

**Greater Louisville Association of REALTORS
Government Affairs Update**

December 14, 2020

Louisville Metro Government

1. Several Louisville Metro Councilmembers filed an ordinance that would eliminate discrimination based on homeless status, prior military service, lawful source of income (including Section 8 housing status), and conviction history or arrest history. “In connection with any of the transactions set forth herein which affect any sale, purchase, exchange, rental, or lease of any housing accommodation, it shall be a prohibited, unlawful practice for a person, owner, financial institution, real estate broker, or real estate salesperson, or any representative of the above to:

(A) Refuse to sell, purchase, exchange, rent or lease, lend or deny brokerage service or otherwise deny to or withhold any housing accommodation from a person because of race, color, religion, national origin, familial status, disability, sex, gender identity, or sexual orientation, lawful source of income, conviction history or arrest history, prior military service or homeless status;”

The underlined portion of the above is the new section of the law.

On Wednesday November 11th this ordinance was in the Community Affairs Committee and was voted out to the full Metro Council discussion. The full Metro Council discussed this on Thursday November 19th and passed an amended version of the ordinance which includes the following amendments:

1. Lawful source of income provision is included in the amended ordinance, however, this Ordinance does not take effect until March 1, 2021.

2. In Section 92.03 (P), this section is dealing with access to real estate broker organizations, MLS, etc. The amended version includes language to make it consistent with KREC laws and regulations and with Federal HUD regulations. This is important due to the current KREC process dealing with prior conviction history and becoming a real estate agent. The full language of (P) is below.

“(P) Deny any person access to or membership or participation in any multiple- listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against that person in the terms or conditions of such access, membership, or participation because of race, color, religion, national origin, familial status, age, disability, sex, gender identity, or sexual orientation, lawful source of income, conviction history or arrest history, prior military service, or homeless status consistent with the Kentucky Real Estate Commission (“KREC”) and the U.S.

Department of Housing and Urban Development (“HUD”) regulations.”

3. In § 92.04, it lays out the exceptions to the ordinance dealing with prior conviction/arrest history. Below is the language listing the conviction and arrest history to which the ordinance does not apply to:

“(A) The provisions of this chapter, which prohibit discriminatory housing practices, other than the prohibition of discriminatory advertising,

shall not apply:...

(5) To persons with arrest history and conviction history that includes one or more of the following:

(a) Any arrest or conviction where state and/or federal law prohibits the person from being eligible for public housing and other federally subsidized housing; or

(b) Consistent with 24 C.F.R. §§ 960.204(a)(4), 24 C.F.R. § 5.856, any conviction that leads to the person becoming subject to a lifetime registration requirement under a State sex offender registration program; or

8 (c) Any conviction in which the person is deemed a "violent offender" under KRS § 439.3401. A violent offender means any person who has been convicted of or pled guilty to the commission of:

- (i) A capital offense;**
- (ii) A Class A felony;**
- (iii) A class B felony involving the death of the victim or serious physical injury to a victim;**
- (iv) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer, firefighter, or emergency medical services personnel while the peace officer, firefighter, or emergency medical services personnel was acting in the line of duty;**
- (v) A Class B felony involving criminal attempt to commit murder under KRS 506.010 if the victim of the offense is a clearly identifiable peace officer, firefighter, or emergency medical services personnel acting in the line of duty, regardless of whether an injury results;**
- (vi) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;**
- (vii) Use of a minor in a sexual performance as described in KRS 531.310;**
- (viii) Promoting a sexual performance by a minor as described in KRS 531.320;**
- (ix) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);**
- (x) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;**

- (xi) **Criminal abuse in the first degree** as described in KRS 508.100;
 - (xii) **Burglary in the first degree** accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - (xiii) **Burglary in the first degree** accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040;
 - (xiv) **Robbery in the first degree;**
- (d) Any conviction or plea to any crime involving **felony arson** under Kentucky Revised Statute;
- (e) Any conviction or plea for **felony criminal mischief** under Kentucky Revised Statute;
- (f) Consistent with 24 C.F.R. §§ 960.204(a)(3) and 24 C.F.R. 982.553 (a)(1)(ii)(C), **conviction of drug related criminal activity** for manufacture or production of methamphetamine on the premises of federal assisted housing;
- (g) Consistent with 24 C.F.R. §§ 960.204(a)(1), 24 C.F.R. 5.854(a), and 24 C.F.R. 553(a)(1)(i), **for three years from the date of eviction, the household member has been evicted from federally assisted housing for drug-related criminal history;**
- (h) Consistent with 24 C.F.R. §§ 960.204(a)(2), 24 C.F.R. § 5.854(b)(1), and 23 C.F.R. 982.553(a)(1)(ii)(A) **if any household member is currently engaging in illegal use of a drug;**
- (i) Consistent with 24 CFR § 982.552(c)(iv), **Section 8 based assistance is expressly prohibited** if any member of the household has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal Housing program;
- (j) Consistent with 24 C.F.R. §§ 5.855(a) and 24 C.F.R. 982.553(a)(2)(ii) **Section 8 based assistance and Federally assisted housing is expressly prohibited** if any household member is currently engaged in, or has engaged in during a reasonable time before the admission:
- (i) **Drug-related activity;**
 - (ii) **Violent criminal activity;**
 - (iii) **Other criminal activity which may threaten** the health, safety, or right to peaceful enjoyment of the premises by other **residents or persons residing in the immediate vicinity;** or
 - (iv) **Other criminal activity which may threaten** the health or safety of the **owner, property management staff,** or person performing a contract administration function or responsibility on behalf of the PHA.

This Ordinance will take effect on March 1, 2021.

2. Louisville Metro Council has introduced a resolution to instruct the Planning and Zoning staff at Develop Louisville to review the land development code as it relates to equity and inclusion. This review will focus on land development code provisions that could be an issue regarding equity and inclusion into the housing market. Some



issues brought up in the initial committee meeting of the Equity and Inclusion Committee of Louisville Metro Council include R-4 zoning and its restrictions, deed restrictions, and other potential obstacles to inclusion in the housing market. The Equity and Inclusion Committee met to discuss this resolution and got a presentation from Jeana Dunlap and Develop Louisville regarding some of their recommendations and a deeper dive into these issues. This resolution was passed by the Metro Council at their meeting on Thursday, Sept 17th. Now, the Planning and Design staff are working on a set of policy changes to be introduced for community feedback.

