

Chapter 2

Certain Unlawful Real Estate Practices

§ 8-201 Declaration of policy.

§ 8-202 Definitions.

§ 8-203 Unlawful real estate practices.

§ 8-204 Non-solicitation areas.

§ 8-205 Activities prohibited with respect to non-solicitation areas.

§ 8-206 Hearings; rules: enforcement

§ 8-207 Violations.

§ 8-208 Civil remedies.

§ 8-201 Declaration of policy. It is hereby declared to be the policy of the City of New York and the purpose of this chapter to promote fair dealing in real estate transactions, to maintain community stability and security, and to foster racial and social harmony.

§ 8-202 Definitions. As used in this chapter:

1. "Chairperson" means the chairperson of the New York City commission on human rights.
2. "Commission" means the New York City Commission on Human Rights.
3. "Dwelling or real property" means one, two, three or four family residences, and any vacant land which is offered for sale or lease for the construction or location thereon of any such residence.
4. "Legal notice" means publication daily for one week in a newspaper of general circulation within the City of New York and written notice to all real estate brokers in the area.
5. "Real estate broker" means a real estate broker as defined in article twelve-A of the Real Property Law of the State of New York.
6. "Real estate dealer" means any firm, partnership, association, corporation or person which or who has within the preceding twelve months, sold, traded or exchanged two or more dwellings other than, in the case of a person, such person's own residence.
7. "Real estate office" means an office or other place of business which is primarily engaged in the business of selling, buying, leasing, or renting real property; listing real property for sale, purchase, lease or rental; or providing brokerage services in connection with such selling, buying, leasing, renting, or listing.
8. "Solicitation" means requesting, inviting, or inducing by any means, including, but not limited to:
 - (a) Going in or upon the property of the person to be solicited, except when invited by such person;
 - (b) Communicating with the person to be solicited by mail, telephone, telegraph or messenger service, except when requested by such person;
 - (c) Canvassing in streets or other public places;
 - (d) Distributing handbills, circulars, cards or other advertising matter;
 - (e) Using loudspeakers, sound trucks, or other voice-amplifying equipment;

(f) Displaying signs, posters, billboards, or other advertising devices other than signs placed upon a real estate office for the purpose of identifying the occupants and service provided therein, provided, however, that the term "solicitation" shall not include advertising in newspapers of general circulation, magazines, radio, television, or telephone directories.

9. "Block, neighborhood or area" means any forty square blocks within the City of New York.

§ 8-203 Unlawful real estate practices.

1. It shall be unlawful for any real estate broker or dealer or any agent or employee of a real estate broker or dealer, except in honest reply to an unprompted question by a prospective buyer or seller:

(a) To represent, for the purpose of inducing or discouraging the purchase, sale or rental, of the listing for purchase, sale, or rental, of any real property, that a change has occurred or will or may occur in the racial or religious composition of any block, neighborhood, or area.

(b) To represent, implicitly or explicitly, for the purpose of inducing or discouraging the purchase, sale, or rental or the listing for purchase, sale, or rental of any real property, that the presence of persons of any particular race, religion or ethnic background in an area will or may result in:

(1) A lowering of property values in the area;

(2) Change in the racial, religious or ethnic composition of the area;

(3) An increase in criminal or anti-social behavior in the area; or

(4) A change in the racial, religious or ethnic composition of schools or other public facilities or services in the area.

2. It shall be unlawful for any real estate broker or dealer or any agency or employee of a real estate broker or dealer:

(a) To make any misrepresentation in connection with the purchase, sale, or rental of any real property, that there will or may be physical deterioration of dwellings in any block, neighborhood or area.

(b) To refer to race, color, religion or ethnic background in any advertisement offering or seeking real property for purchase, sale or rental.

3. It shall be unlawful for any person, firm, partnership, association, or corporation, to knowingly aid, abet, or coerce the commission of any act made unlawful by subdivisions one and two of this section.

§ 8-204 Non-solicitation areas.

1. The commission may designate an area as a non-solicitation area for a period of up to one year upon making written findings based on substantial evidence introduced at a public hearing that:

(a) Practice made unlawful by section 8-203 of this chapter, the inducement or encouragement by brokers or dealers of the use of fraudulent mortgage applications for the purchase of dwellings, or the direction based race, creed, color or national origin by brokers or dealers of prospective purchasers or applicants to dwellings, or an unusually great incidence of solicitation are consistently occurring within the area, and that

(b) Such practices are causing, or are likely to cause, residents within the area to believe that:

(1) Property values in the area are declining, or about to decline rapidly; or

- (2) The area is experiencing, or is about to experience:
- (i) A declining level of maintenance of its housing stock; or
 - (ii) An increase in criminal behavior; or
 - (iii) A change in the racial, religious or ethnic composition of the schools in the area; or
- (3) The area is experiencing, or is about to experience, a material change in its racial, religious or ethnic composition; and
- (c) Therefore, the temporary prohibition in the area of the real estate activities described in section 8-205 of this chapter is necessary to prevent a material change in the area's racial, religious or ethnic composition.

2. The commission may extend one or more times the designation of a non-solicitation area made pursuant to subdivision one of this section for a period of up to one year upon making written findings, based on substantial evidence introduced at a public hearing, that such extension is necessary to achieve the designation's purpose, as described in paragraph (c) of subdivision one of this section, provided, however, that no extension may be granted which, together with the original designation and all previous extensions, will maintain a non-solicitation area for a continuous period greater than two years. The public hearing on any extension shall be held not more than thirty days before the day on which the designation or earlier extension is scheduled to expire.

3. (a) The commission shall promptly announce by legal notice each designation made pursuant to subdivision one of this section and each extension made pursuant to subdivision two of this section, describing the area to which it applies by references to named streets and landmarks. Any designation shall take effect upon the completion of the publication required for legal notice. Any extension shall take effect at the time at which the designation or earlier extension would otherwise expire.

(b) The commission shall maintain, and make available to all interested persons, a current listing of designated non-solicitation areas.

4. The commission may, at any time, terminate the designation of a non-solicitation area made pursuant to subdivision one of this section or the extension of a designation made pursuant to subdivision two of this section upon making findings, based on substantial evidence introduced at a public hearing, that the continuation of the designation or its extension is no longer necessary to achieve the designation's purpose, as described in this section.

§ 8-205 Activities prohibited with respect to non-solicitation areas. It shall be unlawful for any real estate broker or dealer or any agent or employee of a real estate broker or dealer to solicit, directly or indirectly, the sale, purchase, or rental of any dwelling located within a non-solicitation area.

§ 8-206 Hearings; rules; enforcement.

1. The commission may conduct investigations, studies, and hearings concerning practices and activities governed by this chapter. In conducting hearings, the commission shall have the power to subpoena witnesses, to compel their attendance, to administer oaths, to examine witnesses under oath, and to require the production of documents. A written record shall be made of every such hearing.

2. The commission shall have the authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this chapter.

3 The chairperson or his or her designated representative shall have the power to enforce the provisions of this chapter by signing criminal complaints against any person, firm, partnership, association or corporation for violation of this chapter.

4. The chairperson shall report to the Secretary of State of New York all violations of this chapter by real estate brokers and salespersons.

§ 8-207 Violations. Any person, firm, partnership, association, or corporation convicted of violating this chapter shall be guilty of a class A misdemeanor.

§ 8-208 Civil remedies.

1. (a) Any owner of real property who is induced to sell his or her property through or to a real estate broker or real estate dealer by acts committed by such broker or dealer in violation of section 8-203 or section 8-205 of this chapter may institute a civil action against such broker or dealer.

(b) If, in an action instituted pursuant to this subdivision, judgment is rendered in favor of plaintiff, such plaintiff shall be awarded as damages,

(i) The amount of any gains, whether in the form of profits, commission, or otherwise, realized by defendant as the result of the first subsequent arm's length sale, exchange or transfer of the property, or, if defendant acted as a broker, the amount of any commissions received by defendant through the sale, exchange or transfer of plaintiffs property, such gains in all cases to be calculated without regard to any expenses incurred by the defendant, and may in addition be awarded reasonable attorney's fees and court costs; or

(ii) If the defendant has not realized any gains as defined in this subdivision, an amount equal to the difference between the price for which plaintiff sold his or her property and the fair market value at the time of the sale, or the fair market value of the property at the time the action is commenced, whichever difference is greater, and may in addition be awarded reasonable attorney's fees and court costs.

2. (a) Any buyer, through or from a real estate broker or real estate dealer, of real property the last owner of which, excluding such broker or dealer, was induced to sell, exchange or transfer his or her property by acts committed by such broker or dealer in violation of section 8-203 or section 8-205 of this chapter may institute a civil action against such broker or dealer.

(b) If, in an action instituted pursuant to paragraph (a) of this subdivision, judgment is rendered in favor of plaintiff, the plaintiff shall be awarded as damages the amount of any gains, whether in the form of profits, commission, or otherwise, realized by defendant as the result of such plaintiffs purchase of the property, such gains in all cases to be calculated without regard to any expenses, incurred by the defendant, and may in addition be awarded reasonable attorneys' fees and court costs.

3. With respect to the sale, exchange or transfer of any property, the liability of a broker or dealer created by subdivision two of this section shall be independent of and additional to the liability of such broker or dealer created by subdivision one of this section.