

Submitted by: Chair of the Assembly at the
Request of the Mayor

Prepared by: Equal Rights Commission

For reading: January 22, 2008

CLERK'S OFFICE

APPROVED

Date: 3-18-08

ANCHORAGE, ALASKA

AO No. 2008-16

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS
2 5.20.020A., 5.50.070, 5.60.020A., 5.70.040, AND 5.80.060A., TO CLARIFY
3 JURISDICTION OVER OWNER'S ASSOCIATIONS, PROVIDE ADDITIONAL
4 DISCOVERY, ALLOW ADMINISTRATIVE CLOSURES BASED ON THE
5 ALLOCATION OF COMMISSION RESOURCES, ALLOW COMMISSION CASES TO
6 BE HEARD WITH A HEARING OFFICER, AND CHANGE CONFIDENTIALITY
7 PROVISIONS TO ALLOW STAFF TO CONTACT THE APPROPRIATE
8 AUTHORITIES.

10
11 THE ANCHORAGE ASSEMBLY ORDAINS:

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13 **Section 1.** Anchorage Municipal Code section 5.20.020A. is hereby amended to read
14 as follows (*the remainder of the section is not affected and therefore not set out*):

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16 **5.20.020 Unlawful practices in the sale, [OR] rental or use of real**
17 **property.**

18
19 A. It is unlawful for the owner, lessor, manager, agent, brokerage service, or
20 other person having the right to sell, lease, rent, [OR] advertise, or an
21 owner's association having the powers of governance and operation of real
22 property to:

23
24 *** **

25 (CAC 8.36.090; AO No. 93-149, § 2, 10-15-93; AO No. 2002-163, § 3, 1-7-03)

26
27 **Section 2.** Anchorage Municipal Code section 5.50.070 is hereby amended to read as
28 follows (*the remainder of the section is not affected and therefore not set out*):

29
30 **5.50.070 Discovery.**

31
32 A. After a complaint is filed, the executive director may issue written
33 interrogatories, [AND] requests for production, and requests for admissions
34 to any party.

35
36 B. After issuance of a determination of conciliation failure, a party may serve
37 interrogatories, [AND] requests for production, and requests for admissions
38 upon any other party.

39
40 C. Interrogatories, [AND] requests for production, and requests for admissions
41 may address any matter not privileged which is relevant to the subject
42 matter involved in the pending action. Information sought need not be

admissible at the hearing, if it appears reasonably calculated to lead to the discovery of admissible evidence.

D. A party shall respond in writing to the interrogatories, [AND] requests for production, and requests for admissions within 30 days after the date of receipt. Upon written request and a showing of good cause, the executive director may extend the time within which the response may be completed and returned to the executive director.

E. A party may file with the executive director written objections to an interrogatory, [OR] request for production, or request for admission. Objections shall be submitted on a [SEPARATE] document separate from the document [THAT] containing answers to interrogatories, and shall include a statement of the reason(s) for each objection. All objections shall be submitted within the 30 days allowed for responding to interrogatories, [AND] requests for production, and requests for admissions. Untimely objections shall not be considered.

F. The executive director shall submit a party's objections, along with staff's written response, to the chair of the commission, who shall either sustain the objection or order that the interrogatory, [OR] request for production, or request for admission be answered within 15 days after receipt of the chair's order by the objecting party.

G. In the event that a party fails to respond fully or object to an interrogatory, [OR] request for production, or request for admission or to obtain an extension of time within 30 days after being served, the executive director shall file with the chair, a motion to compel production and/or response.

*** *** ***

(AR No. 92-223(S); AO No. 2002-163, § 15, 1-7-03)

Note: Formerly AMCR 5.40.002.

Section 3. Anchorage Municipal Code section 5.60.020A. is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

5.60.020 Administrative closure.

A. The executive director may administratively close a complaint in the following instances:

*** *** ***

10. If the commission reviews the complaint and makes a determination to prioritize allocation of staff and commission resources among complaints received to eliminate unlawful discriminatory practices in the most cost efficient and effective manner possible, pursuant to the Commission's powers authorized under section 5.10.040A.9.

(AR No. 92-223(S); AO No. 2002-163, § 16, 1-7-03)

Note: Formerly AMCR 5.40.005. See the Code Comparative Table.

Section 4. Anchorage Municipal Code section 5.70.040 is hereby amended to delete subsection D. and re-letter the remaining subsections as follows (*the remainder of the section is not affected and therefore not set out*):

5.70.040 Powers and duties of hearing panel and hearing examiner.

*** *** ***

[D. UPON APPOINTING A HEARING EXAMINER TO CONDUCT A HEARING, THE RESPONSIBILITIES OF THE HEARING PANEL REGARDING THE COMPLAINT SHALL END UNTIL THE HEARING EXAMINER ISSUES A PROPOSED ORDER.]

D [E]. A hearing examiner shall be a member of the Alaska Bar Association in good standing.

E [F]. In conducting a hearing, the hearing panel or hearing examiner will have full authority to rule on the admissibility of evidence and other procedural matters. When complaints involving a common question of law or fact are awaiting public hearing, the hearing panel or hearing examiner may order them to be consolidated. On any question which would be determinative of the jurisdiction of the commission or of the liability of any party, the hearing examiner or hearing panel may only make recommendations to the full commission.

F [G]. The hearing panel or hearing examiner may, on its own motion or upon the motion of a party, conduct a pre-hearing conference to consider procedural motions, to establish a schedule for discovery, briefing or exchange of witness lists and other matters as appropriate.

G [H]. The hearing panel or hearing examiner may issue orders pertaining to discovery upon the motion of a party.

H [I]. In cases under Anchorage Municipal Code chapter 5.25, a hearing panel composed of members of the commission shall hear the case or the hearing examiner shall be an employee of the Municipality.

(AR 92-223(S); AR No. 96-174, § 7, 10-22-96; AO No. 2002-163, § 18, 1-7-03)

Note: Formerly AMCR 5.60.003. See the Code Comparative Table.

Section 5. Anchorage Municipal Code section 5.80.060A. is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

5.80.060 Confidentiality.

A. Except as may be necessary for the proper investigation and adjudication of a complaint, fulfillment of statutory reporting requirements or cooperation with other governmental agencies, or to report imminent threats of harm to self or others to the proper authorities, the identity of complainants and respondents and the contents of investigative files, including documents produced by the parties, shall not be disclosed to anyone other than the parties and the commission staff.

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(AR 92-223(S); AR No. 96-174, §11, 10-22-96; AO No. 2002-163, §25, 1-7-03)

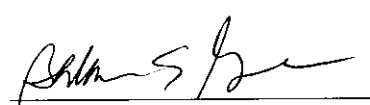
Note: Formerly AMCR 5.70.003. See the Code Comparative Table.

Section 6. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 18th day of March, 2008.


Chair of the Assembly

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2008- 16

Title: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 5.20.020A., 5.50.070, 5.60.020A., 5.70.040, AND 5.80.060A., TO CLARIFY JURISDICTION OVER OWNER'S ASSOCIATIONS, PROVIDE ADDITIONAL DISCOVERY, ALLOW ADMINISTRATIVE CLOSURES BASED ON THE ALLOCATION OF COMMISSION RESOURCES, ALLOW COMMISSION CASES TO BE HEARD WITH A HEARING OFFICER, AND CHANGE CONFIDENTIALITY PROVISIONS TO ALLOW STAFF TO CONTACT THE APPROPRIATE AUTHORITIES.

Sponsor: MAYOR
Preparing Agency: Anchorage Equal Rights Commission
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:

(In Thousands of Dollars)

	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -

REVENUES:

CAPITAL:

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

No public sector economic effects are anticipated. This information is included in the AM at page 1, paragraph 4, indicating that there will be no public sector economic effects.

PRIVATE SECTOR ECONOMIC EFFECTS:

No private economic effects are anticipated.

Prepared by: Barbara A. Jones, Executive Director
Equal Rights Commission

Telephone: 343-4339

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 44-2008

Meeting Date: January 22, 2008

From: MAYOR

Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 5.20.020A., 5.50.070, 5.60.020A., 5.70.040, AND 5.80.060A., TO CLARIFY JURISDICTION OVER OWNER'S ASSOCIATIONS, PROVIDE ADDITIONAL DISCOVERY, ALLOW ADMINISTRATIVE CLOSURES BASED ON THE ALLOCATION OF COMMISSION RESOURCES, ALLOW COMMISSION CASES TO BE HEARD WITH A HEARING OFFICER, AND CHANGE CONFIDENTIALITY PROVISIONS TO ALLOW STAFF TO CONTACT THE APPROPRIATE AUTHORITIES.

This ordinance represents recommendations from the Equal Rights Commission for amendments to Anchorage Municipal Code title 5. There are 3 proposed technical amendments and 2 proposed substantive amendments.

First, the Commission recommends a clarification to title 5 to prohibit discrimination by condominium owner's associations. The definition of real property in AMC section 5.20.010 includes "condominiums." However, the title of the section mentions only "the sale or rental of real property." The Commission proposes adding the word "use" to the title, as well as language regarding "governance" in the text of the section, to clarify in both sections the Commission jurisdiction to prohibit discrimination by condominium associations.

The second technical correction is set out in Section 2, clarifying the Commission may use "requests for admissions" in discovery. Although AMC section 5.50.070I. allows other forms of discovery, the change proposed by the Commission clarifies that requests for admissions are an allowable discovery tool.

The third technical correction, in Section 3, amends AMC section 5.60.020A. to add a new paragraph 10, clarifying that the Commission may close cases based on the provisions of AMC section 5.10.040A.9. This section gives the Commission the authority to "Review complaints of discriminatory acts and practices made to the commission and prioritize allocation of its staff and commission resources among complaints received in order to best fulfill the purposes of ... the Home Rule Charter."

The two substantive amendments are set out in Sections 4 and 5 of the ordinance. First, the Commission recommends, in Section 4, allowing the Commission to hear a case with the assistance of a hearing officer, instead of requiring the hearing panel to retain a private attorney to advise the Commission.

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2 The second substantive amendment is in Section 5. The amendment to AMC
3 section 5.80.060 allows staff to disclose information to the appropriate authorities in
4 circumstances where persons make threats of harm to themselves or others.

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6 There are no anticipated economic effects from these technical and substantive
7 amendments.

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9 THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE
10 AMENDING ANCHORAGE MUNICIPAL CODE SECTIONS 5.20.020A., 5.50.070,
11 5.60.020A., 5.70.040, AND 5.80.060A., TO CLARIFY JURISDICTION OVER
12 OWNER'S ASSOCIATIONS, PROVIDE ADDITIONAL DISCOVERY, ALLOW
13 ADMINISTRATIVE CLOSURES BASED ON THE ALLOCATION OF COMMISSION
14 RESOURCES, ALLOW COMMISSION CASES TO BE HEARD WITH A HEARING
15 OFFICER, AND CHANGE CONFIDENTIALITY PROVISIONS TO ALLOW STAFF
16 TO CONTACT THE APPROPRIATE AUTHORITIES.

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18 Prepared by: Barbara A. Jones, Executive Director
19 Anchorage Equal Rights Commission
20 Concur: James N. Reeves, Municipal Attorney
21 Concur: Denis LeBlanc, Municipal Manager
22 Respectfully submitted: Mark Begich, Mayor

Content Information**Content ID :** 005917**Type:** Ordinance - AO

An ordinance amending AMC 5.20.020A., 5.50.070, 5.60.020A., 5.70.040, & 5.80.060A., to clarify jurisdiction over owner's

Title: associations, provide additional discovery, allow administrative closures based on allocation of commission resources, See document.**Author:** jonesbar**Initiating Dept:** EqualRights**Date Prepared:** 1/11/08 2:40 PM**Director Name:** Barbara A. Jones**Assembly Meeting****Date:** 1/22/08**Public Hearing****Date:** ~~2/26/08~~ 3/18/08

11.0.0
2008 JAN 14 2:10:59
CLERK'S OFFICE

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
EqualRights_SubWorkflow	1/11/08 2:45 PM	Approve	jonesbar	Public	005917
AllOrdinanceWorkflow	1/11/08 2:45 PM	Checkin	jonesbar	Public	005917
OMB_SubWorkflow	1/11/08 3:36 PM	Approve	mitsonjl	Public	005917
Legal_SubWorkflow	1/11/08 3:41 PM	Approve	gatesdt	Public	005917
MuniManager_SubWorkflow	1/11/08 3:47 PM	Approve	leblancdc	Public	005917
MuniMgrCoord_SubWorkflow	1/13/08 11:16 AM	Approve	abbottmk	Public	005917