

---

**Fair Housing Policy Guide: Best Practices to Help  
Government Further the Commitment to Equitable,  
Dignified Homes for All**

---

Lael Robertson & Tim Thompson

Housing Justice Center

Created through funding from the Metropolitan Council



---

## Table of Contents

---

<b>Introduction.....</b>	<b>4</b>
<b>Why this Guide? .....</b>	<b>5</b>
<b>Part 1 – Legal Obligations.....</b>	<b>6</b>
<b>Federal Fair Housing Act.....</b>	<b>6</b>
<b>Additional Legal Obligations.....</b>	<b>7</b>
<b>Minnesota Human Rights Act.....</b>	<b>7</b>
<b>Title VI of the 1964 Civil Rights Act.....</b>	<b>8</b>
<b>Americans with Disabilities Act and the Rehabilitation Act.....</b>	<b>8</b>
<i><b>Olmstead v. L.C. ....</b></i>	<b>9</b>
<b>Religious Land Use and Institutionalized Persons Act.....</b>	<b>9</b>
<b>Potential for Liability.....</b>	<b>10</b>
<b>Part 2 – Recommendations.....</b>	<b>12</b>
<b>External Policy Aspects.....</b>	<b>12</b>
<b>Fair Housing Purpose/Vision Statement and Policy Statement.....</b>	<b>13</b>
<b>Complaint Identification and Referral.....</b>	<b>14</b>
<b>Additional Fair Housing Information.....</b>	<b>15</b>
<b>Americans with Disabilities Act Policy.....</b>	<b>16</b>
<b>Limited English Proficiency Policy.....</b>	<b>18</b>
<b>Human Rights/Fair Housing Commission.....</b>	<b>20</b>
<b>Fair Housing Ordinances.....</b>	<b>20</b>
<b>Internal Policy Aspects.....</b>	<b>22</b>
<b>Staff Training.....</b>	<b>22</b>

<b>Project Planning/Investments.....</b>	<b>24</b>
<b>Periodic Housing Analysis.....</b>	<b>29</b>
<b>Periodic Code and Ordinance Analysis.....</b>	<b>30</b>
<b>Community Engagement.....</b>	<b>36</b>
<b>Affirmatively Furthering Fair Housing.....</b>	<b>38</b>
<b>Analysis of Impediments.....</b>	<b>39</b>
<b>Tracking Financial Awards/Suballocations.....</b>	<b>42</b>
<b><i>Olmstead</i> Planning.....</b>	<b>43</b>
<b>Conclusion.....</b>	<b>45</b>

## Introduction

All governmental jurisdictions need to pay attention to fair housing obligations. This project is focused on fair housing obligations – and opportunities – for Twin Cities metro area municipalities.<sup>1</sup> A city’s adoption of a fair housing policy meets a number of changing needs and practical considerations that are already affecting and influencing city staff and decisionmakers. For example:

- Our communities are changing. They continue to become more and more ethnically and racially diverse, with people of color, immigrant families, and people with disabilities becoming large portions of communities. This increases the likelihood that fair housing issues will surface.
- More and more people of color are living in the suburbs, and the percentage of those living in poverty is increasing.<sup>2</sup>
- Cities open themselves up to liability if they do not understand their obligations under fair housing laws.
- Cities need to be prepared if unexpected situations arise calling for a fair housing analysis or response.
- A fair housing policy allows cities to better serve their constituents who have fair housing complaints.



---

<sup>1</sup> This guide addresses the fair housing obligations of cities as a government body. If cities own or manage property, there are other obligations as a housing provider not covered by this guide.


<sup>2</sup> See the Brookings Institute article, “Poverty’s Changing Geography Challenges Already Poor Neighborhoods,” <https://www.brookings.edu/blog/brookings-now/2014/08/01/povertys-changing-geography-challenges-already-poor-neighborhoods/>


- The Metropolitan Council will soon begin requiring that Liveable Communities Act grant recipients adopt local fair housing policies.<sup>3</sup>

In short, a fair housing policy allows a city to clearly declare its fair housing commitment, to ensure it is effectively serving its citizens with fair housing concerns, and plan proactively both to avoid fair housing problems for the city and take advantage of opportunities to increase housing choices for all its citizens.

## Why this Guide?

This guide is designed for cities of all sizes. It is designed to assist cities in complying with their obligations under federal and state fair housing laws, and to provide ideas and inspiration for proactive steps cities can take to further equitable and fair housing in their jurisdictions. Both large and small cities are encouraged to take what they can from this guide and use it to develop a fair housing policy that fits their city's needs and resources.

 Throughout the document there are recommendations for additional steps cities can take to increase their city's response to fair housing issues. These best practices are marked with a star.

 There are also case studies, marked with a house icon. These case studies are cities dealing with questions and issues raised in this manual. The hope is that these case studies will help the reader understand how and why early consideration of fair housing issues is in the best interest of the city and its constituents.

---

<sup>3</sup> Details will be outlined in the 2018 LCA Fund Distribution Plan.



## Part 1 – Legal Obligations

---

Cities have a number of legal obligations under both federal and state laws. This section lists the major laws that affect a city’s fair housing obligations. Cities are encouraged to be in regular contact with their own counsel to ensure that they are up to date on the most current statutes and regulations affecting their work.

---

### Federal Fair Housing Act

---

All municipalities have two kinds of obligations under the federal Fair Housing Act (FHA).<sup>4</sup> First, cities must of course refrain from intentional adverse action or discrimination because of someone’s protected class status. This is called **disparate treatment**. Under the FHA, it is a violation to take adverse action in housing because of a person’s:

- Race/Color
- Sex
- National Origin
- Religion
- Familial Status
- Disability

However, cities can be liable for fair housing violations even if they do not intend to discriminate. Under the Fair Housing Act’s **disparate impact** doctrine, which was upheld in the United States Supreme Court case of *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*,<sup>5</sup> if facially neutral city policies or practices

---

<sup>4</sup> 42 U.S.C. §3601 et. seq.

<sup>5</sup> 135 S.Ct. 2507 (2015). See also HUD rule on disparate impact, 24 C.F.R. Part 100.

have a greater *effect* on protected classes, a city may be in violation of the law. Where such a disparate effect is present, cities have an obligation to follow policies which accomplish the city's interests in the least discriminatory means available to further those interests.

In addition, cities who are recipients or subrecipients of federal funds related to housing or urban development have a third obligation to affirmatively further fair housing. Briefly, **affirmatively furthering fair housing** refers to cities taking "significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination."<sup>6</sup>



## Additional Legal Obligations

In addition to the Fair Housing Act, cities also have to meet obligations under other civil rights laws.

---

### Minnesota Human Rights Act

---

The Minnesota Human Rights Act, or MHRA, is the state's civil rights statute. Analogous to the federal Fair Housing Act, it has protections against discrimination in public and private housing, as well as lending and public accommodations. However, the MHRA adds additional protections for residents of Minnesota in a number of important ways. First, it adds the following additional protected classes:

- Sexual Orientation
- Marital Status
- Status with Regard to Public Assistance
- Creed

---

<sup>6</sup> Affirmatively Furthering Fair Housing Final Rule, Federal Register, Vol. 80, No. 136 (July 16, 2015) <https://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17032.pdf>

It also extends the reach of the law to housing providers of properties not covered by the Fair Housing Act, such as owner occupied fourplexes and, in some cases, those who rent out rooms in their home. Cities must be sure to take both federal and state civil rights laws into consideration when tackling fair housing issues.

---

### **Title VI of the 1964 Civil Rights Act**

---

All cities receiving any type of federal funds also have obligations under Title VI of the Civil Rights Act. This requires municipalities to, among other things, provide persons with Limited English Proficiency meaningful access to government services.<sup>7</sup> A Limited English Proficient (LEP) individual is someone for whom English is not their primary language, and whose ability to read, speak, write or understand English may be limited.

---

### **Americans with Disabilities Act (ADA) and the Rehabilitation Act**

---

The Rehabilitation Act of 1973 is likely familiar to many in city government. The Rehab Act, as it's commonly known, prohibits discrimination on the basis of disability in programs run by federal agencies; programs that receive federal financial assistance; in federal employment; and in the employment practices of federal contractors.<sup>8</sup> In 1991, the Americans with Disabilities Act and its regulations extended those protections to state and local governments, as well as employers and public accommodations. In general, the ADA requires governments to provide people with disabilities access to government services, and needed accommodations to facilitate the access.<sup>9</sup>

---

<sup>7</sup> Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, et. seq., and Executive Order 13166

<sup>8</sup> 29 U.S.C. §701, et. seq.

<sup>9</sup> 42 U.S.C. §12131, et. seq.



---

## *Olmstead v. L.C.*

---

In 1999, the United States Supreme Court held in *Olmstead v. L.C.*<sup>10</sup> that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the Americans with Disabilities Act. Accordingly, the Court found that public entities were required to provide services to people with disabilities in the



most integrated environment appropriate to their needs. Minnesota has developed a state Olmstead Plan, detailing the steps it plans to take to remove barriers for persons with disabilities to access integrated housing, including better access to services, funding streams, and safe and affordable housing. Barriers to integrated housing may be found in city ordinances or policies that restrict the number or location of community housing specifically for persons with disabilities.

---

## **Religious Land Use and Institutionalized Persons Act (RLUIPA)**

---

RLUIPA protects religious institutions from discrimination in zoning and land use decisions.<sup>11</sup> This would include faith based homeless shelters and group homes sponsored by religious institutions. RLUIPA authorizes injured parties to sue local governments in violation of the law.<sup>12</sup>

---

<sup>10</sup> 527 U.S. 581 (1999)

<sup>11</sup> 42 U.S.C § 2000cc

<sup>12</sup> More information is available at <https://www.justice.gov/crt>.



## **Potential for Liability**

Cities must understand their legal obligations in order to protect themselves from potential liability. A city's responsibility to protect residents' civil rights extend to all corners of city government, and accordingly create all sorts of potential issues. Examples include:

- What happens if a constituent calls the city and is given incorrect advice as to how to file a fair housing complaint?
- What happens if the city passes an ordinance that has a disparate impact on people of color?

Additional examples of issues that may arise, warranting knowledge and experience with fair housing and civil rights laws:

- Local parents claim city's housing decisions are perpetuating segregation in the schools.
- The city is asked to assist a new development that will displace persons protected by the FHA.
- A nonprofit wants to build a group home for persons with chemical dependency, but the city is getting pushback from neighborhood groups claiming the neighborhood has too many such facilities.
- An affordable housing provider requests a change in zoning in order to make units available to very low-income residents which some community members opposed.
- The city's Crime Free Ordinance curriculum for landlords recommends barring applicants with any criminal history, counter to HUD fair housing guidance.

This policy guide provides resources to cities to better be able to handle these - and similar - issues, in thoughtful, equitable ways. The best practices and example policies provided here are by no means the only steps that cities should take, nor are they the only acceptable

ways to further fair housing in the community. However, they provide examples of how cities can produce strong and tangible commitments to fair and equitable housing in their community.

## **Links/Resources:**

- Federal interagency website for Limited English Proficiency guidance - [www.LEP.gov](http://www.LEP.gov)
- ADA Title II Regulations - [https://www.ada.gov/regs2010/titleII 2010/titleII 2010 regulations.htm](https://www.ada.gov/regs2010/titleII%202010/titleII%202010%20regulations.htm)
- HUD's Office of Policy Development and Research, Affirmatively Furthering Fair Housing - [https://www.huduser.gov/portal/affht pt.html](https://www.huduser.gov/portal/affht_pt.html)
- Olmstead Obligations - [https://www.ada.gov/olmstead/olmstead\\_about.htm](https://www.ada.gov/olmstead/olmstead_about.htm)
- Joint Statement of HUD and DOJ on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act - <https://www.justice.gov/crt/page/file/909956/download>
- Section 109, Nondiscrimination in Programs and Activities receiving Assistance - [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws/109](https://www.hud.gov/program_offices/fair_housing_equal_opp/FHLaws/109)
- Executive Order 11063, Equal Opportunity in Housing - [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws/EX011063](https://www.hud.gov/program_offices/fair_housing_equal_opp/FHLaws/EX011063)
- Executive Order 12892, Affirmatively Furthering Fair Housing - [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws/EX012892](https://www.hud.gov/program_offices/fair_housing_equal_opp/FHLaws/EX012892)
- Affirmatively Furthering Fair Housing final rule - <https://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17032.pdf>
- Addendum to the 2014 - 2019 Regional Analysis of Impediments to Fair Housing - <https://www.ramseycounty.us/FHIC>

## Part 2 - Recommendations

If a city elects to create a fair housing policy, cities are encouraged to look beyond simply promising to follow fair housing laws. A comprehensive Fair Housing Policy should address how the city works and interacts with its constituents and how it conveys fair housing information (external aspects), as well as speak to how the city holds itself accountable to fair housing within its departments (internal aspects).

### External Policy Aspects - Providing Access to Fair Housing Information



When city residents need to find information about housing discrimination, the city is often the first place they will go seeking information. This could be someone walking in the actual door with a fair housing complaint, or someone looking for referral services on the city's website. The city should be prepared by having adequate information readily available, and should be able to point constituents in the right direction to have their issues addressed.

Fair housing information needs to be accessible and visible. There should be no difficulty in finding out what the city's values are related to fair housing. Cities should have fair housing information:

- On the website, preferably directly on the home page or a clear link to the material on the home page;
- At the front desk of the city, and at any first contact spots at city offices; and
- Available to be mailed out or picked up free of cost.

What information should a city have accessible? At a minimum, cities should have:

- a process for complaint identification and referral
- basic education material about fair housing with local referral information
- If receiving federal funds, information about the city's LEP Policy



These items, as well as other best practices, are detailed below.

---

★ **Fair Housing Purpose/Vision Statement & Policy Statement**

---

While not necessary to meet legal requirements, cities are encouraged to create two items as part of their fair housing policy. First, the purpose and vision statement reflects why the city is creating a policy. It may reference the cities obligations under federal law, or it may talk about how the city sees itself and how a fair housing policy is part of that vision. Whatever it is, it is the “why” of the policy document. Second, the fair housing policy statement is the commitment by the city that it will follow the law, that it recognizes the protected classes as stated in federal and state law, and provides a foundation for the policy that follows. The draft policy accompanying this memo sets out both a sample vision statement and a policy statement.

---

## Complaint Identification and Referral

---

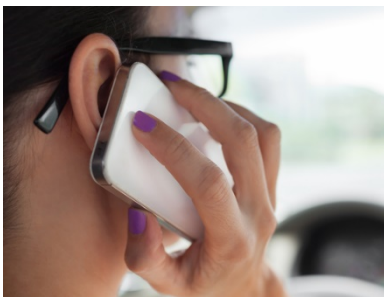


Cities that have rarely seen a fair housing complaint may be surprised by the number of such complaints made in the metro area. The recently published Addendum to the Regional Analysis of Impediments to Fair Housing (ARAI), which included the seven-county metro region, reported on fair housing complaints filed. Between 2014 and 2017, HUD received between 46 and 57 complaints each year, coming from between 23 and 29 cities in the Metro area. In that same period the Minnesota Department of Human Rights lodged 185 complaints for the Metro area. The ARAI also reported that there were approximately 650 reports to local legal services agencies of housing discrimination in 2016. ARAI, pg. 219. Considering that legal services only have the resources to serve the very low-income population, this number underrepresents the need for fair housing enforcement and referral services for those not qualifying for legal aid services. Therefore, it is necessary for cities to have a process for complaint identification and referral.

Cities are encouraged to include:

- A designated **Fair Housing Officer** for the city (this person could be the same for a number of cities if they so choose through a joint powers agreement or a more informal agreement ). The Fair Housing Officer is in charge of receiving fair housing complaints, and tracking them in a fair housing log. They are also responsible for providing referral information in a timely manner.

- A specific procedure for receiving fair housing complaints. There should be a publicized phone number and/or an online portal through which the Fair Housing Officer will receive fair housing questions or complaints. For those cities receiving federal funds, there should be notice of a right to request an interpreter and/or information in the resident’s language at no cost on the website for those constituents who do not speak English as their first language. While this isn’t required of cities who don’t have LEP obligations, it is a best practice, particularly if the city has large number of residents whose first language is one other than English.
- If the city does not have their own enforcement body, there should be a clear procedure for referring fair housing complaints to enforcement agencies that serve that municipality. Cities should be clear that they will not be representing or assisting persons filing complaints with other agencies, which is sometimes misunderstood. Referrals should be noted in the fair housing log to protect the city from future concerns.



- For cities that choose not to designate a Fair Housing Officer, frontline city staff should at a minimum be training on fair housing so they can recognize when constituent calls require a fair housing referral.

## Additional Fair Housing Information

Additional information that cities should provide to the public both at city hall and online:

- Overview of the fair housing laws, and what to do if someone believes they are a victim of discrimination

- Information about the statutes of limitations (with a caveat that the city is not providing legal advice.)
- Referral sources, including governmental agencies and legal services.

---

### **Americans with Disabilities Act Policy**

---



Title II of the Americans with Disabilities Act prohibits state and local governments from discriminating against persons with disabilities in services, programs and activities. Beyond ensuring that city approved new developments are accessible under ADA standards, cities should be alert to other issues that may arise.

This means that cities must:

- not refuse to allow a person with a disability to participate in a service, program, or activity simply because the person has a disability;
- provide programs and services in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity;
- eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to enjoy their services, programs or activities unless "necessary" for the provisions of the service, program or activity;
- prohibit requirements that tend to screen out individuals with disabilities, such as requiring a driver's license as the only acceptable means of identification;
- make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result;



- furnish auxiliary aids and services when necessary to ensure effective communication, unless an undue burden or fundamental alteration would result
- refrain from placing special charges on individuals with disabilities to cover the costs of measures necessary to ensure nondiscriminatory treatment, such as making modifications required to provide program accessibility or providing qualified interpreters.



In a fair housing context, this could mean:

- Allowing voucher holders with certain disabilities the ability to turn in a paper application rather than complete an online form;
- Giving additional notice to renters with disabilities when completing a required inspection, or providing notice to a third party at the person's request;
- Using alternative communication techniques when police officers respond to calls at a housing complex;
- Have alternative means of accessing housing discrimination complaint information for residents who have low vision or are blind.



Cities are encouraged to have their ADA policy in writing, so that community members understand their rights and their ability to request needed modifications.

Cities are also encouraged to identify an ADA Officer who will handle requests for modifications.

---

## Limited English Proficiency (LEP) Policy

---

Under Title VI of the Civil Rights Act and Executive Order 13166, recipients of federal funds (and their subrecipients) are required to plan for and provide meaningful access to services for LEP residents. This applies to all city elected officials, departments and contracted vendors partnering with a city to deliver programs and services.

LEP obligations apply to the recipient's entire operations, even if only part of the program receives the funding. For example, if the Department of Justice provides assistance to a



state department of corrections to improve a particular prison facility, all of the operations of the entire state department of corrections – not just the particular prison – are covered.

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment by each city that balances the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the city;
- the frequency with which LEP individuals come in contact with the city or city staff;
- the nature and importance of the program, activity, or service provided by the program to people's lives; and
- the resources available to the city and costs.

Cities' LEP plans can range from having a contract with a phone interpretation company that can be accessed when needed to having bilingual staff. The appendix to this guide

provides examples of LEP plans from both large and small cities so staff can assess what is possible based on their individual needs and resources.

Examples of situations in which LEP issues may arise include:

- Resident who doesn't speak English needs to request an inspector come out to her apartment, or an inspector comes to tell her the unit has been condemned and she needs to move.
- The city clerk gets a call from an LEP community member who wants to file a fair housing complaint;
- Members of an immigrant community who don't speak English want to participate in a public hearing regarding the city's Comprehensive Plan; and
- City's 911 dispatcher receives a call from a woman who lives in a multifamily complex and she doesn't speak English.



Cities are not required to have on site interpreters; however, based on the above factors, a city should have an outlined procedure for providing in some way meaningful access to LEP community members.

### **Links/Resources:**

- Housing Discrimination Fact Sheet, LawHelpMN.org – [fact sheet](#)
- League of Minnesota Cities, Intergovernmental Cooperative Agreements - <https://www.lmc.org/media/document/1/intergovernmentalcooperativeagreements.pdf>
- U.S. Department of Justice, “The ADA and City Government: Common Problems” - <https://www.ada.gov/comprob.htm>
- ADA Policy, City of Greeley, CO - <http://greeleygov.com/ada-policy>
- Department of Justice’s Language Access Plan Template - [www.justice.gov/open/language-access-plan.pdf](http://www.justice.gov/open/language-access-plan.pdf)
- [www.lep.gov](http://www.lep.gov)

Larger cities with more resources and capacity should consider the following additional steps to allow for greater consideration of fair housing issues:



### **Human Rights/Fair Housing Commission**

---

In 2017, the Minnesota Department of Human Rights reports that there are approximately 40 local human rights commissions across Minnesota. At least three cities (Minneapolis, St. Paul, and Duluth) also process, investigate and enforce complaints of discrimination through their commissions. Most, however, are volunteer appointments that serve the City Council, and focus on human rights issues, including fair housing issues. HRCs allow a city's Council to get input on fair housing issues in the community and delegate projects related to human rights or fair housing issues to a group able to focus exclusively on such topics. Members of the committee can also attend meetings or serve on working groups where a fair housing perspective should be considered. Examples of work done by local human rights/fair housing committees:

- Forums addressing new immigration laws and what they mean for Latino community members;
- Appointing members to sit on committees such as the Comprehensive Planning Committee and the Sustainability Committee;
- Providing community mediation services;
- Providing an administrative complaint process and holding administrative hearings in fair housing and employment discrimination claims;
- Initiating conversations with the police department about LEP policies



### **Fair Housing Ordinances**

---

If cities identify a need in their own city for additional protections for a particular group of people, it could consider passing a fair housing ordinance with additional protections for its constituents. While the federal and state fair housing laws provide protections for eleven protected classes in housing, cities could add additional protections. For example,

age is not a protected class under the real property provisions of the Minnesota Human Rights Act; however, a local jurisdiction added it to their local city ordinance. Other protected classes that could be considered include:

- Age
- Source of income
- Gender Identity
- Ancestry
- Domestic Violence Survivor

### **Expanding Choice under the Section 8 Voucher Program via City Ordinance**

Expanding opportunities for Housing Choice Voucher (HCV) holders (also known as “Section 8”) to use their vouchers in the private market is a significant way to promote fair housing. Although administration of the HCV program is generally handled by a city’s HRA or by a regional HRA such as Metro HRA, cities themselves can take a meaningful step to expand choices for these residents by adding protections within a city ordinance. A number of cities and states across the country have adopted anti-discrimination protections making it a violation of state or local law to refuse an applicant because of their participation in the program or because of requirements of the program. In 2017 Minneapolis amended its Civil Rights Act to add such a protection; other cities could take this action as well.<sup>13</sup>

### **Links/Resources:**

- Seattle, WA fair housing website - <https://www.seattle.gov/civilrights/civil-rights/fair-housing>
- Texas Department of Housing and Community Affairs - <https://www.tdhca.state.tx.us/fair-housing/renters.htm>

---

<sup>13</sup> As of this writing, landlords have challenged the Minneapolis ordinance in court, with the lawsuit still pending.

## Internal Policy Aspects – Fair Housing as a City Directive

Fair housing considerations and issues arise in all departments of a city touching on housing, from project planning to inspections and licensing. Having a citywide understanding of fair housing laws and their implications will help staff foresee potential conflicts or disparate effects early enough to handle them in an appropriate and equitable way. Additionally, whether or not cities receive federal funding, implementing internal best practices is the first step toward affirmatively furthering fair housing within the city government.

---

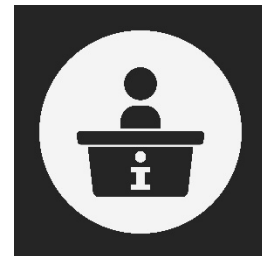
### Staff Training

---

Cities should have a training procedure across all departments on fair housing laws, violation identification and referral, LEP obligations, working with victims of domestic violence and reasonable accommodations for people with disabilities.

While fair housing and civil rights laws affect all areas, the following city departments should have specific guidelines regarding fair housing training:

- Front desk/reception staff
  - Often the first people to interact with community members with housing discrimination complaints
- Police/Fire



- The front line in responding to domestic violence calls, calls for medical assistance stemming from medical health emergencies and other calls to multifamily complexes. Police typically leads efforts to get landlords to comply with crime free ordinances which sometimes go too far and result in a disparate impact on protected classes. Police officers should understand the protections afforded by the civil rights laws.
- Housing/Community Development Department/Engineering
  - Often involved in project development or operations, this staff should be knowledgeable about community engagement strategies and zoning/land use decisions.
- Inspections
  - Two areas where inspections could interact with fair housing laws - direct contact with clients who may be victims of discrimination through lack of repairs or harassment; code enforcement
- Elected Officials
  - The decision makers, elected officials need to understand how the policies and practices they vote for and the community development decisions they make affect protected classes, integration and community health.
- Public Health Staff
  - The correlation between public health and safe, stable housing is becoming clearer and clearer. Those who study community health impacts should also understand the interaction with housing, including disparities in health outcomes among people of color, families with children and new immigrant populations.



★ Cities are encouraged to have staff trained on an annual basis to keep up with current issues and changes in the law. Ideas for fair housing trainers include local HUD

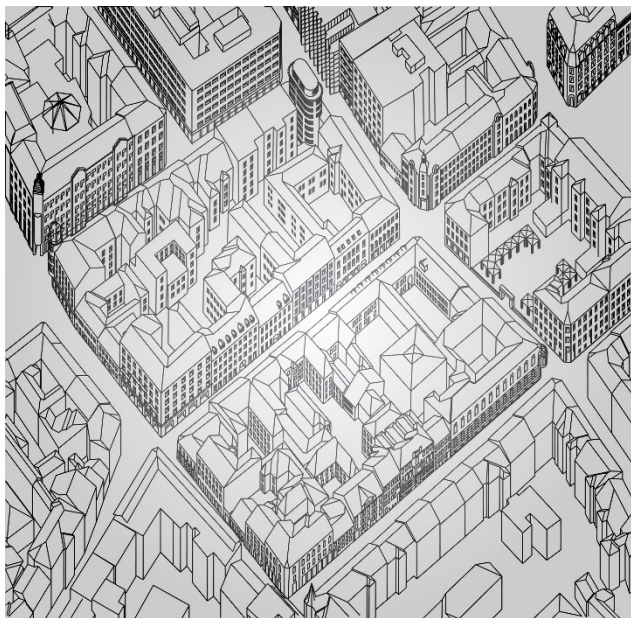


office staff, legal services staff, and community organizations specializing in fair housing laws.

---

## Project Planning/Investments

---



Major city projects, whether housing, transportation, or economic development, have huge impacts - both good and bad - on the surrounding community. While community planning and development departments look directly at needs for housing and possible barriers to meeting those needs, “the fair housing perspective focuses as much on the causes of needs of groups or persons protected by the Fair Housing Act as it does on the needs themselves. Thus, [while] the explanation of

barriers to affordable housing . . . may contain a good deal of relevant analysis of impediments, [it] may not go far or deep enough into factors that have made poor housing conditions more severe for certain groups.”<sup>14</sup>

Accordingly, cities should have a clearly defined and consistent procedure for examining the fair housing impact of city projects, not just the impact on the affordable housing stock (though the two often overlap). In particular, cities should be using this procedure on any project that is receiving city assistance (financial or otherwise). It’s important that cities be thinking about fair housing issues early in the process, or else they may find themselves scrambling in order to avoid problems.

---

<sup>14</sup> HUD’s Fair Housing Planning Guide, Pg 2-19



Questions for cities to ask early in any planning process include:

- Will the planned project increase or reduce the amount of affordable housing in the city? If so, is there a plan to replace the affordable housing lost?
- Will the planned project require displacement of current residents?
- Will the planned project affect protected classes in a disparate way? If so, have less discriminatory alternatives been considered?
- Has there been community engagement in the proposed development?
- Does the project increase or decrease racial and economic segregation integration?
- How does the project address goals or objectives in the city's Comprehensive Plan?
- If there are public funds in the project, what are the community benefits that will result?



Cities are encouraged to develop or adopt a checklist that addresses common fair housing issues or considerations that arise during the city planning process. Locally developed rubrics may assist in answering the questions. These examples are listed in the resources box below.

### **Balancing Housing Investments Throughout the Region**

One of the major issues addressed in the recent Addendum to the 2014 Regional Analysis of Impediments (RAI) was how affordable housing resources should be allocated across the region, and in particular how resources should be spent in areas of concentrated poverty (including racially concentrated areas) versus lower poverty areas of the region. The RAI Addendum calls for a balanced approach, emphasizing the need to invest in all parts



of the region.<sup>15</sup> At the municipal level, these recommendations are most significant, of course, for communities that contain both high poverty and low poverty areas.

A word of caution is in order in applying these concepts to many suburban jurisdictions. For example, an affluent suburban community recently concluded that concerns over “concentrated poverty” should lead them to reject any and all affordable tax credit developments proposed for their community, in favor of permitting only mixed income developments. This approach effectively prevented the development of any new affordable housing in this community for over a decade, presenting its own kind of fair housing issue.<sup>16</sup>

### **Using Housing Investments to Expand Choice for HCV Holders**



Households with Housing Choice Vouchers (also known as Section 8 vouchers) have an increasingly difficult time locating housing providers that are willing to accept the voucher. Cities can promote greater opportunities for Section 8 households by using their own leverage to ensure Section 8 acceptance by properties which the city has assisted.

Minneapolis’ Unified Housing Policy provides that all owners of rental housing assisted by the city financially or through the provision of city owned land must accept tenant based voucher assistance, including HCVs, HOME tenant-based assistance, and Group Residential Housing. The City of Eden Prairie requires that when it issues bonds to finance multifamily projects, the owner shall accept vouchers for between 10 and 30% of the units.

---

<sup>15</sup> Addendum to the Regional Analysis of the Impediments to Fair Housing, Recommendations, pg. 221.

<sup>16</sup> See Minnesota Challenge Report, prepared by the Housing Justice Center.



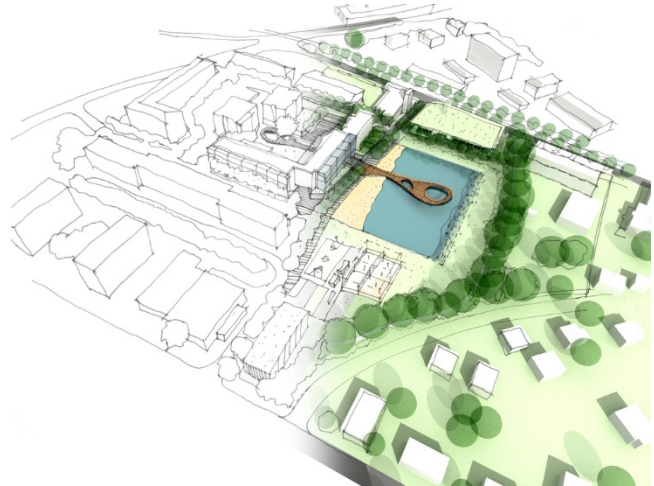
### **Case Study - City of Davenport, Iowa**

Recently the city of Davenport, Iowa, unveiled plans for a wholesale redevelopment of a core city neighborhood. A number of single family and multifamily residential properties, often older modest sized properties not always kept up, were slated for demolition. This neighborhood was also home to a good share of the city's lower income population, many of them households of color. The City's Human Rights Department became alarmed, as it appeared that the City's redevelopment plans could well have a disparate impact upon communities of color in Davenport protected by the FHA. Since City plans were quite far along, the Human Rights Department had to scramble to convince city officials that plans must be halted until the Fair Housing implications could be considered. The City and the Human Rights Department had no capability to do this analysis in-house so had to issue a Request for Proposals to determine whether the city's plan would cause a disparate impact under the FHA, and if so, whether less discriminatory alternatives were available which would accomplish the city's goals. Ideally, this kind of analysis would have taken place much earlier in the planning process.

## **Zoning and Land Use Decisions**

When local governments are called upon to make zoning and land use decisions with respect to proposed affordable housing projects, local citizen opposition may surface.

Elected officials, generally speaking, seek to serve the desires of their constituents and will of course be listening to opposition to a project as they would any sort of comment on a proposal. Moreover, local residents may be raising legitimate concerns having nothing to do with affordable housing per se or the likely residents. However, local officials must



also be alert to the fair housing implications of their decisions. A governmental body may not escape liability under the Fair Housing Act merely because its discriminatory action was undertaken in response to the desires of a majority of its citizens.<sup>17</sup> For strategies to address neighborhood NIMBY (Not In My Back Yard) opposition, see the Minnesota Challenge report, included in the Links/Resources box below.

### **Links/Resources:**

- Equitable Scorecard, developed by a coalition funded by Headwaters Foundation - <http://thealliancetc.org/wp-content/uploads/2016/06/EquitableDevelopmentScorecard.pdf>
- St. Paul's Project and Program Evaluation Tool. (Attached in Appendix)
- City of Seattle's Racial Equity Toolkit - [http://www.seattle.gov/Documents/Departments/RSJI/RacialEquityToolkit\\_FINAL\\_August2012.pdf](http://www.seattle.gov/Documents/Departments/RSJI/RacialEquityToolkit_FINAL_August2012.pdf)
- The MN Challenge to Lower the Cost of Affordable Housing, *Best Practices: Achieving a Full Range of Housing Choices*

<sup>17</sup> *Mhany Mgt. v. County of Nassau*, 819 F 3d 581 (2<sup>nd</sup> Cir. 2016).

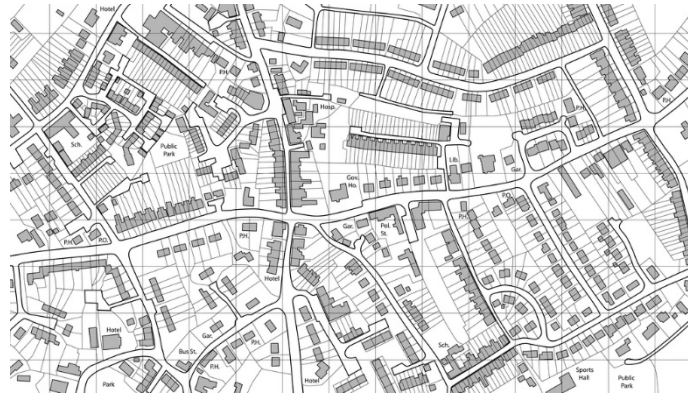
---

## Periodic Housing Analysis

---

In order to truly understand the long-range impact on city decision-making (including zoning changes, approval of new projects, and the need for programs like rehabilitation loans), a city needs to have a regular and ongoing picture of the housing stock in its community. Therefore, cities are encouraged to conduct a regular housing inventory and analysis, looking at the affordability of both rental and owner-occupied housing and address the need for further development of affordable housing in the community.

The housing study should look beyond the inventory, however, and include such data points as an examination of areas of concentrated poverty and wealth and renter/homeowner disparities based on racial and familial make up.



### **Links/Resources:**

- Saint Louis Park, MN 2015 Rental Study - <https://www.stlouispark.org/home/showdocument?id=662>
- Metropolitan Council, Community Profiles - <https://stats.metc.state.mn.us/profile/Default.aspx>
- American Community Survey, Data Releases - <https://www.census.gov/programs-surveys/acs/news/data-releases.html>

---

## Periodic Code and Ordinance Analysis

---

The municipality should conduct a robust analysis of its zoning code, building code and occupancy standards, looking for disparate impact on protected classes. Thereafter, the city should conduct a periodic reexamination, as well as have a process for examining any new proposals of changes or additions to the codes.

In the Analysis of Fair Housing Local Government Assessment Tool, HUD looks for cities to make sure land use and zoning laws do not create hurdles to fair housing. In Appendix C of the Tool, HUD defines a series of factors which can contribute to segregation, one of which is “land use and zoning laws.” This definition lists thirteen examples of such laws and policies which might pose problems, and provides a good checklist for cities reviewing their policies.<sup>18</sup>



Another resource worth reviewing are the recommendations on local government policies included in the Minnesota Challenge report (referenced above). The report encourages cities to review policies related to:

- o permitted project scales and density
- o provision of financial resources
- o assistance with site selection
- o reduction of unnecessary parking requirements
- o fee reductions or waivers for affordable housing
- o reduction of administrative delays

---

<sup>18</sup> See also analysis and discussion of zoning and land use issues in the Addendum to the 2014 Regional Analysis of Impediments.



- permitted manufactured housing and
- inclusionary housing policies.

The purpose of the ordinance and code analysis is to assess fair housing issues and identify significant contributing factors in order to formulate fair housing goals. It is to look at what policies, practices, and activities are underway and to consider how they may facilitate or hinder fair housing choice.<sup>19</sup>

Examples of codes and ordinances to pay specific attention to:

### ● **Crime Free Ordinances**

According to a recent HOME Line study, nearly fifty cities in the Twin Cities Metro have adopted some form of crime free ordinance designed to address crime in multifamily rental housing. These ordinances often contain a number of elements, including requiring the owner/manager to attend one or more training sessions, include a “crime free” set of requirements in leases, conduct screening including criminal background screening, and when incidents at the property trigger compulsory eviction proceedings in the ordinance, initiate such evictions.



City police departments are normally the part of the city responsible for overseeing and administering these crime free ordinances.

Encouraging actions by landlords to reduce crime at their properties is certainly a valid municipal function. But cities, including their police departments, need to be alert to ways in which these policies can go too far and encourage actions in violation of the FHA. The

---

<sup>19</sup> HUD AFH Handbook.

two groups protected by the Fair Housing Act who are most likely to be harmed by ordinances that go too far are victims of domestic violence and persons with disabilities, particularly those with mental health disabilities. In addition, rental applicants denied housing because of criminal background checks that are not sufficiently tailored, may also have their rights violated under the FHA. If the city's ordinance mandates or even encourages landlord actions violative of the FHA, the city may be liable as well.

When do requirements go too far? When an ordinance compels a landlord to evict a tenant for multiple disturbances or police calls, and when the disturbances are due to domestic or sexual violence where the tenant is the victim, requiring eviction could amount to



discrimination under the FHA based upon sex. (It might also violate the federal Violence Against Women Act (VAWA) which prohibits evicting victims of domestic violence living in federally subsidized housing.)<sup>20</sup> When an ordinance compels the eviction of a tenant for disorderly conduct which turns out to be

due to mental illness which could be reasonably accommodated through means other than eviction, the FHA is also implicated.<sup>21</sup> When an ordinance requires criminal screening which is overly broad and inconsistent with HUD guidelines, there may also be a FHA violation. All aspects of crime free ordinances should be reviewed to make sure they are sufficiently detailed to ensure these forms of overreaching are avoided.

---

<sup>20</sup> See also, Minn. Stat. 504B.205, protecting a tenant's right to seek police and emergency assistance. In the case of *Mid Continent Management Corp v. City of Brooklyn Park*, the court determined that the city's code requirements imposing greater obligations on landlords whose properties generated more "incidents" violated Section 504B.2015 (Hennepin County District Court File No. AP 03-008617 (3-18-04)).

<sup>21</sup> Note that there are some exceptions to these rules. For example, current users of illegal drugs are not considered persons with disabilities under the Fair Housing Act, and therefore cannot qualify for reasonable accommodations.



## ● Occupancy Limits

Many cities have ordinances that regulate the number of people who are able to live in residential units. These ordinances are often based on allotting a certain amount of square feet of livable space needed per person residing in the unit.<sup>22</sup> Issues may arise if these occupancy limits disparately affect families with children, or other protected classes under the Fair Housing Act.



There is no hard-line rule regarding what are acceptable occupancy limits. Probably the best known guidance is the "Keating Memo," issued by HUD's General Counsel, Frank Keating, in 1991, and later adopted by HUD as noticed in the Federal Register, Dec. 22, 1998. In that memo, Mr. Keating wrote, "Specifically, the Department

believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act." But, it was noted, a number of factors could justify deviating from that general rule. The size of the bedrooms, the ages of children, and configuration of the unit could all be relevant.

Cities should be aware if they have occupancy limits in their city codes, and if so, if the code follows the guidance in the Keating memo. Cities are also encouraged to examine whether it is clear that reasonable accommodations can be made to occupancy limits if needed.

---

<sup>22</sup> See, for example, City of Richfield's Occupancy Limits, Richfield City Code, [https://library.municode.com/mn/richfield/codes/code\\_of\\_ordinances?nodeId=CHIVBUHOCORE\\_S405HOCO\\_405.15MISPUSLORE](https://library.municode.com/mn/richfield/codes/code_of_ordinances?nodeId=CHIVBUHOCORE_S405HOCO_405.15MISPUSLORE)

## ● Definitions of Family

As noted in the RAI Addendum, restrictive definitions of family can impede unrelated individuals from sharing a dwelling unit.<sup>23</sup> The Addendum surveys entitlement jurisdiction zoning codes for indications that definitions of “family” have the effect of preventing unrelated individuals from sharing the same residence.<sup>24</sup>

## ● Group Homes

HUD and the Department of Justice have issued a Joint Statement on “Group Homes, Local Land Use, and the Fair Housing Act,” (updated August 6, 2015). The Statement provides that the following actions with respect to group homes would violate the Fair Housing Act:

- Land use policies that treat groups of persons with disabilities less favorably than groups of non-disabled persons;
- Taking action against or denying a permit to a home because of the disability of the individuals who would live there; or
- Refusing to make a reasonable accommodation in land use and zoning policies and procedures where such accommodations are necessary to afford persons with disabilities an equal opportunity to enjoy housing.<sup>25</sup>



---

<sup>23</sup> Addendum to the RAI, pg. 93.

<sup>24</sup> State law provides that persons with disabilities should not be excluded by zoning ordinances, and sets rules on what restrictions cities can place on group homes of 6 residents or less as well as larger group homes. Minn. Stat. 462.357 subd. 6-8.

<sup>25</sup> As noted in the Joint Statement, the FHA does not protect persons currently using illegal drugs, persons convicted of the sale or manufacture of illegal drugs, or persons with disabilities who pose a direct threat to persons or property.



### Case Study: Beaumont, Texas

Selection from a Press Release from the Department of Justice Office of Public Affairs, May 4, 2016

#### JUSTICE DEPARTMENT REACHES \$475,000 SETTLEMENT WITH BEAUMONT, TEXAS, TO RESOLVE DISABILITY DISCRIMINATION IN HOUSING LAWSUIT

The Justice Department today announced that the city of Beaumont, Texas, has agreed to pay \$475,000 and change its zoning and land use practices to resolve a lawsuit alleging that it discriminated against persons with intellectual or developmental disabilities who sought to live in small group homes in the city's residential neighborhoods.

The lawsuit, filed on May 26, 2015, alleged that the city violated the Fair Housing Act and the Americans with Disabilities Act when it imposed a one-half mile spacing rule that prohibited many small group homes from operating in Beaumont. The suit further sought to prohibit the city from imposing fire code requirements that exceeded those imposed by the state of Texas as part of its certification and funding of such homes. These restrictions prohibited numerous persons with intellectual or developmental disabilities from living in Beaumont and resulted in the institutionalization in a nursing home of a woman who was forced to move out of her home. . .

Under the terms of the consent decree, the city will allow small group homes to operate in any residential district and will not subject such homes to fire code requirements that exceed the state's requirements for certification of such homes. . . Beaumont will take other remedial measures, including implementing a comprehensive reasonable accommodation policy, requiring its officials to attend fair housing training and appointing a fair housing compliance officer.

"Persons with disabilities have the same right to live in and enjoy their communities as all other families do throughout our nation," said Principal Deputy Assistant Attorney General Vanita Gupta, head of the Civil Rights Division. "The Justice Department will continue to eliminate discriminatory barriers that impede these individuals from doing so."

The lawsuit arose as a result of complaints filed with HUD by persons with intellectual or developmental disabilities whose homes were closed and were threatened with closure under the city's challenged housing restrictions. After conducting an investigation, HUD referred the matter to the Justice Department. The individuals who had filed complaints with HUD later intervened in the United States' lawsuit. Today's settlement resolves their lawsuit as well.

## **Links/Resources:**

- “The Cost of Being ‘Crime Free’ : Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances,” Emily Werth, Sargent Shriver National Center on Poverty Law (2013) - <http://povertylaw.org/files/docs/cost-of-being-crime-free.pdf>
- “Reducing the Cost of Crime Free: Alternative Strategies to Crime Free/ Nuisance Property Ordinances in Illinois,” Open Communities and the Shriver Center (2015) - <http://ebclc.org/wp-content/uploads/2016/10/Report-Reducing-The-Cost-of-Crime-Free.pdf>
- The “Keating Memo”, HUD Guidance on Occupancy Limits - [https://www.hud.gov/sites/documents/DOC\\_7780.PDF](https://www.hud.gov/sites/documents/DOC_7780.PDF)

---

## **Community Engagement**

---



The importance of community involvement in fair housing decisions cannot be overstated. For cities receiving federal funding, robust community engagement is a requirement when making planning and financing decisions, when creating the HUD required Consolidated Plan, and when developing any Analysis of Impediments to Fair Housing. For cities not receiving federal funding, community engagement is a best practice that puts the community needs, experiences and expertise at the core of city decision making

A variety of tools can be used to establish ongoing, meaningful relationships with the communities cities serve. They could include:

- Public meetings, workshops and office hours in the community
- Creating ongoing or project-based steering committees with community members and/or public stakeholder groups
- Appointment of community members to established planning or decision making committees
- Plan updates, meeting reminders and other key information posted on the city's website and distributed via email

This guide does not purport to contain the best or most appropriate ways to engage with the community. Instead, cities should look to community leaders, nonprofit organizations and neighborhood councils who have the experience and expertise.

## **Links/Resources:**

Minnesota Housing Partnership, Nine Critical Steps to Authentic Community Engagement - <https://www.mhponline.org/blog/connect/771-nine-critical-steps-to-authentic-community-engagement>

Policy Link, The Community Engagement Guide for Sustainable Communities -  
[http://www.policylink.org/sites/default/files/COMMUNITYENGAGEMENTGUIDE LY FINAL%20%281%29.pdf](http://www.policylink.org/sites/default/files/COMMUNITYENGAGEMENTGUIDE%20LY%20FINAL%20%281%29.pdf)

Policy Link, Community Engagement and Participation Checklist -  
<http://www.policylink.org/sites/default/files/COMMUNITY%20ENGAGEMENT%20CHECKLIST.pdf>

---

## Affirmatively Furthering Fair Housing

---

The Fair Housing Act requires that recipients of federal housing funding must do more than simply not discriminate; they must administer their programs so as to affirmatively further fair housing (AFFH).<sup>26</sup> The FHA does not define “affirmatively furthering;” courts have subsequently held that it means administering programs and making funding decisions so as to reduce segregation and promote integration. HUD has adopted AFFH regulations so as to require recipients of federal housing funds to engage in fair housing planning, by identifying impediments to fair housing and actions to overcome those impediments. The Twin Cities Regional Analysis of Impediments in 2014 and the RAI Addendum in 2017 was an example of the planning efforts required by HUD.

In their final rule outlining the affirmatively furthering fair housing mandate, HUD stated, “To develop a successful affirmatively furthering fair housing strategy, it is central to assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs.”<sup>27</sup>



What this means is that cities need to complete the required analysis of impediments to fair housing (AI), consider the recommendations and outline clear action steps, with timelines, that state how the city will address the identified barriers. It also means that it has to use the information gleaned from the AI to inform decisions and actions throughout the city,

---

<sup>26</sup> 42 U.S.C. 3608

<sup>27</sup> Affirmatively Furthering Fair Housing Final Rule, page 42355.

and must stay abreast of changes, needs and new hurdles faced by protected class populations.

According to HUD’s Fair Housing Planning Guide, “Jurisdictions should have full knowledge of all of the activities that have recently been completed or are underway to affirmatively



further fair housing. The chief executive and administrative staff know the strengths and weaknesses of activities that the State or Entitlement jurisdiction has initiated, or in some direct fashion, supported. However, this knowledge should extend well beyond this arena to actions taken by housing industry members, private organizations and foundations, the public housing agency (PHA), neighborhood groups, regional organizations, and others to further fair housing objectives.”<sup>28</sup>

---

## Analysis of Impediments

---

A number of cities in the metro region receive federal funding directly from the Department of Housing and Urban Development, or are subgrantees. This funding comes with the requirement to affirmatively further fair housing. Part of this requirement includes producing an Analysis of Impediments to Fair Housing, a document that analyzes impediments, makes recommendations to overcome those impediments, and lists specific action steps the city will take to address the recommendations.

---

<sup>28</sup> HUD’s FH Planning Guide, pg 2-19



In 2014, the entitlement jurisdictions in the Twin Cities region collaborated on creation of a Regional Analysis of Impediments (RAI). Subsequently, HUD determined that the RAI was deficient in several respects, including a failure to adequately address racial segregation in the region. A broad based Advisory Committee appointed by HUD worked with the Fair Housing Implementation Council (FHIC) and the entitlement jurisdictions to produce an extensive Addendum and Addendum Appendix to the RAI. The Addendum includes recommendations to the entitlement jurisdictions on a series of actions that should be taken to address fair housing barriers in the region.



★ While cities not receiving these federal funds are not required to examine or address the recommendations that may apply to their municipality, the Addendum to the Regional Analysis of Impediments can serve as a resource for city decision making through a fair housing lens. Cities that do not receive the federal funds are encouraged to examine the recommendations listed in the ARAI and integrate them into annual community development plan, and other long range planning documents. For cities that participated in the ARAI, the recommendations should be integrated into all decision making procedures, as well as budget considerations and policy decisions.



The cities in the Metropolitan Council’s jurisdiction are required to submit a Comprehensive Plan every 10 years, detailing its plans for community development in the next decade. The next deadline is December 2018. HUD specifically requires jurisdictions receiving HUD funds to “incorporate, explicitly, fair housing planning into existing planning processes, the consolidated plan, and the PHA Plan, which in turn, incorporate fair housing priorities and goals more effectively into housing



and community development decision making.”<sup>29</sup> While not required by the Metropolitan Council, all cities, regardless of funding, are encouraged to integrate the recommendations found in the ARAI into their Comprehensive Plans in order to solidify the commitment to addressing fair housing implications in future community development.



Cities are encouraged create a Fair Housing Action Plan to address the impediments and recommended steps in the most recent Analysis of Fair Housing or Analysis of Impediments to Fair Housing Choice. The plan will outline the impediments that were identified for the city, which impediments were going to be addressed and during which time period, and how those impediments would be addressed. This action plan should be available to the public, online as well as in paper copy if requested.<sup>30</sup>

### **Links/Resources:**

- Affirmatively Furthering Fair Housing: A Guide for State and Federal Grantees, Connecticut Fair Housing Center - <http://www.ctfairhousing.org/wp-content/uploads/CFHC-AffirmFurthGuideGrantees.pdf>
- Fair Housing Implementation Council’s Addendum to the 2014-2019 Regional Analysis of Impediments to Fair Housing - [https://www.stpaul.gov/sites/default/files/Media%20Root/Planning%20%26%20Economic%20Development/Analysis%20of%20Impediments%20Addendum draft1\\_022817.pdf](https://www.stpaul.gov/sites/default/files/Media%20Root/Planning%20%26%20Economic%20Development/Analysis%20of%20Impediments%20Addendum%20draft1_022817.pdf)

---

<sup>29</sup> Affirmatively Furthering Fair Housing Final Rule, Executive Summary (c), Federal Register, Vol. 80, No. 136 (July 16, 2015) <https://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17032.pdf>

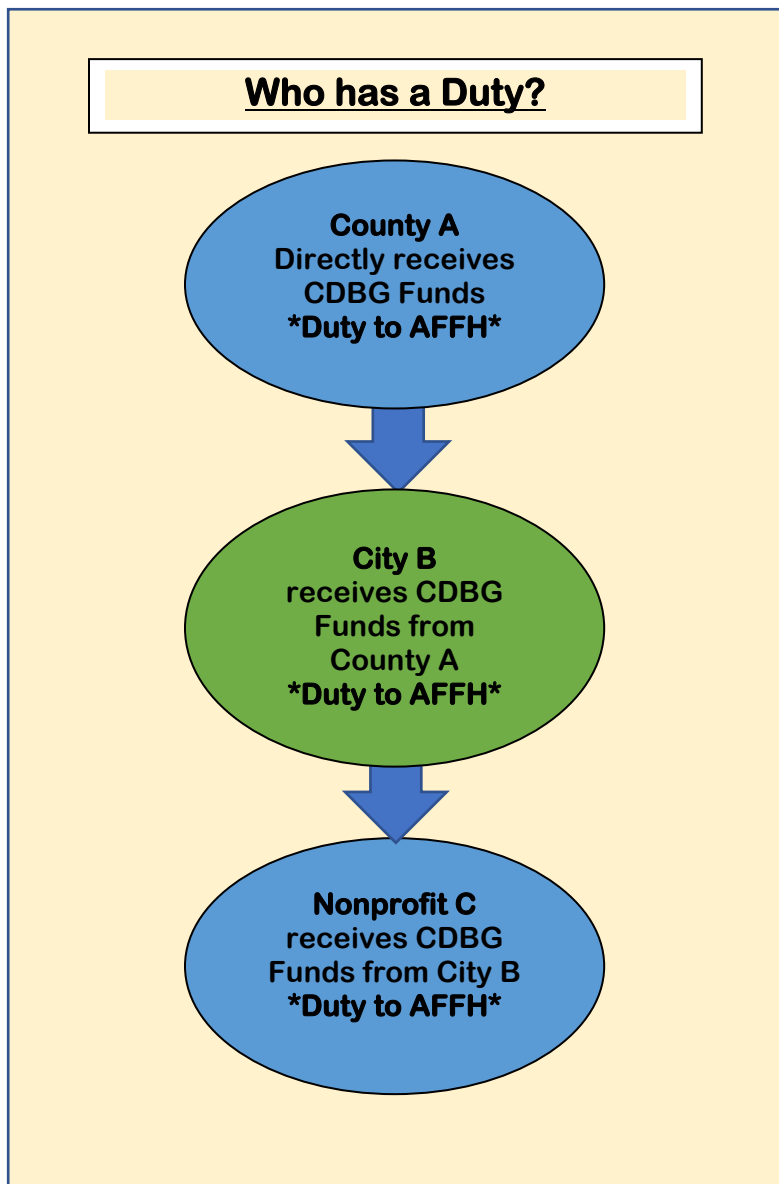
<sup>30</sup> Of course there may be forms of private discrimination that are impediments to fair housing that should be noted even if cities are unable to take any action to address them. Examples could include racial steering by certain members of the real estate industry or discrimination in home lending. Cities should look, however, for action they could take to positively affect such practices, such as funding investigations or encouraging educational events.

---

## Tracking Financial Awards/Suballocations

---

As mentioned above, cities receiving financial assistance for housing and urban development have responsibilities to further affordable housing. Those responsibilities also apply to any organizations or institutions that are suballocated those funds. Cities that are not entitlement jurisdictions often can still access federal housing funds through counties, with affirmatively furthering obligations for cities spelled out in grant agreements. Cities making their own subgrants to nonprofit organizations, for example, should impose similar obligations on their subgrantees, and monitor for compliance.





It is, of course, quite common for government officials at various levels to sign certifications of compliance with multiple federal laws when receiving funding. It is worth noting that HUD takes these certifications seriously; when a jurisdiction fails to live up to its certification, HUD has taken enforcement action.<sup>31</sup>

In many cities Housing and Redevelopment Authorities (HRAs) or Public Housing Agencies (PHAs) operate housing programs. As recipients of federal housing funds, HRAs and PHAs have their own affirmatively furthering obligations.

---

### ***Olmstead Planning***

---

The Supreme Court's ruling in *Olmstead v. L.C.* held that unjustified segregation of persons with disabilities is a form of discrimination under Title II of the ADA. Therefore, public entities must administer their programs and activities in the most integrated setting appropriate. The State of Minnesota has developed an *Olmstead* Plan, outlining their proposed actions and strategies for abiding by the *Olmstead* ruling.

What this means for cities:

- Cities with PHAs should have an *Olmstead* plan in place that provide integrated housing for persons with disabilities in housing programs run by the PHA. PHAs may have general preferences, which gives priority to persons with disabilities who are at risk of entering or are transitioning from institutional settings.

---

<sup>31</sup> See, for example, *United States ex rel. Anti-Discrimination Center v. Westchester County*, 495 F.Supp.2d 375 (S.D.N.Y. 2007), in which Westchester was sued under the False Claims Act for signing a certification to HUD that it was affirmatively furthering fair housing when it, among other things, failed to consider race based impediments to fair housing choice.

- Cities that administer health care or supportive services to persons with disabilities should review whether these services are provided in the most integrated, community based settings.
- Cities should examine whether zoning ordinances that affect housing for persons with disabilities unlawfully limit this housing to particular sections of the community or neighborhoods. Cities should also examine whether these ordinances have specific restrictions that do not apply to persons without disabilities, and whether these restrictions are such that they limit the ability of persons with disabilities to interact with persons without disabilities.

### **Links/Resources:**

- Minnesota Department of Human Services, Minnesota's Olmstead Plan - [http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs-292991](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs-292991)
- National Low Income Housing Coalition, Guidance for PHAs to assist People with Disabilities Transition from Institutions - <http://nlihc.org/article/guidance-phas-assist-people-disabilities-transition-institutions>
- HUD's Olmstead Guidance - <https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF>

## Conclusion

---

This project was intended to provide cities with two useful documents: a draft fair housing policy which can be adapted for jurisdictions of various sizes and capacities, and a guide which provides cities with a sense of the full range of fair housing issues a city should be thinking about.

During the course of preparing this guide, we met with an advisory committee made up of city staff, officials, and advocates to get their input on the creation of the guide. During these meetings, a number of issues regarding fair housing resources were brought to our attention, and that we think merit highlighting for ongoing consideration and discussion.

First, committee members noted a need for fair housing trainers for city staff. While there are identifiable agencies and organizations that are skilled at giving fair housing training to housing providers and tenants, there is a need for trainers that could address the particular set of obligations (as outlined in the guide) that pertain to government staff and elected officials.

A second request was a uniform set of fair housing information that cities could have accessible for their residents. Committee members noted that having consistency across the cities would make sure that all information is accurate and up to date. It could also assist smaller cities in providing information in languages other than English.

The third issue related to fair housing expertise within city government to identify and refer fair housing inquiries. For larger cities, it may be easy to designate a Fair Housing Officer as a point person within the city to address any such issues that may arise, perhaps choosing someone from a community development agency or housing department. Smaller cities, however, may lack the resources for this. Having some sort of metro wide resource where smaller cities could go with questions like this would be useful.

We think these ongoing needs merit further discussion. As cities work to integrate the suggestions in this guide, identifying potential sources of support will be a valuable ongoing conversation.