to lease or rent after receiving a bona fide offer, or to refuse to negotiate for the lease or rental of, or otherwise make unavailable or deny, housing accommodations to any person because of the potential tenancy of a minor child or children;
- (f) Limit occupancies for families with minor children to fewer than two persons per bedroom for each bedroom in any housing accommodation plus one additional person. For those housing accommodations without any bedroom, no person shall be required to rent or lease to more than one person. In no case shall occupancy limits apply to a newborn infant during the term of any lease or rental agreement in effect on the date of birth of such infant or until such infant reaches the age of six months, whichever is later. If any of the above limits exceed the superficial floor space requirements of the Uniform Housing Code, the limit imposed by the Uniform Housing Code shall prevail. All occupancy limits shall be uniformly imposed and either conspicuously posted on the premises or contained in a written policy, rule, or notice. Nothing contained in this subsection shall be deemed to prohibit regulations restricting the number of motor vehicles which may be possessed by occupants of a housing accommodation or imposing other reasonable restrictions to address parking, traffic, and similar impacts;
- (g) Evict or otherwise demand surrender of a housing accommodation from any person because of parenthood, pregnancy, or the potential or actual tenancy of a minor child;

- (h) Charge additional rent, surcharges, deposits or other fees for persons living in a housing accommodation on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child;
- (i) Modify standard minimum income requirements on the basis of the number of persons proposed to occupy a housing accommodation, or on the basis of parenthood, pregnancy, or the actual or potential tenancy of a minor child; and
- (j) Discriminate against any person in the terms, conditions, or privileges of the rental or lease of a housing accommodation, or in the provision of services, facilities or benefits, in connection therewith, on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child. Nor shall any person establish unreasonable rules or conditions of occupancy which have the effect of excluding any tenant on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child, or which have the effect of significantly depriving any person of the use of services or facilities otherwise available on the basis of parenthood, pregnancy, or the potential or actual tenancy of a minor child. However, nothing herein shall preclude any person from imposing reasonable restrictions on the use of common areas, facilities, and services which are necessary to protect the health and safety of a tenant or are necessary for the reasonable operation of a facility. Without limiting the scope of this subsection, the following practices are hereby declared to be unreasonable and in violation of this subsection:
 - (i) Requiring a minor child fifteen years of age or older to be accompanied by a parent or adult while utilizing swimming pool facilities; provided, however, that nothing contained herein shall be deemed to prevent a person having a housing accommodation for rent or lease from requiring a parent or guardian of a minor child to file a written consent form before allowing unsupervised use of swimming facilities by the minor child. For purposes of this provision, the term "swimming pool" shall not be deemed to include jacuzzis, spas, hot tubs, or similar facilities;

- (ii) Restricting the hours during which a minor child may use recreational facilities so that the number of restricted hours outside of school hours and nighttime hours exceeds twenty-five percent (25%) of the total regularly scheduled hours each day, or two hours, whichever is greater;
- (iii) Requiring that any minor child ten years of age or older be accompanied by a parent or other adult when using common areas generally open to access to all tenants, such as lawn areas, walkways, and hallways which do not present any unusual hazards; and
- (iv) Refusing to allow adults and children or children of opposite sexes to share a bedroom.

SECTION 6. EXEMPTIONS. Nothing contained in this ordinance shall apply to or be construed:

- (a) To affect any housing accommodation in a development intended and operated for occupancy by older persons in accordance with applicable federal law;
- (b) To affect any state-licensed nursing home, convalescent home, or community care facility;
- (c) To affect any unit in a building of four or fewer units under common ownership, one unit of which is occupied by the owner; or
- (d) To affect any housing accommodation occupied by a tenant who subleases any portion of that accommodation to another tenant.

SECTION 7. REQUIREMENTS OF FINANCIAL OBLIGATIONS NOT PROHIBITED. This ordinance shall not prohibit the person having the right to rent or lease the premises from requiring the same rent, deposits, fees, or charges of prospective adult residents with minor children as he or she may require of prospective adult residents without children. However, no discrimination in the amount or manner of payment of said rent, deposits, fees, or charges shall be permitted.

SECTION 8. PENALTIES - REMEDIES. (a) Criminal. Violation of this ordinance shall constitute a misdemeanor.

(b) Civil. Any person who violates the provisions of this ordinance shall be liable to each party injured by such violation

for civil penalties not to exceed one thousand dollars (\$1,000) in addition to actual damages, costs, and reasonable attorney's fees. In addition, the court may award punitive damages.

(c) Injunctive Relief. Any person who commits, or proposes to commit, an action in violation of this ordinance may be enjoined therefrom by any court of competent jurisdiction.

Any action for injunctive relief under this ordinance may be brought by the City Attorney, by any aggrieved person, by other law enforcement agencies, by the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.

(d) Remedies Not Exclusive. The remedies provided in this ordinance are cumulative and shall be independent of any other remedies or procedures that may be available to an aggrieved party.

SECTION 9. COMPLIANCE WITH OTHER LAWS. No provision of this ordinance shall be construed to supersede or excuse compliance with any other provision of the City of Hayward Municipal Code or state or federal law relating to health, safety, or housing occupancy.

SECTION 10. EFFECTIVE DATE. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the 3rd day of October 1989, by Councilmember WARD.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 17th day of October, 1989, by the following votes of members of said City Council.

AYES: COUNCILMEMBERS: JIMENEZ, ARAGON, CAMPBELL, COOPER, SWEENEY, WARD
MAYOR: GIULIANI
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE

APPROVED October 24, 1989

BY: Alex Giuliani
Mayor of the City of Hayward

ATTEST: Juan Canada
City Clerk of the City of Hayward

The Daily Review

116 W. Winton Ave., Hayward, CA 94544
(415) 783-6111

LEGAL NO. 2331

NOTICE OF INTRODUCTION OF AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE PROHIBITING DISCRIMINATION AGAINST FAMILIES WITH MINOR CHILDREN IN RESIDENTIAL RENTAL HOUSING

NOTICE IS HEREBY GIVEN that at a Regular Meeting of the Hayward City Council held October 3, 1989, the above entitled ordinance was introduced by Councilmember [Name]. The following is a subject matter index of the ordinance as introduced:

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

- Section 1 NAME
- Section 2 PURPOSE
- Section 3 FINDINGS
- Section 4 DEFINITIONS
- Section 5 PROHIBITED ACTIVITIES
- Section 6 EXEMPTIONS
- Section 7 REQUIREMENTS OF FINANCIAL OBLIGATIONS NOT PROHIBITED
- Section 8 PENALTIES - REMEDIES
- Section 9 COMPLIANCE WITH OTHER LAWS
- Section 10 EFFECTIVE DATE

The ordinance will be considered for adoption at the Regular Meeting of the Hayward City Council to be held October 17, 1989, at 8:00 PM in the Council Chambers, City Center, 1200 Foothill Boulevard, Hayward, CA. Copies of the full text of this ordinance are available for inspection by the public in the City Clerk's Office, 1st Floor of the City Center, 1200 Foothill Boulevard, Hayward, CA, during the regular business hours of the City Clerk's Office, 9:00 AM to 5:00 PM, Monday through Friday.

The Daily Review
October 17, 1989

RECEIVED
HAYWARD
CITY CLERK

Oct 17 9 12 AM '89

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

AFFIDAVIT OF PUBLICATION

Case No.

In the matter of
*DISCRIMINATION AGAINST
FAMILIES WITH MINOR CHILDREN
IN RESIDENTIAL RENTAL HOUSING*

Cheryl Poon.....deposes and
says that he/she was the Public Notice Advertising Clerk of
THE DAILY REVIEW a newspaper of general circulation as
defined by Government Code Section 6000, adjudicated as
such by the Superior Court of the State of California,
County of Alameda (Order Nos. 224 933 and 244 264)
which is published and circulated in Eden Township in said
county and state seven days a week.

That the *PUBLIC NOTICE*.....

of which the annexed is a printed copy, was published in
every issue of THE DAILY REVIEW on the following dates:

OCTOBER 13, 1989.....

I certify (or declare) under penalty of perjury that the
foregoing is true and correct.

Date *OCTOBER 13, 1989*.....
at Hayward, California.

Cheryl Poon
Public Notice Advertising Clerk