

**City of Oakland**  
**Department of Housing and Community Development**

**Affirmative Fair Marketing Procedures**

**I. Policy on Nondiscrimination and Accessibility**

1. Owners and managing agents of housing assisted by the City of Oakland (the “City”) must not discriminate against potential tenants or purchasers on the basis of race, color, religion, sex, physical or mental (including cognitive, developmental or emotional) disability, familial status (presence of child under age of 18 and pregnant women), national origin, ancestry, age, marital status, sexual orientation, gender identity or expression, having Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions (ARC), source of income, any arbitrary basis, or any other status protected by federal, state or local law.
  2. In addition, owners must undertake affirmative marketing efforts to reach persons that are unlikely to apply for housing due its nature, location or other factors.
  3. Developers receiving Federal funds are required to create units that are accessible to people with disabilities. At least five percent of new units must be accessible to people with mobility impairments and at least two percent must be accessible to people with hearing or vision impairments.
  4. In addition to Federal laws requiring units for people with physical disabilities, fair housing laws require owners to make reasonable accommodations to people with all types of disabilities who request accommodations due to disability at any time during the application, resident selection and rent-up process. In doing so, owners are required to make and pay for structural and non-structural modifications to dwelling units and common areas when needed as a reasonable accommodation for tenants or applicants with disabilities. In such cases where providing a requested accommodation would result in an undue financial and administrative burden, developers are required to take any other action that would not result in an undue burden.
  5. All developers who receive funds from the City are required to enter into loan agreements, and regulatory agreements or affordability agreements with the City prior to receiving any funds. These agreements are designed to bind the recipients to all of the program requirements, including the affirmative fair marketing procedures.
  6. The following document outlines the affirmative fair marketing procedures that must be adhered to by developers and owners of housing units assisted by the City.
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## **II. Training**

1. The owner and managing agent shall provide property management staff with all relevant regulations and fair housing provisions. All property management staff shall be required to follow the procedures and policies adopted by the owner and managing agent.
2. Property management staff shall annually receive instruction regarding fair housing laws and the development's Affirmative Fair Marketing Plan. Formal training programs shall include marketing, outreach, data collection, reporting, and record keeping.

## **III. Methods and Practices for Informing the Public**

1. In order to inform the public, owners, and prospective tenants about Federal fair housing laws and the City's affirmative marketing policies, the City will include the Equal Housing Opportunity logo and/or slogan, and a logo and/or slogan indicating accessibility to persons with disabilities, in all press releases, solicitations, and program information materials.
2. In addition, the City provides funding to a number of fair housing agencies to provide information and counseling regarding fair housing laws and policies.

## **IV. Marketing and Outreach**

1. As a condition of the agreements, not less than 180 days prior to project completion, owners must submit proposed marketing and management plans to the City for review and approval. Prior to commencing marketing activities, owners will be required to meet with City staff to review the proposed marketing strategy to ensure that affirmative marketing efforts will be employed.

Marketing plans must include information on strategies for reaching persons and groups not likely to apply including, but not limited to, households that include a member with disabilities. Marketing plans must also include procedures for ensuring that people with disabilities who request accessible features are given preference for occupancy of accessible units, as described below. Management plans must include policies for ensuring reasonable accommodation for persons with disabilities. Management plans must also contain policies and provisions for recordkeeping and monitoring. The City will provide written guidance on selection of tenants and reasonable accommodation during occupancy, if requested.

2. All advertising shall display the Equal Housing Opportunity logo and/or the phrase "Equal Housing Opportunity", and a logo and/or slogan indicating accessibility to persons with disabilities. Fair housing posters must be displayed at the project rental or sales office.

Marketing plans must include use of a welcoming statement to encourage people with disabilities to apply for units, as well as a description of available units, accessible

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features, eligibility criteria, and the application process. The City will provide developers with sample notices, if requested.

Marketing plans must indicate that qualified applicants with disabilities who request accommodation shall receive priority for the accessible units. Open houses and marketing offices must be accessible to allow persons with disabilities to visit the site and retrieve information about accessible units.

3. Owners are required to advertise in newspapers of general circulation, and to provide notice to community groups when units become available.

Marketing shall include the use of newspapers of general circulation in Oakland. The managing agent shall place notices in newspapers, specialized publications, and newsletters to reach potential residents. Applications, notices, and all publications will include a Fair Housing and Equal Opportunity Logo, and the Accessibility Logo. Community media advertisement of the projects may include the following:

- a. Oakland Tribune
  - b. Oakland Post
  - c. El Mensajero (Spanish)
  - d. Sing Tao Daily Newspaper (Chinese)
  - e. Eden I&R, Inc. 2-1-1- Information and Referral Line
4. Consistent with the resident population each development was designed to serve, the marketing of the project must ensure equal access to appropriate size units for all persons in any category protected by Federal, state, and local laws governing discrimination.

Owners are required to engage in special outreach to persons and groups in the housing market area who, in the absence of such outreach are not likely to apply for the housing. In determining what special outreach is needed, owners should take into account past patterns of discrimination, the racial and ethnic makeup of the neighborhood, language barriers, location, or other factors that might make it less likely that some persons and groups (a) would be aware of the availability of the housing or (b) would be likely to apply for the housing.

Special marketing outreach consideration will be given to the following underserved populations:

- a. African-Americans
  - b. American Indians
  - c. Hispanics
  - d. Asians and Pacific Islanders
  - e. Persons with disabilities and persons with special supportive housing needs
  - f. Very low income households of all types (including persons making the transition from homelessness to permanent housing)
  - g. Immigrants
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- h. Non-English speaking residents
  - i. Large families
5. In particular, owners are required to advertise in media which are reasonably likely to reach such targeted groups, and to provide notice to community organizations, fair housing agencies, and other similar organizations. A list of local disability organizations and community development boards will be provided by HCD if requested. HCD will also provide developers with sample advertisements if requested.

Multilingual advertising is encouraged where such efforts would result in reaching persons and groups not likely to apply. Owners and managers must ensure that people with limited English proficiency are not discouraged from applying or discriminated against and are encouraged to provide translation assistance or referrals to community-based organizations that can assist with translation.

## **V. Specific Procedures for Ensuring that Accessible Units are Occupied by People with Disabilities who Require Accessible Features**

1. Outreach by owners to the disability community shall include the distribution of notices describing:
    - a. the availability of all units;
    - b. specific information regarding the availability and features of accessible units;
    - c. eligibility criteria; and
    - d. application procedures
  2. All application forms shall include information indicating that people with disabilities requiring accessible features shall receive priority for accessible units. The application must include a section to be filled out by any applicant requesting an accommodation with details on the applicant's special needs for accessible features or other accommodations. Under no circumstance should an applicant be required to disclose a disability unless requesting an accommodation. (Housing units targeting seniors or people with disabilities may request documentation of age or disability to verify eligibility, but only if the same questions and documentation are asked of all applicants.) This will allow developers to provide, upfront, any necessary accessible features and/or accommodations for those people requesting accommodations. For more information on tenant selection, request the document entitled "Selection of Individual Tenants."
  3. Owners shall take reasonable nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, any vacant, accessible unit should first be offered to a current, tenant with disabilities of the same project or comparable project under the owner's control. The occupant with disabilities must require the features in the vacant unit and must be occupying a unit not having such features. If no such occupant exists, the developer shall then offer the unit to a qualified applicant on the waiting list who has a disability requiring the accessibility features of the unit.
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4. Owners may offer an accessible rental unit to an applicant without a disability after efforts have been exhausted to occupy the unit by an individual with a disability. However, the owner shall require such an applicant to agree to move to an available comparable non-accessible unit when the accessible unit is needed by a household that includes a member with disabilities. Such an agreement should be incorporated into the lease.
5. Note: An owner may not prohibit an eligible family with a member who has a disability from accepting a non-accessible unit which may become available before an accessible unit. Owners are generally required to modify such a non-accessible unit as needed or move a household that includes a member with disabilities into a unit that can be altered. If the modifications would result in an undue financial and administrative burden or alteration in the nature of a program, the owner is required to take any other action that would not result in an undue burden. All applicants should be provided information about how to request a reasonable accommodation at the time they apply for admission and at every recertification.

## **VI. Procedures for Complaints**

1. The owner shall maintain written procedures indicating how applicants or tenants can file complaints regarding fair marketing and/or alleged discriminatory practices.
2. Owner shall promptly investigate all applicant or tenant complaints and shall take corrective actions as necessary.
3. Owner shall maintain records of all such complaints, investigations and corrective actions.

## **VII. Compliance Assessment**

1. The owner and managing agent must review the project's marketing and management plans at least every five years and update as needed to ensure compliance. The advertising sources shall be included in the review to determine if past sources should be changed or expanded.
  2. The owner and managing agent shall annually assess the success of affirmative marketing actions for each project. If the demographic data of the applicants and residents vary significantly from the jurisdiction's population data for the target income group, advertising efforts and outreach should be targeted to underrepresented groups in an attempt to balance the applicants and residents with the demographics of the jurisdiction.
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## VIII. Data Collection and Record Keeping

1. Owners must establish and maintain an Affirmative Fair Marketing file for each project to hold advertisements, flyers, and other public information documents to demonstrate that the appropriate logo and language have been used. Additionally, owners must keep records of activities to implement the affirmative marketing plan, including other community outreach efforts and an annual analysis. Upon request, owners are required to submit to the City copies of all advertisements indicating the date the advertisements were placed and the media outlets which were used. Owners must also provide copies of notices sent to community groups and a listing of those groups to which notices were sent. Owners must maintain records for at least five years regarding marketing and tenant selection practices.
2. Owners shall keep up-to-date records for each project regarding the characteristics of persons applying for vacant units, persons selected to occupy units and residents of the project (including race, ethnicity, presence of children under the age of 18 in the household, requests for reasonable accommodation for a disability, income, and household size) , and records about tenant selection or rejection. Under no circumstance should an applicant be required to disclose a disability unless requesting an accommodation. (Housing units targeting seniors or people with disabilities may request documentation of age or disability to verify eligibility, but only if the same questions and documentation are asked of all applicants.) Applicants cannot be discriminated against due to the presence of children in the household.
3. Application materials must include the “City of Oakland Race and Ethnic Data Intake Form” or a substantially equivalent form. The owner and managing agent are required to offer each household member the opportunity to complete the form. Parents or guardians are to complete the form for children under the age of 18. Completed documents for the entire household shall be stapled together and placed in the household’s file.
4. Owners must maintain information regarding the location, description and number of vacant and occupied accessible units. In addition, owners must track and keep records of accessible and non-accessible units that are occupied by tenants requesting reasonable accommodations for a disability. Owners also should document any reasonable accommodations made to, or requested by, tenants during the reporting year.

## IX. Reporting and Monitoring

1. As part of the City’s monitoring of assisted housing developments, the City may review the owners’ records to verify that either:
    - a. Each household living in a physical and sensory accessible unit has at least one household member who needs the accessible features of the unit; or
    - b. If an accessible unit is not occupied by a household who has at least one household member who needs the accessible features of the unit, the owner will
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verify that no such households (either current or prospective tenants) are on a waiting list for the accessible unit. The owner will also provide documentation that the current occupants agree to move to a comparable non-accessible unit when the accessible unit is needed by a household that includes a member with disabilities.

2. The owner and managing agent shall provide the City access to any pertinent books, documents, papers or other records of their City-assisted properties, as necessary, for determining compliance with civil rights and nondiscrimination requirements.
3. The duration of monitoring of Affirmative Fair Housing Marketing (AFHM) requirements varies with each housing program. For homeownership programs, AFHM requirements apply through the completion of initial sales transactions on units covered by the approved AFHM plan. For assisted rental housing, AFHM requirements apply throughout the term of the loan and regulatory agreements, including those periods when the project does not maintain occupancy. Assisted housing developments must comply with current City Affirmative Fair Housing Marketing requirements, not the policies in effect when the regulatory agreement was executed. Owners are responsible for researching and implementing the City's current requirements.

#### **X. Assessment of Success and Corrective Actions**

1. The City will review records maintained by owners to ensure that affirmative fair marketing requirements are being met. Where the characteristics of applicants are significantly different from the make-up of the City's population (i.e., in cases where specific groups are over-represented or under-represented), the City will examine in more detail the owner's actions to determine if a violation of the requirements has occurred.
2. The City may employ a variety of corrective actions. Initially, owners who have not fully complied with the requirements will be directed to engage in targeted marketing efforts to reach groups not initially reached. In cases where owners refuse to comply with the affirmative fair marketing procedures, the City may take additional actions to secure performance under the loan agreement or regulatory agreement, including declaring the loan in default and recapturing the funds.

#### ***Attachments***

Attachment A: Additional Resources Available from the City of Oakland

Attachment B: Sample Advertisement/Listing

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## **Attachment A**

### **Additional Resources Available from the City of Oakland**

- List of local disability organizations (available from CDBG Program)
  - List of local HUD-approved housing counseling organizations, if applicable (available from Homeownership Program)
  - List of City-trained loan consultants, if applicable (available from Homeownership Program)
  - List of City-trained real estate professionals, if applicable (available from Homeownership Program)
  - Sample Notice of Housing Availability
  - Housing Logos and Slogans
    - Accessibility for Persons with Disabilities Logo and Slogan
    - Equal Housing Opportunity Logo and Slogan
  - Reasonable Accommodation Sample Notice and Forms
    - Sample Notice of Right of Reasonable Accommodation
    - Sample Request for a Reasonable Accommodation Form
    - Sample Unit Transfer Request Form
    - Sample Verification of Need for a Reasonable Accommodation Form
    - Sample Response to a Request for Reasonable Accommodation Form
  - Legal Considerations During Screening and Intake
  - Operation and Management of Housing
  - City of Oakland Race and Ethnic Data Intake Form and Instructions
  - HUD-27061 “Race and Ethnic Data Reporting Form” and Instructions
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## **Attachment B**

### **Sample Advertisement**

*(Project name)*, an affordable housing development in Oakland has *(studio, 1, 2, 3, and/or 4)* bedroom apartments available at reduced rents for qualified low income households. Applicants with disabilities are encouraged to apply. Income and other restrictions apply. *(Section 8 welcome)* Equal Opportunity Housing Provider.

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