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To: Cranston City Council
From: Mayor Allan Fung
RE: Veto of Ordinance 9-20-05
Date: December 30, 2020

Housing affordability and the right of people to obtain a safe place to live are important issues for me and these compelling issues are being examined in communities statewide. Before me for review are two ordinances (9-20-05 and 9-20-06) that look to address the housing issues in Cranston. I support and have signed Ordinance 9-20-06 that creates a Housing Commission that will study these issues and make ongoing recommendations that can hopefully be part of the city's Comprehensive Plan to help our residents in the future.

After consulting with our solicitors, I have concerns about the legality and constitutionality of Ordinance 9-20-05. This ordinance would conflict with the Rhode Island Fair Housing Practices Act, which is quite comprehensive as well as specifically lists all the forbidden practices and conduct currently actionable under state law. Thus, it would be specifically preempted by this statute. Our Rhode Island Supreme Court has consistently held that only the state can legislate and pass laws on matters of statewide concern.

I recommend that the Housing Commission created in 9-20-06 provide recommendations that should be passed on to the members of the general assembly for improvements to the existing Fair Housing Practices Act.

For all these reasons, I respectfully veto Ordinance 9-20-05.

Respectfully,

Allan W. Fung
Mayor

THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF TITLE 8, OF THE CODE OF THE CITY OF CRANSTON, 2005 , ENTITLED "HEALTH AND SAFETY "
(Fair Housing Practices)

No.

**As amended by City Council 12/17/2020*

Passed:
December 17, 2020

Michael J Farina
Michael J Farina, Council President

Approved:

Veto Message Attached
Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

Section 1. Title 8 Chapter 8, "Health and Safety" is hereby amended by adding the following:

Chapter 8.52: Equal Housing Practices.

8.52.010 Findings of the City Council:

The practice or policy of housing discrimination against individuals because of race, color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, lawful source of income, ***military status as a veteran with an honorable discharge or an honorable or general administrative discharge, service member in the armed forces**, or country of ancestral origin, is a matter of grave public concern. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of our people and undermines the foundations of a free democratic state. The denial of equal housing opportunities because of such discrimination deprives large segments of the population of the City of Cranston of the ability to maintain decent standards of living and intensifies group conflicts, thereby resulting in grave injury to the public safety, health and welfare.

8.52.020 Public Policy:

It is hereby declared to be the public policy of the City of Cranston to foster the equal housing opportunities of all individuals in the town in accordance with their fullest capacities and abilities, regardless of their race or color, sex, sexual orientation, gender identity or expression, religion, marital status, disability, age, lawful source of income, ***military status as a veteran with an honorable discharge or an honorable or general administrative discharge, service member in the armed forces,** or country of ancestral origin, and to safeguard their right to be free from such discrimination in housing.

8.52.030 Right to equal housing opportunities:

The right of all individuals in the City of Cranston to equal housing opportunities regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, service member in the armed forces, country of ancestral origin, disability, age, familial status, or regardless of the fact that a tenant or applicant or a member of the household is, or has been, or is threatened with being the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse, is hereby recognized as, and declared to be, a civil right.

8.52.040 Definitions:

As used in this chapter, the following terms shall have the meanings indicated:

(a) "*Age*" means anyone over the age of eighteen (18).

(b) "*Armed forces*" means the Army, Navy, Marine Corps, Coast Guard, Merchant Marines, or Air Force of the United States and the Rhode Island National Guard.

(c) "*Disability*" means a disability as defined as in Rhode Island Law 42-87-1.

(d) "*Discriminate*" includes segregate, separate, or otherwise differentiate between or among individuals because of race, color, sex, sexual orientation, gender identity or expression, marital status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, housing status, or familial status or because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, housing status, or familial status of any person with whom they are, or may wish to be, associated.

(e) "*Domestic Abuse*" for the purposes of this chapter shall have the same meaning as that set forth in Rhode Island Law 15-15-1.

(f) "*Familial status*" means one or more individuals who have not attained the age of eighteen (18) years being domiciled with:

(i) a parent or another person having legal custody of the individual or individuals; or

(ii) the designee of the parent or other person having the custody, with the written permission of the parent or other person, provided that, if the individual is not a relative or legal dependent of the designee, that the individual shall have been domiciled with the designee for at least six (6) months.

(iii) 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 eighteen (18) years.

(g) "*gender identity or expression*" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self image, gender-related appearance, or gender-related expression; whether or not that gender identity, gender-related self image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth.

(h) "*housing accommodation*" includes any building or structure, or portion of any building or structure, or any parcel of land, developed or undeveloped, that is occupied or is intended, designed, or arranged to be occupied, or to be developed for occupancy, as the home or residence of one or more persons.

(i) "*owner*" includes any person having the right to sell, rent, lease, or manage a housing accommodation.

(j) "*senior citizen*" means a person sixty-two (62) years of age or older.

(k) "*sexual orientation*" means having, or being perceived as having, an orientation for heterosexuality, bisexuality, or homosexuality.

(l) "*victim*" means a family or household member and all other persons contained within the definition of those terms as defined in Rhode Island Law 12-29-2.

(m) "*housing status*" means the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

(n) "*lawful source of income*" means and includes any income, benefit, or subsidy derived from child support; alimony; Social Security; Supplemental Security Income; any other federal, state, or local public assistance program, including, but not limited to, medical or veterans assistance; any federal, state, or local rental assistance or housing subsidy program, including Section 8 Housing Choice Vouchers as authorized by 42 U.S.C section 1437; and any requirement associated with such public assistance, rental assistance, or housing subsidy program.

8.52.050: Unlawful housing practices.

1. It shall be an unlawful housing practice:

   a. For any owner having the right to sell, rent, lease, or manage a housing accommodation, or an agent of any of these:

      i. To discriminate or directly or indirectly, make, or cause to be made, any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression,

marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin or disability, age, familial status nor make any written or oral inquiry concerning whether a tenant or applicant or a member of the household is, or has been, or is threatened with being the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking relief from any court in the form of a restraining order for protection from domestic abuse, of any prospective purchaser, occupant, or tenant of the house accommodation;

ii. To discriminate or directly or indirectly, refuse to sell, rent, lease, let, or otherwise deny to or withhold from any individual the housing accommodation because of the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, or familial status of the individual or the race, color religion, sex, sexual orientation, gender identity or expression, marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin or disability, age, or familial status of any person with whom the individual is or may wish to be associated; or shall, or on the basis that a tenant or applicant, or member of the household, is or has been, or is threatened with being, the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking, relief from any court in the form of a restraining order for protection from domestic abuse.

iii. To discriminate or directly or indirectly, issue any advertisement relating to the sale, rental, or lease of the housing accommodation that indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, sexual orientation, gender identity or expression, marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant or a member of the household is, or has been, or is threatened with being the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking relief from any court in the form of a restraining order for protection from domestic abuse.

iv. To directly or indirectly, discriminate against any individual because of their race, color, religion, sex, sexual orientation, gender identity or expression, marital status, housing status, lawful

source of income, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, familiar status, or on the basis that a tenant or applicant or a member of the household is, or has been, or is threatened with be the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking relief from any court in the form of a restraining order for protection from domestic abuse, in the terms, conditions, or privileges of the sale, rental, or lease of any housing accommodation or in the furnishing of facilities or services in connection with it.

b. For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing accommodation, whether secured or unsecured, to:

i. directly or indirectly make or cause to be made any written or oral inquiry concerning the race, color, religion, sex, sexual orientation, gender identity or expression, marital status, housing status, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, familial status, or any express written or oral inquiry into whether a tenant or applicant or a member of the household is, or has been, or is threatened with being the victim of domestic abuse, or whether a tenant or applicant has obtained, or sought, or is seeking relief from any court in the form of a restraining order for protection from domestic abuse, of any individual seeking the financial assistance, or of existing or prospective occupants or tenants of the housing accomodation; nor shall any person to whom the application is made in the manner provided, directly or indirectly, discriminate in the terms, conditions, or privileges relating to the obtaining or use of any financial assistance against any applicant because of their race, color, religion, sex, sexual orientation, gender identity or expression, marital status, military status as a veteran with an honorable discharge or an honorable or general administrative discharge, servicemember in the armed forces, country of ancestral origin, disability, age, familial status, or on the basis that a tenant or applicant or a member of the household is, or has been, or is threatened with being the victim of domestic abuse, or that the tenant or applicant has obtained, or sought, or is seeking relief from any court in the form of a restraining order for protection from domestic abuse, of the applicant or of the existing or prospective occupants or tenants.

2. It shall be an unlawful discriminatory housing practice to for profit induce, or attempt to induce, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into a neighborhood of a person or persons of a particular race, color, religion, marital status, housing status, lawful source of income, military status as a veteran with an honorable discharge or an

honorable or general administrative discharge, service member in the armed forces, country of ancestral origin, sex, sexual orientation, gender identity or expression, age, disability, or familial status.

3. Nothing in this section shall be construed to:
   a. prohibit any oral or written inquiry as to whether the prospective purchaser or tenant is eighteen (18) years of age or older.
   b. prohibit any oral or written inquiry to confirm the source, amount and expected duration of a lawful source of income.

4. If an owner requires that a prospective or current tenant have a certain minimum level of income, the standard for assessing eligibility shall be based only on the portion of the rent to be paid by the tenant, taking into account the value of any federal, state, or local rental assistance or housing subsidy.

8.52.060 Exemptions

(a) nothing in this section shall prohibit an owner of a housing accommodation from refusing to rent to a person based on their lawful source of income if the housing accommodation is three (3) units or less, one of which is occupied by the owner.

8.52.70 Enforcement

~~*(a) Any and all allegations of unlawful housing discrimination shall be referred to the Rhode Island Commission for Human Rights.~~

***(a)** Any person aggrieved by an unlawful housing practice in violation of this ordinance may bring a civil action in a court of competent jurisdiction for appropriate relief.

1. As used in subsection (b), "appropriate relief" includes any permanent or temporary injunction; all damages sustained as a result of the unlawful act, including damages sustained through pain, humiliation and mental suffering; punitive damages; payment of cost, including all reasonable attorney fees incurred at any time as a result of the unlawful act; and any other action necessary to effectuate the purposes of this ordinance.

2. As used in subsection (b), "any person aggrieved" includes any individual who is the victim of an unlawful housing practice, as well as any organization or group whose purposes include combating discrimination or racism; safeguarding civil liberties; or promoting full, free, or equal opportunities.

***(b) The Cranston Municipal Court may impose a fine not exceeding five hundred dollars ($500) for violations of this Chapter, with each day that a violation is maintained or continued being a separate offense.**

Section 2: This Ordinance shall take effect upon its final adoption.

Positive Endorsement		Negative Endorsement (attach reasons)	
City Solicitor	12/30/20 Date	City Solicitor	Date

Sponsored by: Councilmembers Donegan, Germain, Stycos and Vargas.

Referred to: Ordnance Committee October 15, 2020