

FY 2010-11 DRAFT ACTION PLAN FAIR HOUSING REPORT

Chapter 5

FAIR HOUSING

IMPEDIMENTS TO FAIR HOUSING REPORT

Federal Guideline: Affirmatively Furthering Fair Housing: Outline actions taken to affirmatively further fair housing, summary of impediments to fair housing choice in the Analysis of Impediments (AI), and identify actions taken to overcome effects of impediments identified in the AI.

For each Consolidated Plan, the U.S. Department of Housing and Urban Development (HUD) requires each City receiving federal entitlement grants to conduct an Analysis of Impediments to Fair Housing (AI). Impediments to fair housing choice are defined as any actions, omissions, or decisions that restrict, or have the effect of restricting, the availability of housing choices, based on race, color, religion, sex, disability, familial status, or national origin.

An AI is an assessment of the City's laws, regulations, administrative policies, procedures, and practices as they affect the location, availability and accessibility of fair housing choice. The AI identifies recommended actions for the City to reduce barriers to fair housing. Each year, the City is required to report on the progress regarding these recommended actions in both the annual Action Plan and the Consolidated Annual Performance and Evaluation Report (CAPER).

The City of Austin hired BBC Research & Consulting to conduct the City's Analysis of Impediments to Fair Housing, which was included in the 2009-14 Consolidated Plan. Austin's AI released in July 2009 included an analysis of:

- Home Mortgage Disclosure Act (HMDA) data highlighting fair lending concerns;
- Legal cases and actions within Austin and other Texas communities related to fair housing;
- Fair housing complaint process;
- Citizen input about fair housing issues;
- Rental and housing affordability;
- City policy and procedure review, which primarily includes input from affordable housing developers.

The following outlines recommended actions from the report's findings:

Recommended Action - Item 1. Raise the visibility and resolution process of fair housing.

The report states there was a discrepancy between the number of complaints received by the City's Fair Housing Office and Austin Tenants' Council (ATC) and the number of survey respondents citing housing discrimination. This finding suggests that some residents may not

be aware or fully understand their fair housing rights or know whom to contact when faced with discrimination. Many of the survey respondents cited their race as the reason for housing discrimination.

The report determined the majority of residents facing housing discrimination contacted the Austin Tenants' Council (ATC) regarding questions and complaints. ATC is a key partner in the City's goals to provide fair housing counseling and offers enforcement services benefiting renters in Austin. ATC is a recipient of HUD Fair Housing Initiatives program funds. The agency's Fair Housing Program helps any person who has been discriminated against in the rental, sale, financing, or appraisal of housing.

Located in Central East Austin, ATC focuses efforts on educating the public about fair housing, and participates in over twenty outreach events/efforts annually. They also seek media opportunities to highlight the agency's resources and services, partnering with the City to offer annual tenant/landlord training, and is the most prominent source for City of Austin residents when residents experience housing discrimination.

The City of Austin seeks the elimination of discrimination, including the present effects of past discrimination, and the elimination of de facto residential segregation. In order to raise the City of Austin's visibility and improve the City's resolution process to fair housing complaints, NHCD in partnership with the Fair Housing Office launched a web site in January 2010 that highlights: fair housing and fair lending information, the City's Fair Housing Ordinance, the process in filing an online complaint along with form that can be downloaded online, and helpful links, including: the City's Fair Housing Office, ATC, HUD Office of Fair Housing and Equal Employment, National Fair Housing Advocate Online, Civil and Human Rights Coalition, Fair Housing Accessibility First, and the City's Analysis of Impediments to Fair Housing 2009.

The Fair Housing Office attends annual trainings, seminars, and conferences offered by various agencies throughout the United States. The following are trainings and upcoming trainings staff have/will participate:

- Design and Construction – Fair Housing Accessibility First Training (April 2009),
- National Fair Housing Training Academy (July 2009),
- National Fair Housing Training Academy (September 2009),
- Fair Housing Seminar, Austin Housing Authority, Austin Tenants' Council, and Texas Rio Grande Legal Aid (April 2009),
- Using the Fair Housing Act as an advocate (March 2010),
- City of Austin's Fair Housing Conference for 2010, "A New Beginning" (March 2010),
- National Fair Housing Policy Conference (July 2010), and
- National Fair Housing Investigators Training Academy (2011).

In addition, to elevate the visibility of the office and customer service for residents, the City of Austin is relocating its Fair Housing Office to a more centralized location, more easily accessible to low-income residents. The City is updating its complaint application form and is in the process of translating the form to Spanish. These activities are expected to be complete by the beginning of fiscal year 2010-11. The City is also in the process of hiring an EEO/Fair Housing Outreach Coordinator that will continue to explore and seek

opportunities to market current programs and enhance educational efforts to further fair housing initiatives in the Austin community.

For more information on the City of Austin's Analysis of Impediments to Fair Housing report and the City's Fair Housing and Fair Lending web page, visit www.cityofaustin.org/housing/fairhousing.htm.

Recommended Action - Item 2. Conduct targeted education and programming in minority neighborhoods.

The Home Mortgage Disclosure Act (HMDA data) is the best source of information on mortgage lending discrimination. HMDA data includes: mortgage loan applications for financial institutions, savings banks, credit unions, and some mortgage companies; location of home; dollar amount of loan; types of loans; racial/ethnic information about applicant; income of applicant; and credit characteristics of all loan applicants.

BBC issued the following findings from the Home Mortgage Disclosure Act (HMDA) analysis:

- African American and Hispanic residents were more likely to be denied their loan than white residents in Austin; however, loan denials were not as disproportionately high for African American and Hispanic applicants by banks based in Austin.
- Higher loan denial rates were concentrated in East Austin neighborhoods.
- African American and Hispanic residents are more likely to receive subprime mortgages.
- The reasons for loan denials are more diverse for Austin residents, as compared to the denials given by Austin-based banks.

In response to the HMDA data, the report recommended the following next steps:

1. Promote a model loan application program and establish an outreach process for applicants to be informed about existing resources should be one of the City's priorities. The model loan program would outline quality loan products that would ensure applicants are aware of and applying for appropriate loan products that they are more likely to qualify for.
2. The City should conduct targeted campaigns or "road shows" to educate residents, landlords, housing providers and real estate professionals about fair housing and discriminatory issues that are most prevalent by area. The campaigns could take the form of public meetings, forums, and information meetings with local officials and target East Austin residents.
3. The City could partner with local Austin-based banks, which have had a more reliable past record of nondiscriminatory lending practices. Their rationale for loan denials was generally more uniform and consistent across all groups of applicants. Furthermore, local lenders may have a greater interest in local residents and may be more likely to ensure that applications

are complete and that residents are applying for the correct types of loans products.

The City of Austin through the AHFC currently offers Housing Smarts, an AHFC housing counseling program established in 2006. The program offers financial literacy skills; lending education; homebuyer education, which includes pre and post purchase counseling; and foreclosure prevention. Housing Smarts uses NeighborWorks America's housing counseling curriculum and offers individual housing counseling sessions. Under the Housing Smarts program, the City contracts with the following non-profits to further financial literacy related to foreclosure prevention and offer the Housing Smarts program in Spanish:

- **Business and Community Lenders (BCL) of Texas.** BCL provides foreclosure prevention assistance provided through counseling sessions. Clients receive financial literacy services, including credit and budget counseling and money management courses
- **Frameworks Community Development Corporation.** Frameworks provides the Housing Smarts program in Spanish and offers one-on-one sessions.

To promote Housing Smarts, AHFC has used outreach opportunities such as community events, presentations, canvassing, emails, phone calls, and distribution of fliers and brochures. The program is expecting to go mobile in 2010-11 by offering offsite courses at various community centers throughout the City. The program, since its inception, has exceeded its annual goal for the third straight year. The program reached an average graduation rate of 92 percent, making it one of the highest ranking counseling courses in the United States (based on data from NeighborWorks America). In addition, the program received a Special Achievement award from the Texas Association of Local Housing Finance Agencies (TALHFA).

The City's EEO/Fair Housing Outreach Coordinator will assist in outreach efforts to educate the community at large on fair housing and discriminatory issues prevalent in the Austin area.

The City of Austin discourages predatory lending and requires that all households participating in the Down Payment Assistance Program and Mortgage Credit Certificate Program secure a fixed-rate mortgage at prevailing interest rates. The City will continue seeking partnerships with local agencies to ensure the residents are informed on quality lending opportunities that lead to positive results.

Recommended Action - Item 3. Continue leading affordable housing development efforts.

During the AI process, stakeholders and affordable housing developers identified affordability as the primary fair housing issue in Austin. The group indicated that the affordable housing stock in Austin is highly limited; thus resulting in many low-income residents living in substandard housing or tolerating discriminatory situations for fear of not finding another affordable unit.

The City of Austin will continue engaging non-profit and for-profit developers to maximize and retain affordable housing opportunities. Through the City's General Obligation (GO) Bonds, Acquisition and Development, Rental Housing and Development Assistance programs, the City creates affordable housing in addressing its core values: deeper levels of affordability, units that will remain affordable over long-term, and affordable housing that is geographically dispersed throughout the City. To view the City's Geographic Dispersion of Rental Housing Map that identifies rental housing projects through AHFC funding, please visit Appendix V Maps. The following projects highlight the City's efforts to preserve and maintain affordability:

- **GO Bond Funds.** In partnership with AHFC, Summit Housing Partners will develop Elm Ridge Apartments, 130 affordable housing units at 99 years affordability for families earning at or below 30 percent of MFI. This project-based Section 8 property is an "all-bills-paid" complex, which will be updated to offer residents an energy-efficient, quality living environment near Downtown Austin. Preserving project-based Section 8 housing is a prioritized component in the City of Austin's strategy to preserve affordable housing. The City has committed \$2.5 million General Obligation Bond funds to help renovate the complex, without displacing the residents. It is a significant by the City of Austin to help preserve federally-subsidized affordable housing. More than 1,700 affordable units have been created or retained through GO Bond Funds.

Through the Acquisition and Development program (A&D) and Rental Housing and Developer Assistance program (RHDA), the City offers gap financing to public and private partners so that the Austin affordable housing stock is retained. Key partners include Community Housing and Development Organizations (CHDOs) who assist in the creation and retention of affordable housing for low- and moderate-income households.

- **Acquisition and Development.** A&D works with lenders, non-profit and for-profit developers to leverage City and federal funds for the acquisition and development of lots; the acquisition and rehabilitation of residential structures; the acquisition of new or existing housing units; and the construction of new housing, all for sale to income-eligible households at or below 80 percent of MFI. The City, in partnership with the Guadalupe Neighborhood Development Corporation (GNDC) and Krager-Robertson-Design-Build (KRDB), will complete the Solutions Oriented Living (SOL) community in the Govalle/Johnston Terrace neighborhood. SOL is a mixed-income development that includes affordable rental and homeownership opportunities. The SOL Community consists of 38 units and is planned as a net-zero energy development. AHFC invested a total of \$1.47 million with GNDC to buy eight new single-family rental units for low- to moderate-income households and to provide homebuyer assistance for another eight low- to moderate-income families purchasing new homes in the SOL Community. The ownership units will utilize shared equity strategies in order to preserve affordability in the neighborhood in perpetuity.
- **Rental Housing Development Assistance.** RHDA provides opportunities to create and retain affordable rental units for low- and moderate-income households and low-income persons with special needs. RHDA provides below-market-rate gap financing to non-profit and for-profit developers for the acquisition, new construction, or

rehabilitation of affordable rental projects that would otherwise be economically infeasible. RHDA serves households at or below 50 percent of MFI with a target of serving households at or below 30 percent of MFI. Foundation Communities, with the help of funding received by the City of Austin, will develop the M Station, a 150 unit mixed-income complex with 90 units at 99 years affordability. Out of the 150 units, 15 units are designated for families earning at or below 30 percent of MRI and 75 units are designated for families earning at or below 50 percent of MFI. This tax credit development lies within a Transit Oriented Development (TOD) area along the MetroRail Red Line and will offer newly constructed and energy-efficient affordable living to working families.

- **Core Values.** The Affordable Housing Incentives Task Force (AHITF), comprised of real estate professionals, affordable housing developers, for-profit developers, affordable housing advocates, academics, and neighborhood representatives issued a report in 2007 to City Council with recommendations for incentives for affordable housing. This task force recommended three core values for affordable housing development that are used by the City and considered high priorities. These values remain an integral part of issuance of affordable housing funds and the development of housing by the City.

Deeper Affordability Targets: Reach deeper levels of affordability, to serve lower-income residents.

Long-term Affordability: The City values preserving affordability for long-term; and,

Geographic Dispersion: Affordable housing geographically dispersed throughout the City of Austin.

Additionally, the City of Austin continues its solid partnerships with both public housing authorities, the Housing Authority of the City of Austin (HACA) and the Housing Authority of Travis County (HATC). The City will continue supporting both housing authorities in its endeavors in providing affordable housing.

Recommended Action - Item 4. Continue educating the public about affordable housing while involving neighborhood groups.

The Austin City Council identified funding for staff and a consultant to work with the public to create a new citywide Comprehensive Plan for Austin in September 2008. The City selected the consultant, Wallace Roberts & Todd through a public input process. The Austin Tomorrow Comprehensive Plan, the Comprehensive Plan under which the City currently operates, was developed during the 1970s and adopted in 1979. The most recent updates to the plan occurred in 2008.

The City along with its key partners and the community has two years to outline the vision for Austin's future and select the path to get there. This process has been broken into three

phases: "Plan Kickoff" - October 2009 (first phase); "Vision and Plan Framework" - November 2009 (second phase); and the Comprehensive Plan itself - will begin late 2010 (phase three). During this process, NHCD will promote educational initiatives to help address the barriers in developing affordable housing in neighborhoods throughout Austin. Strong neighborhood groups can be instrumental in educating and enforcing fair housing issues within their communities.

- **Affordable Housing Education & Outreach.** Housing education and outreach to promote support of affordable housing by the general community is one of NHCD's highest priorities. NHCD Affordable Housing Forums, a quarterly series of conversations on important and diverse affordable housing issues in Austin, are a critical component of NHCD's educational initiative. Past topics range from sustainable building techniques to affordable housing preservation, to affordable housing in transit-oriented development. Three upcoming forums are planned for the rest of 2010. Topics will include a series of forums exploring how various factors such as health and transportation intersect with affordable housing priorities. For more information about NHCD's Affordable Housing Forums, visit www.cityofaustin.org/housing.
- **State-wide Educational Summit.** The City of Austin will partner with the U.S. Department of Housing and Urban Development to host a one-day Summit on August 13, 2010, to highlight affordable housing needs throughout Texas and develop a regional strategy to create and retain affordable housing to meet the needs of Texas residents. The Summit will bring experts from communities throughout Texas in order to collaborate on the most effective tools and resources communities engage to address the needs across the State. A key issue that will be addressed in the preservation of affordable housing and how best to build sustainable housing markets in Texas. For more information about the Summit, visit www.cityofaustin.org/housing.

The City of Austin will continue work to ensure that all educational events involve neighborhood group leaders. NHCD will continue working with the Planning and Development Review Department to provide housing affordability information to contribute to the development of the plan. For more information about Austin Tomorrow Comprehensive Plan, visit, www.cityofaustin.org/compplan.

CITY OF AUSTIN INITIATIVES

It is a value of the City of Austin to be an open and inclusive city for all its residents; thus, the City continues seeking avenues that broaden opportunities and eliminate barriers for its community.

Fair Housing Ordinance

The City's Fair Housing Ordinance is declared "substantially equivalent" to federal and state laws. The ordinance entered the City's Fair Housing Office into an agreement with the U.S. Department of Housing and Urban Development to conduct housing discrimination investigations and conciliations. Within its Fair Housing Ordinance, the City of Austin has extended the groups that are protected under federal Fair Housing mandates.

Like the federal Fair Housing Act, the City's Fair Housing Ordinance prohibits housing discrimination based on race, color, sex, religion, disability, familial status, or national origin. In addition, the Fair Housing Ordinance also protects discrimination based on student status, sexual orientation, gender identity, and age.

For more information about the City's Fair Housing Ordinance, visit www.cityofaustin.org/hrights/ or Appendix IV Fair Housing.

City Resolutions

Proposition 6 – Domestic Partnership

The Austin City Council enacted an initiative in 1993, Proposition 22, which allowed insurance benefits to be extended to unmarried partners of City employees and to other adults living in their homes. Proposition 22 was voted on and passed by Austin residents in 1994, thereby repealing all of the City's past Charter language defining eligibility for the employees' City insurance benefits.

Proposition 6 was later proposed by the City Council and was established to repeal all the City's Charter language defining eligibility for the City's insurance benefits allowing City employees to provide insurance not only to domestic partners, but also to other adults or dependents in the same household. City of Austin residents voted on and passed Proposition 6 on May 13, 2006.

Non-Discrimination Policy

The Austin City Council passed an ordinance in 1992 creating Chapter 7-4, now codified as Chapter 5-4 Discrimination in Employment by City Contractors of the City Code to prohibit discrimination in employment by City Contractors, including discrimination against an individual based on sexual orientation or gender identity.

The City encourages and wants to attract companies that provide non-discrimination policies that include both sexual orientation and gender identity, as well as provide domestic partner benefits to their LGBT employees and their families.

Austin City Council approved Resolution No. 20090806-037 on August 6, 2009, directing the City Manager to amend the City's Standard Terms and Conditions used in competitive procurements required by state law: 1) to require a copy of the contractor's employment

non-discrimination policy when applying for City contracting opportunities, and 2) to specify that noncompliance with Chapter 5-4 will terminate a contract and may hinder a contractor's eligibility for future contracts until deemed compliant with Chapter 5-4.

For more information about Resolution No. 20090806-037 and City Ordinance Chapter 5-4 Discrimination in Employment by City Contractors, visit Appendix IV Fair Housing.

COBRA-Like Benefits for Domestic Partners

The Consolidated Omnibus Budget Reconciliation Act (COBRA) is a federal legislation requiring employers to extend healthcare coverage to employees and qualified dependents for certain qualifying events such as termination, divorce, or death. In 2009, City Council Members requested a review on COBRA benefits for domestic partnerships. The City's Human Resources Department (HRD) had been recently contacted by a domestic partner of a recently deceased employee who had been informed benefits would cease and he was not eligible to receive the COBRA benefit. Based on this circumstance and City Council interest, HRD reviewed the current COBRA policy, met with the City Council Members and determined in November 2009 to extend "COBRA-Like" benefits to domestic partners.

For more information on COBRA-Like Benefits for Domestic Partners, visit Appendix IV Fair Housing.

AFFIRMATIVE MARKETING AND MINORITY OUTREACH

As a recipient of federal funds, the City of Austin must adopt affirmative marketing procedures and requirements for rental and homebuyer projects containing 5 or more HOME-assisted housing units. Affirmative marketing steps consist of actions that provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

I. Affirmative Marketing Plan

When a rental housing or homeowner project containing five or more units is planned to be constructed, the City of Austin and/or its subrecipients will provide information to the community that attract eligible persons who are least likely to access affordable housing opportunities. This may include low- to moderate-income individuals, minority residents, the LEP population, and residents of manufactured housing.

With changing demographics in Austin, there are challenges when marketing to the eligible populations that are Limited English Proficient (LEP). In areas where there is a significant LEP population, NHCD and the AHFC strive to meet this need by:

- Translating key marketing materials;
- Working with the minority-owned print media, radio and television stations;
- Partnering with faith-based and community organizations that serve newly arrived immigrants;
- Promoting and offering marketing activities and educational sessions in Spanish at community outreach events, such as Homebuyer Fairs; and
- Providing a stipend to bi-lingual staff members who work directly with and provide assistance to the LEP population.

NHCD and AHFC program guidelines and requirements for owners are outlined. Each owner is required to agree to carry out the following affirmative marketing procedures and requirements:

1. The business/builder/non-profit shall not refuse to sell or rent the subject homes to an individual because of race, color, religion or national origin.
2. The business/builder/non-profit shall not refuse to sell or rent the subject homes to an individual because that individual has children who will be residing in that dwelling.
3. The business/builder/non-profit shall not refuse to sell or rent the subject homes to an individual because that individual is eligible for public housing assistance.
4. The business/builder/non-profit shall conduct special outreach to a target group of persons least likely to apply through advertisement in newspapers whose circulation is primarily among the target group, as well as through notification of appropriate community groups and agencies.
5. The business/builder/non-profit shall advertise all homes for sale and apartments for rent in the appropriate local media.

6. The business/builder/non-profit shall include in all advertising HUD's Equal Housing Opportunity logo, slogan or statement, as defined in 24 CFR 200.600.
7. The business/builder/non-profit shall instruct all employees and agents both orally and in writing about the City's affirmative marketing requirements.
8. The business/builder/non-profit shall prominently display in its office HUD's Fair Housing Poster or Equal Housing Opportunity logo.
9. The business/builder/non-profit must keep on file any and all sales advertisements and applicant information. Copies of this information must be forwarded upon request to staff so that staff may properly assess the affirmative marketing practices.
10. Nondiscrimination: In the performance of its obligations under this agreement, The business/builder/non-profit will comply with the provisions of any federal, state or local law prohibiting discrimination in housing on the grounds of race, color, sex, creed or national origin, including Title IV of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), all requirements imposed or pursuant to the Regulations of the Secretary (24 CFR, Subtitle A, Part I) or pursuant to that Title; regulations issued pursuant to Executive Order 11063, and Title VIII of the 1968 Civil Rights Act.

NHCD and AHFC maintain copies of their respective affirmative marketing efforts. Austin will continue reporting on its annual accomplishments in the annual CAPER. The City will include a comprehensive assessment of its affirmative marketing actions as required in 24 CF 92.351(a)(2)i-v in the annual CAPER. The City of Austin will work with any contractor who is not meeting the requirements of the affirmative marketing plan to provide necessary technical assistance and guidance.

II. Minority Outreach Plan

The Austin City Council passed an ordinance establishing the Minority- and Women-Owned Business Enterprise (MBE/WBE) Procurement Program on February 19, 1987. The Austin City Council approved major amendments to that ordinance on July 13, 1995. The program, which is administered by the City Department of Small and Minority Business Resources (DSMBR), established procurement goals for City departments that target Minority- or Women-Owned Business Enterprises (MBE/WBE). To qualify as a MBE/WBE, the business must be certified by the Department of Small and Minority Business Resources as a sole proprietorship, partnership, corporation, joint venture or any other business entity that is owned, managed and operated by a minority or woman, and which performs a commercially useful function. Once certified, MBE/WBE vendors are included in a citywide database that details the products and services they provide by commodity code. This database is also available to prime contractors who are seeking to subcontract with City-certified MBE/WBE vendors.

The City of Austin produces the Contractor/Subcontractor Activity Report after the close of every contract which is used to determine the amount of MBE/WBE contracts.

III. Plan for Increasing Homeownership for Special Populations

In addition to minority populations, special outreach efforts will be required to be conducted to more specialized segments of the community. The City of Austin has expanded its outreach efforts to particular segments of the community that have historically low participation levels in homeownership. These targeted populations may include but are not limited to tenants of manufactured housing and public housing.

Through increased coordination with the Housing Authority of the City of Austin (HACA), additional criteria will be developed that may allow public housing tenants additional consideration in accessing homeowner housing developed through the AHFC and through local Community Development Housing Organizations (CHDO). Tenants of manufactured housing will be encouraged to participate through several homeownership fairs scheduled to be conducted in areas with high levels of manufactured housing. Through the information and training provided during the fairs, tenants of manufactured housing will be encouraged to become homeowners, rather than renters. Further follow up with tenants will help identify the low-income households that may be able to take advantage of existing homeownership opportunities. Low-income household tenants unable to qualify for homeownership because of issues such as debt, credit, and income may be referred to accredited housing counseling providers.

The Austin City Council approved a resolution on March 25, 2010, directing the City Manager to give priority to funding for permanent supportive housing that targets the most vulnerable populations, specifying residents with annual incomes at or below 30 percent median family income (MFI), but continue to fund affordable home ownership, home repair, and rental projects.

The action by the City Council also provided direction for the City Manager to work with NHCD and HHSD, and community stakeholders to develop a comprehensive strategy, based on information gathered on best practices in other cities that will include both the construction and operation of 350 permanent supportive housing units over the next four years.

NHCD has begun working with the HHSD and other stakeholders to develop a strategy to prioritize permanent supportive housing in Austin moving individuals further along the Housing Continuum to increased self-sufficiency. For more information on the Housing Continuum, visit page 1-17.