

# Chapter 5

## Fair Housing

## Chapter 5: Fair Housing

### AFFIRMATIVELY FURTHERING 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.

The U.S. Department of Housing and Urban Development (HUD) recommends that each Participating Jurisdictions (PJs) receiving federal entitlement grants conduct an Analysis of Impediments to Fair Housing (AI) during each 5-Year Consolidated Plan process. 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 Analysis of Impediments 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 conducted an AI as a component of its FY 2009-14 Consolidated Plan. The analysis identified and reviewed fair housing and fair lending issues in Austin. The City of Austin hired BBC Research & Consulting to conduct the City's Analysis of Impediments to Fair Housing. 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, and
- City policy and procedure review, which primarily includes input from affordable housing developers.

To view the City's Analysis of Impediments to Fair Housing report, visit Appendix VIII.

The following is a summary of the impediments to fair housing choice identified in the AI and the actions taken to affirmatively further fair housing choices and overcome the effects of these impediments:

**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

## Chapter 5: Fair Housing

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 as well as receives funding through the City of Austin. The agency's Fair Housing Program helps any person who has been discriminated against in the rental, sale, financing, or appraisal of housing. ATC offers an array of services including telephone counseling; face-to-face and in-house counseling; mediation services; intake testing; and referral of housing discrimination complaints.

Located in Central East Austin, ATC focuses efforts on educating the public about fair housing, and participates in over 30 outreach events/efforts annually. The ATC partnered with other community organizations to hold a Housing Fair in April 2012 which showcased housing rights educational booths with information about fair housing protections, tenant-landlord laws, affordable housing resources, and homeowner guides. NHCD staff promoted its programs at the fair and solicited feedback from participants as part of the FY 2012-13 Action Plan community needs assessment process. ATC seeks media opportunities to highlight the agency's resources and services, partnering with the City to offer annual tenant/landlord training, and are the most prominent source for City of Austin residents when residents experience housing discrimination.

The City of Austin's Fair Housing Office and the Neighborhood Housing and Community Development (NHCD) Office seek the elimination of racial/ethnic discrimination, including the present effects of past discrimination, and the elimination of de facto racial/ethnic residential segregation. In FY 2011, the Fair Housing Office elevated the visibility of its office, fair housing resources, and customer service for residents, by relocating its office to East 11<sup>th</sup> Street. The relocation of its offices to a more centralized area has brought the agency in closer proximity to NHCD and is more easily accessible to low-income residents. In FY 2012-13, the Fair Housing Office will continue investigating fair housing complaints and claims dealing with false advertising, predatory lending, and design and construction. In addition, the department will seek opportunities to market current programs and enhance educational efforts to further fair housing initiatives in the Austin community.

In order to raise the City of Austin's online visibility and improve the City's resolution process to fair housing complaints, the Fair Housing Office maintains an informational web site that highlights federal statutes, informational resources on housing discrimination and employment discrimination, and pertinent City Ordinances that outline local regulations enacted by the Austin City Council to further the civil rights of Austin residents. To view web site, visit [www.austintexas.gov/departments/equal-employment-and-fair-housing-office](http://www.austintexas.gov/departments/equal-employment-and-fair-housing-office).

## Chapter 5: Fair Housing

The Fair Housing Office and NHCD require staff to attend annual trainings, seminars, and conferences to receive education about federal and local fair housing regulations and initiatives. NHCD is committed to ensuring its staff is educated about federal and local fair housing regulation and the department's obligations to adhere to nondiscrimination laws.

### **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 Research & Consulting 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. The City should prioritize and promote a model loan application program and establish an outreach process for applicants to be informed about existing resources. 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

## Chapter 5: Fair Housing

residents and may be more likely to ensure that applications are complete and that residents are applying for the correct types of loans products.

In FY 2012-13, The City will continue to support and expand targeted education and programming through the following initiatives.

### ***Housing Smarts – Housing Counseling***

The City of Austin through the Austin Housing Finance Corporation (AHFC) currently offers Housing Smarts, an AHFC housing counseling program that provides financial literacy skills; lending education; homebuyer education, which includes pre- and post-purchase counseling; and foreclosure prevention. 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.

NHCD has enhanced the curricula to include additional topics: credit for consumers, everyday budgeting, and how to get money when you need it. The course is also offered in all geographic areas across Austin.

In addition, 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.

### ***Financial Empowerment in Austin!***

As a component of the FY 2012-13 Action Plan community needs assessment process, NHCD hosted a community conversation/forum, “Financial Empowerment in Austin!,” to gather feedback on how NHCD can strengthen and grow financial education and empowerment tools into its current and future programs. The Financial Empowerment in Austin! community conversation brought together 32 people from almost 20 local agencies whose mission and efforts are dedicated to promoting financial empowerment and offering financial educational tools to individuals seeking assistance for personal or professional growth.

As a sign of the City’s commitment to financial empowerment activities, the Austin City Council has supported three recent initiatives to overcome critical areas related to financial empowerment.

#### ***1. Business Regulation and Permit Requirements***

## Chapter 5: Fair Housing

August 18, 2010: Austin City Council amended Title 4 (Business Regulation and Permit Requirements) of the City Code. The purpose of this chapter is to protect the welfare of the citizens of the City by monitoring credit access businesses in an effort to reduce abusive and predatory lending practices. The amendment provides a penalty up to \$500 for each offense performed by businesses.

### *2. Pay Day Lending*

August 18, 2010: The City of Austin is concerned about the harmful effects of alternative financial service business practices, including payday lenders and auto title lenders statewide, and particularly in Austin. To address such concerns, the City Council approved a resolution initiating code amendments to City Code Title 25 (Land Development Code) and directing the City Manager to process code amendments to regulate the location and use of buildings and land for alternative financial services businesses. This regulation would deconcentrate and potentially decrease the negative effects of having multiple check cashing, payday loan, and car title loan businesses in close proximity to one another.

### *3. Bank On Central Texas Program*

September 30, 2010: Austin City Council passed a resolution directing the City to participate in a Bank On Central Texas Employer Campaign (BOCT). BOCT was launched by the United Way Capital Area and PeopleFund to provide the following resources to the under-banked or unbanked: access to mainstream financial products and services, financial empowerment programs, and resources to build personal financial capacity. In this initiative, City efforts include working with employees to identify individual barriers to receiving an electronic paycheck, and where appropriate, offer financial coaching and identify financial products through the BOCT program that may benefit the employee. To date, approximately 95 percent of City employees have gone to paperless paychecks.

The Financial Empowerment in Austin! conversation marked the first in many conversations that NHCD would like to have on this nation-wide movement in increasing the importance of financial empowerment has within the community. NHCD looks forward to continued communications with its local partners and future meetings focusing on this topic in FY 2012-13.

### *New Funding Sources*

NHCD applied for federal grant funding through the U.S. Department of Health and Human Services, Administration for Children and Families for a National Assets for Independence (AFI) demonstration grant establishing Individual Development Accounts (IDA) in May 2011 and was notified in FY 2011-12 that the City would receive \$250,000. IDAs are special savings accounts designed to assist low-income individuals and families move toward asset ownership through matched savings and financial education. An IDA can be used to buy a first home, pay for college or other training, and start or expand a small business. Participants receive financial training and coaching on family budgeting, consumer issues, debt and credit counseling, using mainstream financial products, accessing refundable tax credits, and accessing other benefits and services. The goal of the demonstration grant is to learn about the extent to which this approach enables individuals and families with low incomes to become

## Chapter 5: Fair Housing

financially stable over the long term. NHCD will use these funds to administer projects that provide IDAs and related services to low-income individuals and families. Because the participants' deposits are matched, the account can grow substantially in proportion to the amount deposited on a regular basis.

In addition, the City applied to become a HUD certified *Housing Counseling Agency* in FY 2011-12, and anticipates using the various funding sources specifically designated for certified agencies in FY 2012-13.

NHCD has also begun collaborative efforts with the Austin City Council Austin, Foundation Communities, and United Way Capital Area in April 2012 in preparation of the Living Cities' for Financial Empowerment funding application. On April 11, 2012, Living Cities and Bloomberg Philanthropies announced an exciting new development in the municipal financial empowerment field: the launch of the Cities for Financial Empowerment Fund at Living Cities (*CFE Fund*). The CFE is a 3-year grant that recreates the financial empowerment model used by New York City and will help local governments identify, develop, fund, implement, and research pilots and programs that increase people's financial stability. This model offers free, professional, one-on-one financial counseling and education to low-income residents at Financial Empowerment Centers. If awarded, the NHCD would collaborate with non-profit financial empowerment and educational programs to create Financial Empowerment Centers in Austin.

### **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 continues to engage non-profit and for-profit developers to create and retain affordable housing opportunities. Through the Acquisition and Development (A&D) and Rental Housing and Development Assistance (RHDA) 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.

#### *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 the Austin 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. Through the promotion of the core values below, the initiatives serve to

## Chapter 5: Fair Housing

increase affordable housing stock and housing options to all residents throughout the community, further ensuring that housing is available to all residents in the community.

- *Deeper Affordability Targets:* Reach deeper levels of affordability to serve lower-income residents.
- *Long-term Affordability:* The City values preserving affordability for the long-term; and,
- *Geographic Dispersion:* Affordable housing geographically dispersed throughout the City of Austin.

NHCD highlights the core value of Geographic Dispersion in several ways. First of all, geographic dispersion is a key scoring criteria for the City's Rental Housing and Developer Assistance (RHDA) and Acquisition and Development (A&D) programs. The Kirwan Institute's Opportunity Map of Austin, which shows the census tracts of Austin ranging from very high opportunity to very low opportunity, is used as the rubric for geographic dispersion. Areas of high opportunity are areas where affordable housing in Austin has not traditionally been located, and are typically areas of lower racial/ethnic minority concentration. Geographic dispersion counts as over 10 percent of the total scoring for RHDA, and over 15 percent for A&D.

In FY 2012-13, NHCD will continue to participate in the Opportunity Mapping: 2012-13 Steering Committee, which is comprised of representatives from Ohio State University's Kirwan Institute, City of Austin, Travis County, and local and regional planning agencies to determine key indicators the Kirwan Institute will utilize to update the current regional Opportunity Map. Opportunity mapping is a research tool used to understand the dynamics of "opportunity" within geographic areas. The purpose of opportunity mapping is to illustrate where opportunity-rich communities exist (and assess who has access to these communities) and to focus on areas of need in underserved or opportunity-poor communities. Key indicators include: areas with sustainable employment, high performing schools, access to high-quality healthcare, adequate transportation, quality child care, safe neighborhoods, and institutions that facilitate civic and political engagement. As NHCD moves forward in implementing a geographic dispersion/siting policy ensuring affordable housing in all parts of Austin, staff anticipates utilizing the Kirwan Opportunity Map to further the City's housing and community development goals.

As part of the S.M.A.R.T. Housing™ ordinance, NHCD staff also prepares an Affordability Impact Statement (AIS) for all proposed neighborhood plans in the City of Austin to identify any potential impacts on housing affordability. This analysis ensures that the City Council and the public are informed on how neighborhoods throughout Austin have made an effort to include opportunities for affordable housing within their plans. NHCD staff also works with neighborhood members throughout their planning process to educate the public about affordable housing and promote its benefits to the community. This is especially important for neighborhoods to the west of Austin, where affordable housing has not traditionally been located and the racial/ethnic



## Chapter 5: Fair Housing

minority concentration is typically disproportionately lower than other areas in the City. In this effort, NHCD encourages that affordable housing promotes desegregation throughout all parts of the City. 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) to further education about the importance of affordable housing – and fair housing.

NHCD recognizes that with its goal to increase affordable housing stock for low-income residents, there must be a continued focus on strengthening compliance of fair housing, as well as increasing educational programs to help promote fair housing initiatives. These two goals must be aligned to ensure overall success of NHCD affordable housing programs and initiatives. NHCD will work closely with the Fair Housing Outreach Coordinator and other appropriate entities including the Austin Tenants Council (ATC), ADAPT/Austin Chapter, Chambers of Commerce and area lenders to market affordable housing options and choices to promote opportunities for all persons regardless of race, color, religion, sex, disability, familial status, national origin, student status, sexual orientation, gender identity, or age.

The Austin City Council passed a resolution on December 15, 2011, directing the City Manager to work with the Community Development Commission (CDC) and other stakeholders to research strategies of achieving geographic dispersion of affordable housing. The City Manager was charged with identifying additional strategies and practices for geographic dispersion of affordable housing, and the feasibility of implementing those strategies for the City of Austin. In response to this resolution, NHCD has conducted research of municipal affordable housing siting policies, formed and participated in an Affordable Housing Siting Policy Working Group. The Working Group has assessed feasibility and developed an Affordable Housing Siting Policy Interim Update based upon feedback gathered at the Affordable Housing Across Austin conversation. To view the Affordable Housing Siting Policy Interim Update, view Appendix XIV.

### *Affordable Housing Programs*

Through the Acquisition and Development (A&D) and the Rental Housing and Development Assistance (RHDA) programs, the City offers 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. Recognizing that action in and of itself to create and retain affordable housing is not sufficient to affirmatively further fair housing, NHCD and AHFC take additional steps to assure that housing is fully available to all residents of the community, regardless of race, color, religion, sex, disability, familial status, national origin, student status, sexual orientation, gender identity, or age. NHCD staff regularly analyzes the geographic dispersion of affordable housing to ensure that the City of Austin's investment through the disbursement of federal and local funds are not concentrated to specific geographic areas. By implementing this ongoing analysis, it

## Chapter 5: Fair Housing

further increases its assurances to address the impact of discrimination on housing opportunities and choice in its jurisdiction.

As a result of this focus, NHCD has achieved greater geographic dispersion in the units it has funded in recent years. The City of Austin has achieved significant geographic dispersion in the units funded through the City's General Obligation (G.O.) Bond funding. At the time of this report, 2,431 total units have been created. This total also includes home rehabilitation. Out of the 2,431 units, 890 are located east of Interstate Highway (IH) 35 and 857 are located west of IH-35 – this does not include home rehabilitation units. The G.O. Bond funding has leveraged \$189 million in private/public investment.

### **Recommended Action - Item 4. Continue educating the public about fair housing involving neighborhood groups.**

The City of Austin is committed in engaging the community, neighborhood groups and its stakeholders in promoting all aspects of housing. Fair housing initiatives are a priority for the City of Austin and NHCD continues to seek opportunities to promote and highlight fair housing in FY 2012-13.

#### ***Education & Outreach***

To promote and support all aspects of fair housing is one of NHCD's highest priorities. NHCD will continue to integrate fair housing education with all affordable housing materials and educational curriculum. Integrating a fair housing component with information about City of Austin programs increases opportunities to affirmatively further fair housing.

# City of Austin Fiscal Year 2012-13

## Chapter 5: Fair Housing

### POLICIES AND PROGRAMS TO ENHANCE ACCESSIBILITY FOR PERSON WITH DISABILITIES

According to the U.S. Department of Housing and Urban Development (HUD), 24 CFR 582.5: a person shall be considered to have a disability if such a person has a physical, mental, or emotional impairment that:

- Is expected to be of long-continued and indefinite duration,
- Substantially impedes his or her ability to live independently, and
- Is of such a nature that the ability could be improved by more suitable housing conditions.

According to the 2008 to 2010 American Community Survey approximately 5.9 percent, or 1,441,571, of Texans over the age of five had one disability, and 5.5 percent, or 1,349,868, of Texans over the age of five had two or more disabilities for this time period. Of the Texans with disabilities aged 18 to 64, approximately 2.3 percent had hearing difficulty, 2.2 percent had vision difficulty, 5.3 percent had an ambulatory disability, 3.8 percent had a cognitive difficulty, 1.9 percent had a self-care disability, and 3.3 percent had an independent living difficulty. The data also shows that approximately 3.9 percent of Texans were in the labor force and had a disability.

With respect to the City of Austin, and according to the 2008 to 2010 American Community Survey, approximately 5 percent, or 36,370, of residents over the age of 5 had one disability, and 4 percent, or 29,119, of residents had two or more disabilities. Of that population approximately 3.5 percent, or 4,108, of residents aged 5 to 17 had at least one disability, and 3 percent, or 16,773, of residents aged 18 to 64 had two or more disabilities. For Austin's population aged 65 and older, approximately 16 percent, or 8,331, of residents had one disability, and 22 percent, or 11,454, of residents had two or more disabilities. The data shows that disabilities are much more prevalent among Austin's older population.<sup>1</sup>

#### ***Commitment to Community Integration***

The *Olmstead* Supreme Court decision held that the unjustified institutional isolation of people with disabilities is a form of unlawful discrimination under the Americans with Disabilities Act (ADA). In January 2000, Texas embarked on a Promoting Independence Initiative in response to the *Olmstead* ruling, which ruled in June 1999 that states must provide community-based services for people with disabilities who would otherwise be entitled to institutional services, when:

- The state's treatment professionals determine that such placement is appropriate;
- The affected people do not oppose such treatment; and
- The placement can be reasonably accommodated, taking into account the

---

<sup>1</sup> U.S. Census Bureau, American Community Survey 5-Year Estimates, 2009 URL: <http://www.census.gov/acs/www/>

## Chapter 5: Fair Housing

resources available to the state and the needs of others who are receiving state supported disability services.<sup>2</sup>

Texas' Promoting Independence initiative supports allowing individuals with disabilities to live in the most appropriate care setting available. The statewide initiative began in 1999 when Gov. George W. Bush affirmed the value of community-based alternatives for persons with disabilities in an executive order. Gov. Rick Perry signed Executive Order RP 13 on April 18, 2002, also relating to community-based alternatives for people with disabilities. In response to Gov. Bush's order and the Supreme Court's *Olmstead* decision, the Texas Health and Human Services Commission developed the Texas Promoting Independence Plan. For more information on the Texas Promoting Independence Plan, visit [www.dads.state.tx.us/providers/pi/index.html](http://www.dads.state.tx.us/providers/pi/index.html).

The City of Austin Neighborhood Housing and Community Development (NHCD) Office has received consistent feedback regarding the preference of persons with disabilities to live independently and remain in their own homes. NHCD is strongly committed to implementation of the *Olmstead* decision and the Texas Promoting Independence Plan, which affirms the right of persons with disabilities to obtain services in the most integrated setting appropriate to their needs.

### ***FY 2009-14 Consolidated Plan***

The City of Austin FY 2009-2014 Consolidated Plan identifies housing and non-housing needs for persons with disabilities. Chapter 4 of the Consolidated Plan is entitled Housing and Non-Housing for Special Needs Populations, and includes sections on the elderly/frail elderly and persons with physical disabilities. The Elderly/Frail Elderly section identifies a continuum of options for elderly persons as noted in Exhibit 4-1 on page 4-6 of the FY 2009-14 Consolidated Plan, which includes a list of nursing homes and assisted living facilities.

The Persons with Physical Disabilities section of Chapter 4 of the Consolidated Plan outlines housing and non-housing needs for persons with physical disabilities and also references Exhibit 4-1. NHCD is providing written clarification that the department does not take the position that nursing homes are a housing option for persons with disabilities unless the individual explicitly chooses this option. To emphasize what is stated in Chapter 4, Medicaid cannot be used to cover the cost of housing for persons with disabilities, except to be utilized for environmental modifications.

### ***City of Austin Initiatives***

Initiatives that promote the integration of persons with disabilities in affordable housing programs remain an important goal of NHCD's FY 2012-13 Program Investment Plan. NHCD promotes policies and programs to enhance accessibility for persons with disabilities in all of its activities, and targets investment in the following areas:

- *Tenant's Rights Assistance,*
- *Deeply Affordable Rents/Permanent Supportive Housing,*

---

<sup>2</sup> Fact Sheet on Promoting Independence. Texas Department of Aging and Disability Services (<http://www.dads.state.tx.us/services/faqs-fact/pi.html>).

## Chapter 5: Fair Housing

- *Accessibility/Visitability Standards,*
- *Architectural Barrier Removal Program,*
- *Compliance Initiatives, and*
- *Tenants' Rights Assistance.*

The Fair Housing Analysis in the City of Austin FY 2009-2014 Consolidated Plan reports that more than half of all fair housing complaints in Austin in 2008 were regarding disability status. Likewise, the Austin Tenants' Council reports that 54 percent of the total complaints received in 2008 were from individuals with disabilities.

To address this concern as it relates to persons with disabilities, the City continues its investment in the Austin Tenants' Council (ATC). ATC is a recipient of HUD's Fair Housing Initiative Program (FHIP) funds. The Austin Tenants' Council Fair Housing Program serves to provide tenant-landlord fair housing education/outreach and counseling and document and investigate housing discrimination complaints. The agency also provides advice about remedies under fair housing laws and coordinates legal services to assist victims of housing discrimination. ATC carries out testing and enforcement activities to prevent or eliminate discriminatory housing practices.

The City of Austin Fair Housing Office also provides assistance to residents who believe they have been discriminated against as it relates to housing. NHCD will continue to work closely with both entities to address fair housing issues, with a special focus on residents with disabilities. NHCD continues to support the Austin Tenants' Council with allocation of Community Development Block Grant (CDBG) funds. The FY 2012-13 Program Investment Plan includes continued support to ATC's programs and activities.

### *Deeply Affordable Rents/Permanent Supportive Housing*

The City Council passed Resolution 20100325-053 on March 25, 2010, directing the City Manager to give priority to federal and local funding to permanent supportive housing (PSH), and to develop a comprehensive strategy for the construction and operation of 350 permanent supportive housing (PSH) units over the next four years. On September 30, 2010, the City's PSH strategy was presented to City Council. Implementation is underway to achieve the 350-unit goal. The City's PSH will primarily focus efforts on chronic homelessness.

On March 10, 2011, the City Council adopted the City of Austin Permanent Supportive Housing (PSH) Strategy as a working document and authorized the City Manager to facilitate the Leadership Committee on Supportive Housing Finance with the intent to "work" together to review and analyze the report provided to the City Council and recommend a comprehensive public and private financing strategy for the City Council. For more information about Permanent Supportive Housing, visit page 4-6.

### *Accessibility/Visitability Standards*

The federal government, the State of Texas and the City of Austin all provide funding for affordable housing that have accessibility standards. Federal and state requirements include accessibility for people who are mobility-impaired, hearing-impaired, or visually impaired and are governed by the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, Section 2306.514

## Chapter 5: Fair Housing

of the Texas Government Code, and the City's building code. In 2005, the City of Austin adopted the 2003 International Building Code that federal enforcement agencies determined was in compliance with federal accessibility requirements.

In 2000, the City of Austin adopted the S.M.A.R.T. Housing™ Ordinance that encourages the development of reasonably priced units and has created more than 20,000 S.M.A.R.T. Housing™ units. The S.M.A.R.T. Housing™ ordinance has additional standards for accessibility beyond federal and state levels. In addition, all single-family S.M.A.R.T. Housing™ units must be visitable. Being visitable includes the following standards:

- Accessible entrance door with a ramp or no-step entrance,
- Lever handle hardware,
- Blocking behind the bathroom walls for future grab bar installation,
- Large interior door width, and
- Light switches that are no higher than 48 inches above the floor.

In 2008, the City Council expanded some of the elements of the Visitability Ordinance to apply to all new single-family homes and duplexes in the City of Austin. These new visitability regulations are amendments to the 2006 International Residential Code. In addition, all multi-family S.M.A.R.T. Housing™ units must include the following standards:

- All ground-floor-level units and units accessible by elevator must be adaptable,
- Ten percent of all multi-family units must be accessible,
- Accessible parking spaces are required with an accessible route to first floor units and the common areas,
- Removable cabinet doors, and
- Two percent of total parking spaces must be accessible.

In addition to the above S.M.A.R.T. Housing™ requirements, multi-family units built with Community Development Block Grant or HOME, are also subject to the Section 504 of the Rehabilitation Act of 1973. This act requires that two percent of multifamily units be accessible to individuals with sensory impairments. The S.M.A.R.T. Housing™ requirement that requires ten percent of multi-family units be accessible exceeds the Section 504 requirements, which requires that only five percent of multi-family units be accessible.

### *Architectural Barrier Removal Program – Rental and Owner (Accessibility Modifications)*

The Architectural Barrier Removal (ABR) Program modifies the homes of seniors and persons with disabilities who have limited income and would like their homes more accessible. These programs are available for persons who rent and for those who own their home. These accessibility modifications help persons with disabilities remain in their homes longer and live with a greater degree of independence. All services are free to eligible persons.

ABR Program services include:

## Chapter 5: Fair Housing

- Wheel chair ramps,
- Handrails,
- Door widening,
- Buzzing or flashing devices (for people with visual/hearing impairment),
- Accessible door and faucets handles,
- Shower grab bars and shower wands, and
- Accessible showers, toilets and sinks.

The City will access funding through the Texas Department of Housing and Community Affairs (TDHCA) in FY 2012-13, to further its efforts in making accessibility modifications.

In August 2011, TDHCA announced the availability of \$4 million in funding from the Housing Trust Fund (HTF) for the Amy Young Barrier Removal Program through the agency's Reservation System. This program provides one-time grants of up to \$20,000 to persons with disabilities qualified as "low income" for home modifications necessary for accessibility and the elimination of hazardous conditions. Program recipients may be homeowners, a tenant/renter or a person with disabilities residing in the household.

## Chapter 5: 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 five 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 Limited English Population (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 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 business owners and builders are outlined below. 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 groups 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.



## Chapter 5: Fair Housing

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. NHCD staff utilizes audit checklists developed by HUD. These checklists provide for review of project requirements, property standards, rent occupancy, and ongoing monitoring requirements including affirmative fair housing marketing.

### **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 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 (SMBR), 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

## Chapter 5: Fair Housing

Contractor/Subcontractor Activity Report after the close of every contract which is used to determine the amount of MBE/WBE contracts. NHCD uses Part III of HUD Form 40107 to report contracts and subcontracts with Minority Business Enterprises (MBEs) and Women's Business Enterprises (WBEs) in annual CAPERs.

### **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 due to racial/ethnic discrimination or segregation. 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.

### **IV. Plan for Increasing Housing Options for Special Populations**

The City Council passed Resolution No. 20100325-053 on March 25, 2010, directing the City Manager to give priority to federal and local funding to permanent supportive housing (PSH), and to develop a comprehensive strategy for the construction and operation of 350 permanent supportive housing (PSH) units over the next four years. Since the City Council's action, the City of Austin, ECHO and key stakeholders have made great strides on PSH efforts to support the implementation of the PSH strategy and as of April 2012, 228 PSH units are in the pipeline.

City of Austin-funded PSH units are designated for individuals or families in the following categories:

- Headed by individuals that are chronically homeless as established in the final rule of the HEARTH Act published in December 2011;
- Households that would otherwise meet the HUD definition as above, but have been in an institution for over 90 days, including a jail, prison, substance abuse facility, mental health treatment facility, hospital or other similar facility;
- Unaccompanied youth or families with children defined as homeless under other federal statutes that demonstrate housing instability and have other barriers that will likely lead to continued instability, as detailed in the plan; and
- Youth aging-out of state systems, whether homeless or at-risk of homelessness.

## Chapter 5: Fair Housing

Among those served, priority will be given to at least 225 households identified as frequent users of public systems, and at least 75 households identified using a method linked to 'vulnerability,' as described in the plan that can be viewed online at [www.cityofaustin.org/housing](http://www.cityofaustin.org/housing).

### ***Emergency Solutions Grant (ESG) Activities***

The Austin/Travis County Health and Human Services Department (HHSD) administers all ESG activities for the City of Austin. These programs are designed to be the first step in a continuum of assistance to help clients quickly regain stability in permanent housing after experiencing a housing crisis and/or homelessness. On March 5, 2012, HUD further clarified the definition of "family," by releasing a final rule on equal access to housing for HUD programs regardless of sexual orientation or gender identity. The rule applies to all McKinney-Vento-funded housing programs, as well as to other housing assisted or insured by HUD. The rule creates a new regulatory provision that generally prohibits considering a person's marital status, sexual orientation, or gender identity (a person's internal sense of being male or female) in making homeless housing assistance available.

HUD's goal is to ensure that programs are carried out free from discrimination and are models for equal housing opportunity. This new provision ensures that lesbian, gay, bisexual, and transgender (LGBT) people are guaranteed equal access to housing and shelters. The City of Austin ensures that its programs adhere to the new regulations outlined by HUD. The City prohibits inquiries regarding the sexual orientation or gender identity of applicants and prohibits sexual orientation and gender identity as grounds for decision making for its programs.