

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending Local Law No. 11-2018 relating to applications for prospective purchasers of stock in Cooperative Housing Corporations.”

Westchester County’s Fair Housing Law, Article II of Chapter 700 of the Laws of Westchester County, is aimed at preventing and addressing discrimination in relation to housing practices. Among the housing practices regulated by the Fair Housing Law is the sale and transfer of shares of stock in cooperative housing corporations. Under the Fair Housing Law, it is an unlawful discriminatory practice for the governing board of a cooperative housing corporation to refuse to permit the sale or transfer of stock to a person on the basis of the group identity of the prospective purchaser(s) as defined in Section 700.21(H) of the Fair Housing Law.

In 2018, this Honorable Board enacted Local Law No. 11-2018, which added a new Section 700.21-a to the Fair Housing Law, which set forth time limits for cooperative housing corporations to inform prospective purchasers of any deficiencies in an application and act on completed applications. This law also requires the cooperative housing corporation to provide notice of the rejection to the Human Rights Commission.

However, in reviewing the law with the Human Rights Commission, your Committee has learned that the Commission does not always receive sufficient information upon which

it can properly investigate potential discriminatory practices. Further, while failing to report to the Human Rights Commission is an independent violation of the Fair Housing Law, failing to comply with the time frames for dealing with applicants is not. This undercuts the effectiveness of the law, as cooperative housing corporations can still sit on applications for an extended period of time.

In order to remedy these deficiencies, your Committee recommends adoption of the attached Local Law, which would amend Section 700.21-a to require that the notice of rejection sent to the Commission contain certain information necessary to allow for a proper review and investigation of any potentially discriminatory acts. Included among this information is the reason why the application was rejected. Requiring a cooperative housing corporation to identify the reason why an application was rejected will allow the Commission to determine whether or not the reason was pretextual, thus making way for enforcement of the Fair Housing Law where appropriate and applicable.

The amendments also add protection for buyers and sellers of cooperatives through enhanced disclosure requirements and training. Cooperatives will be required to inform applicants of the timelines required under this law, and to disclose any minimum financial qualifications, so that applicants can fairly determine if they wish to apply, before spending hundreds, or even thousands, of dollars on application fees. Members of governing boards will be required to undergo fair housing training, to ensure that they understand their obligations under the law.

The amendments also strengthen the law by making the failure to comply with any of these requirements an independent violation of the Fair Housing Law, punishable by fines. The proposed amendment also makes the statute of limitations for these violations clear, and removes the sunset provision from this law.

Your Committee is aware that this Honorable Board must comply with the requirements of the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations. *See* Title 6, Part 617 of the New York Code Rules and Regulations (N.Y.C.R.R.). The Department of Planning has reviewed the applicable SEQRA regulations, and has concluded that this proposed Local Law is not an action which requires any environmental review. Your Committee concurs in this conclusion.

In light of all of the foregoing, your Committee recommends the adoption of this Local Law in order to deter discriminatory housing practices.

Dated: 2021
White Plains, New York

COMMITTEE ON

RESOLUTION NO. ____ – 2021

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. ____ - 2021, entitled “A LOCAL LAW amending Local Law No. 11-2018 relating to applications for prospective purchasers of stock in Cooperative Housing Corporations.” The public hearing will be held at __.m. on the _____ day of _____, 2021 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

LOCAL LAW INTRO. NO. -2021

A LOCAL LAW amending Local Law No. 11-2018 relating to applications for prospective purchasers of stock in Cooperative Housing Corporations..

BE IT ENACTED by the County Board of the County of Westchester as follows:

SECTION 1: Section 1 of Local Law 2018-11 is hereby amended to read as follows:

Section 1. Chapter 700 of the Laws of Westchester County is hereby amended to include a new section 700.21-a as follows:

Section 700.21-a. Applications to purchase shares of stock in cooperative housing corporations.

A. The governing board of any Cooperative Housing Corporation, incorporated as such in the State of New York that exercises control over real property located within the County of Westchester, shall provide prospective purchasers with an application to purchase shares of the corporation's stock.

1. The application to purchase shares of the corporation's stock shall include a cover sheet containing the following notice, which must be printed in a minimum 12-point font:

Article II of Chapter 700 of the Laws of Westchester County, known as the Westchester County Fair Housing Law, prohibits discrimination in housing accommodations on the basis of race, color, religion, age, national origin, alienage or citizenship status, ethnicity, familial status, creed, gender, sexual orientation, marital status, or disability of a person or persons, whether actual or perceived, a person's source of income, or a person's status as a victim of domestic violence, sexual abuse, or stalking.

Section 700.21-a of the Westchester County Fair Housing Law governs applications to purchase shares of stock in cooperative housing corporations, and applies to this application. Under this section, the cooperative housing corporation is required to comply with the following deadlines:

1. Within fifteen days of the receipt of this application, the cooperative housing corporation must either acknowledge that it has received a complete application, or shall notify you of any defect in the application.

2. If you are notified of any defect in the application, within fifteen days of the receipt of the corrected application the cooperative housing corporation must either acknowledge that it has received a complete application, or shall notify you any defect in the application.

3. Within sixty days of receipt of a complete application, the cooperative housing corporation must approve or deny your application, and provide written notice thereof.

4. If your application is denied, the cooperative housing corporation is required to provide notice to the Westchester County Human Rights Commission, including your contact information.

2. The application to purchase shares of the corporation's stock must disclose any minimum financial qualifications that a prospective purchaser must meet to qualify to purchase the shares. To the extent that a cooperative housing corporation does not have firm mandatory minimum financial qualifications, the application must disclose, at a minimum, the corporation's preferred minimum income, total assets, and credit score, and preferred maximum debt-to-income ratio and percentage of purchase price being financed.

B. Within fifteen days of the receipt of a purchaser's application, such a governing board shall either acknowledge to the prospective purchaser that it is in receipt of a properly completed application or inform the prospective purchaser of any defect in an application. Where the governing board has informed a prospective purchaser of a defect in an application, upon resubmission of the application the governing board shall have fifteen days to either acknowledge to the prospective purchaser that it is in receipt of a properly completed application or inform the prospective purchaser of any uncured defect in the resubmitted application.

C. Within sixty days of its receipt of a properly completed application, such a governing board shall either reject or approve an application to purchase shares of its stock and shall provide written notice thereof. In the case of a rejection, [a copy of the written notice

shall be sent by] the governing board shall provide to the Human Rights Commission notice of the rejection. This notice shall be in a form promulgated by the Executive Director of the Human Rights Commission, and published on the Human Rights Commission website. The form shall, at a minimum, require the following information:

1. the full legal name and address of the Cooperative Housing Corporation;
2. the full address and unit number of the unit that had been applied for;
3. the full names, addresses, telephone numbers, and e-mail addresses (if available) for the denied applicant(s) and seller(s);
4. the full names, addresses, telephone numbers and e-mail addresses (if available) for all legal counsel and real estate brokers involved in the rejected transaction;
5. the date of receipt of the initial application;
6. the date of receipt of the completed application;
7. the date(s) of any interview;
8. the date of rejection; and
9. the reason for rejection.

The completed notice of rejection form shall be transmitted to the Human Rights Commission within fifteen days of the notice being provided to the prospective purchaser. The Human Rights Commission shall include instructions on how it may be transmitted to the Human Rights Commission.

D. All members of the governing board of cooperative housing corporations are required to undergo fair housing training, in accordance with the following:

1. Any new member of a governing board is required to have a minimum of two hours of fair housing training within sixty days of becoming a member of the board. All

members of a governing board are required to have a minimum of two hours of fair housing training every two years.

2. The Human Rights Commission shall develop an outline of minimum standards for fair housing training. Such outline shall be made publicly available on the commission's website. A cooperative housing corporation is required to ensure that the fair housing training given to members of its governing board covers, at a minimum, all topics identified in that outline. The minimum standards for fair housing training shall include, but not be limited to:

a. A discussion of housing discrimination under local, state, and federal law;

b. A discussion of protected classes and characteristics under local, state, and federal law;

c. The obligations and responsibilities of members of governing boards to adhere to fair housing laws, including in the evaluation of applicants, the evaluation of requests for reasonable accommodations, and other common scenarios; and

d. The role of local, state, and federal agencies in fair housing.

3. The Executive Director of the Human Rights Commission shall determine the minimum qualifications required for a person providing the fair housing training required under subparagraph 2. These minimum qualifications shall be reasonably related to fair housing and the specific items contained in the training outline, and shall be published therewith. If a cooperative housing corporation receives training from a person or persons who do not meet the minimum qualifications, it shall constitute *prima facie* evidence of noncompliance with the training requirement.

3. Cooperative housing corporations are required to maintain records of each member's training, and produce those records to the Human Rights Commission upon request. A failure to maintain or produce training records shall constitute *prima facie* evidence of noncompliance with the training requirement.

[D]E. Compliance or non-compliance with any of the requirements set forth in this section may be considered and received into evidence in any investigation or proceeding commenced pursuant to this Chapter. Furthermore, non-compliance with [the requirement that a copy of the rejection notice be provided to the Human Rights Commission] any of the requirements set forth in this section shall be an independent violation of this Chapter, and shall be punishable by a fine of \$1,000 for the first offense, \$1,500 for the second offense, and \$2,000 for the third and any subsequent offense. Any such violation shall be brought within one year of the violation, except that any violation initiated by the Executive Director shall be brought within one year of when the Human Rights Commission first learned of the violation.

SECTION 2: Section 2 of Local Law 2018-11 is hereby amended to read as follows:

Section 2. This Local Law shall take effect immediately [, and shall expire and be deemed repealed three (3) years subsequent thereto].

SECTION 3: The Human Rights Commission shall publish the rejection form, the fair housing training outline, and the minimum qualifications for training, required by Section 1 within 15 days of the date this Local Law shall become effective. Persons who are members of governing boards of cooperative housing corporations at the time this Local Law becomes effective, or who become members within the first seven (7) months thereafter, shall receive

the fair housing training required under Section 1 as soon as practicable, but in no instance later than nine (9) months after the date this Local Law becomes effective.

SECTION 4: This Local Law shall take effect thirty days after it becomes law.