

NEWTON FAIR HOUSING COMMITTEE

Newton Housing & Community Development Program
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Guidelines for Uniform Local Resident Selection Preferences in Affordable Housing

The Newton Fair Housing Committee recommends the adoption of the following uniform policies for the use of selection preferences for that affordable housing which is subject to the oversight of the City of Newton, either through funding or by regulation. The Uniform Guidelines are intended for use in affordable rental and homeownership programs that utilize a lottery at initial distribution of the units and upon resale. Local resident selection preference policies should be as uniform as program constraints will allow across Newton's programs that distribute funding or regulate affordable housing, including but not limited to: Community Development Block Grant Program, HOME Program, Community Preservation Act Program, Inclusionary Zoning Ordinance, and Chapter 40B.

1. Non-Discrimination.

The use of the local selection preference shall not have the purpose or effect of delaying, denying, or excluding participation in a housing program based on race, color, religion, national origin, gender, age, disability, ancestry, marital status, family status, veteran or military status, sexual orientation, genetic characteristics, or status as a person who is a recipient of federal, state, or local public assistance, or the requirements of such programs.

2. Requirements of Other Programs.

Many programs, such as low-income housing tax credits, the approval procedures in effect under the Comprehensive Permit Guidelines (the 40B Guidelines), the HOME program, and others permit local resident selection preferences subject to program-specific limitations. These recommendations are to apply only where not in conflict with other applicable state or federal program requirements, or with fair housing or civil rights requirements.

3. Criteria for Local Preference.

Preference shall be given for qualified applicants as follows. First preference for initial occupancy shall be given to applicants who are being displaced as a result of the construction, alterations, or rehabilitation involving the unit in question, and are qualified for the unit in terms of household size, income, and if relevant for the unit, disability, as provided below, unless such preference would be unallowable under the rules of a source of funding for the project.

Following that, preference shall go to any other qualified applicants who fall within any of the following equally weighted categories:

- (a) Individuals or families who live in Newton.
- (b) Households with a family member who works in Newton, has been hired to work in Newton, or has a bona fide offer of employment in Newton.
- (c) Households with a family member who attends a public school in Newton.

As set forth above, preference for dwelling units having features that are designed, constructed, or modified to be usable and accessible to people with visual, hearing, or mobility disabilities shall, for first occupancy, be assigned to displaced applicants needing the features of the unit. All other applicants shall be assigned in the following order of priority: (a) first to households having preference under one or more of the three categories listed above that include a family member needing the features of the unit; (b) then to households without a preference that include a family member needing the features of the unit; (c) then to other households based on the preferences described above; and (d) then to other qualified applicants.

4. Numerical Limitations.

The local preference may be used for up to 70% of the affordable dwelling units to be distributed, or such lower share as may be required by other applicable authorities.

5. Mitigating Potential Discriminatory Outcomes.

When the local preference is utilized, the developer or owner should use the procedures required by the 40B Guidelines in effect as of July 30, 2008. Under the 40B Guidelines, the owner or developer uses a lottery to select applicants from two pools: (1) a pool of applicants with preferences and (2) a pool of applicants without preferences. Any discriminatory effects are mitigated by adding minority applicants without preferences to the local preference pool until the percentage of racial and ethnic minorities in the local preference pool reflects the corresponding percentages in the Boston metropolitan statistical area.¹ Additional mitigation may be required to assure that a preference for households that work in the community does not discriminate against or have the effect of excluding disabled and elderly households in violation of fair housing laws.

6. Affirmative Fair Housing Marketing.

When the local preference is used, the developer or owner should engage in affirmative fair housing marketing. Marketing should be based on the procedures such as those established under the 40B Guidelines. Marketing should meet the following minimum standards:

(a) Outreach. Marketing should reach out to those groups protected by fair housing laws. Marketing should be conducted in the print, radio and other media serving families with children, people with disabilities, and those racial and ethnic groups in the Boston metropolitan area not represented in comparable numbers in Newton. At minimum, available units should be listed with the MetroList administered by the Boston Fair Housing Commission.

(b) MassAccess. Units modified or designed as accessible units for people with disabilities should be registered with the MassAccess Registry.

(c) Application Procedures. The owner or developer should use fair methods for accepting applications, such as accepting applications over a period of weeks, accepting applications by mail, and use of lotteries to establish waiting lists.

¹ The procedures are described in detail in Chapter III of the “Guidelines for G.L. c.40B Comprehensive Permit Projects and the Subsidized Housing Inventory” in effect as of July 30, 2008. A copy of the 40B Guidelines is available at: <http://www.mass.gov/dhcd/Temp/06/40Bgdlines.doc>

(d) Selection Preferences. Local residency preferences must not be advertised as they may discourage non-local potential applicants.