CITY-COUNTY GENERAL ORDINANCE NO. 24, 1984
Proposal No. 228, 1984

A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", by amending Chapter 16, Human Relations; Equal Opportunity.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. Chapter 16 of the "Code of Indianapolis and Marion County, Indiana", is hereby amended, by adding the words underlined, to read as follows:

Sec. 16-1. Findings, policies and purposes.

(a) Findings. The City-County Council hereby makes the following find-

(1) The Council finds that the practice of denying equal opportunities in employment, education, access to and use of public accommodations, and acquisition of real estate based on race, color, religion, ancestry, national origin, handicap, or sex is contrary to the principles of freedom and equality of opportunity and is a burden to the objectives of the policies contained herein and shall be considered discriminatory practices.

(2) Pornography is a discriminatory practice based on sex because its effect is to deny women equal opportunities in society. Pornography is central in creating and maintaining sex as a basis for discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, access to and use of public accommodations, and acquisition of real property, and contribute significantly to restricting women in particular from full exercise of citizenship and participation in public life, including in neighborhoods.

(b) It is the purpose of this ordinance to carry out the following policies of the City of Indianapolis and Marion County:

(1) To provide equal employment opportunity in all city and county jobs without regard to race, color, religion, handicap, national origin, ancestry, age, sex, disabled veteran, or Vietnam era veteran status;

(2) To encourage the hiring of the handicapped in both the public and the private sectors and to provide equal access to the handicapped to public accommodations;

(3) To utilize minority-owned businesses, securing goods and services for the city and county in a dollar amount equal to at least ten (10) percent of monies spent by the City of Indianapolis and Marion County;

(4) To utilize women-owned businesses and encourage the utilization of women in construction and industry;

(5) To protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, lending institutions, governmental and educational agencies and other persons from unfounded charges of discrimination;

(6) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for education, employment, access to public
accommodations without regard to race, religion, color, handicap, sex, national origin, ancestry, age, or disabled veteran or Vietnam era veteran status;

(7) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for acquisition through purchase or rental of real property including, but not limited to housing without regard to race, sex, religion or national origin; and

(8) To prevent and prohibit all discriminatory practices of sexual subordination or inequality through pornography.

Sec. 16-2. Nondiscrimination clauses.

(1) Every contract to which one of the parties is the city or the county, or any board, department of office of either the city of county, including franchises granted to public utilities, shall contain a provision requiring the governmental contractor and subcontractors not to discriminate against any employee or applicant for employment in the performance of the contract, with respect to hire, tenure, terms conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, sex, religion, color, national origin, ancestry, age, handicap, disabled veteran status and Vietnam era veteran status. Breach of this provision may be regarded as a material breach of the contract.

(2) All applications, postings, announcements, and advertisements recruiting applicants for employment with the city or county, shall conspicuously post in the bottom margin of such recruiting bids, a clause as follows: "An Affirmative Action Equal Employment Opportunity Employer."

Sec. 16-3. Definitions.

As used in this chapter, the following terms shall have the meaningscribed to them in this section:

(a) Acquisition of real estate shall mean the sale, rental, lease, sublease, construction or financing, including negotiations and any other activities or procedures incident thereto, of:

(1) Any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters by one or more families or single individuals;

(2) Any building, structure or portion thereof, or any improved or unimproved land utilized or designed or intended for utilization, for business, commercial, industrial or agricultural purposes;

(3) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(b) Appointing authorities shall mean and include the mayor, city-county council and such other person or agency as may be entitled to appoint any member of the equal opportunity advisory board created in this chapter.

(c) Appraiser shall mean any person who, for a fee or in relation to his/her employment or usual occupation, establishes a value for any kind of real estate, the acquisition of which is defined in this section.
(d) Board shall mean the equal opportunity advisory board.

(e) Complainant shall mean any person who signs a complaint on his/her own behalf alleging that he/she has been aggrieved by a discriminatory practice.

(f) Complaint shall mean a written grievance filed with the office of equal opportunity, either by a complainant or by the board of office, which meets all the requirements of section 16-18 and 16-19.

(g) Discriminatory practice shall mean and include the following:

(1) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person by reason of race, sex, religion, color, national origin or ancestry, handicap, age, disabled veteran or Vietnam era veteran status.

(2) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person, because the person filed a complaint alleging a violation of this chapter, testified in a hearing before any members of the board or otherwise cooperated with the office or board in the performance of its duties and functions under this chapter, or requested assistance from the board in connection with any alleged discriminatory practice, whether or not such discriminatory practice was in violation of this chapter;

In the case of a real estate broker or real estate salesperson or agent, acting in such a capacity in the ordinary course of his/her business or occupation, who does any of the following:

(A) Any attempt to prevent, dissuade or discourage any prospective purchaser, lessee or tenant of real estate from viewing, buying, leasing or renting the real estate because of the race, sex, religion or national origin of:

I. Students, pupils or faculty of any school or school district;
II. Owners or occupants, or prospective owners or occupants, of real estate in any neighborhood or on any street or block; provided, however, this clause shall not be construed to prohibit disclosure in response-to inquiry by any prospective purchaser, lessee or tenant of:
   (i) Information reasonably believed to be accurate regarding such race, sex, religion or national origin; or
   (ii) The honest professional opinion or belief of the broker, salesperson or agent regarding factors which may affect the value or desirability of property available for purchase or lease.

(B) Any solicitation, promotion or attempt to influence or induce any owner to see, lease or list for sale or lease any real estate, which solicitation, promotion or attempted inducement includes representations concerning:

I. Race, sex, religion or national origin or present, prospective or possible purchasers or occupants of real estate in any area, neighborhood or particular street or block;
II. Present, prospective or possible neighborhood unrest, tension or change in the race, sex, religion or national origin of
occupants or prospective occupants of real estate in any neighborhood or any street or block;

III. Present, prospective or possible decline in market value of any real estate by reason of the present, prospective or possible entry into any neighborhood, street or block of persons of a particular race, sex, religion or national origin;

IV. Present, prospective or possible decline in the quality of education offered in any school or school district by reason of any change in the race, sex, religion or national origin of the students, pupils or faculty of such school or district.

(4) Trafficking in pornography: The production, sale, exhibition, or distribution of pornography.

(A) City, state, and federally funded public libraries or private and public university and college libraries in which pornography is available for study, including on open shelves, shall not be construed to be trafficking in pornography, but special display presentations of pornography in said places is sex discrimination.

(B) The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.

(C) Any woman has a cause of action hereunder as a woman acting against the subordination of women. Any man, child or transsexual who alleges injury by pornography in the way women are injured by it shall also have a cause of action under this chapter.

(5) Coercion into pornographic performance: Coercing, intimidating or fraudulently inducing any person, including a man, child or transsexual, into performing for pornography, except that a man, child or transsexual must allege and prove that he or she is injured in the same way that a woman is injured by such coercion and by the pornography that is produced from the performance in order to have a cause of action.

(A) Proof of the following facts or conditions shall not constitute a defense:

I. That the person is a woman; or
II. That the person is or has been a prostitute; or
III. That the person has attained the age of majority; or
IV. That the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or
V. That the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or
VI. That the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or
VII. That anyone else, including a spouse or other relative, has given permission on the person's behalf; or
VIII. That the person actually consented to a use of the performance that is changed into pornography; or
IX. That the person knew that the purpose of the acts or events in question was to make pornography; or
X. That the person demonstrated no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or

XI. That the person signed a contract, or made statements affirming a willingness to cooperate in the production of pornography; or

XII. That no physical force, threats, or weapons were used in the making of the pornography; or

XIII. That the person was paid or otherwise compensated.

(6) Forcing pornography on a person: The forcing of pornography on any woman, man, child or transsexual in any place of employment, in education, in a home, or in any public place, except that a man, child or transsexual must allege and prove injury in the same way that a woman is injured in order to have a cause of action.

(7) Assault or physical attack due to pornography: The assault, physical attack, or injury of any woman, man, child, or transsexual in a way that is directly caused by specific pornography. The injured party shall have a claim for damages against the perpetrator(s), maker(s), distributor(s), seller(s), and exhibitor(s), and for an injunction against the specific pornography's further exhibition, distribution or sale, except that a man, child or transsexual must allege and prove injury by pornography in the way women are injured by it in order to have a cause of action. However, no damages will be assessed against (a) maker(s), for pornography made, (b) distributor(s), for pornography distributed, (c) seller(s), for pornography sold, (d) or exhibitor(s) for pornography exhibited, prior to the enforcement date of this act.

(8) Defenses. Where the materials which are the subject matter of a cause of action under (4), (5), (6), or (7) of this section are pornography, it shall not be a defense that the defendant did not know or intend that the materials were pornography or sex discrimination.

(m) Education shall mean the construction, maintenance or operation of any school or educational facility utilized or intended to be utilized for the education or training of persons residing within the territorial jurisdiction of the office and controlled by a public governmental board or agency which operates one or more elementary or secondary schools.

(n) Employer shall mean:

(1) Any political subdivision within the county, not represented by the corporation counsel, pursuant to IC 18-4-7-5, and any separate municipal corporation which has territorial jurisdiction primarily within the county; and

(2) Any person who employs at the time of any alleged violation six (6) or more employees within the territorial jurisdiction of the office.

(o) Employment shall mean a service performed by an individual for compensation on behalf of an employer, except that such services shall not include the following:
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(1) Services performed by an individual who in fact is engaged in an independently established trade, occupation, business or profession, and who has been and will continue to be free from direction or control over the manner of performance of such services;

(2) Services performed by an agent who received compensation solely upon a commission basis and who controls his/her own time and efforts; or

(3) Services performed by an individual in the employ of his/her spouse, child or parent.

(p) Employment agency shall mean and include any person undertaking, with or without compensation, to procure, recruit, refer or place any individual for employment.

(q) Labor organization shall mean and include any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(r) Lending institution shall mean any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, the business of which consists in whole or in part in making or guaranteeing loans, secured by real estate or any interest therein.

(s) Office shall mean the office of equal opportunity created by this chapter.

(t) Owner shall mean and include the titleholder of record, a contract purchaser, lessee, sublessee, managing agent or other person having rights of ownership or possession, or the right to sell, rent or lease real estate.

(u) Person shall mean and include one or more individuals, partnerships, associations, organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, governmental agencies and other organized groups of persons.

(v) Pornography shall mean the sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that includes one or more of the following:

(1) Women are presented as sexual objects who enjoy pain or humiliation; or

(2) Women are presented as sexual objects who experience sexual pleasure in being raped; or

(3) Women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or

(4) Women are presented being penetrated by objects or animals; or

(5) Women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual.

(A) The use of men, children, or transsexuals in the place of women in (1) through (5) above shall also constitute pornography under this section.
(w) Public accommodation shall mean an establishment which caters to or offers its services, facilities or goods to the general public.

(x) Public facility shall mean any facility or establishment, other than an educational institution, which is owned, operated or managed by or on behalf of a governmental agency.

(y) Real estate broker shall mean any person who, for a fee or other valuable consideration, sells, purchases, rents, leases or exchanges, or negotiates or offers or attempts to negotiate the sale, purchase, rental, lease or exchange of real property owned by another person; or a person who is licensed and holds himself/herself out to be engaged in the business of selling, purchasing, renting, leasing or exchanging real property for other persons, or who manages and collects rents for the real property of another.

(z) Real estate salesperson or agent shall mean any person employed by a real estate broker to perform or assist in performing any or all of the functions of the real estate broker.

(aa) Respondent shall mean one or more persons against whom a complaint is filed under this chapter, and who the complaint alleges has committed or is committing a discriminatory practice.

(bb) Sexually explicit shall mean actual or simulated:

(1) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex or between women and animals; or

(2) Uncovered exhibition of the genitals, pubic region, buttocks or anus of any person.

Sec. 16-4. Office of equal opportunity – created; purpose.

There is hereby created a section of the legal division of the department of administration entitled the office of equal opportunity. This office and its board are empowered as provided in this chapter to carry out the public policy of the state as stated in section 2 of the Indiana Civil Rights Act, within the territorial boundaries of Marion County.

Sec. 16-5. Same – composition of office; functions.

The office shall be directed by a chief officer who shall also be the affirmative action officer for the city and county. The chief officer shall be appointed by and serve at the pleasure of the mayor and shall be responsible for performing the following functions:

(1) To monitor internal employment practices as follows:

(a) By ensuring that city and county government offers equal employment opportunities to persons regardless of race, religion, color, sex, national origin, ancestry, age, handicap, or disabled veteran or Vietnam era veteran status;

(b) By providing a vehicle through which employees may seek redress for alleged discriminatory acts by city and county government and/or
retaliatory acts by city or county government for filing or assisting in the discrimination complaint process;
(c) By establishing affirmative action goals for city and county government;
(d) By complying with federal reporting requirements concerning affirmative action and equal opportunity; and
(e) By reviewing policies and procedures of the city and the county to eliminate discriminatory practices.

(2) To monitor contract compliance as follows:

(a) By ensuring compliance with federal grant requirements respective to the utilization of minority business enterprises (MBE) and women business enterprises (WBE);
(b) By reviewing city-county contracts to assure compliance with relevant federal, state and local laws and regulations on affirmative action and equal employment;
(c) By functioning as a liaison between the city-county and its contractors by providing technical assistance in developing affirmative action goals and monitoring these compliance efforts to meet established goals; and
(d) By managing and implementing the MBE/WBE programs, and by monitoring city and county purchasing as specified in section 16-1(3).

(3) To receive, investigate and adjudicate community complaints as specified in sections 16-18 through 16-28.

Sec. 16-6. Same — General powers and duties.

In addition to the functions previously mentioned in section 16-5, the office shall have the following powers and duties:

(1) To gather and distribute information for the purpose of improving human relations and removing inequities to protected groups in the areas of housing, recreation, education, employment, law enforcement, vocational guidance and related matters.
(2) To assist other governmental and private agencies, groups and individuals in reducing community tensions and preventing conflicts between persons of different racial, ethnic and religious groups.
(3) To discourage persons from engaging in discriminatory practices through informal methods of persuasion and conciliation and through programs of public information and education.
(4) To furnish technical assistance upon request to persons to assist them in eliminating discriminatory practices or otherwise implementing the policy and purposes of the Indiana Civil Rights Act.
(5) To make such general investigations, studies and surveys as the office shall deem necessary for the performance of its duties.
(6) To prepare and submit at least annually a report of its activities to the mayor and to the public, which report shall describe the investigations and proceedings conducted by the office, the outcome thereof and the progress and achievements of the office and the community toward elimination of discriminatory practices.
(7) To cooperate with the Indiana State Civil Rights Commission, any appropriate federal, state or local agencies, and with private organizations.
individuals and neighborhood associations in order to effectuate the purposes of this chapter and to further compliance with federal, state and local laws and ordinances prohibiting discriminatory practices.

(8) To perform any other duties assigned by ordinance or the mayor.

Sec. 16-7. Equal opportunity advisory board - Created; purpose.

There is hereby created an equal opportunity advisory board empowered as provided in this chapter to carry out the public policy of the state as stated in Section 2 of the Indiana Civil Rights Act, within the territorial boundaries of Marion County.

Sec. 16-8. Same - Composition of board; appointment and terms of members.

(1) The board shall consist of twenty-two (22) members. Fourteen (14) members shall be appointed by the mayor and eight (8) members shall be appointed by the city-county council. In addition, the chief officer shall be an ex officio member of the board. In making appointments, the mayor and the city-county council shall consider the following:

(a) No more than seven (7) members of the board appointed by the mayor shall be from any one political party. No more than four (4) members of the board appointed by the city-county council shall be from any one political party.

(b) In making appointments to the board, the mayor and the city-county council shall take into consideration all interests in the community, including but not limited to age, racial, ethnic, sexual, religious and economic groups, business, labor, the handicapped and the general public.

(2) A board member may be removed for just cause, including nonattendance, by a two-thirds (2/3) vote of the board.

(3) In the event of the death, resignation or removal of any member of the board prior to the expiration of his/her term, the appointing authority shall make an appointment to fill the vacancy for the unexpired term of the member.

(4) In making the original appointments to the board, the mayor shall designate five (5) appointees to serve three-year terms; five (5) appointees to serve two-year terms and four (4) appointees to serve one-year terms; and the city-county council shall designate three (3) appointees to serve three-year terms; three (3) appointees to serve two-year terms and two (2) appointees to serve one-year terms. Subsequent appointments shall be for three-year terms beginning on the first day of January and ending three (3) years later on the last day of December. Any member of the board whose term has expired may continue in office until a successor has been appointed.

(5) The mayor shall appoint from the membership of the board, a chairperson who shall serve a one-year term and until his/her successor is appointed and qualified, but serves the pleasure of the mayor.
(6) The chairperson shall appoint a vice-chairperson and a secretary to serve during his/her term of office.

Sec. 16-9. Same - Meetings; vote required for board action.

The board shall hold regular meetings every two (2) months on a day agreed upon by the board. The board shall hold special meetings as may be called by two-thirds (2/3) of the membership. One-half (1/2) of the members of the board, excluding vacancies, shall constitute a quorum at any meeting. A majority of those in attendance shall be necessary for action, except in the case of a determination after hearing provided in section 16-26, when a majority of the members of the board not disqualified from participation in such determination shall be required. The chief officer shall not be allowed a vote, except in case of a tie, when the chief officer may cast the deciding vote.

Sec. 16-10. Same - General powers and duties.

The board shall have the following powers and duties:

1) To appoint an executive committee, a majority of which shall constitute a quorum, which committee shall be authorized to act upon emergency matters between meetings of the board; provided, however, the executive committee shall not take any action inconsistent with action previously taken or policies adopted by the board, and the executive committee shall not exercise any of the powers or functions of the board under section 16-17 through 16-27. All officers of any executive committee appointed by the board must be members of the board.

2) To establish three (3) standing committees, composed of seven (7) board members each, to deal with the following such matter:
   a. Internal employment practices,
   b. Contract compliance,
   c. Complaint adjudication.

The chairperson shall appoint the board members to each committee. No board member shall serve on more than one committee. The chairperson shall be an ex officio member of each committee but have voting privileges only in case of a tie, when he/she may cast the deciding vote. The board may establish any additional committees as in its judgment will aid the board in effectuating the purposes of this chapter.

3) To advise the office in formulating policies designed to effectuate the purposes of this chapter and to make such recommendations to the mayor and the city-county council as the board shall deem appropriate to implement such policies.

4) To adopt, amend and rescind procedural and substantive rules and regulations for the conduct of its affairs, not inconsistent with the provisions or intent and purposes of this chapter, as the board shall deem necessary or appropriate. The rules or regulations shall be adopted only after notice is given and a hearing is held thereon in the manner provided by state law relating to rule-making by state agencies. Any rule or regulation adopted by the board shall be submitted to the corporation counsel for approval as to legality. Upon approval by the corporation counsel, the board shall cause the rule or regulation to be printed or duplicated...
in such a manner as to be readily available to interested persons and the public, and shall thereupon file the original approved copy and one duplicate with the clerk and the clerk of any other city or town which has adopted this chapter. The rule or regulation shall be effective as of the date and time of filing the original approved copy with the clerk.

(5) To exercise such additional powers or functions as may be delegated to the board by ordinance or by executive order validly adopted and promulgated by the mayor of the consolidated city.

(6) To generally advise the office in the area of equal opportunity which shall include but not be limited to recommending new programs and program objectives, reviewing problem areas and recommending changes in existing programs.

Sec. 16-11. Same - Internal employment practices committee; duties.

(1) A committee on internal employment practices is hereby established. The committee shall be composed of seven members of the board appointed by the chairperson of the board. The committee shall meet quarterly and at such other times as its members deem necessary. The committee shall have the power to establish and adopt rules for the conduct of its affairs.

(2) The duties of the internal employment practices committee shall include:

(a) To review employment policies and procedures of the city and county and make recommendations to eliminate discriminatory employment practices.

(b) To review internal employment programs in the area of equal employment opportunity and affirmative action and make recommendations concerning their effective and efficient operation.

(c) To provide recommendations for establishing and achieving affirmative action goals.

Sec. 16-12. Same - Contract compliance committee; duties.

(1) A committee on contract compliance is hereby established. The committee shall be composed of seven members of the board. The committee shall meet quarterly and at such other times as the members of the committee shall deem necessary. The committee shall have the power to establish and adopt rules for the conduct of its affairs.

(2) The duties of the contract compliance committee shall include:

(a) To review contract compliance procedures and make recommendations concerning their effective and efficient operation.

(b) To make recommendations for improving the utilization of minority and women businesses by the city and county.

Sec. 16-13. Complaint adjudication; territorial application.

This chapter shall apply within the territorial limits of the consolidated city and within the territorial limits of the county, with respect to any discriminatory practice occurring within such territorial limits and which relates to:
Sec. 16-14. Unlawful acts other than discriminatory practices; penalty.

(a) It shall be unlawful for any person to discharge, expel or otherwise discriminate against any other person because that person:

(1) Has filed a complaint alleging a violation of section 16-15;
(2) Has testified in a hearing before the board or any committee thereof;
(3) Has otherwise cooperated with the board or office in the performance of their duties and functions;
(4) Has requested assistance from the board or office in connection with any alleged discriminatory practice, whether or not the discriminatory practice was in violation of section 16-15.

(b) It shall be unlawful for any person willfully to file a complaint alleging a violation of section 16-15 with knowledge that the complaint is false in any material respect.

(c) Any person who violates any of the provisions of this section shall upon conviction, be subject to fine in an amount not less than ten dollars ($10.00) nor more than three hundred dollars ($300.00); provided, however, no such fine shall be imposed upon any person against whom the board or office has proceedings under this chapter with respect to any violation of subsection (1), which violation is also a discriminatory practice. Any proceedings to impose a penalty under this section shall be commenced within six (6) months after the date the violation occurred.

Sec. 16-15. Discriminatory practices declared unlawful.

Each discriminatory practice as defined in section 16-3 shall be considered unlawful unless it is specifically exempted by this chapter.

Sec. 16-16. Persons and activities to which sections 16-14 and 16-15 do not apply.

(a) Sections 16-14 and 16-15 shall not apply to employment performed for the consolidated city and department or agency thereof, or any employment performed for the county or agency thereof which is represented by the corporation counsel pursuant to IC 18-4-7-5.

(b) Subject to the provisions of section 16-3 (g)(4), the provisions of sections 16-14 and 16-15 shall not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, nor any school, education, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution, nor any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public.
(c) Sections 16-14 and 16-15 shall not apply to the rental of rooms in a boardinghouse or rooming house or single-family residential unit; provided, however, the owner of such facility actually maintains and occupies a unit or room in the building as her/his residence and, at the time of the rental, owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

(d) The following shall not be discrimination on the basis of sex:
(1) For any person to maintain separate restrooms or dressing rooms for the exclusive use of either sex;
(2) For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or to classify or refer for employment any individual; or for an employer, labor organization or joint labor-management committee, controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program; on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

Sec. 16-17. Grounds for complaint; persons who may file; persons against whom complaint may be made.

A complaint charging that any person has engaged in or is engaging in a discriminatory practice prohibited by sections 16-14 and/or 16-15 may be filed with the office by any person claiming to be aggrieved by the practice, or by one or more members of the board or employees of the office who have reasonable cause to believe that a violation of sections 16-14 and 16-15 has occurred, in any of the following circumstances:

(1) In the case of the acquisition of real estate, against the owner of the real estate, a real estate broker, real estate salesperson or agent, or a lending institution or appraiser;
(2) In the case of education, against the governing board of any public school district which operates schools within the territorial limits of the consolidated city or of the county;
(3) In the case of a public accommodation, against the owner or person in charge of any such establishment, or both;
(4) In the case of a public facility, against the governmental body which operates or has jurisdiction over the facility;
(5) In the case of employment, against any employer, employment agency or labor organization;
(6) In the cases of trafficking in pornography, coercion into pornographic performances, and assault or physical attack due to pornography (as provided in Section 16-3(g)(f)) against the perpetrator(s), maker(s), seller(s), exhibitor(s), or distributor(s).
(7) In the case of forcing pornography on a person, against the perpetrator(s) and/or institution.

Sec. 16-18. Contents of complaint.

To be acceptable by the office, a complaint shall be sufficiently complete as to reflect properly the full name and address of the complainant or other
aggrieved person or persons; the full name and address of the person against whom the complaint is made; the alleged discriminatory practice and a statement of particulars thereof; the date or dates of the alleged discriminatory practice; if the alleged discriminatory practice is of a continuing nature, the dates between which the continuing discriminatory practices are alleged to have occurred; a statement as to any other action, civil or criminal, instituted before any other administrative agency, commission, department or court, whether state or federal, based upon the same grievance alleged in the complaint, as to the status or disposition of any such other action; and in the case of alleged employment discrimination a statement that the employer employs six (6) or more employees in the territorial jurisdiction of the office.

Sec. 16-19. Execution and verification of complaint.

The original complaint shall be signed and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgments. Notarial services shall be furnished by the office without charge.

Sec. 16-20. Timeliness of complaint.

No complaint shall be valid unless filed within ninety (90) calendar days from the date of occurrence of the alleged discriminatory practice, or, in the case of a continuing discriminatory practice, during the time of the occurrence of the alleged practice; but not more than ninety (90) calendar days from the date of the most recent alleged discriminatory act.

Sec. 16-21. Referral of complaint to Indiana State Civil Rights Commission.

The chief officer may, in his/her discretion, prior to scheduling of the complaint for hearing under section 16-26, refer any complaint to the Indiana State Civil Rights Commission for proceedings in accordance with the Indiana Civil Rights Act.

Sec. 16-22. Receipt of complaint from Indiana State Civil Rights Commission.

The office is hereby authorized to receive any complaint referred to it by the Indiana State Civil Rights Commission pursuant to Section 11a of the Indiana State Civil Rights Act, and to take such action with respect to any such complaint as is authorized or required in the case of a complaint filed under section 16-17.

Sec. 16-23. Service of complaint or respondent; answer.

The chief officer shall cause a copy of the complaint to be served by certified mail upon the respondent, who may file a written response to the complaint at any time prior to the close of proceedings with respect thereto, except as otherwise provided in section 16-26. The complaint and any response received shall not be made public by the chief officer, the board or any member thereof or any agent or employee of the office, unless and until a public hearing is scheduled thereon as provided in section 16-26.

Sec. 16-24. Investigation and conciliation.
Investigation. Within ten (10) working days after the receipt of a complaint filed pursuant to this chapter, the chief officer shall initiate an investigation of the alleged discriminatory practice charged in the complaint. All such investigations shall be made by the office at the direction of the chief officer and may include informal conferences or discussions with any party to the complaint for the purpose of obtaining additional information or attempting to resolve or eliminate the alleged discriminatory practice by conciliation or persuasion. The office shall have the authority to initiate discovery, including but not limited to interrogatories, request for production of documents and subpoenas, on approval of the chief officer at any time within ten (10) working days after filing of a complaint. Any request by the office to compel discovery may be by appropriate petition to the Marion County circuit or superior courts.

Report of investigation; determination by panel. Unless the complaint has been satisfactorily resolved prior thereto, the chief officer shall, within thirty (30) working days after the date of filing of a complaint pursuant to section 16-17, report the results of the investigation made pursuant to subsection (1) to a panel of three (3) members of the board designated by the chairperson or vice-chairperson or pursuant to the rules of the board, which panel shall not include any member of the board who initiated the complaint, who might have participated in the investigation of the complaint, or who is a member of the complaint adjudication committee. The chief officer shall make a recommendation as to whether there is reasonable cause to believe that the respondent has violated sections 16-14 and/or 16-15. The chairperson, vice-chairperson or such other member of the panel so designated, may, for good cause shown, extend the time for making such report. Such extension thereof shall be evidenced in writing, and the office shall serve a copy of the extension on both the complainant and the respondent. The panel shall then determine by majority vote whether reasonable cause exists to believe that any respondent has violated sections 16-14 and/or 16-15. In making such a determination, the panel shall consider only the complaint, the response, if any, and the chief officer's report; provided, however, the panel may request the chief officer to make a supplemental investigation and report with respect to any matter which it deems material to such determination.

Action when violation found. If the panel, pursuant to subsection (2) determines that reasonable cause exists to believe that any respondent has violated sections 16-14 and/or 16-15, it may direct the chief officer to endeavor to eliminate the alleged discriminatory practice through a conciliation conference. At least one panel member shall be present at any conciliation conference at which both the complainant and respondent are present or represented. If the complaint is satisfactorily resolved through conciliation, the terms of any agreement reached or undertaking given by any party shall be reduced to writing and signed by the complainant, respondent and the chief officer. Any disagreement between the respondent and the chief officer in regard to the terms or conditions of a proposed conciliation agreement may be referred to the panel which considered the complaint, and the decision of the panel with respect to such terms or conditions shall be final for purposes of conciliation proceedings under this subsection, but shall not be binding upon the respondent without his written consent thereto. No action taken or statement made in connection with any proceedings under this subsection, and no written conciliation agreement or any of the terms thereof, shall be made public by the board or any member thereof, or any agent or employee of the
officer, without the written consent of the parties, nor shall any such action, statement or agreement be admissible in evidence in any subsequent proceedings; provided, however, the board or officer may institute legal proceedings under this chapter for enforcement of any written agreement or undertaking executed in accordance with this subsection.

Sec. 16-25. Complaint adjudication committee; duties.

A complaint adjudication committee is hereby established. The committee shall be composed of seven (7) members of the board. The committee shall meet for the purpose of holding public hearings on citizens' complaints, which shall be at such times as its members deem necessary.

Sec. 16-26. Hearings, findings and recommendations when conciliation not effected.

(a) Hearing to be held; notice. If a complaint filed pursuant to this article has not been satisfactorily resolved within a reasonable time through informal proceedings pursuant to section 16-24, or if the panel investigating the complaint determines that a conciliation conference is inappropriate under the circumstances surrounding the complaint, the complaint adjudication committee may hold a public hearing thereon upon not less than ten (10) working days' written notice to the complainant or other aggrieved person, and to the respondent. If the respondent has not previously filed a written response to the complaint, he may file such response and serve a copy thereof upon the complainant and the office not later than five (5) working days prior to the date of the hearing.

(b) Powers; rights of parties at hearing. In connection with a hearing held pursuant to subsection (1), the complaint adjudication committee shall have power upon any matter pertinent to the complaint or response thereto, to subpoena witnesses and compel their attendance; to require the production of pertinent books, papers or other documents; and to administer oaths. The complainant shall have the right to be represented by the chief officer or any attorney of his/her choice. The respondent shall have the right to be represented by an attorney or any other person of his/her choice. The complainant and respondent shall have the right to appear in person at the hearing; to be represented by an attorney or any other person, to subpoena and compel the attendance of witnesses, and to examine and cross-examine witnesses. The complaint adjudication committee may adopt appropriate rules for the issuance of subpoenas and the conduct of hearings under this section. The complaint adjudication committee and the board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County Circuit or Superior courts.

(c) Statement of evidence; exceptions; arguments. Within thirty (30) working days from the close of the hearing, the complaint adjudication committee shall prepare a report containing written recommended findings of fact and conclusions and file such report with the office. A copy of the report shall be furnished to the complainant and respondent, each of whom shall have an opportunity to submit written exceptions within such time as the rules of the complaint adjudication committee shall permit. The complaint adjudication committee may, in its discretion, upon notice to each interested party hear
EXHIBIT 4

Indianapolis, Indiana, City-County General Ordinance No. 35 (June 15, 1984)

pp. 1-13 inclusive
A GENERAL ORDINANCE amending the "Code of Indianapolis and Marion County, Indiana", Chapter 16, Human Relations; Equal Opportunity.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The "Code of Indianapolis and Marion County, Indiana", Section 16-1, Findings, policies and purposes, is hereby amended, by deleting the words crosshatched and adding the words underlined, to read as follows:

Sec. 16-1. Findings, policies and purposes.

(a) Findings. The City-County Council hereby makes the following findings:

(1) The Council finds that the practice of denying equal opportunities in employment, education, access to and use of public accommodations, and acquisition of real estate based on race, color, religion, ancestry, national origin, handicap, or sex is contrary to the principle of freedom and equality of opportunity and is a burden to the objectives of the policies contained herein and shall be considered discriminatory practices.

(2) Pornography is a discriminatory practice based on sex which denies women equal opportunities in society. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, access to and use of public accommodations, and acquisition of real property; promote rape, battery, child abuse, kidnapping and prostitution and inhibit just enforcement of laws against such acts; and contribute significantly to restricting women in particular from full exercise of citizenship and participation in public life, including in neighborhoods.

(b) It is the purpose of this ordinance to carry out the following policies of the City of Indianapolis and Marion County:

(1) To provide equal employment opportunity in all city and county jobs without regard to race, color, religion, handicap, national origin, ancestry, age, sex, disabled veteran, or Vietnam era veteran status;

(2) To encourage the hiring of the handicapped in both the public and the private sectors and to provide equal access to the handicapped to public accommodations;

(3) To utilize minority-owned businesses, securing goods and services for the city and county in a dollar amount equal to at least ten (10) percent of monies spent by the City of Indianapolis and Marion County;

(4) To utilize women-owned businesses and encourage the utilization of women in construction and industry;

(5) To protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, lending institutions, governmental
and educational agencies and other persons from unfounded charges of
discrimination;

(6) To provide all citizens of the City of Indianapolis and Marion County
equal opportunity for education, employment, access to public accommoda-
tions without regard to race, religion, color, handicap, sex, national
origin, ancestry, age, or disabled veteran or Vietnam era veteran status;

(7) To provide all citizens of the City of Indianapolis and Marion County
equal opportunity for acquisition through purchase or rental of real
property including, but not limited to housing without regard to race,
sex, religion or national origin; and

(8) To prevent and prohibit all discriminatory practices of sexual subordina-
tion or inequality through pornography.

SECTION 2. The "Code of Indianapolis and Marion County, Indiana", Chapter 16,
Section 16-3, Definitions, is hereby amended by deleting the words crossed out
and adding the words underlined to read as follows:

Sec. 16-3. Definitions.

As used in this chapter, the following terms shall have the meanings
ascribed to them in this section:

(a) Acquisition of real estate shall mean the sale, rental, lease,
sublease, construction or financing, including negotiations and any other
activities or procedures incident thereto, of:

(1) Any building, structure, apartment, single room or suite of rooms or other
portion of a building, occupied as or designed or intended for occupancy
as living quarters by one or more families or single individuals;

(2) Any building, structure or portion thereof, or any improved or unimproved
land utilized or designed or intended for utilization, for business,
commercial, industrial or agricultural purposes;

(3) Any vacant or unimproved land offered for sale or lease for any purpose
whatsoever.

(b) Appointing authorities shall mean and include the mayor, city-county
council and such other person or agency as may be entitled to appoint any
member of the equal opportunity advisory board created in this chapter.

(c) Appraiser shall mean any person who, for a fee or in relation to
his/her employment or usual occupation, establishes a value for any kind
of real estate, the acquisition of which is defined in this section.

(d) Board shall mean the equal opportunity advisory board.

(e) Complainant shall mean any person who signs a complaint on his/her
own behalf alleging that he/she has been aggrieved by a discriminatory
practice.

(f) Complaint shall mean a written grievance filed with the office of
equal opportunity, either by a complainant or by the board of office, which
meets all the requirements of section 16-18 and 16-19.

(g) Discriminatory practice shall mean and include the following:
(1) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person by reason of race, sex, religion, color, national origin or ancestry, handicap, age, disabled veteran or Vietnam era veteran status.

(2) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person, because the person filed a complaint alleging a violation of this chapter, testified in a hearing before any members of the board or otherwise cooperated with the office or board in the performance of its duties and functions under this chapter, or requested assistance from the board in connection with any alleged discriminatory practice, whether or not such discriminatory practice was in violation of this chapter;

(3) In the case of a real estate broker or real estate salesperson or agent, acting in such a capacity in the ordinary course of his/her business or occupation, who does any of the following:

(A) Any attempt to prevent, dissuade or discourage any prospective purchaser, lessee or tenant of real estate from viewing, buying, leasing or renting the real estate because of the race, sex, religion or national origin of:

I. Students, pupils or faculty of any school or school district;

II. Owners or occupants, or prospective owners or occupants, of real estate in any neighborhood or on any street or block; provided, however, this clause shall not be construed to prohibit disclosure in response to inquiry by any prospective purchaser, lessee or tenant of:

(i) Information reasonably believed to be accurate regarding any such race, sex, religion or national origin; or

(ii) The honest professional opinion or belief of the broker, salesperson or agent regarding factors which may affect the value or desirability of property available for purchase or lease.

(B) Any solicitation, promotion or attempt to influence or induce any owner to sell, lease or list for sale or lease any real estate, which solicitation, promotion or attempted inducement includes representations concerning:

I. Race, sex, religion or national origin or present, prospective or possible purchasers or occupants of real estate in any area, neighborhood or particular street or block;

II. Present, prospective or possible neighborhood unrest, tension or change in the race, sex, religion or national origin of occupants or prospective occupants of real estate in any neighborhood or any street or block;

III. Present, prospective or possible decline in market value of any real estate by reason of the present, prospective or possible entry into any neighborhood, street or block of persons of a particular race, sex, religion or national origin;

IV. Present, prospective or possible decline in the quality of education offered in any school or school district by reason of any change in the race, sex, religion or national origin of the students, pupils or faculty of such school or district.
(4) Trafficking in pornography: The production, sale, exhibition, or distribution of pornography.

(A) City, state, and federally funded public libraries or private and public university and college libraries in which pornography is available for study, including on open shelves, shall not be construed to be trafficking in pornography, but special display presentations of pornography in said places is sex discrimination.

(B) The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.

(C) That the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or

(5) Coercion into pornographic performance: Coercing, intimidating or fraudulently inducing any person, including a man, child or transsexual, into performing for pornography, which injury may date from any appearance or sale of any product(s) of such performance.

(a) Proof of the following facts or conditions shall not constitute a defense:

I. That the person is a woman; or
II. That the person is or has been a prostitute; or

III. That the person has attained the age of majority; or

IV. That the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or

V. That the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or

VI. That the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or

VII. That anyone else, including a spouse or other relative, has given permission on the person's behalf; or

VIII. That the person actually consented to a way of the performance that is changed into pornography; or

IX. That the person knew that the purpose of the acts or events in question was to make pornography; or

X. That the person demonstrated no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or

XI. That the person signed a contract, or made statements affirming a willingness to cooperate in the production of pornography; or

XII. That no physical force, threats, or weapons were used in the making of the pornography; or
XIII. That the person was paid or otherwise compensated.

(6) Forcing pornography on a person: The forcing of pornography on any woman, man, child or transsexual in any place of employment, in education, in a home, or in any public place. 

(7) Assault or physical attack due to pornography: The assault, physical attack, or injury to any woman, man, child, or transsexual in a way that is directly caused by specific pornography.

(8) Defenses. Where the materials which are the subject matter of a complaint under paragraphs (6), (7), or (7) of this subsection (g) are pornography, it shall not be a defense that the respondent did not know or intend that the materials were pornography or sex discrimination, provided, however, that in the cases under paragraph (g)(4) of Section 10-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 10-3, no damages or compensation for losses shall be recoverable unless the complainant proves that the respondent knew or had reason to know that the materials were pornography. Provided, further, that it shall be a defense to a complaint under paragraph (g)(4) of Section 10-3 that the materials complained of are those covered only by paragraph (g)(6) of Section 10-3.

(b) Education shall mean the construction, maintenance or operation of any school or educational facility utilized or intended to be utilized for the education or training of persons residing within the territorial jurisdiction of the office and controlled by a public governmental board or agency which operates one or more elementary or secondary schools.

(1) Employer shall mean:

(1) Any political subdivision within the county, not represented by the corporation counsel, pursuant to IC 18-6-7-5, and any separate municipal corporation which has territorial jurisdiction primarily within the county; and

(2) Any person who employs at the time of any alleged violation six (6) or more employees within the territorial jurisdiction of the office.

(1) Employment shall mean a service performed by an individual for compensation on behalf of an employer, except that such services shall not include the following:
(1) Services performed by an individual who in fact is engaged in an independently established trade, occupation, business or profession, and who has been and will continue to be free from direction or control over the manner of performance of such services;

(2) Services performed by an agent who received compensation solely upon a commission basis and who controls his/her own time and efforts;

(3) Services performed by an individual in the employ of his/her spouse, child or parent.

(k) Employment agency shall mean and include any person undertaking, with or without compensation, to procure, recruit, refer or place any individual for employment.

(1) Labor organization shall mean and include any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(m) Lending institution shall mean any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, the business of which consists in whole or in part in making or guaranteeing loans, secured by real estate or any interest therein.

(n) Office shall mean the office of equal opportunity created by this chapter.

(o) Owner shall mean and include the titleholder of record, a contract purchaser, lessee, sublessee, managing agent or other person having rights of ownership or possession, or the right to sell, rent or lease real estate.

(p) Person shall mean and include one or more individuals, partnerships, associations, organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, governmental agencies and other organized groups of persons.

(q) Pornography shall mean the graphic sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that also includes one or more of the following:

(1) Women are presented as sexual objects who enjoy pain or humiliation; or

(2) Women are presented as sexual objects who experience sexual pleasure in being raped; or

(3) Women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or

(4) Women are presented being penetrated by objects or animals; or

(5) Women are presented in scenarios of degradation, injury, abuse, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual;

(6) Women are presented as sexual objects for domination, conquest, violation, exploitation, possession, or use, or through postures or positions of servility or submission or display.
The use of men, children, or transsexuals in the place of women in paragraphs (1) through (6) above shall also constitute pornography under this section.

(r) (f) Public accommodation shall mean an establishment which caters to or offers its services, facilities or goods to the general public.

(s) (x) Public facility shall mean any facility or establishment, other than an educational institution, which is owned, operated or managed by or on behalf of a governmental agency.

(c) (f) Real estate broker shall mean any person who, for a fee or other valuable consideration, sells, purchases, rents, leases or exchanges, or negotiates or offers or attempts to negotiate the sale, purchase, rental, lease or exchange of real property owned by another person; or a person who is licensed and holds himself/herself out to be engaged in the business of selling, purchasing, renting, leasing or exchanging real property for other persons, or who manages and collects rents for the real property of another.

(u) (b) Real estate salesperson or agent shall mean any person employed by a real estate broker to perform or assist in performing any or all of the functions of the real estate broker.

(v) (x) Respondent shall mean one or more persons against whom a complaint is filed under this chapter, and who the complaint alleges has committed or is committing a discriminatory practice.

SECTION 3. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-16, Persons and activities to which sections 16-14 and 16-15 do not apply, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-16. Persons and activities to which sections 16-14 and 16-15 do not apply.

(a) Sections 16-14 and 16-15 shall not apply to employment performed for the consolidated city and department or agency thereof, or any employment performed for the county or agency thereof which is represented by the corporation counsel pursuant to IC 18-4-7-5.

(b) Subject to the provisions of section 16-3 (g)(4) the provisions of sections 16-14 and 16-15 shall not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, nor any school, education, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution, nor any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public.
(c) Sections 16-14 and 16-15 shall not apply to the rental of rooms in a boardinghouse or rooming house or single-family residential unit; provided, however, the owner of the building or unit actually maintains and occupies a unit or room in the building as her/his residence and, at the time of the rental owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

(d) The following shall not be discrimination on the basis of sex:

(1) For any person to maintain separate restrooms or dressing rooms for the exclusive use of either sex;

(2) For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or to classify or refer for employment any individual; or for an employer, labor organization or joint labor-management committee, controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program; on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

SECTION 4. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-17, Grounds for complaint; persons who may file; persons against whom complaint may be made, is hereby amended by deleting the words cross-hatched and adding the words underlined to read as follows:

Sec. 16-17. Grounds for complaint; persons who may file; persons against whom complaint may be made.

(a) A complaint charging that any person has engaged in or is engaging in a discriminatory practice prohibited by sections 16-14 and/or 16-15 may be filed with the office by any person claiming to be aggrieved by the practice, or by one or more members of the board or employees of the office who have reasonable cause to believe that a violation of sections 16-14 and 16-15 has occurred, in any of the following circumstances:

(1) In the case of the acquisition of real estate, against the owner of the real estate, a real estate broker, real estate appraiser or agent, or a lending institution or appraiser;

(2) In the case of education, against the governing board or any public school district which operates schools within the territorial limits of the consolidated city or county;

(3) In the case of a public accommodation, against the owner or person in charge of any such establishment, or both;

(4) In the case of a public facility, against the governmental body which operates or has jurisdiction over the facility;

(5) In the case of employment, against any employer, employment agency or labor organization;

(6) In the cases of trafficking in pornography, coercion into pornographic performances, and assault or physical attack due to pornography (as provided in Section 16-3 (g) (7)) against the perpetrator(s), maker(s), seller(s), exhibitor(s), or distributor(s);

(7) In the case of forcing pornography on a person, against the perpetrator(s) and/or institution.
(b) In the case of trafficking in pornography, any woman may file a complaint as a woman acting against the subordination of women and any man, child, or transsexual may file a complaint but must prove injury in the same way that a woman is injured in order to obtain relief under this chapter.

(c) In the case of assault or physical attack due to pornography, compensation for injuries or an award of damages shall not be assessed against (1) maker(s), for pornography made, (2) distributor(s), for pornography distributed, (3) seller(s), for pornography sold, or (4) exhibitor(s) for pornography exhibited, prior to the effective date of this act.

SECTION 5. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-26, Hearing, findings and recommendations when conciliation not effected, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-26. Hearings, findings and recommendations when conciliation not effected.

(a) Hearing to be held; notice. If a complaint filed pursuant to this article has not been satisfactorily resolved within a reasonable time through informal proceedings pursuant to section 16-24, or if the panel investigating the complaint determines that a conciliation conference is inappropriate under the circumstances surrounding the complaint, the complaint adjudication committee may hold a public hearing thereon upon not less than ten (10) working days' written notice to the complainant or other aggrieved person, and to the respondent. If the respondent has not previously filed a written response to the complaint, he may file such response and serve a copy thereof upon the complainant and the office not later than five (5) working days prior to the date of the hearing.

(b) Powers; rights of parties at hearing. In connection with a hearing held pursuant to subsection (1), the complaint adjudication committee shall have power upon any matter pertinent to the complaint or response thereto, to subpoena witnesses and compel their attendance; to require the production of pertinent books, papers or other documents; and to administer oaths. The complainant shall have the right to be represented by the chief officer or any attorney of his/her choice. The respondent shall have the right to be represented by an attorney or any other person of his/her choice. The complainant and respondent shall have the right to appear in person at the hearing, to be represented by an attorney or any other person, to subpoena and compel the attendance of witnesses, and to examine and cross-examine witnesses. The complaint adjudication committee may adopt appropriate rules for the issuance of subpoenas and the conduct of hearings under this section. The complaint adjudication committee and the board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County Circuit or superior courts.

(c) Statement of evidence; exceptions; arguments. Within thirty (30) working days from the close of the hearing, the complaint adjudication committee shall prepare a report containing written recommended findings of fact and conclusions and file such report with the office. A copy of the report shall be furnished to the complainant and respondent, each of whom shall have an opportunity to submit written exceptions within such time as the rules of the complaint adjudication committee shall permit. The complaint adjudication

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committee may, in its discretion, upon notice to each interested party hear further evidence or argument upon the issues presented by the report and exceptions, if any.

(d) Findings of fact; sustaining or dismissing complaint. If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has engaged or is engaging in a discriminatory practice in violation of the chapter, it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent. In addition, the committee may cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power to restore complainant's losses incurred as a result of discriminatory treatment, as the committee may deem necessary to assure justice; to require the posting of notice setting forth the public policy of Marion County concerning equal opportunity and respondent's compliance with said policy in places of public accommodations; to require proof of compliance to be filed by respondent at periodic intervals; to require a person who has been found to be in violation of this ordinance, and who is licensed by a city or county agency authorized to grant a license, to show cause to the licensing agency why his license should not be revoked or suspended. If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has not engaged in a discriminatory practice in violation of this chapter it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent. Findings and conclusions made by the committee shall be based solely upon the record of the evidence presented at the hearing.

(e) Appeal to the board. Within thirty (30) working days after the issuance of findings and conclusions by the committee, either the complainant or the respondent may file a written appeal at the decision of the committee to the board; however, in the event that the committee requires a respondent to correct or eliminate a discriminatory practice within a time period less than thirty (30) working days, then that respondent must file his/her appeal within that time period. After considering the record of the evidence presented at the hearing and the findings and conclusions of the committee, the board may affirm the decision of the committee and adopt the findings and conclusions of the committee, or it may affirm the decision of the committee and make supplemental findings and conclusions of its own, or it may reverse the decision of the committee and make findings of fact and conclusions to support its decision. The board may also adopt, modify or reverse any relief ordered by the committee. The board must take any of the above actions within thirty (30) working days after the appeal is filed.

(f) Members of board who are ineligible to participate. No member of the board who initiated a complaint under this chapter or who participated in the investigation thereof shall participate in any hearing or determination under this section as a member of either a hearing panel, the complaint adjudication committee or of the board.

(g) Applicability of state law; judicial review. Except as otherwise specifically provided in this section or in rules adopted by the board of the complaint adjudication committee under this chapter, the applicable provisions
of the Administrative Adjudication Act, IC 4-22-1, shall govern the conduct of hearings and determinations under this section, and findings of the board hereunder shall be subject to judicial review as provided in that act.

SECTION 6. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-27, Court enforcement, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-27. Court enforcement.

(a) Institution of action. In any case where the board or the committee has found that a respondent has engaged in or is engaging in a discriminatory practice in violation of sections 16-14 and/or 16-15, and such respondent has failed to correct or eliminate such discriminatory practice within the time limit prescribed by the board or the committee and the time limit for appeal to the board has elapsed, the board shall file in its own name in the Marion County circuit or superior courts a civil complaint against the respondent for the enforcement of section 16-26. Such complaint may request such temporary or permanent injunctive relief as may be appropriate and such additional affirmative relief or orders as will effectuate the purposes of this chapter and as may be equitable, within the powers and jurisdiction of the court.

(b) Record of hearing; evidentiary value. In any action filed pursuant to this section, the board may file with the court a record of the hearing held by the complaint adjudication committee pursuant to section 16-26, which record shall be certified by the secretary of the board as a true, correct and complete record of the proceedings upon which the findings of the complaint adjudication committee and/or the board were based. The court may, in its discretion, admit any evidence contained in the record as evidence in the action filed under subsection (1), to the extent such evidence would be admissible in court under the rules of evidence if the witnesses were present in court, without limitation upon the right of any party to offer such additional evidence as may be pertinent to the issues and as the court shall, in its discretion, permit.

(c) Temporary judicial relief upon filing of complaint. Upon the filing of a complaint pursuant to section 16-17 by a person claiming to be aggrieved, the chief officer, in the name of the board and in accordance with such procedures as the board shall establish by rule, may seek temporary orders for injunctions in the Marion County circuit or superior courts to prevent irreparable harm to the complainant, pending resolution of the complaint by the office, complaint adjudication committee and the board.

(d) Enforcement of conciliating agreements. If the board determines that any party to a conciliation agreement approved by the chief officer under section 16-24 has filed or refused to comply with the terms of the agreement, if may file a complaint in the name of the board in the Marion County circuit or superior courts seeking an appropriate decree for the enforcement of the agreement.

(e) Trial de novo upon finding of sex discrimination related to pornography. In complaints involving discrimination through pornography, judicial review shall be de novo. Notwithstanding any other provision to the contrary, whenever the board or committee has found that a respondent has engaged in
or is engaging in one of the discriminatory practices set forth in paragraphs (g)(4) (b) (f) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3, the board shall, within ten (10) days after making such finding, file in its own name in the Marion County circuit or superior court an action for declaratory and/or injunctive relief. The board shall have the burden of proving that the actions of the respondent were in violation of this chapter.

Provided, however, that nothing contained herein shall be construed to prevent the initiation of legal action, without de pictio n, for declaratory and/or injunctive relief, without de pictio n, for any reason, in the circuit courts of this State or in any circuit court of any other State. Provided further, that nothing herein shall be construed to prevent the issuance of a temporary or permanent injunction under paragraph (g)(4) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3 no temporary or permanent injunction shall issue prior to a final judicial determination that said activities of respondent do constitute a discriminatory practice under this chapter.

Provided further, that nothing herein shall be construed to prevent the issuance of a temporary or permanent injunction under paragraph (g)(4) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3 shall extend beyond such material(s) that, having been described with reasonable specificity by the injunction, have been determined to be validly proscribed under the ordinance.

SECTION 7. (a) Because this ordinance amends certain provisions adopted in General Ordinance No. 24, 1984, the effective date of that ordinance is postponed until the effective date of this ordinance. (b) The expressed or implied repeal or amendment, by General Ordinance No. 24, 1984, or by this ordinance, of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance or General Ordinance No. 24, 1984, had not been adopted. (c) An offense, committed before the effective date of this ordinance, under any ordinance expressly or impliedly repealed or amended by this ordinance shall be prosecuted and remains punishable under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 8. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected unless such remaining provisions clearly cannot, without the invalid provision or provisions, be given the effect intended by the council in adopting this ordinance. It is further declared to be the intent of the City-County Council that the ordinance be upheld as applied to the graphic depiction of actual sexual subordination whether or not upheld as applied to material produced without the participation of human subjects nor shall a judicial declaration that any provision (section, paragraph, sentence, clause or any other portion) of this ordinance cannot validly be applied in a particular manner or to a particular case or category of cases affect the validity of that provision (section, paragraph, sentence, clause or any other portion) as
applied in other ways or to other categories of cases unless such remaining application would clearly frustrate the Council's intent in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 9. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.
The foregoing was passed by the City-County Council this 11th day of June, 1984, at 8:44 p.m.

ATTEST:

[Signature]
President

Clerk of the City-County Council

Presented by me to the Mayor this 14th day of June, 1984, at 10:00 a.m.

[Signature]
Clerk of the City-County Council

Approved and signed by me this 15th day of June, 1984.

[Signature]
Mayor

STATE OF INDIANA, MARION COUNTY)
) SS:
CITY OF INDIANAPOLIS
)

I, BEVERLY S. RIPPY, Clerk of the City-County Council, Indianapolis, Marion County, Indiana, do hereby certify the above and foregoing is a full, true, and complete copy of Proposal No. 298, 1984, a Proposal for a General Ordinance passed by the City-County Council on the 11th day of June, 1984, by a vote of 24 AYES and 3 NAYS, and was retitled General Ordinance No. 35, 1984, which was signed by the Mayor on the 15th day of June, 1984, and now remains on file and on record in my office.

WITNESS my hand and the official seal of the City of Indianapolis, Indiana, this 15th day of June, 1984.

[Signature]
Clerk of the City-County Council

FILED

(SEAL) JUN 15 1984

GENERAL ORDINANCE RECORD 1984 PAGE_