



# PlanIt

Webinar Series for  
Comprehensive Plan Updates

## Creating a Local Fair Housing Policy

Presented by Jonathan Stanley & Lael Robertson  
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# What We'll Cover

- Fair Housing (FH) background
- Applicability & Protected Classes
- Potential impediments to FH
- What goes into a FH Policy
- Crafting the right policy
- Additional information



# Fair Housing Act Background

- Title VIII of the Civil Rights Act of 1968
- Amended in 1974 & 1988
- Enforced by HUD & overseen by HUD's Office of Fair Housing & Equal Opportunity (FHEO)



# Who Must Abide by the Law?

Insurance  
Companies

Landlords

Builders &  
Developers

Property  
Managers

Brokers

Sales Agents

Government  
Entities

**Basically  
everyone**

Property  
Sellers

Owners

Contractors

Listing  
Services

Condo  
Associations

Mortgage  
Lenders





# Generally Speaking . . .

Unlawful to take adverse action in housing because of protected class status

- 1) Disparate Treatment
- 2) Disparate Impact
- 3) Failure to affirmatively further Fair Housing





# Disparate Treatment

When a housing provider treats a member of a protected class differently from other persons

Refusal to rent

Different terms and conditions

Steering

Advertising

Coercing, threatening or intimidating for enforcing rights

Failure to allow a reasonable accommodation





# Disparate Impact Doctrine

Allows for a remedy when practice may be neutral on its face but has an unjustified adverse effect on members of a protected class



*Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*





# Protected Class Status – FHA

- Race or color
- Religion
- Sex
- Familial Status
- National Origin
- Disability

42 U.S.C. §3604(a)







# Minnesota Human Rights Act

Minn. Stat. §363A

Adds

- Creed
- Marital status
- Status with regard to public assistance
- Sexual orientation





# Fair Housing Complaint Process

Anyone (individual or entity) can file at no cost



Must file complaint within 1 year of occurrence



Federal or state enforcement agency acts as neutral and impartial fact finder



Results in 'no cause' or 'reasonable cause' finding



If reasonable cause, attempt to negotiate a settlement is made



If settlement unsuccessful, may lead to hearing before administrative law judge or to litigation





# *SHORT* Statute Of Limitations

- Administrative Complaints
  - One year from date of last discriminatory incident
- Court Complaints
  - Claims under the FHA – 2 years
  - Claims under the MHRA – 1 year
- Filing with an administrative agency *tolls* the respective jurisdiction's Statute of Limitation





# Affirmatively Furthering FH

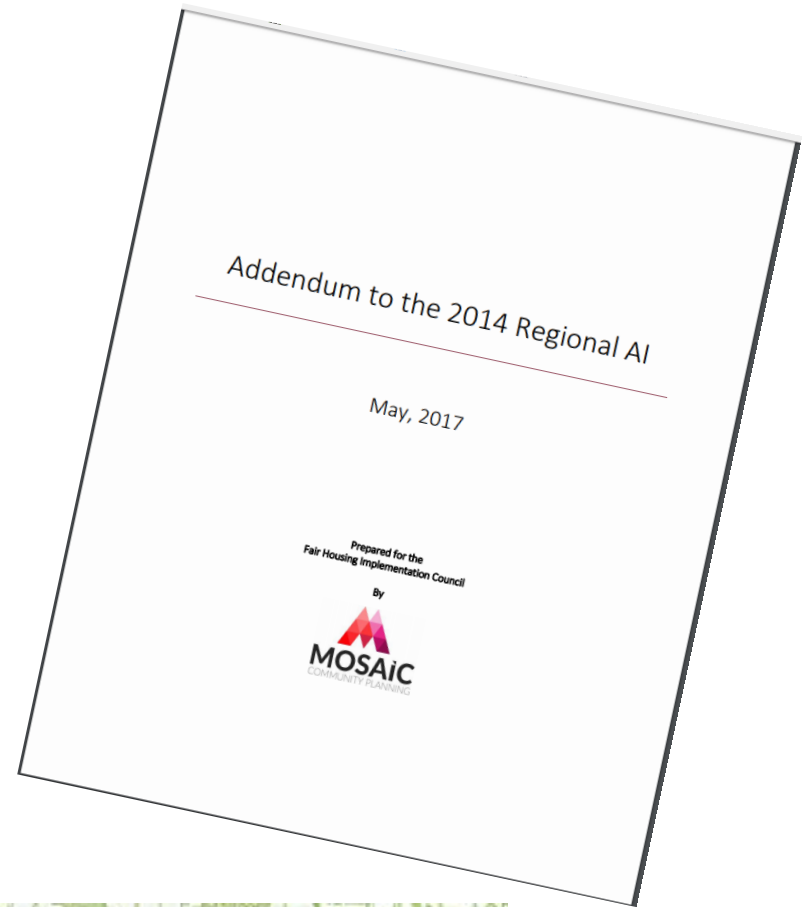
Purpose of the rule is to: “incorporate, explicitly, fair housing planning into existing planning processes, the consolidated plan, and the PHA plan, which in turn, incorporate fair housing priorities and goals more effectively into housing and community development decision-making.”





# Fair Housing Implementation Council

- Coordination
- Analysis of Impediments (AI)
- Local Governments & Metropolitan Council





# Potential Impediments to Fair Housing

- Resistance to development
- Insufficient curb cuts
- Lack of accessible housing
- Restrictions on modifications



# Potential Impediments to Fair Housing

- Lack of large rental units
- Zoning
- Minimum lot/home sizes or parking requirements
- Geographic concentration of low- and very low-income persons
- Concentration of assisted housing





# Potential Impediments to Fair Housing

- Insufficient multi-lingual marketing efforts
- Restrictive definitions of family
- Restrictions on accessory dwellings or manufactured/mobile homes





# Fair Housing Policies for All Communities

- Our communities are changing
- Clarifies ‘chain of command’ when fair housing complaints arise
- Can protect municipality from liability
- Can help staff be prepared when they receive questions
- Improves municipality’s position when vying for Metropolitan Council funding





# Key Elements of a Fair Housing Policy



## External Components

- Complaint ID and Referral
- Meaningful Access
- Additional Policies

## Internal Components

- Training
- Project Planning
- Ongoing Analysis
- Community Engagement
- Affirmatively Furthering Fair Housing (AFFH)





# Purpose & Policy Statement

## Purpose and Vision

- External statement of the City's commitment
- Doesn't have to be long
- The "Why"

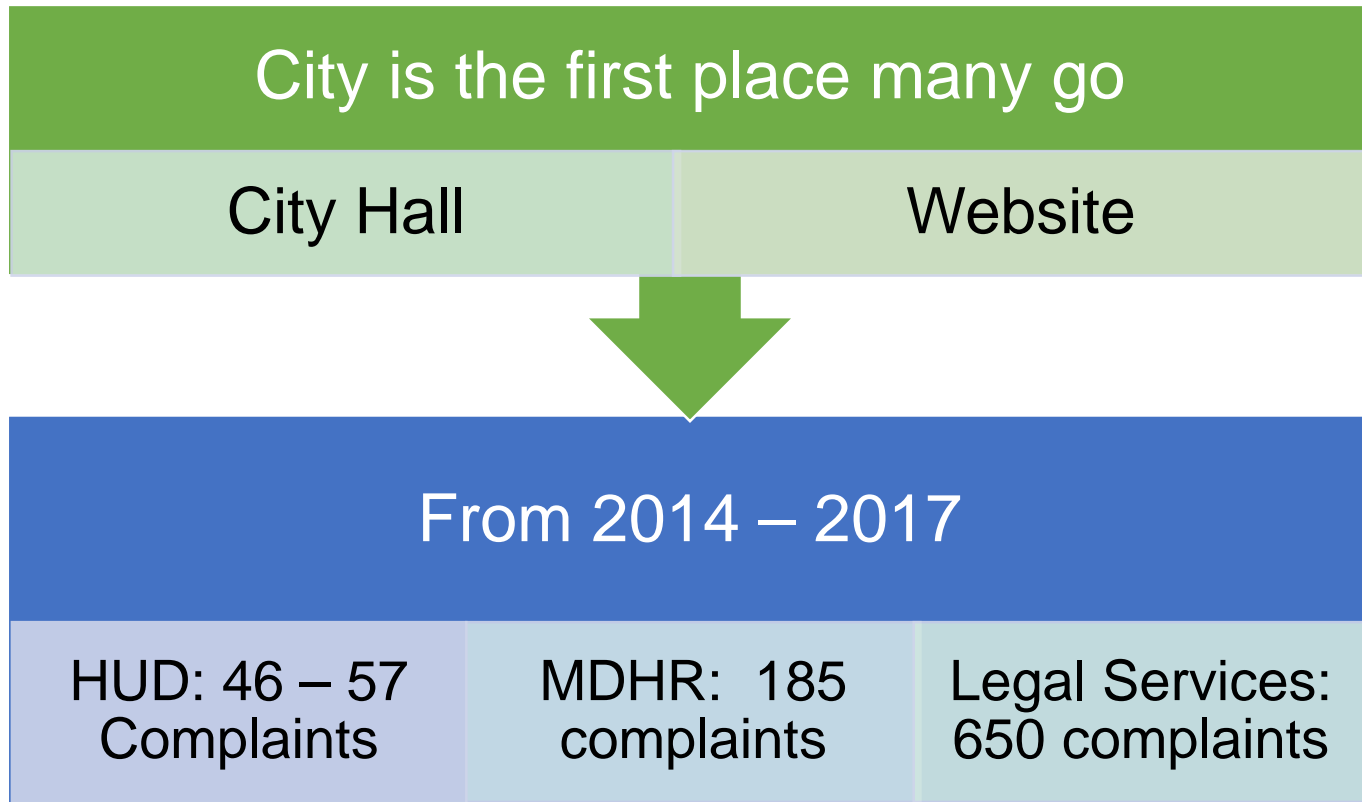
## Fair Housing Policy Statement

- Statement by the City to abide by the specific fair housing laws
- Sets the stage for the specifics in the policy





# External: Providing Access





# External: Complaint I.D. / Referral

- Step 1 – Fair Housing Officer
  - Receives FH complaints
  - Tracks them in fair housing log
  - Provides referral information and FH educational material in a timely manner





# External: Complaint I.D. / Referral

- Step 2 – Receiving Complaints
  - Phone number and/or online portal
  - Notice of right to request an interpreter and/or information in the resident's language
    - Federal Fund Recipients Limited English Proficiency (LEP)
    - Avoid disparate impact claims





# External: Complaint I.D. / Referral

- Step 3 – Referral Procedure
  - Identification of enforcement bodies that serve community
  - Expectation of timelines for referrals
  - Tracking of referrals in FH log







# External: Additional Policies

- Listing of additional policies available:
  - ADA
  - Reasonable Accommodation
  - Limited English Proficiency (LEP)
  - Olmstead Plan





# External: Additional Practices



- Fair Housing Commission
- Fair Housing Ordinances
  - Could add additional protected classes





# Internal: City Directive on Fair Housing





# Internal Activities: Staff Training



- Commitment by the city
  - Front desk/reception staff
  - Housing/Community Development Department
  - Inspections
  - Police
  - Elected Officials
  - Public Health Staff





# Internal: Project Planning

- Commitment that city will use fair housing analysis when planning and investing in housing or community development projects
- Proactive tackling and documenting of these considerations may avoid claims of disparate impact or failure to AFFH





# Internal: Project Planning





# Planning: Best Practice

- Fair Housing/Equity Tool/Rubric

## Racial Equity Toolkit Assessment Worksheet

Title of policy, initiative, program, budget issue: \_\_\_\_\_

Description: \_\_\_\_\_

Department: \_\_\_\_\_ Contact: \_\_\_\_\_

Policy     Initiative     Program     Budget Issue

### Step 1. Set Outcomes.

1a. What does your department define as the most important racially equitable **o** related to the issue? (Response should be completed by department leadership in consultatic Sponsor, Change Team Leads and Change Team. Resources on p.4)

1b. Which racial equity **o**portunity area(s) will the issue primarily impact?

Education

Criminal Justice



# Internal: Ongoing Analysis

## 1. Housing Analysis

Inventory of housing, including age and rental cost

Examination of areas of concentrated poverty and wealth

Renter/homeowner disparities based on racial and familial make up







# Internal: Ongoing Analysis



## 2. Code/Ordinance Analysis

Zoning code

Building code

Occupancy standards

Crime Free Ordinances

Occupancy limits

Definitions of Family

Spacing requirements for group homes





# Internal: Engagement

- Commitment by the City
- Underrepresented Voices





# Internal: Engagement

Tools to assist in community engagement include:

- Public meetings, workshops and office hours
- Creating ongoing or project-based steering committees
- Appointment of community members





# Internal: Affirmatively Furthering Fair Housing

Recipients of federal funds for housing or urban development are required to affirmatively further fair housing –

*“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.”*

*AFFH Final Rule*





# Other Things to Consider

- Develop strategy to raise Housing Choice Voucher acceptance rate
- Promote & conduct events for Fair Housing Month each April
- Develop strategies on overcoming NIMBY-ism





# Other Things to Consider

- Consider expedited review for affordable projects in high opportunity locations
- Ensure long-term plans encourage mixed-income housing
- Integrate FH in programs & activities
- Require affirmative FH marketing plan (AFHMP) for city approvals
- Consider including fair housing content in your Comprehensive Plan Update





# Adopting the Right Policy

- Budget?
- Organizational structure?
- Capacity?
- Priorities?





# Steps in Policy Development

- Secure Buy-in
- Ensure participation
- Discuss features
- Use model template
- Reach out for assistance







# Fair Housing & LCA Programs

- Affirmative Fair Housing Marketing Plans
- Adoption of policy
- Consistent with *Thrive MSP 2040 & the 2040 Housing Policy Plan*





# Concluding Thoughts

- Strengthen Local Fair Housing
- Scalable & adaptable
- Resources



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# Resources

**LOCAL PLANNING  
HANDBOOK**

<http://metro council.org/Handbook>

**HUD Housing Discrimination Hotline:** 1.800.669.9777 (TTD 1.800.927.9275)

**Minnesota Department of Human Rights:** 651.539.1100 or 800.657.3704  
(TTY 651.296.1283)

**D be:** 612.728.5767 or 866.866.3546

**Mid-Minnesota Legal Aid:** 612.334.5970

**Housing Justice Center:** 651.642.0102



# Questions?

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# Thank You!