

EEO STATEMENT – SENATE BILL 107

Draft by Tom Grogan

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The City of Madison is proud of the many forward-looking actions it has taken to help ensure equality and to promote fairness in treatment in all accommodations and services provided within its jurisdiction. In many instances, policy initiatives developed and advanced at the city level in Madison have been used in other cities and communities, both within the state and across the nation. Additionally, many policy initiatives that gained a foothold in the City of Madison were ultimately addressed or advanced through legislative initiatives taken at the state and federal levels of government.

This notion of municipalities having the authority and the capacity to advance issues of interest and importance to the citizenry is a key essential part of our system of representative democracy. Indeed, since cities are closest to the needs and interests of the people, there are many areas of public policy that are best addressed at that level of organization and operation. Regardless, the notion of supporting, preserving and enhancing the capacity of local government to develop policies responsive to local needs and conditions is a critically important guiding principle for good government in the State of Wisconsin.

This state-level empowerment of local units of government has allowed each community to develop tools, techniques and approaches that are responsive and appropriate to those local conditions. Just as Madison differs from Middleton and Monona Grove, so also do the interests of larger or mid-sized communities differ from smaller communities or even the unincorporated rural areas of our state.

Within this context, the City of Madison's Equal Opportunities Commission reviewed and discussed Senate Bill Senate Bill 107¹ at the meeting held on July 14, 2011. During the course of that meeting, it was clearly understood that this legislation effectively precludes, prevents and pre-empts municipalities from enacting ordinances addressing issues associated with non-discriminatory and equal opportunity practices in landlord-tenant relations.

Commissioners closely reviewed the legal memorandum from the Assistant City Attorney (Lana J. Makes to Alder Bridget Maniaci, June 28 2011) and felt that this legislation would have the

¹SB 107 was formally introduced on May 26, 2011, by Senators Lasee, Galloway & Schultz; cosponsored by Representatives Vos, Bernier, Bies, Honadel, Jacque, Knudson, LeMahieu, Mursau, Spanbauer, Strachota and Steineke. The LRB summary states: "This bill prohibits a city, village, town, or county from enacting an ordinance that does any of the following with respect to a residential landlord: 1) prohibits or limits the landlord from obtaining or using various types of information about a tenant or prospective tenant, such as household income, occupation, court records, rental history, and credit information; 2) limits how far back in time a prospective tenant's credit information, conviction record, or previous housing may be considered by the landlord; or 3) prohibits the landlord from showing a rental property to a prospective tenant, or from entering into a rental agreement for a rental property with a prospective tenant, while the current tenant is living there."

impact of negatively impacting the character and quality of life in the City of Madison and would have the effect of undoing more than years of city-based policy leadership in providing direction and guidance toward issues arising in the City of Madison subject to the reach and scope of the bill.

More specifically, the Assistant City Attorney identifies a series of 6 enumerated city ordinances that would be pre-empted should this legislation be enacted into law.

1. MGO 39.03(4)(a) and 32.12(7)(b): Relates to prohibiting landlords from requiring disclosure of social security numbers. Under (2)(a)6 of the proposed bill, a city may not prohibit a landlord from obtaining and using or attempting to obtain and use the tenant's social security number.
2. MGO 32.12(8): Relates to prohibiting landlords from showing apartment for re-rental until one-fourth of the lease term has passed. Under (2)(d) of the proposed bill, a city may not prohibit a landlord obtaining from showing a premises to a prospective tenant during the tenancy of the current tenant.
3. MGO 32.12(7)(a): Relates to prohibiting landlords from denying an application for housing based solely on minimum income requirements. Under (2)(a)1 of the proposed bill, a city may not prohibit or place limitations on a landlord from obtaining and using or attempting to obtain and use information regarding the tenant's monthly household income.
4. MGO 39.03(4)(d): Relates to prohibiting landlords from denying housing on the basis of the tenant's conviction record, and limiting the time limit on certain excludable offenses to 2 years. Under (2)(a)5 of the proposed bill, a city may not prohibit or place limitations on a landlord from obtaining and using or attempting to obtain and use information regarding publicly accessible arrest and conviction records. Additionally, under (2)(b), a city may not limit how far back in time a prospective tenant's conviction record may be taken into account by a landlord.
5. MGO 39.03(2)(ll) and (4): Relates to prohibiting housing discrimination based on the tenant's legally derived income. Under section (2)(a)2 of the proposed bill, cities may not place limitations on landlords obtaining and using information regarding a tenant's "occupation."
6. MGO 32.12(9) relates to renting out an apartment to future renters before one-fourth of the lease term has passed. [Section] (2)(c) of the proposed bill would seem to prohibit this on its face

We believe that the State of Wisconsin should not pre-empt, restrict, restrain, limit or diminish the ability of the people of the City of Madison – or any other municipality, for that matter – to enact local ordinances that serve to promote public health, well-being and quality of life within those jurisdictions. The enactment of statewide legislation of this sort has the impact of denying the express policy preferences that have been lawfully enacted by the people at the lowest responsible level of governmental operation. With all of the many major fiscal and public policy

issues and challenges that are facing Wisconsin State Government, we believe that the legislature's time and effort would be more properly spent dealing with issues of statewide significance and relevance. The substitution of the judgment of state legislators from districts located all across the state should not be allowed to override and supersede the policy preferences and priorities of the people as enacted at the city level.

It is ironic, to some degree, that advocates of local control and reduced role for centralized government would not see the conceptual inconsistency of taking away discretionary judgment that is being prudently used and that is allowing the preferences of the people to be reflected in the actions of their government. It should be a bipartisan priority – really a nonpartisan mandate – to support, enhance and augment the prudent exercise of governmental authority at the local government level.

Etc.