



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: March 1, 2023

Time: 8:00 a.m.

Place: Virtual (Zoom)

Zoom Online Meeting: <https://us02web.zoom.us/j/84580736982>

The Fair Housing Committee will hold this meeting as a virtual meeting on Wednesday, March 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: 845 8073 6982.**

You may also join the meeting from your smartphone by dialing 1(305) 224-1968 and entering 84580736982# For audio only, call 1(305) 224-1968 and enter **Meeting ID: 845 8073 6982.**

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: 845 8073 6982.**

- 1. Approval of February 2023 minutes**
- 2. Affirmatively Furthering Fair Housing HUD Comment**
- 3. Presentation on Fair Housing Complaints - Newton Health and Human Services Commissioner Linda Walsh**
- 4. Subcommittee Updates**
 - **Lottery Results & Lease-ups Sub-Committee**
 - **Membership & Nominating Sub-Committee**
 - **Fair Housing Award Sub-Committee**
 - **Fair Housing Literature Sub-Committee**

5. 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
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- Promote FH training for real estate professionals, public and committee members
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- 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
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- 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

6. Next meeting Wednesday, April 5, 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: February 1, 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

Members Absent: Alexandra Weiffenbach

Staff Present:

Malcolm Lucas, Housing Planner

Amanda Berman, Director of Housing & Community
Development

Jini Fairley, ADA/Sec. 504 Coordinator

Shaylyn Davis, Senior Community Development Planner

Public Present:

Alicia Bowman, Council

Sharyn Roberts

David Hedison

Steve West

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

1. Approval of January 2023 minutes

- Upon a motion by TM, JK seconded the motion. The minutes for January 2023 were approved 6-0-0.

2. Training for Real Estate Professionals Review



- ES stated the training went well and discussed the details of the date and spoke about the presenter Kelly Vieira from Suffolk Law. There were 108 attendees and stated that it was a strong interest. ES stated that the comments after the workshop were positive. ES stated that some of the feedback was that the focus should be on what real estate professionals should do in terms of what best practices can be used. ES did state that there was an appreciation for the history of the study that showed the discriminatory practices. ES stated that JK asked for the presenter to consider having this training as a part of continuing education and to receive education credit.
- ES mentioned the possibility of posting the training on the website and stated that the presenter stated that it would be fine to post for a month and a half for legal reasons and also to make sure the information does not go out of date. The one stipulation was to edit the video when the questions and answer part begin. ES asked ML to start working on this.

3. FY24 Annual Action Plan

- Amanda Berman introduced herself and the planning team and then proceeded to present the information about the Annual Action Plan process. The Housing and Community Development team as has met with various groups and committees. AB then discussed the following the allocations for each program. CDBG – 1.8 million, HOME – 1.6 million (Newton receives \$140,000 *HOME is shared amongst the Metro West Home Consortium which is made up of 13 surrounding communities) and ESG - \$165,000. AB further discussed the allocations in detail which are divided into different programs. [See presentation.](#) After the presentation AB opened the meeting up for questions.
- ES asked about the Housing Trust and why it was not a part of the groups that were reached out to. ES stated that she is pleased the fair housing testing is moving forward. ES stated that this has been a priority for the committee and that the committee would like to hear about the specifics for the scope.
- Shaylyn Davis stated that planning will include the FHC during the testing progress and explained that the testing will be a two-year contract and will start in March 2023. It will be up to 130 tests (10 tests per community and will focus on race and source of income) that will happen throughout the West Metro Consortium. SD stated that Suffolk is currently looking to hire a testing coordinator. The method will be [paired testing](#) the staff they are seeking will have law degrees.
- ES stated that she is really pleased that the testing is happening for the consortium and wanted to put this in context for the group. JM expressed concern that there would not be more tests in Newton. JF asked about testing for people with disabilities. ES stated that doing more tests in Newton and including people with disabilities would be valuable. She said that the testing the committee did with the Disabilities Law Center in 2005 showed high levels of discrimination for people with disabilities. She stated that the recent study that Suffolk law did was based on vouchers and Black testers. And the discrimination results were that 86% of voucher holders and 71% of black testers had experienced discrimination. ES thanked the presenters.

4. Newton Stability/Mobility Initiative update

- AB stated that the mayor is close to making a public announcement and how she is going to be awarding \$1.75 million for the initiative. She explained that there was a 10-member advisory committee that worked with the city's consultant from UMass Donahue Institute to develop the RFP that were put out in the fall of 2022. AB stated that once the announcement is made, they will work from there and there will be more specifics then.

5. Proposed HUD Rule on Affirmatively Furthering Fair Housing--Comment by FHC

- JM stated that the FHC should be aware of the [AFFH Rule](#) and be prepared to put some effort into working on it with planning and feels that this task should not be left for staff to do the work. She stated once the new rule is posted the committee will have 60 days to make comments. JM recommended having a more detailed discussion in at a FHC meeting or having a special meeting. ES agreed and stated that it is very important to have a response and asked the committee to read the information on the AFFH document that was forwarded to the committee.

6. Subcommittee Updates

• Lottery Results & Lease-ups Sub-Committee

- TM stated there is not much to report. February 14th meeting is their next meeting, and they are inviting a representative from Maloney Properties to present. TM briefly discussed Austin Street's lottery that they may have when vacant units are available. Austin Street's representative has shared data with TM and she is curious to review the data so they can better understand the lottery process.

• Membership & Nominating Sub-Committee

- DR introduced the two new potential members (Steve West and David Hedison). Steve West has been working in the affordable housing field since 1990 in a variety of capacities. Homeownership renovation, development and property management and worked on low-income tax credits. He stated that he would love to be a part of this committee and stated that any efforts that they can make as a city to make this a more diverse community he is willing to join.
- ES discussed the current number of members and spoke about two of the membership slots are designated for members from the Human Rights Commission and the Commission on Disabilities. ES asked about the process of re-writing the ordinance regarding possible elimination of the criteria of having places for members from these commissions.

• Fair Housing Award Sub-Committee

- ES asked if someone from the committee could join to help. ES stated it will be presented in April 2023 and stated that she has not started the work yet. ES stated that the award will be jointly given to Ted Hess Mahan and Kathy Laufer. They are the previous Chair and Vice Chair of the FHC.

• Fair Housing Literature Sub-Committee

- ET stated that it has been very busy and there has been no movement. She stated that she will come back to it when things settle down.

7. Fair Housing Committee Priorities Discussion

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HUD Publishes Proposed AFFH Rule

By: Claudia Wack, Adam Norlander and Emily Blumberg

January 2023

On January 19, 2023, HUD published a long-awaited proposed Affirmatively Furthering Fair Housing (“AFFH”) rule. This proposed rule would restore the framework of an AFFH rule that was promulgated in 2015 by the Obama Administration (the “2015 Rule”), suspended in 2018 and later withdrawn in 2020 by the Trump Administration, and then partially restored in 2021 by the Biden Administration, as an interim final rule (read KH’s summary of the interim final rule [here](#)). HUD has published the proposed rule along with an op-ed by Secretary Fudge, a fact sheet and FAQ, and a quick reference guide, all of which are available to read [here](#). Comments on the proposed rule are due 60 days after its publication in the Federal Register, which is still forthcoming. The new proposed rule retains many features of the 2015 Rule, but with some key differences.

The AFFH mandate is codified in the Fair Housing Act at [42 U.S.C. § 3608\(d\)](#); the Fair Housing Act explicitly imposes the AFFH duty on HUD at [42 U.S.C § 3608\(e\)\(5\)](#). Federal courts have long found that HUD funding recipients are required, at a minimum, to collect and consider socioeconomic and demographic data when making housing policy decisions and to take proactive steps to address barriers to fair housing and undo historic patterns of segregation. Prior to the 2015 Rule, Program Participants (i.e., jurisdictions and PHAs) were required to certify that they were undertaking fair housing planning, including conducting an analysis of impediments to fair housing choice (“AI”), and taking appropriate actions to overcome the effects of barriers to fair housing. However, compliance with those certifications was inconsistently monitored.

The 2015 Rule replaced the AI with an “Assessment of Fair Housing” – an analysis with a regulatory framework, informed by HUD-provided and local data and public participation requirements, to be submitted to HUD for upfront review and approval. In place of just the certification, the 2015 Rule set out to make the fair housing planning process more transparent and accountable by integrating it into existing consolidated and PHA planning requirements. While the 2015 Rule marked a step forward in the oversight of AFFH, it also triggered significant concern about the capacity of Program Participants to meet new requirements – as well as HUD’s capacity to review the assessments and apply consistent standards. Unfortunately, the suspension of the implementation of the 2015 Rule in 2018 and its subsequent repeal in 2020 limited opportunities to learn from the new framework.

Nevertheless, HUD states that the new proposed rule is informed by the feedback that the agency received post-2015. Notably, the proposed rule would replace the Assessment of Fair Housing with an “Equity Plan,” provide for a longer HUD review timeline, and incorporate additional public participation into both planning and enforcement elements.

Core Similarities to 2015 Rule

Applicability. As with the 2015 Rule, the proposed rule would apply to the following Program Participants:

- States, local governments, and insular areas that receive HUD formula grant funding from one or more of the following programs: Community Development Block Grants (CDBG); HOME Investment Partnerships Program (HOME); Emergency Solutions Grants (ESG); Housing Opportunities for Persons With AIDS (HOPWA) program; and the Housing Trust Fund (HTF).
- Public housing agencies that receive assistance under Section 8 or Section 9 of the United States Housing Act of 1937

Purpose. The proposed rule seeks to implement HUD’s statutory obligation under the Fair Housing Act to ensure that Program Participants affirmatively further fair housing, proactively redressing patterns of segregation, housing discrimination, and discriminatory disinvestment. As under the 2015 AFFH Rule, HUD does not propose to mandate the adoption of specific policies. Program Participants would be required to identify fair housing issues within their jurisdiction and set meaningful goals that can be measurably implemented over three to five years.

Joint Plans. HUD proposes to maintain the option for Program Participants to pool resources and collaborate on a “joint Equity Plan,” while eliminating a separate (and, according to HUD, unnecessarily confusing) mechanism from the 2015 AFFH Rule for regional submissions.

Key Changes from 2015 AFFH Rule

“Equity Plan” replaces the Assessment of Fair Housing. The proposed rule would replace the Assessment of Fair Housing required by the 2015 AFFH Rule with the submission of an “Equity Plan.” As compared to the Assessment of Fair Housing, HUD describes the Equity Plan as reducing the extent of the data interpretation and written analysis that Program Participants are asked to undertake. The proposed rule, at Section 5.154(d), prescribes the specific questions to be addressed in an Equity Plan; in comparison, the 2015 Rule provided a general framework but left specific questions to sub-regulatory guidance. Inscripting the content of the Equity Plan in regulation represents a tradeoff: additional certainty for Program

Participants about what is required, but less flexibility for HUD to adapt without going through a new rulemaking process.

HUD solicits feedback as to whether the redesigned submission would adequately alleviate administrative burdens for smaller Program Participants while appropriately scaling expectations for those with more content to analyze and more resources at their disposal.

Increased Emphasis on Public Participation/Transparency. While the 2015 Rule already placed significant emphasis on public participation, the new proposed rule requires Program Participants to provide more detail about the community engagement efforts surrounding the development of an Equity Plan. Community members would also be newly empowered to submit Equity Plan feedback directly to HUD for up to 60 days after its submission. The proposed rule requires Equity Plans, annual progress updates, “any written feedback” on accepted Equity Plans, as well as notifications of non-acceptance, and related notifications/communications to be published on HUD’s website.

Extended HUD Review Process. The new proposed rule provides for a 100-day HUD review period that can be extended for “good cause” compared with a 60-day review period without extension under the 2015 Rule. The proposed rule further provides for a process by which Program Participants may provide “special assurances” that gives an additional 180 days for an Equity Plan to be accepted after the consolidated plan/PHA plan review. In addition, the proposed rule provides that if that deadline is not met, the Secretary “shall promptly initiate termination of funding” and not grant additional funds until the Program Participant comes into compliance.

New Administrative Complaint Process. HUD proposes to create a new administrative complaint mechanism through which the agency could investigate the potential noncompliance of a Program Participant with the AFFH rule or the Participant’s own Equity Plan commitments. The proposed rule would allow for different possible enforcement outcomes, including funding termination, although HUD notes that the agency would seek to tailor enforcement remedies to avoid negatively impacting individuals and families who receive assistance.

With this proposal, HUD responds to fair housing and civil rights advocates seeking a formal avenue to make complaints, providing additional “teeth” for HUD’s enforcement of AFFH obligations. While HUD has existing authority to enforce AFFH through regular program oversight processes, investigations of discriminatory housing practices or False Claims Act lawsuits, the agency’s proposal further signals that its door is open to dedicated AFFH complaints.

HUD states that it does not intend the new “complaint and compliance review process to supplant the planning process as the principal means by which HUD and its program participants will implement the AFFH obligation and by which the community will have input into how AFFH compliance takes place.” Nonetheless, Program Participants may be concerned that the new complaint process could lead to contentious outcomes.

Balanced Approach. In Section 5.152, HUD proposes a regulatory definition of “Balanced Approach,” intended to address the tension between so-called “place-based” and “mobility” strategies to further fair housing. Place-based strategies generally involve investment in high poverty neighborhoods to address affordable housing and community development needs. Mobility strategies, on the other hand, seeks to create more options for affordable housing in “areas of opportunity.” In the 2015 Rule, HUD laid out a “balanced approach” that described both place-based and mobility strategies as potential means to affirmatively further fair housing. In the new proposed rule, HUD appears to place its thumb on the mobility side of the scale by stating that a Program Participant with the “ability to create to create greater fair housing choice outside segregated, low-income areas should not rely on solely place-based strategies,” without a corresponding directive in the other direction.

Proposed Implementation

HUD proposes a tiered submission schedule that provides for larger Program Participants to make up the first cohort to submit an Equity Plan (in addition to keying deadlines to different program years).

- For public housing agencies, the submission tiers would be tied to the aggregate number of units and vouchers the PHA administers.
- For other Program Participants, the submission tiers would be tied to the aggregate amount of formula funding that the Participant receives.

Should you have any questions about this KH Housing Alert or require any further information, please contact Claudia Wack (cwack@kleinhornig.com), Adam Norlander (anorlander@kleinhornig.com) or Emily Blumberg (ebloomberg@kleinhornig.com)

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Fair Housing

City of Newton

What is Fair Housing?

When looking to buy or rent a property it is important to know that you are protected under fair housing laws. Fair housing laws are some of the strongest civil rights statutes on the books. Federal and State laws make it illegal to discriminate against people when renting or purchasing a unit based on any of the following:

- Race
- Disability
- Color
- Religious creed
- National origin
- Ancestry
- Sex
- Age
- Sexual orientation
- Genetic information
- Gender identity or expression

- Marital status
- Family status (families with children under 18)
- Veteran status or membership in the armed forces of the United States
- Status as a person who is a recipient of federal, state, or local public assistance or who is a tenant receiving federal, state or

local housing subsidies including rental assistance or rental supplements

The law also covers advertising, including making discriminatory statements. Ads which express a preference for, or exclusion of, a particular group of people are illegal. In addition, there is a duty to provide reasonable accommodations to a person with a disability when it is necessary to ensure an equal housing opportunity.

Examples of behavior that MAY be housing discrimination include:

- You call and get an appointment to look at a house, but when you get there, you are told that the house was just sold.
- You are told that the apartment has been rented, but it is listed in the paper again.
- You are told a higher selling price than what was advertised, or than what you heard others being told.
- You are told that they cannot rent to families with children because the house has lead paint.
- You are given terms of rental or sale which are different than those given to other persons.
- You are directed to or away from certain neighborhoods based on race, national origin, religion, or disability.

File a Complaint

If you think you have been discriminated against:

Contact the [Newton Human Rights Commission](#) and [File a Complaint](#). Your claim will be reviewed and investigated, and if appropriate, the Commission will try to resolve it by working directly with both sides. Funding for the City of Newton's fair

housing website provided by the U.S. Housing and Urban Development's Fair Housing Initiative Program Grant. Contents of the website developed by the Fair Housing Center of Greater Boston and the City of Newton.

[If you believe you have been a victim of housing discrimination, learn how to file a complaint here](#)

[Pulse aquí para aprender acerca de sus derechos de vivienda justa o si usted cree que ha sido víctima de discriminación por vivienda.](#)

Newton Fair Housing

- [HUD DOJ Update Fair Housing Act Guidance about Land Use Laws](#)
- [Statement on Fair Housing in Newton](#)
- [Fair Housing Policy](#)

Excerpt from City of Newton Fair Housing Resource Page, 2/15/2023