



Ruthanne Fuller
Mayor

Barney Heath
Director of
Planning & Development

Malcolm Lucas
Housing Planner

Members

Esther Schlorholtz, Chair
Donna Rigg, Vice-Chair
Josephine McNeil
Tatjana Meschede
Judy Korzenowski
Alexandra Weiffenbach
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CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

MEETING AGENDA

Date: February 1, 2023

Time: 8:00 a.m.

Place: Virtual (Zoom)

Zoom Online Meeting: <https://us02web.zoom.us/j/82090133045>

The Fair Housing Committee will hold this meeting as a virtual meeting on Wednesday, February 1, 2023, at 8:00 am. No in-person meeting will take place at City Hall. To view and participate in this virtual meeting on your smartphone, download the “ZOOM Cloud Meetings” app in any app store or visit www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following: **Meeting ID: 820 9013 3045.**

You may also join the meeting from your smartphone by dialing 1(305) 224-1968 and entering 82090133045# For audio only, call 1(305) 224-1968 and enter **Meeting ID: 820 9013 3045.**

To view and participate in this virtual meeting on your computer, at the above date and time, either copy the attached link into your browser or visit www.zoom.us, click “Join a Meeting” and enter the following **Meeting ID: 820 9013 3045.**

1. **Approval of January 2023 minutes**
2. **Training for Real Estate Professionals Review**
3. **FY24 Annual Action Plan**
4. **Newton Stability/Mobility Initiative update**
5. **Proposed HUD Rule on Affirmatively Furthering Fair Housing-
-Comment by FHC**
6. **Subcommittee Updates**
 - **Lottery Results & Lease-ups Sub-Committee**
 - **Membership & Nominating Sub-Committee**



- **Fair Housing Award Sub-Committee**
- **Fair Housing Literature Sub-Committee**

7. Fair Housing Committee Priorities Discussion

- **Promote housing choice for diverse populations to advance Affirmatively Furthering Fair Housing (AFFH), with focus on race/ethnicity, public subsidy and disability**
- **Identify and work to overcome barriers to successful tenancies and to improve processes/practices for tenant selection in lottery and market rate multi-family rental housing**
- **Promote improved practices for real estate professionals to achieve more housing choice for diverse populations**
- **Promote effective processes/practices for new affordable homeownership and resales**
- **Promote data collection on multi-family rental and new homeownership occupancy**
- **Promote FH training for real estate professionals, public and committee members**
- **Enhance Project Review of Housing Developments to advance AFFH**
- **Support AI/Consortium Fair Housing Testing and FH testing in Newton**
- **Collaborate with Related Newton Commissions and Committees to increase affordable housing for households of various sizes and lower incomes and to encourage increased funding for affordable housing**
- **Promote affordable housing production in coordination with other City commissions and committees**
- **Support federal, state and city initiatives that promote AFFH**
- **Collaborate with Human Rights Committee on Fair Housing Complaint Process**
- **Contribute to Newton's FH-related plans**
- **Enhance FH literature and website information and access for the public**
- **Address committee membership appointments with representation from Human Rights Commission and legal counsel with FH specialty**
- **Promote Diversity, Equity, Inclusion and Belonging in Newton**

8. Next meeting Wednesday, March 1, 2023

*Supplementary materials are available for public review in the Planning Department of City Hall (basement) the Friday before the meeting. For more information contact **Malcolm Lucas at 617.796.1149**. The location of this meeting/event is wheelchair accessible and Reasonable Accommodations will be provided to persons with disabilities who require assistance. If you need a Reasonable Accommodation, please contact the city of Newton's ADA/Section 504 Coordinator, Jini Fairley, at least two business days in advance (2 weeks for ASL or CART) of the meeting/event: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711



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CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

MEETING MINUTES

Date: January 4, 2023

Time: 8:00 a.m.

Place: Virtual (Zoom)

Members Present: Esther Schlorholtz, Chair

Donna Rigg, Vice Chair

Judy Korzenowski

Josephine McNeil

Tatjana Meschede

Ellen Tanowitz

Alexandra Weiffenbach

Members Absent:

Staff Present: Malcolm Lucas, Housing Planner

Jennifer Caira, Deputy Director

Public Present: Deb Crossley, Council

Pam Wright, Council

Alicia Bowman, Council

Sharyn Roberts

David Hedison

Malcolm Lucas, Housing Planner served as recorder, Esther Schlorholtz, Chair, called the meeting to order at 8:00 a.m.

1. Approval of December 2022 minutes

- Upon a motion by DR, ET seconded the motion. The minutes for December 2022 were approved 6-0-0.

2. Lottery Results and Lease Up Subcommittee Presentation

- TM explained the function of the subcommittee, described the work that the committee was doing and then explained their goals to focus on tenancy of affordable units and market units. TM explained that they are trying to better understand the lease-up process and to focus just on the lottery units at this current time. The subcommittee is reviewing Marketing Plans, Application Process and Data.
- TM explained the process of Tenant Selection when it comes to leasing up an affordable unit. 1. Lottery application 2. Rental application and 3. Eligibility certification, which consist of criminal history, rental history, and income ratios. The subcommittee learned that the tenant’s monthly income has to be about 2.5 times the income of the monthly rent and credit scores are checked. Then TM began to explain data challenges. TM stated that she used one of the challenges from Dr. Kathrine Einstein’s presentation that the State government is not tracking lottery outcomes including racial demographics in Chapter 40B and tax credit projects. Lastly TM talked about the data they received from their own research. TM stated that there is an algorithm used with most tenant screening processes and stated that this is a disadvantage for people of color and there is plenty of evidence that this method happens.
 - Austin Street - The subcommittee received information for 10 unit out of 33, Most of the denials were because of incomplete information (115 out of 132, 87%). The subcommittee is going to follow up to get some clarification.
 - Trio – TM showed data that the subcommittee received about the race/ethnicity and persons with a disability of household member that were offered a unit and who leased a unit. See page 9 of [presentation](#) slide for details.
- ES opened the floor to member of the public David Hedison, Chelmsford Housing Authority (Newton Resident) to speak about the lottery and leasing process for affordable housing because he has a background and experience in affordable housing. He stated that “there are a number of parties involved with the review of how/when lotteries occur, and under what circumstances, but the part that gets very gray is once the lottery is completed, and the units start to turn over. After some time, there tends to be a lack of oversight at the individual developments. And that is where we found a lot of issues where property managers turnover quite frequently at the sites. They don't remember and the institutional knowledge isn't there.” JM thanked Mr. Hedison and stated that it would be great to have his expertise on the committee.

3. Zoning Redesign Overview

- ES introduced Councilor Deb Crossley; she serves as the chair of ZAP. Councilor Crossley thanked ES and began to talk about the Zoning Redesign project that came before Zoning and Planning. Councilor Crossley stated that during the beginning of 2021 the Zoning and Planning Committee and The City of Newton’s Planning Department had discussions on focusing on smaller pieces of the zoning ordinance because they could not focus on the entire ordinance at once. They spent the first year on an extensive community engagement process. This brought around 2000 people who commented and submitted documents that turned into a comprehensive plan that was created in 2015 and implemented in 2017. Councilor Crossley referred to Amy Dain, Policy Research Consultant, Commonwealth Magazine [article](#), [What the MBTA Communities law means for your town, Understanding the new concept of zoning capacity](#). She stated that this article is about zoning to allow a certain number of housing units by right. She stated that this

underlies what they and the Planning Department wanted to review when they started their zoning reform efforts. She stated that this concept was approved in June 2021 and by September 2022 a presentation was created with another round of community engagement that was housed at the Newton Free Library. The display presentations are maps for each of the 11 village centers that helps you understand what the low, medium, and higher density, zoning districts are. Councilor Crossley stated that she does not know all of the technical questions, so she introduced Jennifer Caira, Deputy Director to speak on those matters. ES asked Jennifer Caira if she can comment on an affordable housing overlay policy at the city that would be city wide, not limited to a district or site and would offer enhanced relief for affordable housing developments and reduced parking. ES stated that from her reading, this was an interesting and important proposal considering the issues of affordable housing. JM recommended, if possible, to include models of what could be built to give people an understanding of what Newton could look like in the future with changes and to talk also about the history of who lived in the City of Newton, its make up, and the economic status of that time. She said this would provide a better understanding to learn from. Councilor Crossley stated that those are good points, but it is very complex. She talked about the lack of multi-family housing stock and the high cost of subsidizing high subsidy units, along with what the community wants, which creates barriers. More resources are needed.

- Jennifer Caira stated that they have talked about exploring city owned resources and how it can be leveraged like surface parking lots and the reuse process. They are working towards that and stated that at this time a city-wide overlay is more of a future step to work into the village center zoning. She stated that Planning removed the special permit option to get an additional story of height in the zoning districts with the idea that we're going to hold that back and work on creating some sort of affordable housing incentive that you can get more height with more or deeper levels of affordability. She stated that they are hoping to work this into the second draft that they will release in about two months with the affordable housing incentives.
- David Hedison (public) stated that he has worked on some overlay districts and the intentions were to provide additional housing, using small and medium scale developments. And then, when the developers came forward that were not the usual affordable housing developers, there were issues. The need for these developers creating one, two or three affordable units that come with an Affirmative Fair Housing marketing plan, annual reporting, understanding what the requirements are, became an impediment to actually see these units developed and managed.
- ES stated the FHC has been collaborating with the Newton Housing Partnership and Housing Trust. ES then asked if a committee member would be willing to go to the upcoming ZAP meeting on January 9th to represent the FHC with her support. No member responded and ES stated that they will discuss in further detail and thanked Councilor Crossley and the involved parties.

4. Fair Housing Training January 19

- ES stated that she will send the final version of the invitation and thanked JK for her outreach. ES listed the contacts of where it is going to, including Councilors, CHAPA, Newton Commissions and Committees, West Metro Home Consortium, etc. ES asked if others could help with outreach and asked members to sign up if they have not done so already.

5. Subcommittee Updates

- **Lottery Results & Lease-ups Sub-Committee**
- **Membership & Nominating Sub-Committee**
 - David Hedison introduced himself and discussed his interest in joining the FHC. ES welcomed his interest and stated that DR is the person to work with to follow the process. ML asked his background and he responded that he is the Director of Chelmsford Housing Authority and gave a background of his history and passion for affordable housing.
- **Fair Housing Award Sub-Committee**
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- **Support federal, state and city initiatives that promote AFFH**
- **Collaborate with Human Rights Committee on Fair Housing Complaint Process**
 - TM stated that she attended the Human Rights Commission because they had fair housing as an agenda item. The discussion was how to better communicate with each other, and the outcome was that the committees share agendas and minutes since there are not any member who serve on both committees so they thought this would be the best solution at this time.
- **Contribute to Newton's FH-related plans**
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Fair Housing 101: Training for Real Estate Professionals

Kelly F. Vieira, Esq. – Director of Investigations & Outreach
Housing Discrimination Testing Program [HDTP]
January 19, 2023



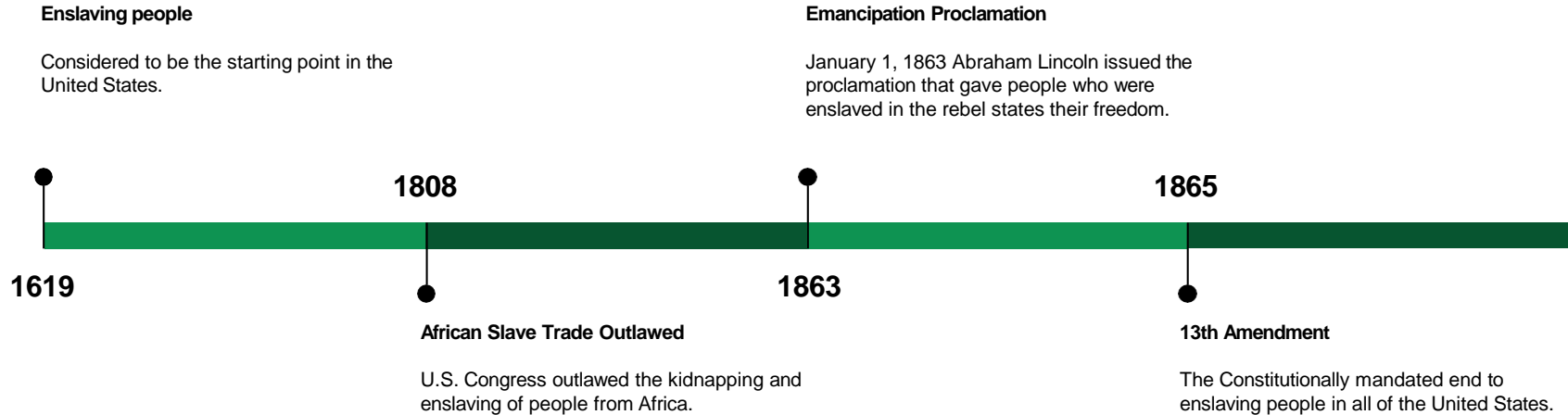
The Suffolk University Law School Housing Discrimination Testing Program (HDTP) is proud to be a HUD grantee.

Any opinion, findings, and conclusions or recommendations expressed in this material are those of the authors and do not necessarily reflect the views of the Department of Housing and Urban Development.

Presentation Outline

- I. Overview of History, Laws, and Discriminatory Practices
- II. Fair Housing 101
- III. 2020 Housing Discrimination Study
- IV. Best practices for real estate professionals
- V. Q&A

Evolution of housing



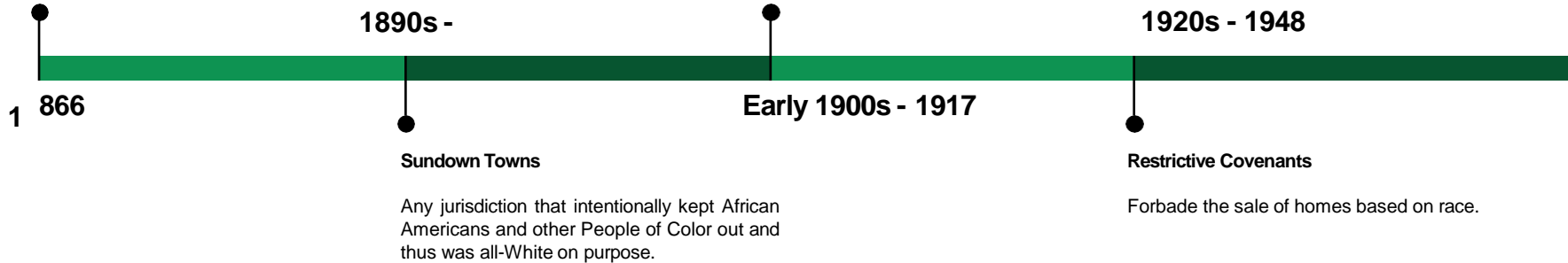
Evolution of housing (cont.)

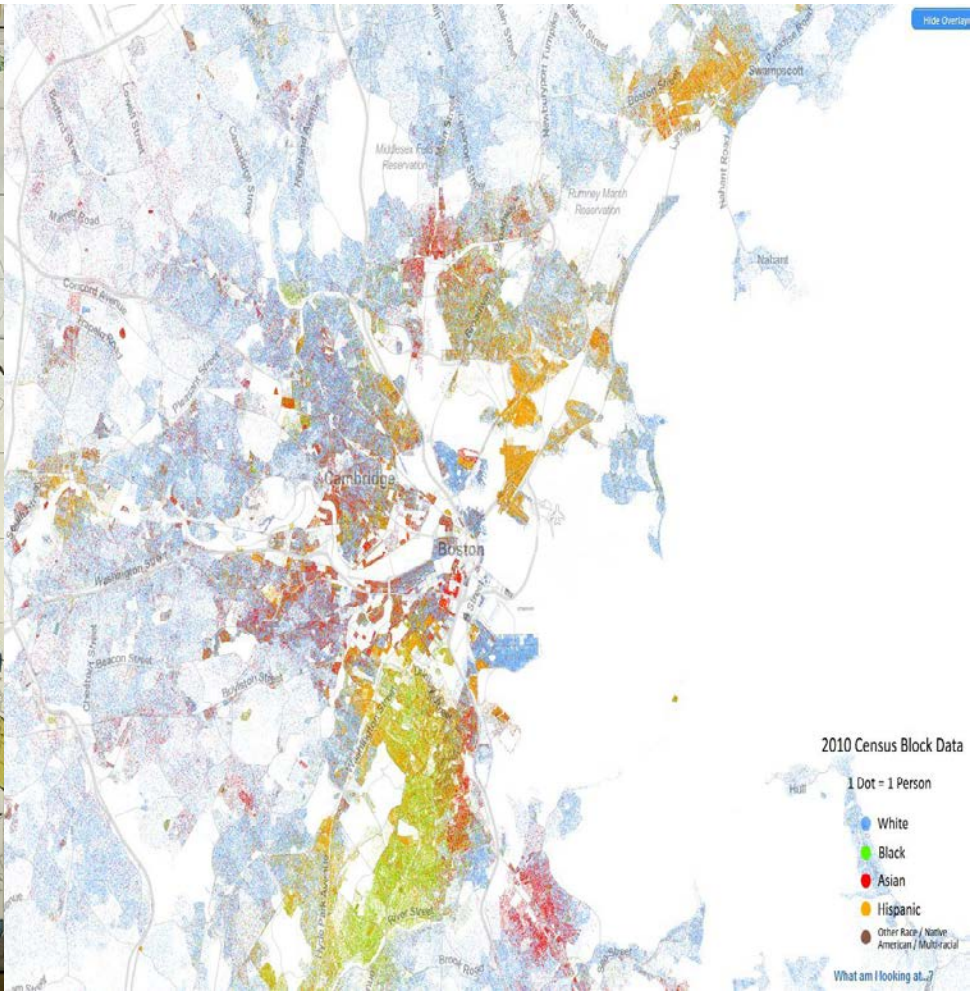
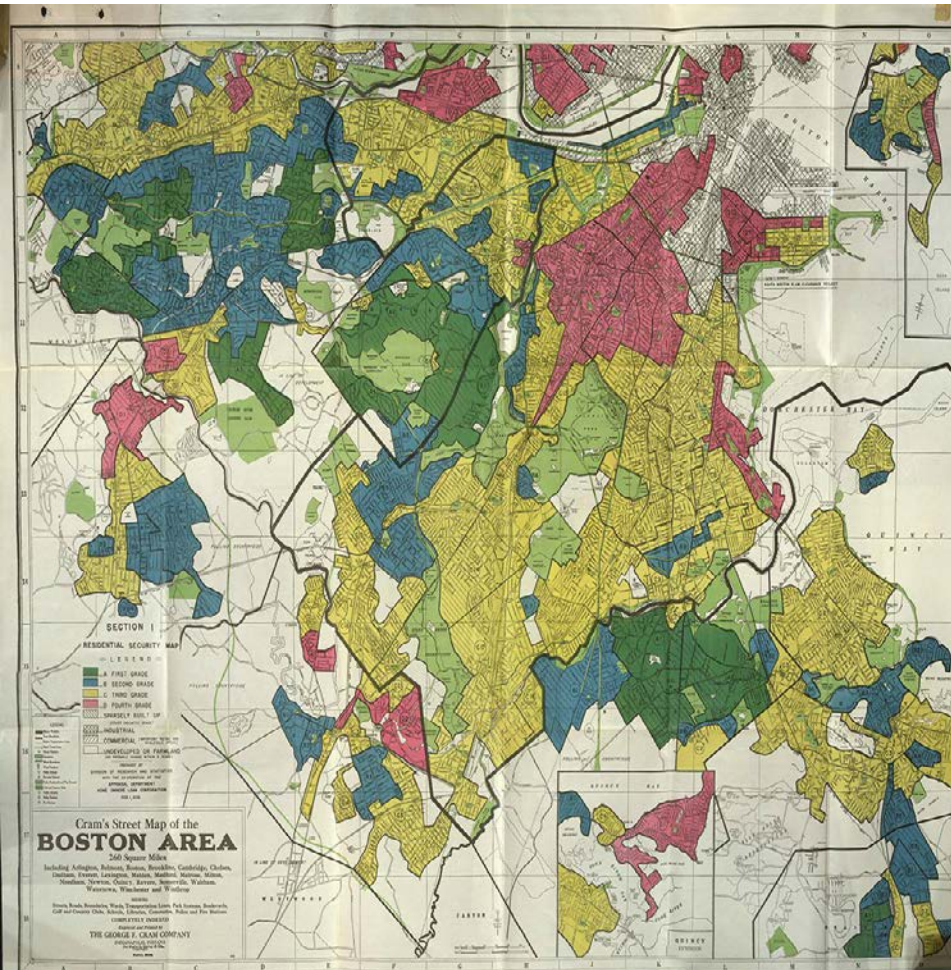
Civil Rights Act of 1866

Race-based discrimination in housing has been illegal since this law was passed; however, the law specifically excluded Native Americans.

Exclusionary Zoning Laws

Ordinances that prevented racial and ethnic minorities from moving into specific neighborhoods.





The Fair Housing Act of 1968 (amended 1988)

FHA outlaws the following types of discrimination (based on 7 protected classes)

- Refusal to rent, sell, or negotiate
- Making housing unavailable or denying access
- Setting different terms, conditions, or privileges
- Providing different housing services or facilities
- Falsely denying that housing is available for inspection, viewing, or rental

Fair Housing Act cont.

- For profit, persuade, or try to persuade homeowners to sell by suggesting that people of a particular race, etc. have or are about to move into a neighborhood (blockbusting)
- Denying access to or membership or participation in any org., facility, or service (such as Multiple Listing Service [MLS]) related to sale or rental of dwellings
- To make, print, or publish any notice, statement, or advertisement that indicates a preference or limitation based on a protected class
- Coerce, intimidate, threaten or interfere with the exercising of a fair housing right

What is a protected class?

Characteristic of a person (defined by law) that cannot be targeted for discrimination

Prohibited conduct under law + Action being done based on a person's protected class = **fair housing violation**



Protected Classes in Massachusetts

Fair Housing Act (federal law)

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



Massachusetts Anti-Discrimination Law (151B)

- Age (40 and older)
- Military Status
- Gender identity
- Sexual Orientation
- Marital Status
- Receipt of public assistance
- Genetic information
- Ancestry

Who must follow fair housing laws?

Short answer: Everyone!

- Property owners/sellers
- Housing authorities
- Developers
- Condo associations and homeowner associations
- Housing employees such as property managers, clerical staff, maintenance and other housing personnel
- Attorneys
- Real estate agents
- Advertisement venues
- Other residents in the building, development and neighborhood
- Architects and contractors can be held liable under the accessible
- Design and construction fair housing mandates



Mass. Lead Law

- Dwellings must be made lead safe if a child under the age of 6 resides or will reside there. **This is a strict liability law.**
- A family with a child under the age of 6 cannot be denied a rental property because of the presence of lead paint (violation of multiple laws).
- A lead law notification is not a waiver. An owner cannot avoid liability by asking tenants to sign an agreement that they accept the presence of lead paint.
- A tenancy may be delayed to make a property lead safe (no longer than 30 days).

Disability: Reasonable Accommodations & Modification

Accommodation: A change or waiver to policies, practice, procedure, or service that is needed due to a disability

Modification: A physical alteration to provide greater accessibility and use of the premises for a person with a disability

- A verbal request is accepted- no “magic words” are required and ALL requests must be considered
- A provider can request information in order to evaluate if R.A. is necessary due to a disability - but not if the person’s disability is **obvious, readily apparent, or already known** to the provider

Housing Vouchers

- In Massachusetts, source of income (state or federal housing vouchers like Section 8, SSI/SSDI etc) is a protected class.
- **No exemptions whatsoever, even if owner-occupied.**
- Discriminatory advertising is an additional and separate violation of fair housing laws.

Exemptions

- There are limited, narrowly constructed exemptions to state and federal law, including some owner-occupied buildings.
- No exemptions for source of income.
- **Exemptions do not apply to real estate professionals.**

It is ALWAYS illegal to express discriminatory preferences in advertisements (even for owners who would otherwise be exempt).

Enforcement

- Administrative Agencies
 - Department of Housing and Urban Development HUD [federal]
 - Massachusetts Commission Against Discrimination MCAD [state]
 - Local (e.g., Newton Human Rights Commission, Boston Fair Housing Commission, Cambridge Human Rights Commission, etc.)
- State and/or Federal Courts

The Landscape Today

Home ownership = the building of wealth

Net worth (sum of value of total assets - value of debts)

White people: \$247,500

Black people: \$8

Dominicans: \$0

Ana Patricia Muñoz et.al, *The Color of Wealth in Boston*, p. 20 Federal Reserve Bank of Boston (2015).

Analysis is estimates of U.S. born people in the Boston Metropolitan Statistical Area.

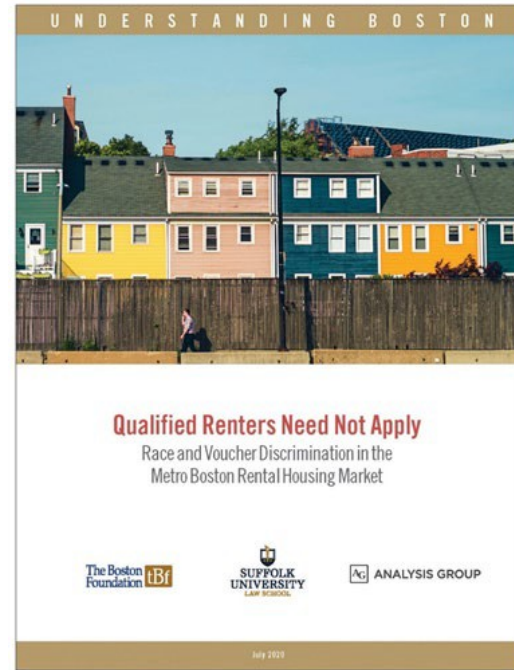
Qualified Renters Need Not Apply

Race and Voucher Discrimination in the Metro Boston Rental Housing Market

Measured level of race-based and
voucher-based discrimination

Investigated if voucher-based
discrimination is a proxy for race-based
discrimination

Testing took place between
August 2018 – July 2019



Study Design



Paired Testing

Similar as possible in all ways but for variable(s) being tested:

- All 4 testers for each test were same sex
- Same credit, same rental history
- Everyone could afford the apartment based on their total incomes
- Race was indicated over the phone by assigned names

All properties were accessible by public transportation, within voucher payment standards, and randomized.

Other protected classes were not introduced

- Everyone had same family size (single)
- Everyone presented as cisgender, no visible disabilities, accent considerations etc.

Typical Business Practices

Testers simulated a real housing search:

Contacted advertising person (a real estate professional in the majority of cases)

Expressed interest in setting up an appointment

Introduced name and if relevant voucher

Gathered evidence as to what information was given, what was asked, and whether could make an appointment and view the unit

What we found: Discrimination with a smile

86% of Voucher Testers Experienced Discrimination

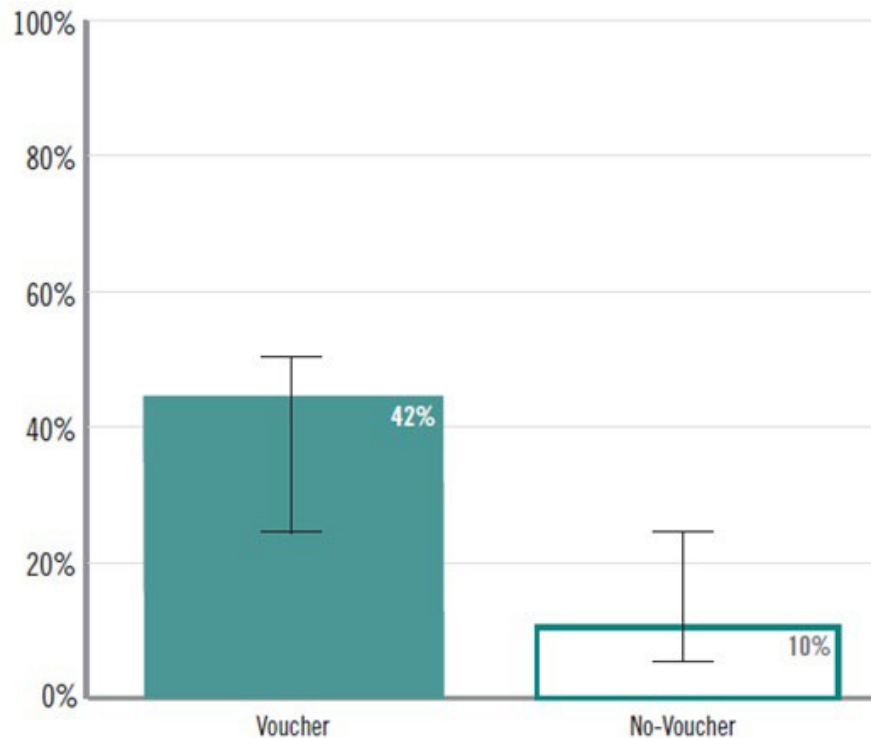
71% of Black Testers Experienced Discrimination

GHOSTING

**NUMBER OF
UNITS
AVAILABLE**

**ABILITY TO
TOUR UNIT**

Ghosted by Housing Provider



Some voucher holders were expressly told that their voucher was not a barrier to renting the unit.

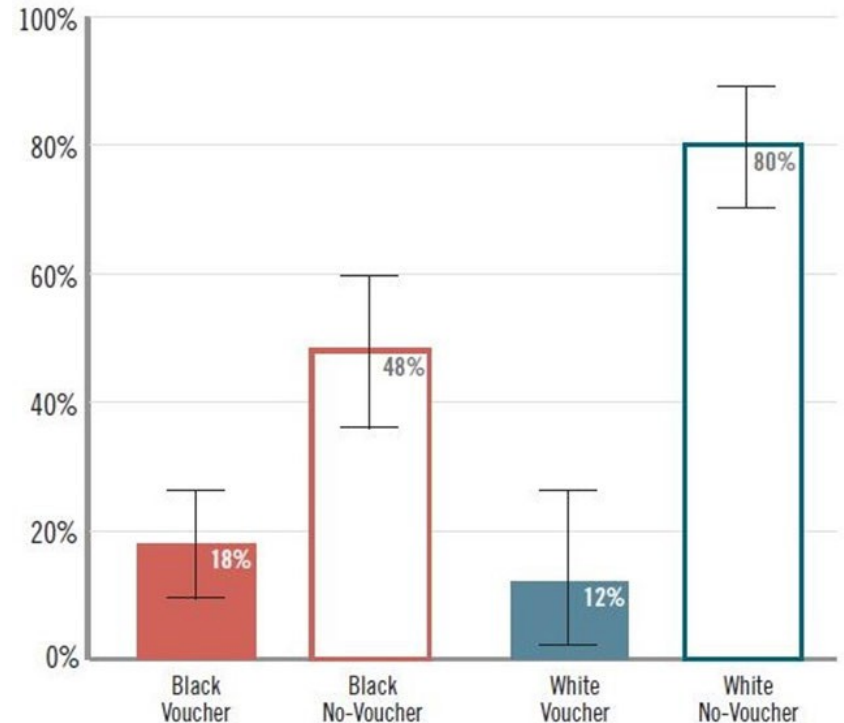
In 81% of those tests, evidence of discrimination was ultimately found.

In 56% of those cases, the real estate professional ceased all communication with the testers in spite of significant efforts on each testers' part to make contact.

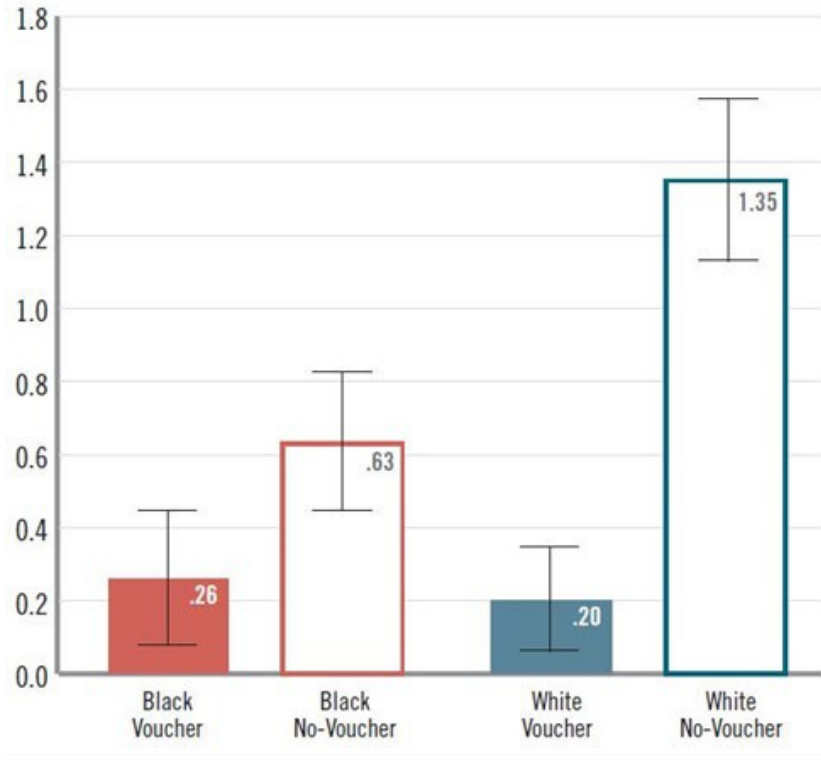
Touring the Unit

Real estate professionals did not return calls from testers with racially identifiable Black names.

Testers with racially identifiable white names were able to tour the unit (if they didn't have a voucher).



Units Housing Providers Said were Available



After "M.'s" tour, she was invited to join a "select group" to see another unit:

"They don't advertise that apartment because then they would have to respond to everyone who inquires..."

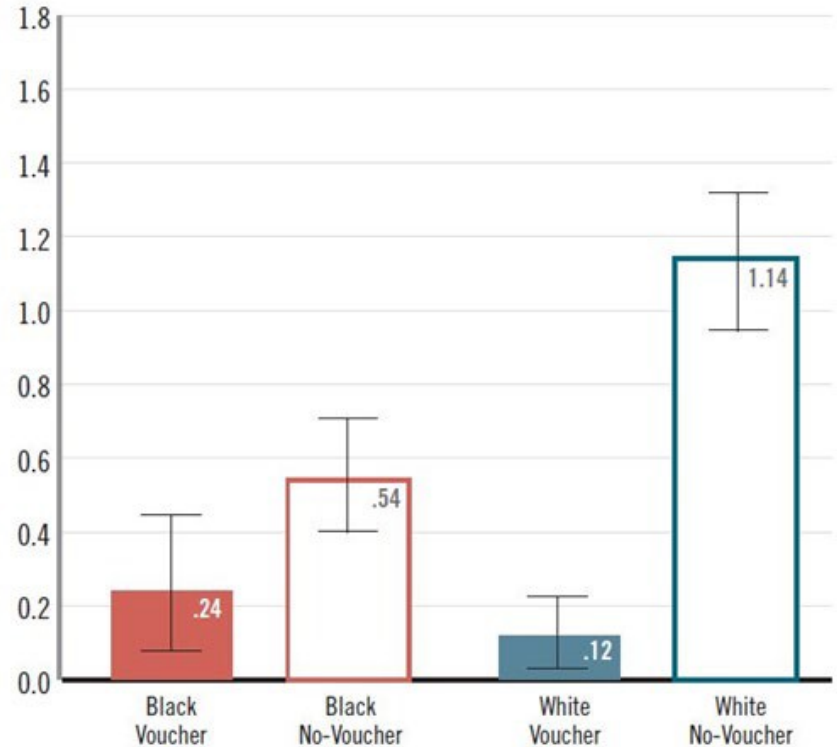
"They were looking for people with quiet lifestyles who work, not CEOs necessarily, but people with good jobs."

The other three testers did not receive this offer.

Units Shown to Testers

The White Market Rate tester was unable to tour a unit in only 10 tests out of 50.

In 5 of those tests, the unit had rented so no one could tour it.



Real Estate Professionals as Gatekeepers

187 testers interacted with a real estate professional

14 testers interacted with the property owner

4 testers interacted with property management personnel

On paper, all the testers were equally qualified to rent.

Many testers were never able to demonstrate their ability to rent the unit because they were screened out early in the process.

Best Practices for Housing Providers

Establish a checklist and team plan.

Checklists help you remain CONSISTENT and ensure you treat all prospective tenants the same.

Having an order of operations will improve your customer service all around.

Make sure all employees are on the same page, so prospective tenants or home purchasers aren't receiving different service based on which agent they speak to.

Remember, an agency can be held liable for the actions of an individual agent, and often will be.

Best Practices cont.

Use template emails or other correspondence (like text messages)

One form of discrimination we often observe is where members of a protected class are not told about special deals, receive less information about available units, or are told about fewer units.

Templates ensure that everyone is getting the same information.

Using a template also helps avoid mistakes, forgotten info, etc.

Be aware that discrimination can occur at all steps of the process (touring, application, appraisals, etc.)

Best Practices cont.

Background and credit checks OK – as long as EVERY APPLICANT is asked for the same information.

Examples of what NOT to ask about:

1. If applicant has a disability or the nature or severity of disability
2. If the applicant has children or the age and genders of the children
3. The nature of the relationship between adult applicants, i.e., marital status
4. One's sexual orientation
5. Age
6. Religion

Best Practices cont.

Maintain a call log for people you communicate with.

Be prepared to communicate about relevant laws (be knowledgeable about your obligations as a realtor)

Slow down. Engage in self-reflection.

Self-assessment - Project Implicit, take implicit association tests at (<https://implicit.harvard.edu/implicit/>)

Best Practices cont.

Provide and attend regular fair housing trainings to keep aware of your legal obligations.

Establish a monitoring plan which ensures all prospective home purchasers and tenants are treated similarly and fairly

Advocate for change! Join with real state professionals to fight for fair housing, and for changes which would benefit both buyers and sellers

Fair housing is good business, it benefits EVERYONE!

Want to dive deeper? History resources:

- Algorithms and protentional discrimination:
<https://www.justice.gov/usao-ma/pr/us-attorneys-office-files-statement-interest-fair-housing-act-case-alleging-unlawful>
- Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (1st. Ed. 2017)
- James W. Loewen, *Sundown Towns: A Hidden Dimension of American Racism* (Touchstone 1st ed. 2006)
- *Segregated by Design* available at <https://www.segregatedbydesign.com/> (length - 17 min. 42 sec.)
- *This American Life: 512: House Rules*, Nov. 22, 2013, available at <https://www.thisamericanlife.org/512/house-rules> (55 min. 34 sec.)

Studies on Housing Discrimination

The full report, “Qualified Renters Need Not Apply” is on the Boston Foundation’s website

Additionally, researchers and policy advocates convened a discussion of the study results which can also be accessed on the Boston Foundation’s website (length: 60 min.)

Newsday’s study *Long Island Divided*, available at

<https://projects.newsday.com/long-island/real-estate-investigation-videos/>

Q & A

HUD FACT SHEET AND FREQUENTLY ASKED QUESTIONS : AFFIRMATIVELY FURTHERING FAIR HOUSING, NOTICE OF PROPOSED RULEMAKING



HUD will imminently publish in the Federal Register a Notice of Proposed Rulemaking entitled “Affirmatively Furthering Fair Housing”. The proposed rule, which builds on and refines HUD’s 2015 rule, would faithfully implement the Fair Housing Act’s statutory mandate that HUD ensure that recipients of its funding affirmatively further fair housing (AFFH). The AFFH mandate requires the agency and its program participants to proactively take meaningful actions to overcome patterns of segregation, promote fair housing choice, eliminate disparities in opportunities, and foster inclusive communities free from discrimination.

This action is vitally important for redressing continued segregation, disinvestment from communities of color, and ongoing discrimination in housing markets. The need for change remains urgent 55 years after passage of the Fair Housing Act, as the effects of many decades of discriminatory policies and practices and historic disinvestment from communities of color are still felt. Our nation remains highly segregated by race, communities continue to have vastly different access to critical resources, and a large racial wealth gap still exists. Many still lack meaningful choice about where to live due to ongoing discrimination and exclusionary practices. This lack of choice, not preferences among low-income families and members of protected class groups, drives residential and income segregation today. Many families continue to face barriers to obtaining or keeping housing in well-resourced, low-poverty areas that provide access to opportunity and community assets, such as desirable schools, parks, grocery stores, and reputable financial institutions. In addition, continued disinvestment in housing and community assets in areas that are not well-resourced magnifies the inequalities caused by this residential and income segregation.

HUD expects that implementation of this proposed rule will greatly enhance equity, human dignity, social welfare, and justice for all protected class groups. The proposed rule would be a significant step in redressing our nation’s history of discriminatory housing policies and practices, while improving economic equity and economic growth within communities and throughout the nation. HUD anticipates that the proposed rule will help ensure that people in protected classes have equitable access to affordable housing opportunities, which can be a crucial lifeline for vulnerable populations that have long been denied equal access in many aspects of American life.

Specifically, the proposed rule would require program participants to identify fair housing issues facing their communities, using both data provided by HUD and local knowledge, and then commit to taking responsive actions.

Fair housing outcomes would be locally driven based on the fair housing issues presented by local circumstances. This proposed rule does not dictate the particular steps a program participant must take to overcome a fair housing issue. Rather, the proposed rule is intended to empower and require program participants to meaningfully engage with their communities. This engagement would allow program participants to understand their local issues and develop the goals needed to achieve integrated living patterns, overcome historic and existing patterns of segregation, reduce racial and ethnic concentrations of poverty, increase access to homeownership, and ensure realistic and truly equal access to opportunity and community assets.



The proposed rule thus builds on the planning framework established by the 2015 AFFH Rule, but it also contains refinements based on considerable input from a wide variety of stakeholders. HUD expects that these refinements will help program participants more easily identify goals and solutions to affirmatively further fair housing. Meanwhile, the proposed rule provides for greater transparency for the public, greater opportunity for public engagement, and accountability mechanisms that ensure that program participants live up to their commitments. HUD is committed to being a partner in the planning process for program participants and the public and expects this rule to result in meaningful actions being undertaken across the country to finally fulfill the promise of the AFFH mandate established in 1968.

HUD welcomes robust public comment on this proposed rule. Public comments may be submitted for 60 days after the NPRM is published in the Federal Register, through the rule's docket on www.regulations.gov or through the mechanisms described in the Notice of Proposed Rulemaking.

THE PROPOSED RULE

Builds on the 2015 AFFH Rule

Like the 2015 AFFH Rule, the proposed rule implements the Fair Housing Act's AFFH mandate by requiring state and local communities—as well as public housing agencies—to identify and address fair housing issues. The proposed rule retains much of the framework of the 2015 AFFH Rule, with some notable refinements. As before, program participants would identify fair housing issues, prioritize the fair housing issues they would focus on overcoming in the next three to five years, and develop the goals they would implement to overcome those fair housing issues.

Requirements

Program participants would submit to HUD for review and acceptance an Equity Plan—a modified version of the Assessment of Fair Housing (AFH) performed under the 2015 Rule—that is developed following community engagement and contains the fair housing analysis, goals, and strategies. An Equity Plan would be submitted every five years. The proposed rule contains a more streamlined required analysis compared to what was required under the 2015 AFFH Rule. It also includes more robust community engagement requirements so that program participants can hear directly from their residents about their specific fair housing-related needs.

The proposed rule would require program participants to incorporate fair housing goals from their Equity Plans into subsequent planning documents (e.g., Consolidated Plans, Annual Action Plans, and Public Housing Agency (PHA) Plans). In addition, program participants would be required to conduct and submit to HUD annual progress evaluations that describe progress toward and/or any needed modifications of each goal in the Equity Plan. Both the Equity Plans and the annual progress evaluations would be posted online.

Refinements

The proposed rule includes refinements informed by HUD's experience implementing the 2015 AFFH Rule and input from many stakeholders. HUD has used that information to propose a rule that would:

- Simplify the required fair housing analysis, making it easier for program participants to



complete the analysis correctly and allowing more time and energy to be spent on effective goal setting;

- Provide more transparency to the public and greater opportunity for public input in the formulation and review of Equity Plans;
- Provide HUD with more practical ability to work with program participants to improve initial submissions and ensure that, when Equity Plans are accepted, they are fully compliant with the rule's requirements;
- Provide a mechanism for regular progress evaluation; and
- Provide for accountability by giving HUD and the public a greater set of enforcement options to ensure that program participants meet their planning commitments or revise commitments where circumstances change.

Timing of Equity Plan Submissions

The proposed rule would require larger, higher-capacity program participants to submit Equity Plans first. Submission deadlines would then be staggered across the different categories of program participants, again based on size as well as their respective program year or fiscal year start dates. The proposed rule encourages program participants to collaborate and submit a single "Joint Equity Plan" with other participants.

FREQUENTLY ASKED QUESTIONS

What are HUD program participants?

- HUD program participants are certain recipients of HUD's federal funding. Some program participants are local governments, states, and insular areas participating in and required to submit consolidated plans for the Community Development Block Grant (CDBG) program, the Emergency Solutions Grants (ESG) program, the HOME Investment Partnerships (HOME) program, the Housing Trust Fund (HTF), and the Housing Opportunities for Persons With AIDS (HOPWA) program. Other program participants are public housing agencies (PHAs) receiving assistance under sections 8 or 9 of the United States Housing Act of 1937.

What is an Equity Plan?

- An Equity Plan is the fair housing plan prepared by HUD program participant to commit the program participant to goals that advance equity in housing, community development programs, and residents' access to well-resourced areas, opportunity, and community assets. The Equity Plan would be developed with the input of the community and consists of an analysis of fair housing data and issues, a prioritization of the issues that would be addressed, and the establishment of and commitment to undertake fair housing goals. Those goals would then have to be incorporated into subsequent planning documents, such as the program participant's consolidated plan, Annual Action Plan, and/or PHA Plan, as applicable. The Equity Plan is a modified version of the Assessments of Fair Housing (AFH) performed under the 2015 AFFH Rule.

What are the topics that an Equity Plan needs to address?

- Equity Plans would address topics in the following areas (with slight variation between the topics that governments and public housing agencies must address):
 - Demographics
 - Segregation and integration
 - Racially or ethnically concentrated areas of poverty (R/ECAPs)
 - Access to community assets



- Access to affordable housing opportunities
- Access to homeownership and economic opportunity
- Policies and practices impacting fair housing

Why is HUD streamlining the required analysis rather than readopting the Assessment Tool used for the 2015 Rule?

- While HUD's implementation of the 2015 AFFH Rule was limited because the previous Administration shut down the rule's operation, HUD learned a great deal from the fair housing goals established by program participants in their Assessments of Fair Housing. Based on that experience and feedback from stakeholders, HUD recognizes, in this proposed rule, that a more practical approach to setting fair housing goals based on a more streamlined fair housing analysis is more likely to result in positive fair housing outcomes. For this reason, the proposed rule places a greater emphasis on setting meaningful, achievable fair housing goals. At the same time, HUD believes the proposed rule would still require program participants to engage in the core analysis necessary to identify local fair housing issues, relying on both data provided by HUD and on local knowledge.

How does the proposed rule provide greater accountability and transparency mechanisms?

- HUD is proposing a number of different mechanisms in this proposed rule to provide greater public transparency and to hold its program participants accountable for fulfilling their obligations to affirmatively further fair housing. Those include:
 - HUD would post on its website all submitted Equity Plans and would accept comments from the public regarding an Equity Plan that is submitted and under review by HUD.
 - HUD would have a greater ability to work with program participants whose Equity Plans fall short of meeting this rule's requirements because it would have remedies at its disposal besides an immediate cut-off of funding.
 - HUD would have the ability to accept complaints from the public and determine whether compliance reviews regarding program participants failing to meet their obligations to affirmatively further fair housing should be opened.

What is public comment and how do I submit a public comment?

- As part of the rulemaking process, comments are accepted from the public on proposed rules published in the Federal Register during a specified comment period. The comment period for the AFFH proposed rule ends 60 days after date of publication in the Federal Register (not publication on HUD's website). The public can make comments through [regulations.gov](https://www.regulations.gov).
- HUD welcomes robust public comment and invites all interested parties and members of the public to submit their views, comments, and recommendations for improvement. HUD will consider all public comments in crafting a Final Rule on AFFH. Here are some tips for submitting effective comments.

What kind of data does HUD anticipate it would provide to program participants and the public to facilitate the development of the proposed Equity Plans?

- Many stakeholders found that the data HUD provided to program participants and made available to the general public was one of the most important parts of the 2015 Rule.
- HUD anticipates that it would continue to provide datasets, including maps, and tools that contain at least as much data as is currently provided in the AFFH-T Data and Mapping Tool to support the identification of fair housing issues by program participants and their communities. HUD anticipates that it would continue to make this data publicly available.
- As noted in the proposed rule, HUD is exploring ways to build on and improve the current AFFH-T Data and Mapping Tool. HUD specifically seeks comment from the public on how it can update and improve the current AFFH-T Data and Mapping Tool, including what additional data HUD should consider providing.



- As part of its general effort to make it easier for program participants to complete the required analysis, HUD is also contemplating providing technical assistance that would highlight key points from the HUD-provided data to help program participants understand what those maps and tables show. HUD anticipates that these efforts would reduce the burden for program participants, provide information in a format that also can be understood by the community to foster increased community engagement, and ultimately result in Equity Plans that address local fair housing issues.

How does HUD expect to assist smaller program participants in complying with their AFFH obligations under the proposed rule?

- The proposed rule contemplates several ways to reduce the burden for smaller program participants to comply with their obligations.
- HUD expects the required analysis to scale to the size and complexity of a program participant. Smaller program participants would have less to consider in conducting their analysis.
- HUD is proposing to allow smaller program participants more time before their first Equity Plan would be due, so that they can receive technical assistance and benefit from lessons learned from the submissions of larger program participants.
- Along with the data and assistance mentioned above, HUD is contemplating making its provision of these data more user friendly for smaller program participants and those with fewer resources while increasing their understanding—and their communities’ understanding—of what those data signify.
- HUD is committed to ensuring that smaller program participants can comply with this rule and specifically welcomes public comment on this issue.



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Director of
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CITY OF NEWTON, MASSACHUSETTS

Fair Housing Committee

January 9, 2023

Councilor Deborah Crossley, Chair, Zoning and Planning (ZAP) Committee,
and Members of the ZAP Committee

City of Newton
1000 Commonwealth Avenue
Newton, MA 02459

RE: Fair Housing Committee Comment on Village Center Zoning Redesign

Dear Councilor Crossley and Members of the ZAP Committee,

The Newton Fair Housing Committee's (the "FHC") mission is to promote and support the City of Newton's ("City") efforts to be a diverse and welcoming community with housing choices and opportunities free from housing discrimination. As part of our mission, the FHC assists the City in meeting its duties to Affirmatively Further Fair Housing in Newton. With this letter, the FHC would like to comment on the current proposal for Zoning Redesign for Village Centers.

We are grateful for the opportunity to offer comments on behalf of the FHC. We wish to especially thank Councilor Crossley for meeting with the FHC on this topic at our January 4 meeting, along with Jen Caira, Deputy Director for Planning & Development.

The FHC focuses on ways to make Newton a community that welcomes people of all backgrounds, including especially for those that are traditionally underserved: people of color, people with disabilities, seniors and other vulnerable and protected populations.

We thank you for the work of ZAP on zoning redesign for village centers that is leading to creating a more welcoming and economically thriving community that also supports businesses, jobs and services.

Zoning policy plays a significant role in how welcoming a community is. That is why your actions are critical to our community's health and vitality.

The state-wide housing shortage is threatening our workforce and economic competitiveness. The housing shortage is more extreme in Newton where households of low-, moderate- and middle-income are essentially excluded because of high housing costs for both purchase and rent.

Your work promotes environmental and economic security in the village centers, allows for the creation of: more housing that meets the needs of a wide range of population on the economic spectrum; more feet on the street; more business viability; and more options for seniors and the next generation to stay or move in.

We appreciate your efforts to create standards that ensure design quality and compatibility, incorporating strong standards for massing, shape and setbacks -- and importantly -- that are designed to stream-line the zoning and approval process, allowing developments of all sizes to proceed in a more efficient way. This includes allowing for smaller, more affordable residences near transportation nodes as well as denser residential and mixed-use buildings that promote economic development and more affordable housing options for people of low-, moderate- and middle-income, both in village centers and across the city.

We strongly encourage increased "by-right" zoning policies that create more multi-family housing of all sizes, with a special focus on housing accessible to low-, moderate- and middle-income households. We encourage ZAP to create clear objective standards and administrative review processes that, therefore, do not require costly and lengthy processes or case-by-case review by the City Council.

We encourage your efforts to work affirmatively to pass the multi-family zoning requirements for the state's MBTA Communities Act.

The Fair Housing Act identifies how a land use or zoning practice can result in a discriminatory effect if it creates a disparate impact on a group of persons or if it creates, increases, reinforces, or perpetuates segregated housing patterns because of a protected characteristic.

We thank you for your efforts on zoning redesign that will ensure Newton is a welcoming city where people of all backgrounds may find a home.

Sincerely,



Esther Schlorholtz, Chair



Tatjana Meschede, Member

cc: Barney Heath, Director of Planning & Development
Amanda Berman, Director of Housing & Community Development
Jen Caira, Deputy Director for Planning & Development
Malcolm Lucas, Housing Planner