



Mike Rankin  
City Attorney  
City of Tucson, Arizona  
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February 6, 2023

**VIA EMAIL ONLY**

Attorney General Kris Mayes  
OFFICE OF THE ARIZONA ATTORNEY GENERAL  
2005 N. Central Avenue  
Phoenix, AZ 85004  
Kris.Mayes@azag.gov

**Re: Supplemental Response to Speaker Toma's Request to Investigate;  
Investigative Report No. 22-002**

Dear Attorney General Mayes:

In January, the City of Tucson ("City") suspended enforcement of its "Source of Income" ordinance and requested your office to review former Attorney General Mark Brnovich's Investigative Report No. 22-002 ("Brnovich Report") for purposes of determining whether the City's ordinance violates state law. You responded by letter accepting the City's actions to resolve the complaint, at least for the time being, and agreeing to review the prior determination that the City's revision to its fair housing code violates state law. The letter noted that you would be willing to review supplemental information in connection with the reconsideration of the prior determination.

The City has prepared this letter to supplement its prior correspondence by: (1) providing specific information regarding substantial equivalence certification by the U.S. Department of Housing and Urban Development ("HUD"); and (2) elaborating on how A.R.S. §§ 9-500.09 and 44-1491.06, if applied in a manner to preempt Tucson's ability to amend its fair housing codes, violate the Arizona Constitution's prohibition against local or special laws by creating an inelastic class.

Thank you for reviewing the Brnovich Report and for the opportunity to provide this additional relevant information.

**I. Substantial Equivalence**

What follows is information on the topic of substantial equivalence that you may find provides additional context and is pertinent to the other topics discussed herein.

**A. What is Substantial Equivalence?**

Substantial equivalence is a certification determined by HUD. *See* 24 C.F.R. § 115.201. The certification process is started by a state or local government application. HUD reviews the state or local laws to determine if those laws provide substantive rights procedures, remedies, and judicial review provisions that are substantially equivalent to the federal Fair Housing Act.

**B. Is substantial equivalence a requirement for the lawful enactment of an amendment to the City's pre-existing fair housing codes?**

No. Certification of a local agency (i.e., a municipality) allows HUD to refer fair housing complaints to that local agency for enforcement. *See* 24 C.F.R. § 115.207. Certification also makes the local agency eligible for technical assistance and grant funding from HUD. *See* 24 C.F.R. § 115.209. But nothing in the federal Fair Housing Act requires that a local agency secure certification of substantial equivalence in order to amend its previously-adopted fair housing codes. In fact, local fair housing codes may need to be modified and amended in order to allow that local agency to apply for certification from HUD as substantially equivalent. If, after applying for substantial equivalence certification, HUD finds the fair housing code not to be substantially equivalent, then the city would need to modify the code before certification can be obtained.

**C. Does substantial equivalence impact whether Tucson has the authority to amend its fair housing code to add protected categories?**

No. Based on a preliminary review by HUD, the City already has the minimum protected categories to be designated substantially equivalent. HUD allows local governments to designate additional protected classes and still receive a designation of substantial equivalence. *See* 24 C.F.R. § 115.204(h). In any event, as noted above, nothing in the federal Fair Housing Act requires that a local agency secure certification of substantial equivalence in order to amend its previously-adopted fair housing codes.

**D. Is substantial equivalence a requirement under existing Arizona law to allow cities and towns to have their own local fair housing ordinances?**

No. While Arizona law, similar to the federal regulations cited above, requires certification of substantial equivalence as a precondition for the referral of state fair housing complaints to that local agency for investigation and enforcement,<sup>1</sup> nothing in the Arizona laws require this certification as a precondition for local enactment of local fair housing ordinances. A review of the legislative history of the relevant Arizona laws is instructive on this issue.

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<sup>1</sup> *See* A.R.S. § 41-1491.13.

In 1988, the Arizona Fair Housing laws *expressly preempted* all local fair housing laws, except for charter cities with a population of 350,000 or more, as measured in the 1990 census (i.e. Phoenix and Tucson), *with the additional condition* that those cities be certified by HUD as substantially equivalent. *See* 1988 Arizona Session Laws, 1988 Ariz.Legis.Serv. 339, A.R.S. § 41-1492.12.<sup>2</sup> But after the repeal of that statute, the new statutes—inclusive of A.R.S. §§ 9-500.09 and 44-1491.06—do not require this additional condition (substantial equivalence) for Phoenix and Tucson to enjoy the authority to have their own ordinances. In fact, the current Arizona statutes, adopted in 1992 (1992 Ariz.Legis.Serv. Ch. 207), include A.R.S. § 41-1492.11, which expressly allows the attorney general to cooperate with and provide technical assistance to a local jurisdiction that operates programs to prevent or eliminate discriminatory housing practices, and expressly notes that “[n]othing in this article shall be interpreted as prohibiting . . . cities with a population of three hundred fifty thousand or more persons according to the 1990 United States decennial census from adopting a fair housing ordinance.” This statutory provision includes no temporal limitation (1995 or otherwise), and is not contingent on certification for substantial equivalence.

In short, Arizona law (and federal law) requires certification of substantial equivalence as a precondition for the state to refer investigation and enforcement of complaints of violations of state or federal fair housing laws to that local jurisdiction. However, Arizona law does not require certification of substantial equivalence as a precondition for local adoption of its own fair housing ordinances, or for the amendment of local ordinances that were previously adopted.

## **II. The Brnovich Report is out of alignment with the purpose of the 1992 amendment to the Arizona Fair Housing Act.**

A municipal ordinance is preempted by state law when “(1) the municipality creates a law in conflict with the state law, (2) the state law is of statewide concern, and (3) the state legislature intended to appropriate the field through a clear preemption policy.” *City of Scottsdale v. State*, 237 Ariz. 467, 470, ¶ 10 (App. 2015). The Brnovich Report does not clearly address all three points – in fact, it ignores the third point entirely. In turn, the position adopted in the Report fails when this third element is factored in, because the relevant state law includes no clear statement of preemption.

The Brnovich Report identifies a conflict in law due to the time when the recent change to the City's fair housing code was enacted; and it states that fair housing is a matter of statewide and local concern and thus allows state law to preempt contrary local fair housing laws. This analysis only addresses the first two prongs of the three prong preemption analysis and is thus an incomplete analysis. The prong regarding the clear statement of preemption, as discussed in our previous correspondence, clearly fails as the statutes contain no clear

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<sup>2</sup> Note that this earlier version of the statute contains the classic legislative finding of statewide concern and an express declaration preempting local legislation – a stark contrast to current Arizona statutes, as noted in our prior letter.

statement of preemption. In fact, the statutes contain no statement of preemption at all. The legislative meeting minutes from the time of adoption of the relevant laws provide additional insight.

The Arizona House of Representatives meeting minutes from February 24, 1992 regarding the amendment to add a population threshold to A.R.S. § 44-1491.06 indicate that the amendment's purpose was to allow Phoenix and Tucson exclusively to engage in fair housing enforcement, and not to preempt these cities from enacting legislation consistent with the federal Fair Housing Act:<sup>3</sup>

- “[Representative Beezley] said that [population] language was added to the bill because the City of Phoenix as well as Tucson had ordinances in place and were administering the [fair housing] program. She added that this stipulation would prevent a sporadic duplication of services across the State.”
- “Ms. Beezley said the option is to grant the cities of Tucson and Phoenix the permission to continue doing the fine job they have been doing.”

While the text of the statute itself is at best silent on the topic of preemption, it is clear from the legislative minutes that the intent was to enable certain cities the ability to enact and enforce their own fair housing codes and not to preempt them.

### **III. The Brnovich Report undermines local, state, and federal interests.**

**City Interest** – The Brnovich Report prohibits the City from fulfilling its goal to become substantially equivalent with federal law. Hypothetically, if HUD proposes any new rule or program that requires the City to update its fair housing code or face reduced funding or program ineligibility, the City would have its hands tied as the Brnovich Report bars amending the fair housing code under any circumstance.

The Fair Housing Assistance Program (“FHAP”) is one such program. Substantial equivalence is a designation by HUD that allows local jurisdictions to qualify for FHAP and additional funding to receive case referrals from HUD and investigate those cases. The City is currently in the early stages of applying for substantial equivalence certification, however, a preliminary review of the City's fair housing code by HUD noted some discrepancies with the current fair housing code that would need to be resolved before the City could be certified. (Note that the differences were with the conciliation, enforcement, and penalties portions of the code, not the portions regarding protected classes.) To become substantially equivalent, the City would need to modify the existing code, but in doing so would be in violation of state law per the Brnovich Report.

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<sup>3</sup> The meeting minutes are attached hereto.

**State Interest** – Substantial equivalence at the local level relieves state resources. If the City has the authority to enforce and independent funding from the federal government, the Attorney General’s Office can focus resources on other efforts. Again, from the February 24, 1992 House of Representatives meeting minutes:

- “[Cecil Patterson, Chief Counsel, Human Services, Attorney General’s Office] said that the Attorney General’s Office does not see a duplication of efforts. He agreed with Mrs. Schorr that if Phoenix and Tucson are enforcing their fair housing ordinances, the Attorney General’s Office will not interfere. He said that the Attorney General’s Office will be able to focus their limited resources more effectively where there is no coverage.”
- “[Robert Aronin, Human Relations Commission, Phoenix] reiterated that there is no duplication of services with this legislation but if the Cities of Phoenix and Tucson have the fair-housing function, there will be more resources available for the other municipalities of Arizona . . . because of the community involvement and cost efficiency, it is preferable to have the city rather than the State do the work.”

**Federal Interest** – The existence of the FHAP demonstrates HUD’s desire for local governments to be substantially equivalent. Per HUD, “the Fair Housing Act contemplates that, across the country, state and local governments will enact and enforce their own statutes and ordinances that are substantially equivalent to the Fair Housing Act.” The FHAP incentivizes state and local governments by offering funding, training, and the authority to investigate their own fair housing complaints.

**IV. A.R.S. §§ 9-500.09 and 41-1491.06 are unconstitutional local or special laws.**

Even if the City’s amendment could theoretically be preempted by A.R.S. §§ 9-500.09 and 41-1491.06—it is not—these purportedly preemptive statutes cannot actually do so. In fact, applying these statutes in the manner contemplated by the Brnovich Report would produce an unconstitutional result, because that application would violate the local or special law prohibitions of the Arizona constitution.

Local or special laws are prohibited by Article 4, Part 2, § 19 of the Arizona Constitution, which provides in pertinent part:

No local or special laws shall be enacted in any of the following cases, that is to say:

\*\*\*\*

13. Granting to any corporation, association, or individual, any special or exclusive privileges, immunities, or franchises.

The statutes are special or local laws under the test of *Town of Surprise*, 166 Ariz. 143 (1990). In *Town of Surprise*, the Arizona Supreme Court made it clear that a statute must meet all the following tests in order to be a permissible general law, rather than prohibited local or special law:

1. The law, and any classification contained therein, must bear a rational relationship to a legitimate legislative objective. *Id.* at 149.
2. The law “must apply uniformly to all cases and to all members within the circumstances provided for by the law. In other words, it must . . . encompass a legitimate classification by population, geography, or time limitations.” *Id.* at 150 (citation omitted). Stated yet another way, “A statute conferring rights and privileges or imposing restrictions on persons, places or things as a class is a general law, while a statute relating to particular persons, places or things of a class is a special or local law.” *Id.* (citation omitted).
3. The law must be “elastic.” “A statute is special or local if it is worded such that its scope is limited to a particular case and it looks to no broader application in the future. To be general, the classification must be elastic, or open, not only to admit entry of additional persons, places, or things attaining the requisite characteristics, but also to enable others to exit the statute’s coverage when they no longer have those characteristics.” *Id.* (cleaned up).

The Arizona Supreme Court makes three very important additional points regarding elasticity. First, “[a]lthough the number in the class is not determinative, as that number decreases in size, courts are more likely to find the classification invalid.” *Id.* at 151. Second, “[a] **classification limited to a population as of a particular census or date is a typical form of defective closed class**; such an act is a form of identification, not of classification, because it is impossible for entities to enter or exit the class with changes in population.” *Id.* (emphasis added). Third, “[t]o decide whether a statute legitimately classifies, we will consider the actual probability that others will come under the act’s operation when the population changes. Where the prospect is only theoretical, and not probable, we will find the act special or local in nature.” *Id.*

Even assuming for the sake of argument that a legitimate state objective that bears a rational relationship to the class could be found, both of these statutes fail the elasticity prong by unlawfully defining the class based only on a specific census. *See* A.R.S. §§ 9-500.09 and 41-1491.06 (allowing cities or towns with a population of “three hundred fifty thousand or more persons according to the 1990 United States decennial census” to adopt a fair housing ordinance “not later than” January 1, 1995).

Attorney General Kris Mayes

Re: Supplemental Response to Speaker Toma's Request to Investigate;

Investigative Report No. 22-002

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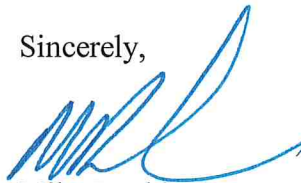
As the legislative history demonstrates, the subject provisions in A.R.S. §§ 9-500.09 and 41-1491.06 were intended to be *enabling* legislation to ensure the ability of Phoenix and Tucson to carry on their local protection of fair housing rights, and not preemptive provisions to single out and prevent these jurisdictions—and these jurisdictions only—from enacting any fair housing amendments after the specified date in 1995. Despite this history, the determination in the Brnovich Report finds that these provisions instead have the effect of imposing a preemptive temporal requirement that applies—and only can ever apply, with zero elasticity – to Phoenix and Tucson, and not to any other Arizona political subdivision. If in fact this is the effect of these statutes, then the statutes themselves include “a typical form of defective closed class” and are prohibited special or local laws that violate the Arizona Constitution. *Id.* See *Bravin v. City of Tombstone*, 4 Ariz. 83, 89 (1893) (“statute must be elastic, so that other cities may, as they attain the requisite conditions, come within the classification and within the operation of the statute”).

Being unconstitutional local and special laws, at least as applied under the reasoning of the Brnovich Report, these statutes cannot be used as a basis for claiming preemption of the City's Amendment.

## V. Conclusion

Again, thank you for your reconsideration of the Brnovich Report and the opportunity to provide additional information.

Sincerely,



Mike Rankin  
City Attorney

c: Josh Bendor (Josh.Bendor@azag.gov)  
Gracynthia Claw (Gracynthia.Claw@azag.gov)  
Emily McConnico (Emily.McConnico@azag.gov)  
Terry Olsen (Terry.Olsen@azag.gov)  
Hon. Ben Toma, Speaker of the House of Representatives  
Linley Wilson, General Counsel, House of Representatives

ARIZONA HOUSE OF REPRESENTATIVES  
Fortieth Legislature - Second Regular Session

RECEIVED  
LEGISLATIVE OFFICE  
3-17-92

COMMITTEE ON COMMERCE

Minutes of Meeting  
Monday, February 24, 1992  
House Hearing Room 2 - 1:30 p.m.

(Tape 4, Side A)

Chairman Brenda Burns called the meeting to order at 1:38 p.m. and attendance was noted.

Members Present

Mr. Aldridge	Mrs. Johnson	Mrs. Mills
Mr. Baird	Mr. Keegan	Mrs. Pickens
Ms Beezley	Ms Kennedy	Mrs. Schorr
Mr. Goudinoff	Mr. Killian	Mr. Benton
Mr. Jewett	Mrs. McCune-Davis	Mrs. B. Burns

Members Absent

None

Speakers Present

Blake Anderson, House Research Analyst  
Jeff Burt, Vice President, Corporate Accounts, Greater Phoenix Economic Council  
Scott Eubanks, President, Arizona Economic Council (AEC)  
Jim Marsh, Director, Arizona Department of Commerce  
Dr. Wayne McGrath, Executive Director, State Board of Directors for Community Colleges, Phoenix  
Bertha Landrum, Director of Occupational Education, Maricopa Community College  
Lawrence Hecker, Chairman, Greater Tucson Economic Council, Tucson  
John Gabusi, Assistant Vice Chancellor, Pima Community College  
Mike Shea, Director, Committee on Political Education (COPE), Arizona State American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), Phoenix  
\*(Chairman Burns acknowledged others present to testify in support of H.B. 2213, but who did not speak--page 5)  
Bill MacCallum, Director, Arizona Film Office, Arizona Department of Commerce  
Robert Warner, Owner, Robert Warner Productions, Inc., Scottsdale  
Bob Fannin, Chairman, Governor's Motion Picture Advisory Board  
Leigh Cheatham, Administrative Information and Legislative Services, Arizona Department of Revenue  
Norris Nordvold, Intergovernmental Program Coordinator, City of Phoenix  
Stuart Goodman, Accounts Director, Arizona Multihousing Association, Phoenix  
Dave Bixler, Vice President, Government Affairs, Arizona Realtors Association, Phoenix  
Cecil Patterson, Chief Counsel, Human Services, Attorney General's Office  
Michael Cavanaugh, Attorney, representing the Phoenix Human Relations Commission

Commerce  
2/24/92



Scot Butler, Attorney, Manufactured Housing Industry of Arizona and Arizona Association of Industries, Phoenix  
Rose Newsome, Director, Equal Opportunity Department, City of Phoenix  
Robert Aronin, Human Relations Commission, Phoenix  
\*(Chairman Burns acknowledged others present to testify in support of H.B. 2546, but who did not speak--page 12)  
Representative Gary Richardson, Arizona House of Representatives  
Anne Ward, Staff Attorney, Southern Arizona Legal Aid, Inc.  
Representative Susan Gerard, Arizona House of Representatives  
Leslie Hall, Chief Counsel, Consumer Protection and Antitrust, Attorney General's Office  
Tim Delaney, Attorney, Valley Citizens League, Phoenix  
Tom Buggeln, Legislative Liaison, Maricopa County Deputies Association  
Gail Yates, President, Junior Achievement, Central Arizona  
Brian Cabianca, House Commerce Committee Intern

Guest List (Attachment 1)

#### CONSIDERATION OF BILLS

Chairman Burns announced the following bill will be held:

H.B. 2490, commerce; enterprise zones - HELD BY CHAIR

Chairman Burns announced that H.B. 2490 will be held.

H.B. 2213, economic development training; business incentive - DO PASS AMENDED

Mr. Benton moved, seconded by Mr. Killian, that H.B. 2213 do pass.

Mr. Benton moved, seconded by Mr. Killian, that the 2-page Brenda Burns amendment dated February 24, 1992 (Attachment 2) be adopted.

Blake Anderson, House Research Staff, explained that the amendment adds a State economic development training program which establishes a specific training program for specific business opportunities. He said the program is set up under the direction of the Executive Director of the Community College Board in consultation with the Director of the Department of Commerce.

Mr. Anderson said that a Council is established to develop guidelines and policies for the training program in the Community College System as well as for training that will be done outside that system. He said the Council will consist of ten members and will meet annually. In addition, Mr. Anderson said that the Council must approve each request over \$100 thousand and the Executive Director of the Community College Board and the Director of the Department of Commerce will approve requests under \$100,000.

According to Mr. Anderson, the fund is established in the Community College System and there is no appropriation on H.B. 2213. He said both the Governor and Joint Legislative Budget Committee (JLBC) have recommended \$3 million in the Community College Budget for this program.

Mrs. Pickens asked how a business becomes eligible for this assistance. Mr. Anderson explained that a business will approach the Director of the

Mark Bare, Department of Commerce  
Leigh Cheatham, Department of Revenue

Mr. Killian moved, seconded by Mrs. Johnson, that House Bill 2201 do pass. The motion carried by a roll call vote of 7-3-1-4 (Attachment 7).

H.B. 2546, fair housing; city powers - DO PASS AMENDED

Blake Anderson, House Research Analyst, said that H.B. 2546 allows the city or town with a population in excess of 350,000 to adopt a fair housing ordinance and to enforce that ordinance. He added that the bill gives the Superior Court jurisdiction to enforce the local fair housing ordinances.

Ms Beezley moved, seconded by Ms Kennedy, that H.B. 2546 do pass.

Ms Beezley moved, seconded by Ms Kennedy, that the one-page Beezley amendment dated February 24, 1992 (Attachment 8) be adopted.

In answer to Mrs. Johnson, Ms Beezley said the reason for the monetary threshold is that the municipality must meet the 350,000 population as of the 1990 census. She said that language was added to the bill because the City of Phoenix as well as Tucson had ordinances in place and were administering the program. She added that this stipulation would prevent a sporadic duplication of services across the State.

Mr. Baird questioned why smaller cities who have developed a fair housing ordinance substantially equivalent to the federal ordinance should not also be allowed to do their own enforcement and asked for an explanation of the \$350,000 limitation. Ms Beezley reiterated that the cities of Tucson and Phoenix historically have been doing this and other municipalities have not.

Ms Beezley said the option is to grant the cities of Tucson and Phoenix the permission to continue doing the fine job they have been doing, whereas small municipalities have not undertaken this task. Ms Beezley added that cost effectively a smaller municipality could not do a substantially equivalent job of fair housing.

Norris Nordvold, Intergovernmental Program Coordinator, City of Phoenix, presented to the Members a letter from Councilman Calvin Goode, Phoenix (Attachment 9) supporting the legislation. He said the legislation allows the cities of Tucson and Phoenix to continue the enforcement of fair housing in their localities. He added that Tucson and Phoenix are the only cities in the State that have enacted a fair-housing ordinance and H.B. 2546 and the amendment (Attachment 8) is a finely crafted agreement which has been worked out with the Attorney General's Office and the real estate industry. Mr. Nordvold stated that the Mayor of Phoenix and the Phoenix City Council voted unanimously in favor of adopting this legislation.

Stuart Goodman, Accounts Director, Arizona Multihousing Association, Phoenix, spoke in support of H.B. 2546 with the amendment (Attachment 8) which create a scenario that Phoenix and Tucson can maintain the status quo and continue to enforce fair housing without creating additional municipalities and additional ordinances and confusion. He said that in the interest of uniformity, limiting it to the State with the adjunct of Tucson and Phoenix provides a relationship

that is reasonable and potentially workable. He added that from the perspective of the housing industry, the amendment creates the original agreement by maintaining that the municipality must adopt an ordinance that is equivalent to the federal and State law. In addition, he said there must be an intergovernmental agreement with the Attorney General and finally, if there is a revocation of municipalities, substantial equivalency would apply.

David Bixler, Vice President, Government Affairs, Arizona Realtors Association, Phoenix, spoke in opposition to the bill and said H.B. 2546 is a government regulation bill and not the fair housing bill that was brought before the Committee last year. He said H.B. 2546 will result in a duplication of effort in the State of Arizona at the Attorney General's Office, and at the City of Phoenix and City of Tucson.

Mrs. Schorr asked what problem exists with local enforcement of a fair housing ordinance. Mr. Bixler answered that there is no problem, just the expense involved. He said that there is a duplication of efforts occurring with the passage of H.B. 2546 and extra dollars will be spent in this area. Mrs. Schorr countered that if the City of Tucson was enforcing a particular case, the Attorney General's Office would not have to do the enforcement which would not result in duplication of efforts.

Ms Beezley said the Cities of Tucson and Phoenix have been administering the fair housing programs and the Joint Legislative Budget Committee (JLBC) could not show to any extent that additional expenses were incurred by the Attorney General's Office.

Cecil Patterson, Chief Counsel, Human Services, Attorney General's Office, spoke in support of H.B. 2546 and said that a mandatory filing is required by the Phoenix City Attorney if there is no resolution by mediation of an effort through an administrative process. In addition, he said the group has been assured by the City Attorney's Office that cities can go to the Superior Court of Arizona and take third-party actions for seeking remedies for individual claimants.

Mr. Patterson said that the Attorney General's Office does not see a duplication of efforts. He agreed with Mrs. Schorr that if Phoenix and Tucson are enforcing their fair housing ordinances, the Attorney General's Office will not interfere. He said that the Attorney General's Office will be able to focus their limited resources more effectively where there is no coverage.

Mr. Aldridge asked why this bill is needed since there currently is a Federal Fair Housing Act and a State Fair Housing Act. Mr. Patterson said H.B. 2546 is needed to more effectively handle activities in the area of fair housing as there are limited resources both from a federal and State standpoint.

Mrs. Mills opposed three layers of enforcement for fair housing.

Michael Cavanaugh, representing the Phoenix Human Relations Commission, said H.B. 2546 does meet the needs of the Phoenix community and the Commission fully supports the legislation.

Scot Butler, Attorney representing the Manufactured Housing Industry of Arizona and the Arizona Association of Industries, supported the bill with the amendment (Attachment 8).

Rose Newsome, Director, Equal Opportunity Department, City of Phoenix, supported the bill.

Robert Aronin, Human Relations Commission, Phoenix, urged adoption of H.B. 2546 to promote ease of compliance, community involvement and cost efficiency. He said on the compliance side, the equivalency requirements of the federal law are stringent and Phoenix has met equivalency requirements for twelve years and has the ability to be compliant and responsive to the requirements. Mr. Aronin said that for the past 20 years, the citizens of the City of Phoenix have come to rely on the City for enforcement of their rights. He added that it is expedient to solve disputes before enforcement is necessary. He said the City of Phoenix has a sophisticated support system to insure those efforts are made. Mr. Aronin said the current situation in which the City of Phoenix is enforcing fair housing has allowed the gathering of additional resources for this effort. He said that without the passage of H.B. 2546, eligibility by the City of Phoenix for community development block grant funds would be severely impaired. He reiterated that there is no duplication of services with this legislation but if the Cities of Phoenix and Tucson have the fair-housing function, there will be more resources available for the other municipalities of Arizona.

Mr. Aldridge asked why a city ordinance cannot accomplish this and why it is being brought to the State.

Mr. Aronin explained that there is in the federal law a structure which requires the City of Phoenix accessibility to the Superior Court for enforcement action. Mr. Aronin reiterated that there is no additional layer of enforcement. He said the City of Phoenix statute is identical to the State and federal requirements. He added that because of the community involvement and cost efficiency, it is preferable to have the city rather than the State do the work.

Chairman Burns read the names of people signed up to testify in support of the bill, if necessary, but who did not speak:

Nancy Kesteloot, Assistant City Attorney, City of Phoenix  
Merle Turchit, Senior Assistant City Attorney, City of Tucson

Question was called on Ms Beezley's motion that the 1-page amendment dated February 24, 1992 (Attachment 8) be adopted. The motion carried.

Ms. Beezley moved, seconded by Mrs. Schorr, that H.B. 2546 as amended to pass. The motion carried by a roll call vote of 9-0-2-4 (Attachment 10).

H.B. 2516, vehicle repair garages; estimates - HELD BY CHAIR

Chairman Burns announced that H.B. 2516 will be held.

H.B. 2364, landlord and tenant; remedies - SUBCOMMITTEE

Blake Anderson, House Research Staff, said H.B. 2364 changes the Landlord Tenant Act that is currently in statute. He said that currently the days are not stipulated in statute and have been judicially interpreted as business days, and H.B. 2364 modifies that to calendar days. He said that currently a writ of restitution is issued and five days later a judgement is rendered. According

*Adopted*

PROPOSED  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2546  
(Reference to printed bill)

- 1 Page 1, line 19, strike "LAST" and insert "1990"  
2 Line 20, after "ORDINANCE" insert "NOT LATER THAN JANUARY 1, 1995"  
3 Page 2, strike lines 9 and 10 and insert "THE 1990 FEDERAL CENSUS FROM  
4 ENACTING ORDINANCES, NOT LATER THAN JANUARY 1, 1995, THAT ARE  
5 SUBSTANTIALLY EQUIVALENT TO THE PROVISIONS OF FEDERAL LAW AND THIS  
6 ARTICLE."  
7 Line 20, strike "LAST" and insert "1990"  
8 Between lines 23 and 24 insert:  
9 "Sec. 5. Section 41-1491.13, Arizona Revised Statutes, is amended  
10 to read:  
11 41-1491.13. Referral to city or town  
12 A. The attorney general may defer proceedings under this article  
13 and refer a complaint to a city or town WITH A POPULATION OF THREE  
14 HUNDRED FIFTY THOUSAND OR MORE PERSONS ACCORDING TO THE 1990 FEDERAL  
15 CENSUS that has been recognized by the United States department of  
16 housing and urban development as having adopted ordinances providing  
17 fair housing rights and remedies that are substantially equivalent to  
18 those granted under federal law and THIS ARTICLE AND that has entered  
19 into an intergovernmental agreement with the attorney general.  
20 B. FOR A CITY OR TOWN WITH A POPULATION OF THREE HUNDRED FIFTY  
21 THOUSAND OR MORE PERSONS ACCORDING TO THE 1990 FEDERAL CENSUS TO BE  
22 ELIGIBLE TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE IT SHALL ADOPT A  
23 FAIR HOUSING ORDINANCE BY JANUARY 1, 1995.  
24 C. IF THE SUBSTANTIAL EQUIVALENCY STATUS IS REVOKED OR  
25 DECERTIFIED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN  
26 DEVELOPMENT, THE ATTORNEY GENERAL SHALL ~~RESUME~~ <sup>RESUME</sup> RESPONSIBILITY FOR THE  
27 IMPLEMENTATION AND ENFORCEMENT OF THIS ARTICLE."  
28 Renumber to conform  
29 Line 29, after "OF" insert "AND FEDERAL LAW AND"  
30 Amend title to conform



**City of Phoenix**  
OFFICE OF THE CITY COUNCIL

**CALVIN C. GOODE, B.S., M.A.**  
Councilman

**Subcommittees**  
Youth and Family, Chairman  
Housing and Neighborhoods, Member  
Downtown, Chairman  
Census, Member  
Audit, Member

**ADORA BEVERLY**  
Council Assistant  
DISTRICT 8  
262-7493

February 24, 1992

The Honorable Linda Beezley  
Arizona House of Representatives  
1700 West Washington  
Phoenix, Arizona 85007

RE: H.B. 2546 - Fair Housing

Dear Representative Beezley:

Thank you for introducing the Phoenix and Tucson amendments to the State Fair Housing bill. To briefly summarize the concern of the Phoenix Mayor and City Council and our support for enactment of this legislation, let me provide you with a little history of the Phoenix Fair Housing activity.

The City of Phoenix has enforced a Fair Housing ordinance since 1968. Also, since 1980, the Phoenix ordinance has been recognized by the U.S. Department of Housing and Urban Development (HUD) as equivalent to the Federal Fair Housing Law. The Mayor and City Council are proud that Phoenix has been the leader in fair housing enforcement in the State and nation.

With the passage of the 1988 Fair Housing Amendments to the U.S. Civil Rights Act, the requirements for equivalency certification have been made more stringent. It is now necessary to have the ability to go into court and pursue civil remedies on behalf of victims of discrimination. The City Council has adopted an ordinance which meets the new Federal equivalency requirements. H.B. 2546 would provide the legal authority required for its implementation.

CITY OF PHOENIX FAIR HOUSING PROGRAM

The Phoenix Fair Housing Program is an integral part of the City's economic development and business development strategy. Phoenix is recognized as having one of the best programs in the country and firms look at this record when selecting Phoenix as a job center. As an example of this record, HUD is bringing the Western Regional Fair Housing Conference for Regions 8, 9 and 10 to Phoenix on May 4-6, 1992.

ATTACHMENT 9

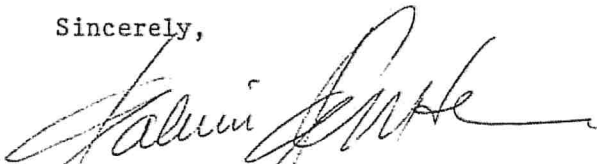
Representative Beezley  
February 24, 1992  
Page 2

Finally, the City of Phoenix spends approximately \$296,000 annually on fair housing. Of this amount, \$127,000 is local support from Community Development Block Grants and approximately \$50,000 from general fund money. The remaining amount is Federal funding which the City has been receiving from HUD. The majority of the money is spent for education and outreach, and working with the various groups in the community, especially the real estate industry to foster cooperation and avoid discrimination complaints.

I also want to thank Representative Brenda Burns, House Majority Leader Mark Killian and Representative Sandra Kennedy for their assistance in getting H.B. 2546 introduced. Additionally, I thank Majority Leader Killian for intervening with HUD to allow Phoenix to remain certified until H.B. 2546 is enacted (letter attached).

I strongly urge you and your committee to enact H.B. 2546 with the amendments agreed to by the Attorney General and the real estate industry. Thank you.

Sincerely,



Calvin C. Goode  
City Councilmember  
District 8

11471/NN/sva

Attachment

c: The Honorable Brenda Burns, Chairman, House Commerce Committee  
House Commerce Committee Members  
Blake Anderson, House Research, House Commerce Committee



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C. 20410-2000

October 22, 1991

OFFICE OF THE ASSISTANT SECRETARY  
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

*Blake  
Don't forget what  
we need to do for the  
City of Phoenix like  
the way of legislation  
for investment section.  
Hoff  
-Jeff*

*File  
1992  
legislation*

Ms. Rose Newsome  
Director  
Equal Opportunity Department  
550 West Washington Street  
Phoenix, AZ 85003-2107

Dear Ms. Newsome:

This is in further reference to the request of the Arizona House of Representatives Majority Leader, the Honorable Mark W. Killian, for an extension of the January 1992 deadline for the City of Phoenix's Equal Opportunity Department to maintain its grandfathered status as a certified agency.

Representative Killian stated that the amended Phoenix fair housing law will be voted on when the Arizona legislature reconvenes in January. Therefore, I grant the State of Phoenix an extension of its grandfathered status as a "certified agency" until such time as the Equal Opportunity Department enters into an interim agreement with the Department under the Fair Housing Act or September 13, 1992, whichever is sooner.

If you have questions, you may contact Ms. Marcella Brown, Director, Funded Programs Division at (202) 708-0455. I appreciate your interest in maintaining substantial equivalency.

Very sincerely yours,

Gordon H. Mansfield  
Assistant Secretary

cc: Honorable Mark W. Killian

*5/2/92*