



# DHCD Guidelines: Affirmative Fair Housing Marketing Plans

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<http://www.mass.gov/Ehed/docs/dhcd/hd/fair/afhmp.pdf>

# Fair Housing Framework

- Obligation to affirmatively further fair housing
  - In order to affirmatively further fair housing, marketing and resident selection must provide maximum opportunities for persons protected under fair housing laws

# Fair Housing Framework

- Obligation to analyze and modify rules, policies, and practices that have potential discriminatory effects/disparate impact
  - Marketing and resident selection policies must not have the effect of excluding, denying, or delaying participation of groups of persons protected under fair housing laws

# The Affirmative Fair Housing Marketing Plan (AFHMP) Contents

- A description of the affirmative fair marketing and outreach methods that will be used
- Sample advertisements to be used
- List of publications where ads will be placed
- Application materials
- Informational materials for applicants
- A description of eligibility requirements
- Lottery and resident selection procedures
- A clear description of the preference system to be used

# AFHMP

- The entity as well as the individual with primary responsibility for resident selection, whether in-house staff or a third-party contractor, must have substantial, successful prior experience in each component of the AFHMP for which the party will be responsible

# Marketing Must be Affirmative

- An AFHMP, through its marketing and resident selection, must attract persons protected under fair housing laws that are less likely to apply
- The AFHMP, including subsequent modifications, must be approved by the subsidizing or funding agency

# Marketing Must be Affirmative

- Ads should be placed in local and regional newspapers, and newspapers that serve minority groups and other protected classes
- Notices should also be sent to local fair housing commissions, area churches, local and regional housing agencies, local housing authorities, civic groups, lending institutions, social service agencies, and other non-profit organizations

# Marketing Must be Affirmative

- Marketing should be included in non-English publications based on the prevalence of particular language groups in the regional area
- All marketing should be comparable in terms of the description of the opportunity available
- The size of the advertisements should be comparable across regional, local, and minority newspapers



# Marketing Must be Affirmative

Required listings of available units with:

- The Boston Fair Housing Commission's Metrolist, for units located in the Boston Metro Area (Boston-Cambridge-Quincy MSA)
- CHAPA's MassAccess Housing Registry
- CHAPA and MAHA lottery websites

# Marketing Must Not Be Discriminatory

- Marketing must comply with state and federal fair housing laws
- Must not indicate any preference or limitation, or otherwise discriminate based on race, color, disability, religion, sex, familial status, sexual orientation, national origin, genetic information, ancestry, children, marital status, or public assistance reciprocity. Exceptions may apply if the preference or limitation is pursuant to a lawful eligibility requirement

# Marketing Must Not Be Discriminatory

- A best practice is to describe the characteristics of the development or unit, and not the characteristics of persons (excepting housing for older persons that meet fair housing requirements)
- All advertising depicting persons should depict members of classes of persons protected under fair housing laws, including majority and minority groups

# Marketing Must Not Be Discriminatory

- Fair Housing logo and slogan ("Equal Housing Opportunity") should be included in all marketing materials
- Advertising should not have a discouraging effect on eligible applicants. As such, local preferences must not be advertised, as they may discourage non-local potential applicants

# Resident Selection

- Resident selection must be based on a lottery, or other fair and equitable procedures approved by the subsidizing or funding agency

# Resident Selection

The application process must be explicitly fair in the AFHMP

- Applications shall be available at public locations, including one that has some night hours
- Advertising and outreach efforts shall identify locations where the application can be obtained
- The advertisement shall include a telephone number an applicant can call to request an application via mail

# Resident Selection

## Informational meeting:

- Must offer one or more for potential applicants
- Date, time, and location of these meetings shall be published in ads and flyers that publicize the availability of lottery applications
- Workshops must be held in a municipal building, school, library, public meeting room or other accessible space
- Meetings shall be held in the evening or on weekend days to reach as many potential applicants as possible
- Attendance not mandatory

# Resident Selection

- In no event may a local preference exceed more than 70% of the affordable units in a Project
- If a community wishes to implement a local selection preference, it must demonstrate in the AFHMP the need for the local preference
- The AFHMP should demonstrate what efforts will be taken to prevent discriminatory effects



# Resident Selection

## Allowable Preference Categories

- Current residents: A household in which one or more members is living in the city or town at the time of application. Documentation of residency should be provided, such as rent receipts, utility bills, street listing or voter registration listing
- Municipal Employees: Employees of the municipality, such as teachers, janitors, firefighters, police officers, librarians, or town hall employees
- Employees of Local Businesses: Employees of businesses located in the municipality
- Households with children attending the locality's schools, such as METCO students.

# Resident Selection

- Sources for evaluating potential discriminatory effects:
  - U.S. Census data  
(see <http://www.factfinder.census.gov> )
  - HUD Comprehensive Affordable Housing Strategy (CHAS) compiled data (<http://www.huduser.org>)
  - Wait lists of comparable projects
  - Applicant pools

# Resident Selection

- Municipalities cannot require that applicants must have resided or worked in the municipality for a minimum period of time
- Disabled households in need of accessible units must receive first preference for the accessible units

# Resident Selection

- The lottery administrator should retain a list of households who are not awarded a unit
- List generally retained and used to fill units for up 1 year
- Factors such as number, demographic diversity, and likelihood of continuing eligibility of households remaining on the list should continually be analyzed to inform the need to refresh the list through additional marketing
- Ownership lists not to be used for rental and vice versa

# Resident Selection

## Resales:

- The AFHMP should include a method for ensuring continued implementation of the AFHMP upon resale when there is limited time to find an eligible buyer, such as a “ready buyer” list strategy
- Homeowners are not required to comply with the AFHMP beyond conducting reasonable public advertising and listing with CHAPA and MAHA

# First-Time Homebuyer Eligibility

- First-time homebuyer requirement may be established by the subsidizing agency
  - Guidelines define as a homebuyer that has not owned a home within three years preceding the application
- Exceptions:
- Displaced Homemaker
  - Single Parents
  - Households where at least one household member is 55 or over
  - Households that owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations
  - Households that owned a property that was not in compliance with State, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure