

Record of Proceedings- MAPC Hearing Held November 8, 2011

RZ-11-26 Case RZ 11-26: Text Amendments: Reasonable Accommodation Policy

Staff: Mr. Spriggs explained the text amendment proposal and the reasons behind the draft. He discussed the Fair Housing Act training recently given to the Commission and Elected Officials. The presentation is placed on the agenda for those that did not attend.

Mr. Spriggs cited the King's Ranch Case which is also copied on the agenda attachment. We are obligated by the FHA to provide a process so that those individuals with disabilities and special needs can enjoy fair housing. This proposal is recommended to the Council Public Works Committee and Council.

We forwarded the proposal to the Arkansas Fair Housing Commission who provided the training. They have concurred that the proposal meets the standards.

Ms. Nix: Asked if Staff received approval from the Arkansas Fair Housing Commission? Mr. Spriggs noted that he received response today by email. Ms. Nix: Has the City Attorney reviewed and approved? Mr. Spriggs/Carol Duncan replied yes. Mr. noted that the changes will be drafted into an ordinance and reviewed by the Mayor and City Attorney prior to approval to be placed on the Council Agenda.

Mr. Scurlock asked what does this do to, or how does it change what we already have in place? Mr. Spriggs noted that our current definition of family is improper and does not comply with the FHA. It should have been modified perhaps 10 years ago. Our code does have restrictions that will protect us from group residential situations. Our code still addresses group living settings that are outside of the fair housing standards.

Mr. Scurlock: What are we not doing that we should be doing? Mr. Spriggs noted that the City did not provide the reasonable accommodation later requested by King's Ranch. The MAPC was provided a different set of parameters at first and acted on that merit. The reasonable accommodation request came later. The judge ordered that we provide that.

Mr. Tomlinson: Based on the number of people, this allows us some discretion on approvals. Mr. Spriggs noted that the language addresses situations where it exceeds the 8 or more individuals and where certain situations may be referred to the MAPC.

Mr. Scurlock: It seems to me that we are looking at this the wrong way. Mr. Scurlock compared the same parameters dealt with in apartments. He noted he has a problem when an agency that puts 8 kids in a neighborhood as opposed to individuals doing it; it is like running a business. I think this is going down a slippery slope.

Mr. Tomlinson: I do not think that we have a choice in what we are doing; within reason we will have to do it.

Mr. Kelton: The reasonable accommodation provision does not require us to take the rule book and throw it in the fire. But, we are to be accommodating to the extent that is reasonable. I think that we failed in that obligation previously. And it has been pointed out to us with substantial monetary penalties assessed against us. Arkansas has had a Fair Housing Act since 2003 that mirrors the Federal Fair Housing Act. The Arkansas Fair Housing Commission came into existence in 2003, primarily to aid, assist, to mitigate, and do what they can to avoid a lawsuit filed at the federal level. That is the first place that a complaint should be filed in Arkansas. The Fair Housing Director is Carol Johnson. When she looked at this King's Ranch thing, she agreed to come to Jonesboro and to do training: She did an outstanding job. She basically told us that you do not have to burn your rule book but be reasonable. There are seven (7) protected classes and the one here was the disability and handicap. We are to be reasonable and accommodating to their needs for fair housing. We have an obligation to obey Federal Law and Arkansas Law. Some of those penalties that were assessed to other Arkansas cities were very substantial. Again, I believe that it was an issue that no one understood. We all have had our eyes opened. I think it was Otis that asked Ms. Johnson a question about future requests or refusals; she said now that the Judge has asked you to comply, it would be even more difficult process for you to get out of your liabilities if you do not. I regard that as a firm statement that everyone has to obey Federal and State Law.

Mr. Spriggs noted the Commission also provides services to the City to avoid these problems. They are available for additional training and referred opinion requests.

Mr. Kelton: Cited an example of a lady that wanted to provide housing and exclude children recently. He noted that he spoke up that he found the language to be offensive. You can't sit back and let someone openly violate the law. As a licensed instructor teaching fair housing for 20 years he had to speak up. The average person does not understand this. Those workshops are very informative. In reference to the power-point that was shared- he recommend that everyone look at that and the case law.

Commission's Action:

Mr. Kelton made a motion to place Case: RZ-11-26- Text Amendments Establishing a Reasonable Accommodation Policy, on the floor for consideration and for recommendation to City Council for adoption, as so recommended by Staff in Compliance of the Fair Housing Act (FHA); motion seconded by Ms. Nix.

Roll Call Vote: Mr. Dover- Aye; Mr. White- Aye; Ms. Nix- Aye; Ms. Norris-Aye; Mr. Scurlock- Aye; Mr. Kelton- Aye. Mr. Tomlinson- Aye; Mr. Roberts- Chair. Motion passed with a 6-0 Vote in favor.