

Affirmatively Furthering Equal Housing Opportunity

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INTRODUCTION

What is housing discrimination and how does it affect the health and vitality of American communities?

Simply stated, housing discrimination is the denial of equal opportunity in the rental, purchase, financing and insuring of dwellings to home seekers because of their race, color, religion, national origin, gender, familial status or handicap.

Home sellers, landlords, Realtors, lenders, appraisers and any "person" whose business involves making housing available to the general public may perpetrate housing discrimination. City, county, state and federal government officials, including zoning commissions and public housing authorities, may also perpetrate housing discrimination.

When motivated by racial considerations, which has so often been the case, it can lead to the complete disinvestment and abandonment of urban communities. The national crisis we are currently experiencing in our inner cities is a direct product of our failure to effectively confront this problem.

The history of housing discrimination would be too complex and unwieldy for the purposes of this handbook, but its singular motivation may be summed up in just one word; PROFIT- profit for real estate brokers and developers who "blockbusting" urban neighborhoods to induce panic selling and white flight on one end, and benefit from the resultant suburban sprawl on the other. Profit for lenders and hazard insurers whose redlining policies enable them to reap the bounty of more 'stable' security interests in newly constructed housing. Profit for cities and states that divert billions of federal dollars away from their intended low-income beneficiaries to pet projects and political cronies. Housing discrimination is profitable indeed, but its costs have become frighteningly prohibitive. Moreover, the all too tragic reality is that, for more than a century, it has been illegal.

Fair Housing Act and Related Regulations

The United States Congress originally enacted legislation prohibiting housing discrimination based on race in the decade following the Civil War. Racial hostility, and a Supreme Court still dominated by a Dred Scott majority, nevertheless imposed legal apartheid upon every significant aspect of American life. By the year 1954 and the Warren Supreme Court's historic *Brown v Board of Education* decision officially dismantling this dual system, irreversible damage had already been wrought; Middle class whites were fleeing from the cities to newly developed suburbs at a record pace, trapping black Americans of all income levels in the inner cities.

The foundation for the enactment of a stronger fair housing law was to be laid by this century's most charismatic civil rights leader, but it would require his martyrdom before Congress would finally pass it. Thus, it was on April 11, 1968, a mere seven days following the assassination of the Reverend Dr. Martin Luther King, Jr., that Congress passed the Fair Housing Act of 1968. The bill had been pending for almost two years, however, in reverence to the slain civil rights leader's fair housing crusades, Congress acted in one week.

According to Senator Walter Mondale, the bill's co-sponsor, the purpose of the law was to "replace urban ghettos with integrated living patterns". The Fair Housing Act of 1968 prohibited discrimination, whether intentional or in effect, in the rental, sale, financing and appraising of housing based on race, color, religion, or national origin. Gender was added as a part of the Housing and Community Development Act of 1974. The act not only spawned a plethora of court cases expanding the law's coverage; it generated a national fair housing movement orchestrated by private fair housing groups and cities and states, who almost immediately scurried to enact legislation mirroring the federal statute.

As federal aid to cities and states for community development increased, and a burgeoning black middle class began seeking suburban housing, the pressures on an inadequate federal fair housing law became overwhelming. The 1968 law had omitted families with children and the disabled from its coverage, and its lack of an administrative enforcement mechanism was overburdening the federal courts with fair housing litigants. Additionally, the Secretary of HUD and several cities had already been successfully sued for their failure to allocate federal housing funds in conformity with fair housing requirements. Finally, housing discrimination persisted.

In 1988, the 100th Congress articulated the following findings:

"Twenty years after the passage of the Fair Housing Act, discrimination and segregation in housing continue to be pervasive. The Department of Housing and Urban Development estimates that 2 million instances of housing discrimination occur each year. In the most recent national study of housing discrimination, HUD concluded that a black person who visits 4 agents can expect to encounter at least one instance of discrimination 72 percent of the time for rentals and 48 percent of the time for sales." (1986 U.S. Code Cong. & Admin. New, pg. 2176.)

President Ronald Reagan signed the Fair Housing Amendments Act of 1988 in April 1988. The Fair Housing Amendments Act greatly expanded the Act by adding familial status and handicap as protected classes, creating a comprehensive administrative enforcement mechanism presided over by administrative law judges, and increased damage awards payable to victims of housing discrimination. Notably, the Act also narrowly defined the obligations of cities and states that receive federal housing funds for community development and low income housing - an area of the 1968 Act's coverage that had generated much confusion and fractious litigation.

Affirmatively Furthering Fair Housing

Prior to 1988, political subdivisions receiving federal housing funds, (i.e., Community Development Block Grants, HOME, ESG, etc.) were generally required by statute to devote the majority of their expenditures to the benefit of low-moderate and lower income residents.

As a further condition for the receipt of these funds, entitlement jurisdictions, as they are called, must certify to HUD that they will "affirmatively further fair housing" in all programs administered with the money. As previously stated, HUD's failure to define what it meant to "affirmatively further fair housing" created an escape clause for many jurisdictions intent upon avoiding their responsibilities under the program.

The Housing and Community Development Act of 1974 and its amendments was a "clear expression" of Congress' intent to devote the resources of the federal government to the "elimination of slums and blight" and to enable low income persons to purchase a home. Many states and cities however, especially in the South, merely viewed these programs as political bonanzas for the well to do.

Consequently, on September 6, 1988, HUD issued new regulations requiring all entitlement jurisdictions to maintain records documenting:

"...the actions the recipient has carried out with its housing and community development and other resources to remedy or ameliorate any conditions limited fair housing choice in the recipient' community. such as the development of a fair housing analysis of impediments, described in 570.904(c). 24 CFR 570.506(g)."

The section to which the above paragraph refers, 570.904© reads:

"...the Department [HUD] will consider that a recipient has taken such actions in accordance with its certification if the recipient meets the following review criteria; (1) The recipient has conducted an analysis to determine the impediments to fair housing choice in its housing and community development program and activities. The term "fair housing choice" means the ability of persons regardless of race, color, religion, sex, handicap, familial status or national origin, of similar income levels 'to have available to them the same housing choices. This analysis shall include a review for impediments to fair housing choice in the following areas; (I) The sale or rental of dwellings; (ii) The provision of housing brokerage services; (iii) The provision of financing assistance for dwellings; (iv) Public policies and actions affecting the removal of sites and other building requirements used in the approval process for the construction of publicly assisted housing; (v) The administrative policies concerning community development and housing activities, such as urban homesteading, multifamily rehabilitation, and activities causing displacement, which affect opportunities of minority housing-holds to select housing inside or outside areas of minority concentrations,..."

Notwithstanding the above clear and unequivocal conditions for the receipt of federal housing funds, few jurisdictions ever performed the required analysis, and HUD took virtually no action to enforce compliance with the express wishes of Congress: Several billions of dollars and three years later, Congress again ordered HUD to enforce the fair housing requirements by rule consolidating the CDBG, HOME ESO and HOPWA programs. Stating that it needed "to assure some minimal requirements for compliance with the statutory required certification that a jurisdiction is affirmatively furthering fair housing" Congress mandated, in the January 5, 1994 Federal Register at page 1895 "that each jurisdiction is expected to have conducted its first analysis of impediments no later than 12 months following February 6, 1995."

HISTORICAL PERSPECTIVE OF FAIR HOUSING

Brief Overview of Fair Housing History

The birth of this country began in 1776, when the 13 colonies declared their independence from England and stated,

"We hold these truths to be self-evident that all men are created equal that they are endowed by their Creator with certain inalienable rights, that among these are Life, Liberty and the pursuit of Happiness."

In addition, these same 13 colonies cemented the protected rights of individuals by ratifying the United States Constitution and the Bill of Rights.

However, despite all these declarations of independence and sovereign rights of men, none of them applied to African-Americans. African-Americans were seen as personal property and not as whole persons (originally Article 1, Section 2 of the Constitution, counted African-Americans as 3/5 of a person).

In addition these views were echoed by the Supreme Court, which said that African-Americans "had no rights or privileges, but such as those who held the power and the government might choose to grant them" which further supported the stance that African-Americans "had no rights which the white man was bound to respect."

In the post-Civil War era, African-Americans did make some gains via Lincoln's Emancipation Proclamation, which was only a proclamation, and via the Antislavery amendment of the Constitution, the 13th Amendment. However, southern states attempted to counteract these gains by passing laws called *Black Codes* to re-impose "harsh constraints" on African-Americans.

To deal with the problem of the Black Code laws, the Congress passed the Civil Rights Act of 1866 which gave all citizens the same rights as white people to inherit, purchase and sell real and personal property. However, racism still permeated the society as the Supreme Court held that the protection of 1866 only applied to state or public actions and not private acts of discrimination. Thus, individual property owners could still deny housing and land to African-Americans.

As time passed, cities across the country remained segregated, increasing the number of ghettos throughout the land. Cities even passed discriminatory zoning codes to keep the races separate. However, in 1917 in *Buchanan v. Warley*, the Supreme Court ruled discriminatory zoning to be unconstitutional and in 1948, ruled that states could not enforce restrictive covenants by ruling them to be illegal.

The civil rights and fair housing movement had a boost in 1954, when the Supreme Court, in *Brown Vs. Board Of Education* struck down the "separate but equal" doctrine that had been the "legal" basis for racial segregation. Subsequently, two federal courts ruled that government enforced segregation in public housing was unconstitutional. This resulted in many states enacting fair housing legislation. By 1961, 17 states had taken steps to outlaw discrimination in both private and public housing.

President John F. Kennedy; in 1961, received a recommendation from the U.S. Commission on Civil Rights to issue an order to prohibit housing discrimination against African-Americans in particular, in all programs involving federally financially assisted housing, etc.

Two issues faced the Kennedy Administration. The first was whether he had the authority as President to authorize such an order. The second was whether the President had the authority to make the order retroactive.

Kennedy dealt with the first by stating the Constitution gave the executive branch the authority to make such an order. He dealt with the second by giving the responsibility to the House and Home Finance Agency (now known as the U. S. Department of Housing and Urban Development).

In the 1960's the primary supporters of fair housing were church and labor groups. However, there were many facets of opposition such as the housing industry, lending institutions, governments and the real estate industry that provided the most organized opposition.

The real estate industry believed that all citizens had a basic right to dispose of their property according to their own wishes. In addition, most opponents felt that fair housing laws violated basic property rights. However, the courts ruled that property rights were not absolute.

Things appeared to brighten in July of 1964, when President Lyndon B. Johnson signed into law, The Civil Rights Act of 1964, which declared that as a country, discrimination based on race, color or origin would not be tolerated in housing, voting rights, etc. As the United States moved to build a civil rights law, which specifically prohibited housing discrimination, and improved the lives of millions of African-Americans, opponents such as Senator Sam Ervin argued that such a law was "an attempt to destroy the basic rights of all races." In reality, fair housing advocates only wanted a law that would allow people to buy any house they could afford to buy which would require all sellers, landlords and housing agents to treat all prospective buyers or renters equally, despite race.

Finally on April 22, 1968, a short time after Rev. Martin Luther King's death, President Lyndon B. Johnson signed into law the Fair Housing Act of 1968, (Title VIII). Though the law was the strongest law to date, it did very little to punish those who committed acts of discrimination, as victims could only receive remedies of injunctive relief, actual damages, and a maximum of \$1,000 in punitive damages.

From 1968 to 1980, the federal government was passive in enforcing Title VIII, as only 306 suits were brought to the Department of Justice. In addition, no cases were filed during the initial years of the Reagan Administration, and in 1987, a year before the Fair Housing Amendment Act of 1988, only 17 cases were fled.

Sensing the need for a fair housing law with teeth, in 1980, Rep. Hamilton Fish, Jr. and Don Edwards introduced H.R. 5200 the Fair Housing Amendment Act of 1980. This bill provided an improved administrative enforcement mechanism and added handicapped persons as a protected citizens: This bill that received much opposition from the Reagan Administration was passed by the U. S. House of Representatives, but not by the Senate.

Not to be stopped in their goal to get a stronger national fair housing law, Rep. Fish and Edwards, on February 9, 1987, introduced H.R. 1158, which was similar to their original bill, H.R. 5200. In addition fair housing advocates in the Senate, Edward Kennedy and Arlen Specter introduced an identical bill, S. 558.

After much debate over H.R. 1158 regarding the new classes of familial and handicap status and the constitutionality of the administrative enforcement process, on June 29, 1988, it passed the House and on August 2, 1988 it passed the Senate. Finally, on September 12, 1988, President Ronald Reagan signed H.R. 1158 into the law known as the Fair Housing Amendment Act of 1988:

Despite the purpose of the Fair Housing Amendment Act of 1988, millions of people throughout the country are still subjected to discrimination because of fears, stereotypes and prejudice. However, the Act has given fair housing advocates a tool to use in eradicating housing discrimination.

HISTORY OF FAIR HOUSING AS A CIVIL RIGHT IN THE STATE OF OHIO

Ohio has had a long and complicated history of the issues involved with Fair Housing, even though its own effective Fair Housing statutes are of recent origin. It is important to understand the background to the issues in order to appreciate the need for these laws and their enforcement.

A review of the last 200 years of Ohio history suggests the following themes which impact on civil rights related to housing again and again, and are more prominent perhaps than in some other states:

- 1) Ohio as a setting of great heterogeneity and human change, in which many groups have found it necessary to jostle and vie with each other for opportunities and rights. The state has more large- and medium-sized urban areas than most, yet also celebrates small town life; it is a major Midwest farm state and also part of the Great Lakes and Appalachia; its commerce, education and industry have attracted sizeable numbers from nearly every conceivable ethnic and racial group; and with each generation someone new has come seeking a better life here. Issues of intergroup relations naturally come to the fore in such a setting and state.
- 2) Ohio as a border state, in which sectionalism of the Civil War-type produced varieties of White responses to African-Americans from one part of the state to another. This heritage also reinforced the problems African-Americans encountered during and after industrialization vs. other "ethnic" immigrants to the state, when Black Ohioans could not escape the "badge of color" in social and economic relationships. The legacy of rejection from these encounters is manifest in the experiences of Black Ohioans seeking housing justice in neighborhoods and suburbs.
- 3) Ohio's economy as a vital, yet periodically troubled, engine of prosperity whose operation has sometimes excluded African-Americans and other disadvantaged groups from full enjoyment of its benefits. Native African-Americans found that capitalist-led industrialization favored European immigrant labor or pitted the two groups against each other, fostering conflict rather than class solidarity. While White Ohioans used government subsidies to move to the suburbs in increasing numbers, Black Ohioans found themselves largely locked into central cities with aging housing and declining tax bases. The housing industry has played an active role in enforcing segregation and in opposing fair housing laws during most of this century. When other groups-such as people with disabilities and families with children-fought to broaden the fair housing laws during the 1970's and 1980's, some industry groups opposed any expansion of the fair housing laws to include other protected classes or, more subtly, tried to weaken the law by pushing for broad exemptions, limited remedies, and ineffective enforcement mechanisms.
- 4) Ohioans as a citizenry who elect leaders and approve Constitutions which have generally been less prompt and less progressive on civil rights than those of the Federal government or many other Northern states. This failure of public leadership (not limited, to be sure, to the field of civil rights) creates a vacuum, which has been entered, from time to time, by economic and social interest groups. Their advocacy of or opposition to civil rights deserves a prominent place in Ohio's history, and has shaped the tortuous yet highly exciting progress Ohio has made toward equitable housing laws.

The focus in this historical essay is on housing and other civil rights with regard to race, the principal Fair Housing issue in Ohio. Housing rights pertaining to other protected classes will deserve increasing attention in coming years.

Ohio before the First World War

In all likelihood, Ohioans have battled each other over place of residence for as long as the land has been inhabited. In the period before European settlement, other tribes decimated the Erie tribe of Native Americans. The French and British, and then the British and Americans, fought each other over who would control access to the Great Lakes and the Ohio Valley. During and after the Revolutionary War, frontiersmen or troops engaged Ohio Indians in the Battles of Piqua, the Sandusky, Fallen Timbers and elsewhere, as well as perpetrating the massacre at Gnadenhutzen. The objective was to drive the Indians farther West and so

secure the frontier for settlement by White yeoman farmers coming from the East Coast. The belief was that co-existence between the two groups was impossible.

The longest-running civil rights issues in Ohio have concerned African-Americans. This is despite the fact that during most of the Eighteenth and Nineteenth Centuries, the total number of Blacks living in Ohio was relatively small. At the time of statehood, there were only 337 Blacks in the Northwest Territory. On the eve of the Civil War, in 1860, "Ohio was home to just 36,700 Blacks, slightly more than two percent of the population." (FN - Knepper pp. 96,205)

The Northwest Ordinance of 1787 adopted by Congress under the Articles of Confederation stipulated that slavery would not be permitted in the Northwest Territory, whose capital was Marietta. Later, the territorial assembly meeting in Cincinnati rejected petitions to set aside this rule, though perhaps more on economic than moral grounds. In 1802, the Ohio Constitutional Convention also confirmed the new state's prohibition of slavery, though only after "hours of struggle to reconcile opposing viewpoints." (FN - Knepper p. 96) However, the Convention failed by one vote to extend the franchise to African-Americans.

Pre-statehood Ohio was actually a crazy quilt of conflicting land claims by various East Coast colonies, later states. Though ceding political claims to these lands, several states retained ownership and distributed large areas to war veterans or sold them to politically connected speculators. Thus, initial settlement in portions of Ohio could be from particular states: New Englanders in the (Connecticut) Western Reserve; Virginians in the Virginia Military District lands and along the Ohio; Marylanders and Pennsylvanians coming overland; others, including Massachusetts families, floating down the Ohio River on flatboats. This sectionalism had enormous political consequences, producing within Ohio the atmosphere and culture of a border state. And since settlement from slave holding states in southern Ohio proceeded more rapidly than New York-New England settlement in northern Ohio, the initial tone of race relations in the state was tilted toward the southern view.

These attitudes eventuated in the "Black Laws" which were state law during much of the Nineteenth Century. Historian George Knepper writes: "From the earliest days of statehood, Ohio Blacks were relegated to an inferior position. While often serving as pawns in political contests, they were denied the vote, deprived of certain basic civil liberties (e.g., they could not serve on juries or testify against Whites), banned from the militia, excluded from some public services such as the 'poor house,' and prevented from sending their children to the public schools." (Knepper - p. 204-5) As Knepper notes, enforcement of these laws varied widely, being lax or impossible in many northern Ohio communities such as Cleveland, especially in the lead-up to the Civil War.

Much of the antipathy stemmed from fears, concentrated in the southern-settlement and Ohio River counties, of an influx of freed or escaped Black slaves. For example, in 1804 the Ohio General Assembly adopted a law "designed to slow Black migration to Ohio. Upon entering the state, a Black had to post bond for \$500... and had to file evidence of his free status with local authorities." (Knepper - p. 205) Knepper writes, however, that: "Even well-disposed Whites perceived Blacks as an inferior race, incapable of developing the full equivalent of White accomplishments and virtue. Ohioans were determined to keep the state 'White Man's Country.'" (p. 205) Presumably it was easier to give lip service to civil rights in areas of the state where few Blacks lived.

The Abolitionist movement from 1830 on struck a responsive chord in various parts of the state, particularly after the inflammatory Fugitive Slave Act of 1850 and Federal court efforts to enforce it. (The Ohio General Assembly actually troubled itself to pass its own law in 1839 directing state officials to apprehend fugitive slaves, but it was in force for only four years.) Mobs in Cleveland, Wellington and elsewhere fought with bounty hunters or police to free escaped slaves who had been caught. The Underground Railroad ferried Blacks from towns such as Ripley, along the Ohio River, north to places like Painesville and Ashtabula where they were hidden in church Steeples and basements and smuggled aboard ships to Canada. Elsewhere, German freethinkers immigrating to Cincinnati gave open sympathy to African-American aspirations. Oberlin College was a center of abolitionist proselytizing. John Brown and Harriet Beecher Stowe were other Ohioans playing catalytic roles in the national movement. Although some Blacks did settle in urban and rural Ohio at this time, the emphasis was on helping those who were passing through.

The Civil War found Ohio politically divided. On the one hand, Ohioans voted strongly for President Lincoln and made one of the largest contributions of men and material to the Union war effort. On the other hand, public disaffection with the war found a charismatic spokesman in Congressman Clement Vallandigham of Dayton, a Confederate sympathizer and “Copperhead” Democrat who made a vigorous run for the governorship in 1863 even after being jailed and exiled as a security risk. In any event, the Civil War became more an issue of which White leaders would govern than of how it would help Black Americans.

Both before and after the Civil War, Ohioans held Constitutional Conventions that addressed civil rights issues. The Constitution adopted in 1851 denied the vote to both Blacks and women. The proposed Constitution of 1874 would have granted limited suffrage to women, but was defeated by popular vote. An amendment framed at the 1912 convention to give the vote to women was also defeated at the polls. Interestingly, the 1912 convention proposed another amendment to eliminate the word “White” from the Constitution as regarded voting rights. The voters rejected this also, even though Blacks had been voting in Ohio elections since 1870 by virtue of the Fifteenth Amendment to the U.S. Constitution. It took until 1923 for Ohio “to delete color as a voting criterion from its state constitution.” (Knepper p. 335)

This grass roots activism sense of 19th century justice carried over to the political life of the state of Ohio. The election of John P. Green, a black, as state senator from Greater Cleveland, suggested to Ohio that the vision of a multi-racial society could be realized in Ohio. This post-Civil War open attitude peaked in 1884 with the Legislature enacting anti-bias legislation. This legislation was aimed at ending the “black codes” that prohibited blacks from taking advantage of public facilities. Specifically the legislation made it a misdemeanor “to refuse to grant to all citizens... regardless of race the full enjoyment of accommodations, advantages, facilities and privileges of such public places as inns, restaurants, theaters, barber shops.” This legislation placed Ohio in a leadership role in combating racial discrimination.

As a result of the Civil War, Ohio’s cities began an intense period of industrialization and population growth. While significant numbers of African-Americans lived in Cincinnati, Columbus, and some other towns, for the most part the industrial work force was staffed by Whites migrating from Ohio’s farms and immigrating from overseas. To the pre-war ranks of the Irish and German Immigrants, the post-war period added much greater diversity from groups little seen before in American: Italians, Slovenians, Croatians, Poles, Lithuanians, Slovaks, and others. Sizeable numbers of Jewish and Eastern Orthodox religious adherents were added to the mix of what had been Protestant and Catholic Christian communities. Southern and Eastern Europeans were particularly prominent in the Mahoning Valley and in Cleveland. Toledo included these groups and also Mesopotamian Chaldeans spilling over from Detroit. During this period, Ohio received little immigration from Asia, Latin America, or directly from Africa.

Most of the newcomers spoke no English and many had few skills. They were not especially more qualified for industrial work than Southern or Ohio Blacks; but for the most part employers preferred to recruit overseas than in their own back yard, until the First World War necessitated a change. Employers did use Blacks from time to time as strikebreakers, to keep the threat of organized labor at bay. This manipulated role did not nurture good race relations among African-Americans and their working class brethren of other ethnic origins.

The European immigrants initially tended to concentrate in particular neighborhoods, especially those with the least expensive housing, close to commercial centers or industrial plants, or in places where an ethnic religious parish could be organized. For example, in Cincinnati, the Over the Rhine district was a center of German settlement and culture. In Cleveland, the Central district southeast of the main market became home to many Italian and Jewish immigrants. Yet it was unusual for one White ethnic group to comprise more than 50 percent of a neighborhood. Blacks also resided in the Central district, and in many other neighborhoods of Cleveland. Prior to the First World War, patterns of residence were much more racially heterogeneous there, and perhaps in other Ohio cities, than they were to become following the Great Migration and the response of Ohio’s housing industry and communities to it.

From the First World War to the 1960's

Coinciding with the First World War were several developments that set in motion great changes in race relations in Ohio cities and elsewhere in America. The presence of the first Southerner in the White House since Civil War days brought a chill to the Federal government's role in race relations. The War abruptly cut off the flow of new European immigrant labor to American factories precisely at the same time that it increased demand for American products. Employers were forced to look at domestic labor markets to fill their wartime needs. Meanwhile, the ravages of the boll weevil on the Southern cotton crop and the oppressive regime following the end

of Reconstruction in the South caused many African-Americans to be receptive to recruiters. The Great Migration pushed or pulled millions of Blacks from the South to the North over the next fifty years.

Cleveland's experience was not atypical of northern industrial centers. Between 1910 and 1920, its Black population quadrupled, from 8,448 to 34,451. By 1930 the Black population doubled again, to 71,899. Blacks comprised 1.5 percent of the city's population in 1910 and 8.0 percent in 1930. (FN-Kenneth Kusmer, p. 10) An even larger migration North occurred during and immediately after the Second World War. By 1960, more than a quarter of a million Blacks lived in Cleveland.

In contrast to the previous period of history, African-Americans were becoming a significant population group in Ohio. But as they became more numerous, in Cleveland and other Ohio cities, White citizens and community social and economic institutions responded to the perceived threat. One of the more dramatically chilling responses was the emergence of the Ku Klux Klan as an organized social and political force in some parts of the state during the 1920's. However, it is certain that racist policies and practices of economic, social, and governmental institutions have had more lasting and far-reaching consequences on civil rights and especially housing rights in Ohio. Institutionalized patterns of racial discrimination enforced by government regulation or professional associations replaced looser, more sporadic instances of social bias. The mold from which urban Ohio's race relations have come for the last seventy-five years was cast at this time. A pattern of expectations for Blacks and Whites was put into place and has proved extremely durable.

In housing, real estate companies encouraged the use of restrictive covenants to bar African-Americans, and sometimes other groups, from the purchase of property in many areas. Developers of one exclusive Cleveland suburb specified that no Blacks, even those professionals who could well afford to, would reside therein. In another suburb, a neighborhood association developed a more sweeping restrictive covenant, curiously omitting Blacks (perhaps an oversight) but naming Jews and many Southern and Eastern European ethnic groups. Usually, however, as the European ethnics became "Americanized" and more economically prosperous, their money was welcomed in the real estate market; but no so for Blacks. Restrictive covenants were ruled legally unenforceable by the U.S. Supreme Court in *Shelley v. Kramer (1948)* but continued to be observed by many sellers and agents for long afterward.

The Federal government explicitly supported racial exclusion in its FHA and VA mortgage loan insurance programs for many years. FHA manuals spoke of the need to avoid introduction of "inharmonious racial groups" into all-White neighborhoods. Public housing projects built during the Great Depression were originally racially segregated by policy, with separate projects for Blacks and Whites. When the Federal government subsidized White America's move to the suburbs after the Second World War by providing low interest home loans and convenient superhighways, Black America was relegated to the older inner city housing being vacated by Whites.

Excluded now from most neighborhoods by institutional design or by acts of individual hostility and violence, African-Americans "piled up" in the few areas open to them. Population densities in the ghetto increased as families doubled up or as large houses were cut up into many substandard "kitchenette" apartments. With demand high and supply limited, rents or prices could be higher for the same quality than in nearby White areas. Thus, there was a strong economic incentive for some real estate agents to engage in "panic peddling" or "block-busting" in targeted, usually adjacent White neighborhoods. The Lee-Harvard area of Southeast Cleveland provided many classic examples of these practices ca. 1960, with agents facilitating the move of a single Negro purchaser to a block, followed by blanketing the area with phone calls and leaflets

offering to buy from edgy homeowners “before it’s too late” though also probably at less than the homes were really worth. The agent could make a profit twice, selling the departing White family a new home in some suburb, and selling their old home to an eager Black family at a considerable mark-up. Banks, savings and loan associations, and insurers typically supported the practices by refusing loans to Blacks except in the ghetto or in “changing neighborhoods.” The flip side of these practices was that White buyers would typically be “steered” away from such areas by the realty companies and lenders. All this was legal.

Excluded as well from the White real estate trade associations and from working in many community institutions such as hospitals, banks, department stores, law firms, and churches, Ohio Blacks made their own response. They developed a strong set of parallel economic and social institutions within the ghetto. Chapters of the NAACP and the Urban League were established in many Ohio cities. To this day, the Cleveland area has two real estate bodies: the Cleveland Area Board of Realtors (CABOR-now with multi-racial membership); and the Cleveland Association of Real Estate Brokers (CAREB-a mainly Black trade association). The resources available to the ghetto institutions, however, were in no way comparable to those existing in the community at large.

Federal efforts in the late 40’s laid out impressive goals such as decent and safe housing for all Americans under the Housing Act of 1949. But, in reality, urban renewal became a program of “Negro removal” from center cities throughout America. When the Brown decision was reached in 1954, as a practical matter, legally segregated schools had fallen. However, twenty years after the Brown decision, the *Milliken v. Bradley* case would in effect draw the boundary line for school desegregation at suburban boundaries, and with few exceptions would keep the white suburbs removed from school desegregation orders.

Politically, African-Americans were represented on big-city councils and school boards and had elected a few members of the Ohio General Assembly and the lower judiciary. However, there was no Black mayors in cities of any size, no Black statewide elected officials, and no Black representatives in the U.S. Congress from Ohio. The U.S. Supreme Court’s ruling in *Brown v. Board of Education (1954)* was of interest but did not yet have direct relevance to public education in Ohio. While Ohio Blacks had grown in numbers in the past five decades, they had a limited voice and little real power in public life.

Changes in the 1960’s and Since

Numbers combined with effective Black leadership in Ohio and the U.S. to create many civil rights breakthroughs in law during the turbulent decade of the 1960’s. A more receptive public stance to civil rights, whether from positive or fearful motives, helped facilitate this progress. Because of Ohio’s special nature, many of these initiatives have taken longer to implement effectively than in other Northern states. In many ways, we are still waiting for these initiatives to supplant Ohio’s legacy of racial discrimination. In the meantime, new battles have arisen over newly prohibited types of unlawful discrimination, notably discrimination against persons with disabilities and families with children.

On the eve of the decade, in 1959, the Ohio General Assembly passed legislation prohibiting discrimination in employment and establishing the Ohio Civil Rights Commission. This legislation clearly made enforcement of anti-bias laws a state responsibility, although adequate funding of the work would not always be forthcoming. However, a vehicle had been created which could be brought forward to carry the issue of housing rights. Fair housing in Ohio received a boost when a young representative, Carl B. Stokes, in 1965 pushed through Fair Housing legislation in the Ohio Legislature three years before fair housing legislation became a reality in Washington, D.C. Unfortunately, the state of Ohio did not have an effective Fair Housing law for a number of years after the *Lysyj* decision of 1974 (38 O.S.2d 217, 380.0.2d 287). This Ohio Supreme Court decision pulled the teeth out of the state Fair Housing Act, and it was not until Vernon Sykes (D-Akron) introduced H.B. 5, a state Fair Housing Law, with the support of a Democratic governor, Richard F. Celeste. Ohio had a Fair Housing Law in June 1987. In August of 1988, the Federal Fair Housing Law was amended to substantially increase the power of the Department of Housing and Urban Development to seek relief for individual claims of housing discrimination. Other amendments broadened the number of protected classes to include families with children, as well as a broad definition of handicapped.

Judith Y. Brachman, Assistant Secretary for Fair Housing and Equal Opportunity in the Reagan

Administration, grandfathered the Ohio law into substantial equivalency in 1989, a goal that had eluded the state since 1965. Vernon Sykes again led the charge to enact a substantially equivalent Fair Housing law and after an incredible effort the law was passed by the Ohio legislature and signed by Governor George Voinovich in June 1992. The Ohio Civil Rights Commission issued rules in the fall of 1992, and the state of Ohio began processing Ohio Fair Housing discrimination cases in November of 1992. Meanwhile, voters during the 1970's and 1980's continued to reject amending the Ohio Constitution to permit the issuance of mortgage revenue bonds for housing. It was not until multi-family housing was removed and voters' anxiety over low-income minority housing was reduced that the issue passed in November of 1982. The Ohio Housing Finance agency was created in June of 1983 and was in political reality a wholly owned subsidiary of the Ohio Association of Realtors.

It was not until a torrent of public criticism was launched against the Agency by very active private non-profit private fair housing agencies around the state—including Housing Opportunities Made Equal in Cincinnati, the Akron Fair Housing Contact Service, Toledo Fair Housing Center, and Metropolitan Strategy Group/Cuyahoga

Plan of Ohio—that the Housing Finance Agency reluctantly adopted fair housing policies and recognized the exclusion of minorities from the mortgage revenue bond program.

Meanwhile, the political power of African-Americans has expanded during the decade of the nineties. During the early nineties, Congressman Louis Stokes, representing Greater Cleveland, became one of the most powerful members of Congress. A mayoral runoff in Cleveland in 1989 featured two African-Americans, Michael R. White and George L. Forbes. Mayor White later easily won reelection. However, despite political and civil rights advances, much work remained to be in assuring equal rights for African-Americans and other racial minorities. And the battle to assure equal access to housing and other civil rights to other disadvantaged groups—such as people with disabilities and families with children—is at an early stage.

New Directions in Fair Housing Law and Advocacy

Until the enactment of the federal Fair Housing Amendments Act (FHAA) of 1988, both the Ohio and federal fair housing laws primarily protected racial and ethnic minorities against housing discrimination. The FHAA was enacted with two purposes: (1) to strengthen the administrative enforcement provisions of Title VIII; and (2) to extend the protection of Title VIII to additional individuals by including handicap and familial status as prohibited bases for discrimination.¹

Congress' intent for the Fair Housing Act in general, and the 1988 amendments in particular, is to assure all Americans equal access to adequate housing and an equal opportunity to obtain housing of their choice.² By amending the Fair Housing Act to prohibit familial status and handicap discrimination, Congress both expanded the scope of the fair housing law and made the law more relevant to persons residing in racially homogenous rural areas of Ohio. Since relatively few African-Americans or other racial minorities live in rural areas of Ohio, the fair housing laws had little impact on those areas until the enactment of the FHAA in 1988 and the subsequent enactment of "substantially equivalent" Ohio legislation in 1992. Since 1992, housing discrimination charges based on familial status or handicap have risen sharply.

By enacting the prohibition against familial status discrimination, Congress intended to enhance the civil rights of families with children and to assure the availability of affordable housing to families with children, including larger families and low-income families. During the Senate debate of the FHAA, Senator Frank Lautenberg eloquently argued in favor of the familial status prohibitions on the grounds of fairness: ³

¹ See, generally, Preamble to Final Rule Implementing the Fair Housing Amendments Act of 1988, originally appearing at 54 Fed. Reg. 3232, *et seq.* (Monday, January 23, 1989), now codified at 24 C.F.R. Ch.1, Subch. A, App. 1.

² See, generally, Congressional Record of Senate Proceedings of February 3, 1986, remarks of Senator Mathias, page S 849; Congressional Record of Senate Proceedings of August 2, 1986, remarks of Senator Weicker, page S 10551.

³ Congressional Record of Senate Proceedings for August 2, 1988, page S 10558.

The United States stands for certain principles, which have distinguished our country. Among the most important of these is an absolute commitment to equal rights under the law. Protection against discrimination is the hallmark of our civil rights laws. Congress has made it illegal to discriminate against people in several fundamental aspects of life. Few things are as basic as shelter. The Fair Housing Act of 1968 was passed to assure equal access to housing....

Discrimination takes many faces, some more subtle than others...[as to familial status, the] issue is whether a family can live in a decent place of their own choosing or whether it is forced to live where others want them to...[t]his country needs to give more than lip service to its principles. The strength of this country is in the promise of equal opportunity for all. Surely, the right of equal access to housing is part of that promise.

This conclusion was echoed by Senator Edward Kennedy, Senate manager of the bill and an original co-sponsor:⁴

We have also taken note of increasing discrimination in our society against families. It is difficult to believe, but it has been increasingly so, particularly families with small children.

We have tolerated separate, but not equal housing for too long. We have tolerated a situation in which families with children have had second-class status. Now they, too, will benefit from the promise and reality of a fair opportunity to obtain adequate housing.

During the 1986 Senate floor discussion on the FHAA, Senator Mathias noted numerous reports by state and local human services agencies from coast-to-coast indicating that more and more families were being “forced to double up, slit up, or go homeless” because they were denied fair and equal access to quality housing.⁵ Senator Mathias cited a contemporary Washington Times news article and a 1980 HUD study concluding that 25 percent of all rental housing in the United States was completely unavailable to families, and that an additional 50 percent of the rental stock imposed significant restrictions on either the age or the number of children. Therefore, families with children lacked fair access, partly or completely, to 75 percent of all the rental housing in America. In rental cases, this had resulted in families being evicted from their homes “because they had the temerity to have babies.”⁶

In June 1988, the United States House of Representatives defeated an amendment to the FHAA striking all protections for familial status, as proposed by some House members concerned about preserving the status of elderly housing. At that time, Representative Mike Syner pointed out that the largest and fastest growing segment of America’s homeless population was comprised of the nation’s children; he argued that there was “no more pro-family legislation” which congress could approve than the familial status provisions of the FHAA.⁷ Furthermore, Representative Pat Schroeder argued that the familial status provisions were necessary because of the economics of the private housing market; real discrimination against families with children begins when housing is in short supply, and it starts with denying housing to single mothers with children. It was her experience that whenever the supply of housing was tight, families would be excluded.⁸

Representative Morella argued that since shelter is a basic need, equal access to decent, affordable housing was at the core of American values. Noting that “without decent housing, quality family life is virtually impossible,” Representative Morella stated that since families with children accounted for 30 percent of the nation’s homeless population, retaining familial status protections in the FHAA would be a step toward reducing the increasing number of homeless families. With more households now headed by single mothers, Representative Morella stated that assuring families with children equal access to housing “is more important

4 Id. At S 10561.

5 Congressional Record of Senate Proceedings of February 3, 1986, page S 849.

6 Id.

7 Congressional Record of Housing Proceedings on June 23, 1988, pages H 4680-81.

8 Id. At H 4683.

than ever.”⁹

Finally, Representative Dellums strongly urged retention of the familial status provisions, noting that “[m]any studies have shown that discrimination against children results in children too often living in substandard and overcrowded housing and contributes to the growing crisis of homelessness among families with children.” Moreover, Representative Dellums observed that adult-only housing “tends to be located in newer development areas which are predominately white areas” and that the “net result of such policies is to force minority households with children into existing ghettos, thus reinforcing racially segregated housing.”

Ohio, like the nation, has a serious affordable housing shortage, which is exacerbated by housing discrimination against families with children. In October 1998, the Coalition on Homelessness and Housing in Ohio (COHHIO) released its study, “Out of Reach: Rental Housing at What Cost?” This study analyzed the problems renters face in the private rental market in Ohio. This study found that significant numbers of renters paid burdensome percentages of their incomes in rent:

- 37 percent of all Ohio renters are unable to afford rent for a two-bedroom unit. “Unable to afford” is defined as those renters who must pay more than 30 percent of their incomes for rent.
- In all 17 of Ohio’s metropolitan areas, low-income renters must pay more than one-third of their incomes for a two-bedroom unit.
- In all 39 counties analyzed, low-income renters must pay more than one-third of their incomes for a two-bedroom unit.
- In all of 17 of Ohio’s metropolitan areas and all of Ohio’s 39 counties analyzed, renters who earn minimum wage would have to work between 60 and 81 hours per week to afford a two-bedroom unit. This does not take into consideration additional living expenses such as utilities, childcare, food and other necessities.

Nor is this problem of affordable housing for families with children limited to urban areas. The COHHIO study included many rural counties, including economically distressed counties such as Belmont, Brown, Lawrence, and Washington Counties. In none of the rural counties could low-income renters afford to pay the fair market rent for a two-bedroom unit under the “30 percent of income” test.

In addition to familial status, the 1988 amendments to the Fair Housing Act extended the protections of the Act to discrimination because of handicap. The FHAA had three broad purposes in relation to people with disabilities:

- to end segregation of the housing available to people who have disabilities;
- to give people with disabilities greater opportunity to choose where they want to live; and
- to assure that reasonable accommodations be made to the individual needs of people with disabilities in securing and using housing.

The intent of Congress is clear from the House Report:

The Fair Housing Amendments Act, like Section 504 of the Rehabilitation Act of 1973, as amended, is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion.

⁹ Id. At H 4684.

The disability rights movement played a major role in securing the Congressional passage of the disability provisions in the FHAA. Perhaps 43 million Americans (nearly 17 percent of the population) have some form of disability. People with disabilities have long been fragmented by types of disabilities, and each disability has its own advocacy group. However, “disability rights” as a concept cuts across the fragmented fields of associations covering single mental and physical disabilities. The idea of a cross-disability coalition began to take form with the independent living movement in the 1970’s. All 50 states, including Ohio, now have a network of independent living centers. The Disability Rights and Education Fund (DREDF), founded in 1979, became the national legal and lobbying arm of the disability rights movement and assisted in drafting and passing the disability provisions of the FHAA and the Americans with Disabilities Act (ADA). Other, more militant organizations such as ADAPT (started in 1983) carried out demonstrations and civil disobedience to push for full access to housing, employment, public services, public accommodations, and attendant services for independent living.

Additional impetus for the 1988 handicap amendments to the Fair Housing Act came from the 1985 United States Supreme Court decision in City of Cleburne v. Cleburne Living Center.¹¹ In Cleburne, the complaint alleged that the City of Cleburne had violated the plaintiff’s equal protection rights by refusing to grant a special use permit to an organization to establish a group home for mentally handicapped persons. However, the Supreme Court, by its ruling, refused to apply strict scrutiny to discrimination against disabled people. The Cleburne decision convinced advocates for the disabled and sympathetic members of Congress that legislative protections for persons with disabilities were needed.

The FHAA provides broad protections for persons with disabilities. As with race, sex, familial status, etc., the handicap provisions of the FHAA prohibit outright discrimination, such as refusing to rent or sell to individuals or trying to evict them because of a handicap. But the handicap provisions of the FHAA contain three unique categories of unlawful discrimination. The first category is a refusal to allow a reasonable modification of the premises at the request of a person with disabilities. The second category is a refusal by a landlord or other housing provider of an individual’s request for a reasonable accommodation in rules, policies, practices, or services to enable him or her to acquire or enjoy a unit. The third category is a landlord’s or other housing provider’s failure to make certain units of newly constructed multi-family housing (first made available for occupancy on or after March 13, 1991) accessible to disabled persons who are mobility-impaired. These three additional requirements are powerful tools that require landlords and other housing providers to take affirmative steps to ensure that people with disabilities have an equal opportunity to use and enjoy their living environment in the same manner as all members of society.

As relatively new areas of fair housing law, both familial status and handicap discrimination laws continue to evolve through court decisions, HUD rules and policy changes, and new legislation. For example, on December 28, 1995, the President signed into law the Housing for Older Persons Act (HOPA), which broadened the definition of “housing for older persons” that is exempted from the familial status law. On December 22, 1998, HUD promulgated a new policy governing occupancy standards that will allow many landlords and other housing providers to deny housing to families with children by applying a “two persons per bedroom” standard. More recently, State Representative Amy Salerno has introduced, and the Ohio House of Representatives has passed, legislation (HB 264) that substitutes the term “disability” for the term “handicap” in the Ohio antidiscrimination statutes. Another pending bill, HB 338, would require Ohio real estate appraisers initially to complete a course on federal, state, and municipal fair housing law in order to be eligible for certification or licensure as a real estate appraiser.

Moreover, there is a growing awareness that unlawful housing discrimination is pervasive in both urban and rural areas. Historically, civil rights agencies and advocates have concentrated their resources and efforts on eradicating unlawful discrimination in urban areas because of the large population of African-Americans and other racial minorities, the early focus on race discrimination, the paucity of civil rights attorneys in rural areas, and the highly visible pattern of racially segregated urban housing as manifested by the existence of the inner city ghetto.

11 473 U.S. 432 (1985).

However, there is now a growing focus on combating housing discrimination in rural areas. There are several reasons for this change. First, the newer types of unlawful discrimination—familial status and handicap—are just as prevalent in rural areas as in urban areas. If anything, problems of familial status and handicap discrimination may be more severe and pervasive in rural areas because of the smaller housing supply, greater geographic distances and related mobility barriers, the absence of local fair housing agencies or civil rights attorneys, and the greater predominance of unsophisticated “mom-and-pop” landlords and property owners in rural housing markets. In addition, both legal aid and private attorneys in rural areas have successfully challenged some discriminatory practices and those precedents have encouraged more challenges to discriminatory housing practices in rural areas. Finally, many low-income families with children in rural areas live in mobile home parks. There has not been aggressive enforcement of the fair housing laws against mobile home parks and some are designated for “older persons” only.

The Ohio Civil Rights Commission (OCRC) has also refocused its energies. It has experienced a large increase in the numbers of fair housing and handicap discrimination claims being filed with the agency. Both the OCRC and HUD have expanded their community education and outreach efforts. Enhanced funding for the OCRC, resulting in the hiring of more investigators and the acquisition of computers, has improved the capacity of the OCRC to investigate charges of housing discrimination in rural areas of Ohio.

Additionally, many small cities have established local fair housing agencies and passed local fair housing ordinances. In several rural counties, local legal aid programs have received funding to do fair housing education, outreach and cases. The Ohio Department of Development, the Metropolitan Strategy Group, and the Ohio Fair Housing congress have all devoted greater resources to educational efforts on fair housing and served as clearinghouses for the dissemination of information to civil rights and housing advocates throughout the state of Ohio. At the same time, housing coalitions focused on issues of housing affordability and availability—such as COHHIO and the Rural Housing Coalition—now recognize that there is a strong relationship between housing discrimination and housing accessibility, and have advocated for stronger enforcement of the fair housing laws. Also, professional associations of realtors, architects, and apartment owners have conducted national, state, and local fair housing trainings for their members.

In summary, the story of Fair Housing and other civil rights in Ohio has engaged its people from its beginnings as a state. Battles over civil rights and housing discrimination predate the codification of the Ohio and federal civil rights laws. But it was these new laws and the establishment of enforcement mechanisms within HUD and OCRC that first provided victims of discrimination powerful and effective legal tools for combating and deterring housing discrimination. The enactment of these laws also sent a clear societal message: housing discrimination based on race, color, national origin, sex, handicap, or familial status will not be tolerated. It is up to everyone to make that message a reality for all protected classes and in all parts of Ohio, including small cities, rural areas, and more sparsely populated areas of the state.

State of Ohio CDBG Fair Housing Program

Pursuant to Executive Order 11063 (as amended), Title VIII of the Civil Rights Act of 1968 (as amended), Title VI of the Civil Rights Act of 1964, Section 107 of the Housing and Community Development Act of 1974 (as amended), fair housing refers to non-discrimination and affirmative action in the provision of housing; conduct of CDBG-funded activities that provide housing, housing services, or housing related facilities; and, provision of relocation housing and services for person displaced by CDBG activities.

In addition to the nondiscrimination requirements, each local government recipient must certify to the state that they will affirmatively further fair housing under Section 106(d) of the Housing and Community Development Act of 1974, as amended.

State CDBG grantees, must continue their efforts to affirmatively further fair housing in a manner which shows quantifiable and measurable outcomes.

The grantee's actions must be clearly appropriate official actions, relating to housing and community development, designed to remedy or mitigate those conditions identified as limiting fair housing choice.

For grantees undertaking housing-related projects, actions to fulfill this certification can easily be incorporated into project administration and implementation. Grantees may choose to include information about fair housing in the brochures, pamphlets and advertising they produce to familiarize the community with program services, or include statements of fair housing policies in local program goals, objectives, and administrative procedures. Another suggestion is to include the fair housing symbol in all printed materials related to the program.

Who's Responsible?

Many jurisdictions choose to contract administration of their projects to other entities, management consultants, or engineering firms. This strategy is frequently effective because it may prevent duplication of effort, minimize expense, or, secure expertise that would not be readily available to the jurisdiction otherwise.

A common mistake among grantees, however, is to assume that those contracted for services have special expertise in the area of civil rights. A word of caution- the **responsibility** for project administration and implementation compliance, and for monitoring and ensuring the compliance of contractors and consultants **rests with the grantee**. Grantees should make sure that consultants are familiar with the fair housing law, OHCP requirements and possess working knowledge of record keeping requirements. Check references and ask questions of previous employers about demonstrated performance in this area. Also, when preparing the scope of services for a consultant or engineering contract, make sure that all parties know and understand what the responsibilities are, how they will be handled, and who will be held accountable for getting the job done in a satisfactory manner.

Compliance with record keeping requirements is as important as accomplishing the goals and objectives of the project on time and within budget. In some cases, failure to meet these requirements can result in monitoring findings, corrective actions, and/or funding sanctions.

Ohio Small Cities CDBG Program recipients are required to:

- certify that they will affirmatively further fair housing;
- develop proposed actions to affirmatively further fair housing that meet the minimum standards required by the state;
- seek and obtain state approval of the proposed program; and
- implement the proposed actions.

Additional fair housing actions may be required when:

- a community undertakes CDBG housing activities; or
- efforts are necessary to mitigate impediments to fair housing.

Grantees should make certain that the Standard Fair Housing Program requirements are met and that a conflict of interest does not exist.

Fair Housing Conflict of Interest Policy

A fair housing conflict of interest may be present in a community when the fair housing administrative agency also owns, manages and/or has an interest in rental housing in that community. Housing authorities, Community Action Agencies, Community Housing Development Organizations, and private nonprofit organizations are agencies that typically own, manage, and/or have an interest in housing.

Detailed Standard Fair Housing Program Requirements

Educational Goal for Housing Administrators

Housing administrators should become informed on the past and current national history of fair housing efforts, the economic and social impact of unfair housing practices, making the state's administrative approach work for the administrator, techniques for identifying problems, and suggestions for good strategies and solutions for problems.

Development of the State's Current Fair Housing Standard Program - Background

OHCP administers the state of Ohio's Small Cities Community Development Block Grant (CDBG) Program in the non-entitlement areas of the state. OHCP also administers the HOME Program and funds proposals for projects located in the non-entitlement area of the state plus the entitlement communities.

One full-time staff member directs fair housing efforts in the state. The supervisor, field staff members, and housing staff members assist the Fair Housing Specialist's efforts.

Recognizing the state's past fair housing program design for its communities was not as effective as it desired, in 1993, the state held several meetings with fair housing providers, grantees, and the Ohio Civil Rights Commission to develop a new approach.

Ideally, the state feels each community should design an approach, which will be most effective for them to eliminate impediments to fair housing. However, communities, generally, are not knowledgeable of what actions constitute housing discrimination and, therefore, have not been diligent in collecting or maintaining information on discriminatory practices occurring in the community (Analysis of Impediments to Fair Housing).

Therefore, the state designed a program that through implementation local communities' knowledge and awareness would be heightened. In 1993, the state implemented a new, statewide fair housing program design. The goals of the design were 1) to have the local communities implement a series of activities that by implementation, the local communities would gather information to heighten their awareness of instances of housing discrimination in their community, 2) to initiate a local system of record keeping on fair housing issues (data base), 3) to educate local administrators on what actions are discriminatory housing actions, 4) to develop a network of fair housing professionals to provide an availability of a competent, consistent level of fair housing services state-wide, 5) to, at a minimum, link fair housing education to residents of targeted areas and/or groups of persons receiving CDBG and/or HOME assistance, and 6) develop a state-wide network of fair housing professionals whom can assist persons whom feel they have been discriminated against in accessing remedies available under the law by directing them to the Ohio Civil Rights Commission. The state requires all communities who receive on-going CDBG and/or HOME funds to operate a fair housing program

that meets (or exceeds) the state's standardized design.

Listed below is a summary of the state's current standardized program:

1. General Information Contact and Purpose:

Each community is required to 1) publish a phone number for residents to call whom have a fair housing question or complaint, 2) to designate an employee who is available Monday through Friday during regular business hours to receive calls, and 3) to establish a system to record the nature of the calls, the action taken on the call, (e.g. mailed fair housing rights information and complaint form, set-up a meeting to discuss the complaint, referral to the city's code officials office) and the result of the action taken; (e. g. Familial status complaint conciliated locally. "X" Apartment's manager received education on discriminatory rental practices; Complaint investigated and determined the complainants problem was a result of non-payment of rent. Tenant referred to "X" CAC for class on budgeting.' etc.)

The fair housing contact person is expected to have the expertise to handle the phone inquires or to efficiently refer inquiries on to the person/agency who does have the expertise.

Records maintained by the contact will help the community define where discriminatory practices are occurring in the community, help the community measure the effectiveness of their outreach efforts, provide the community a means to gain information to design future techniques and implementation strategies to eliminate fair housing impediments. Housing and community development plans, as well as, CDBG and HOME program funds should be targeted to implement these strategies when ever possible.

2. Fair Housing Complaint Intake and Referral:

Complaints received that are not fair housing complaints should be referred to the appropriate person/office.

If the complaint could potentially be a fair housing complaint, the fair housing contact should inform the complainant of his/her rights to fair housing, of remedies that are available, offer written literature, offer an appointment to discuss the complaint and to help a complainant file a written complaint, or offer to mail a complaint form to them to complete the form themselves.

If the complainant prefers to deal directly with the Ohio Civil Rights Commission (OCRC), the fair housing contact should offer the address and phone number of the regional Ohio Civil Rights Office.

Written complaints are received, clarification sought (if necessary), and reviewed. OHCP encourages communities to resolve issues locally, if possible. Persons with problems which cannot be resolved locally, case requires testing, person desires to seek remedies available under the law, etc., should be referred to the regional OCRC office.

3. Education and Outreach on Fair Housing Rights and Definition of Housing Discrimination:

Communities are expected to design (or obtain) written material on fair housing rights, discriminatory practices, etc. Communities are expected to design a plan to effectively distribute written materials throughout the community. At a minimum, materials must be distributed quarterly to 10 locations; e. g. unemployment office, post office, grocery store, etc.

Communities are also required to develop a plan to deliver oral presentations and answer questions on fair housing issues to, at least, residents of CDBG and HOME target areas or populations and 3 additional school classes or civic groups or organizations.

Communities are encouraged to develop techniques to measure the effectiveness of their outreach location and/or methods; (e.g. Survey callers on how they located the fair housing contact's phone number, solicit evaluation forms from participants in training sessions, etc.).

Each training session given by the grantee should be individualized for the specific audience such as potential homebuyers, persons with disabilities, elderly, illiterate, persons seeking rehabilitation loans, renters, etc.

The content of the training should be informational, but not strive for more sophistication than the presenter has to offer.

Every session should result in at least 3 outcomes:

- 1) distribution of clear, written information on what are unlawful acts (brochure),
- 2) distribution of the name and telephone number of the community's fair housing contact person and the appropriate regional office of the Ohio Civil Rights Commission (OCRC) (brochure), and
- 3) requests of the audience to share experiences with you to facilitate identifying impediments to fair housing choice and in developing future program design.

The trainer should: 1) have knowledge of Federal, State and local Fair Housing Laws 2) know the protected groups, 3) have knowledge of the community's past efforts in fair housing, 4) meet with the regional OCRC office and understand its basic process in investigating fair housing complaints and remedies available to person discriminated against, 5) know the current federal and state perspective on promoting fair housing, and 6) have general knowledge of the Ohio Tenant Landlord Law and its remedies.

Ideas for training various audiences are:

- Inform persons with disabilities, and/or their support organizations and service providers, housing providers, and the general public on the rights of the disabled persons under the Fair Housing Act and on the location or availability of accessible housing. Encourage the modification of non-accessible housing.
- Provide guidance to housing providers on meeting their Fair Housing Act obligation to make reasonable accommodations for persons with disabilities.
- Provide housing, mortgage lending, appraisal, and insurance counseling services.
- Distribute informative material on fair housing rights and responsibilities.
- Provide educational seminars or working seminars for civic associations, community-based organizations, or other groups (e. g., PTA, Neighborhood Associations, Lions Club, etc.)
- Bring housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them.
- Design special outreach projects to inform all person of the availability of housing opportunities (information on audio tape, captioned videos, large print, etc.)
- Develop mechanisms for the identification of, and quick response to, housing discrimination cases involving threat or harm.
- Develop and implement school curriculum for fair housing courses.
- Develop and implement a response to community opposition to the location of residential

facilities for persons with disabilities, where supportive health or human services are provided in connection with the housing.

- Develop materials and provide technical assistance to support compliance with housing adaptability and accessibility guidelines in the 1988 Fair Housing Act Amendments.
- Etc., etc.

4. Research, Record keeping, Analysis, Action Plan, Implementation:

Grantees required to conduct an analysis of impediments to equal housing opportunity and must have an on-going process for identifying all fair housing concerns and problems and for analyzing their efforts in mitigating or remedying problems.

An Analysis of Impediments (AI) should identify existing conditions or barriers that limit housing choice within the community. The AI should include: 1) a clear analysis of collected information; 2) identified impediments, fair housing concerns and problems; 3) changes needed to remedy or overcome the impediments, 4) a plan of action with a timetable or schedule to remedy the problems., and 5) records reflecting the analysis and showing actions taken to overcome the effects of the impediments.

Eight (8) areas should be analyzed for unlawful practices, actions, decisions, or omissions that result in restricting or limiting housing choice for persons of similar income levels, regardless of race, color, sex, national origin, religion, familial status, or disability:

1. Provision of financing assistance for residential real property purchases, construction, improvements, repair, or maintenance of a dwelling;
2. Terms, conditions, or privileges of sale or rental of a dwelling;
3. Advertising with respect to sale or rental of housing;
4. Realtors practices;
5. Appraisal practices;
6. Access to any multiple-listing service, real estate brokers' organization, or facility relating to the business of selling or renting dwellings;
7. Administrative policies concerning community development and housing activities, site section policies, local code requirements, local zoning requirements, and other local housing construction requirements;
8. Results of actions undertaken by the recipient to remedy problems identified by the analysis of the above seven (7) areas or identified in a court suit or finding of noncompliance by HUD, OCRC, or OHCP;

The grantee must review the following:

- **Demographic data regarding the jurisdiction's population and housing**
- **Availability of housing stock for residents with disabilities**
- **Findings resulting from complaints and fair housing litigation in the jurisdiction**
- **Results of any fair housing testing activity in the jurisdiction, if available**
- **Efforts to assist and serve persons with limited proficiency in the English language**

Common impediments to fair housing include:

- Discrimination against families with children;
- Discrimination against persons with disabilities;
- Insufficient multi-lingual marketing efforts targeted to those with limited English proficiency;
- Geographic concentration of racial or ethnic minorities;
- Geographic concentration of low- and very low-income persons

Appropriate actions to remedy could include:

- Selection of sites or providing incentives for developers to select sites for affordable housing that increases opportunities outside existing areas of minority or ethnic concentration;
- Use Federal funds for affordable housing to increase the supply of accessible units and large rental units for families with children;
- Adopt design standards that embrace the principles of universal design and visitability.

RECORD KEEPING

Record keeping is an important on-going administrative task throughout the life cycle of local CDBG projects. Attention to keeping good records facilitates on-site monitoring reviews, enhances local capacity to respond to compliance issues, and establishes a database to make the closeout reporting process more straightforward.

FAIR HOUSING

Fair Housing Records should include evidence that the local government has:

- A published phone number for residents to call when they have fair housing questions or complaints;
- A designated employee who is available Monday through Friday during regular business hours to receive calls;
- Established a system to record the nature of calls, the action taken, and the result of the action taken;
- Name of fair housing consultant and a copy of contract for services, if applicable;
- Established a method of intake of complaints, forwarding complaints to the Ohio Civil Rights Commission, and a method of follow-up on complaints;
- Conducted training and provided fair housing educational materials to residents of the CDBG target areas or special populations and at least, 3 additional groups. This documentation should include an agenda, attendance sheet, meeting notices or advertisements, and handouts;
- Developed and distributed fair housing information and materials to at least 10 area agencies, organizations or public events. File should contain distribution list, date of distribution and copy of materials;
- Passed or updated the local fair housing resolution or ordinance;
- Conducted and continually update the analysis of impediments to fair housing in the community- this would include records outlining actions taken to overcome effects of identified impediments;
- Implemented additional fair housing activities as required for Community Housing Improvement Program (CHIP) or HOME housing activities.

CONTACT Joyce Hill, Civil Specialist, Office of Housing and Community Partnerships (OHCP) at (614) 466-2285 if you have questions regarding the state's expectation.

TITLE 24--HOUSING AND URBAN DEVELOPMENT
CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR CPD, DEPT HUD
PART 570 _COMMUNITY DEVELOPMENT BLOCK GRANTS--Table of Contents
Subpart J _Grant Administration

Sec. 570.506 Records to be maintained.

Each recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirements of this part. At a minimum, the following records are needed:

(g) Fair housing and equal opportunity records containing:

(1) Documentation of the analysis of impediments and the actions the recipient has carried out with its housing and community development and other resources to remedy or ameliorate any impediments to fair housing

choice in the recipient's community.

(2) Data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(3) Data on employment in each of the recipient's operating units funded in whole or in part with CDBG funds, with such data maintained in the categories prescribed on the Equal Employment Opportunity Commission's EEO-4 form; and documentation of any actions undertaken to assure equal employment opportunities to all persons regardless of race, color, national origin, sex or handicap in operating units funded in whole or in part under this part.

(4) Data indicating the race and ethnicity of households (and gender of single heads of households) displaced as a result of CDBG funded activities, together with the address and census tract of the housing units to which each displaced household relocated. Such information shall be used only as a basis for further investigation as to compliance with nondiscrimination requirements. No recipient is required to attain or maintain any particular statistical measure by race, ethnicity, or gender in covered programs.

(5) Documentation of actions undertaken to meet the requirements of Sec. 570.607(b) which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701U) relative to the hiring and training of low and moderate income persons and the use of local businesses.

(6) Data indicating the racial/ethnic character of each business entity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with CDBG funds, data indicating which of those entities are women's business enterprises as defined in Executive Order 12138, the amount of the contract or subcontract, and documentation of recipient's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. Such affirmative steps may include, but are not limited to, technical assistance open to all businesses but designed to enhance opportunities for these enterprises and special outreach efforts to inform them of contract opportunities. Such steps shall not include preferring any business in the award of any contract or subcontract solely or in part on the basis of race or gender.

(7) Documentation of the affirmative action measures the recipient has taken to overcome prior discrimination, where the courts or HUD have found that the recipient has previously discriminated against persons on the ground of race, color, national origin or sex in administering a program or activity funded in whole or in part with CDBG funds.

(Approved by the Office of Management and Budget under control number 2506-0077)

[53 FR 34454, Sept. 6, 1988; 53 FR 41330, Oct. 21, 1988, as amended at 60 FR 1916, 1995, Jan. 5, 1995; 60 FR 56915, Nov. 9, 1995; 61 FR 18674, Apr. 29, 1996; 64 FR 38813, July 19, 1999]

Civil Rights Related Program Requirements (CRRPRs)

It is HUD's mission to promote non-discrimination and ensure fair and equal housing opportunities for all. In an ongoing effort to provide services and activities on a nondiscriminatory manner and to affirmatively further fair housing, HUD is charged by law to implement and enforce a wide array of civil rights laws, not only for members of the public in search of fair housing, but for HUD funded grant recipients as well. HUD is also charged with ensuring the successful operation of specific enforcement of housing programs.

HUD-funded grant recipients are obligated under various laws not to discriminate in housing or services directly or indirectly on the basis of race, color, religion, sex, national origin, age, familial status, or disability. HUD rules further require that recipients of Federal financial assistance comply with civil rights-related program requirements (CRRPRs) that affect nearly every aspect of each program. HUD's non-discrimination requirements are compiled from several different federal laws designed to protect each individual's right to fair housing and equal opportunity.

The array of laws, executive orders, regulations, etc. are collectively known as civil rights requirements and called "**Civil Rights Related Program Requirements (CRRPRs)**."

The Fair Housing Laws

Fair Housing Act

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.

Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

Section 109 of Title I of the Housing and Community Development Act of 1974

Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.

Title II of the Americans with Disabilities Act of 1990

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

Architectural Barriers Act of 1968

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

Age Discrimination Act of 1975

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

Title IX of the Education Amendments Act of 1972

Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.

Fair Housing-Related Presidential Executive Orders:**Executive Order 11063**

Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

Executive Order 11246

Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.

Executive Order 12892

Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.

Executive Order 12898

Executive Order 12898 requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

Executive Order 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

Executive Order 13217

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

FOR MORE INFORMATION OR TO VIEW THESE LAWS AND EXECUTIVE ORDERS, VISIT HUD'S WEBSITE: <http://www.hud.gov/offices/ftheo/FHLaws/index.cfm>

Community Development Block Grant Toolkit on Crosscutting Issues

Module 5: Fair Housing and Non-discrimination¹

<http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/Module-5-Contents-WEB.pdf>

Module 5 of the Community Development Block Grant Toolkit contains the statutes, regulations, forms and other documents that guide fair housing and non-discrimination practices in HUD programs. This module also contains guidance on economic opportunities in contracting and employment, including the Section 3 job training and employment program, and Minority Business Enterprise and Women's Business Enterprise requirements.

The documents contained in this module are current as of September 2007. To ensure that you are using the most updated information, please visit the HUDCLIPS website at www.hudclips.org or HUD's Fair Housing website at www.hud.gov/offices/fheo/index.cfm

Contents:

Part I: Fair Housing

Applicable Statutes

- Title VI of the Civil Rights Act of 1964 and as amended in 1988
- Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–3619)
- Section 504 of the Rehabilitation Act of 1973
- Section 109 of Title I of the Housing and Community Development Act of 1974
- Section 104(b)(2) of the Housing Community Development Act of 1974
- Title II of the Civil Rights Act of 1968 (25 U.S.C. 1301-1303, Indian Civil Rights Act)
- Housing for Older Persons Act of 1995 (HOPA)
- Title IX of the Education Amendments Act of 1972
- Title II of the Americans with Disabilities Act of 1990
- Architectural Barriers Act of 1968
- Section 508 of the Rehabilitation Act of 1973

Applicable Executive Orders

- Executive Order 11063: Equal Opportunity in Housing, November 20, 1962 (*State and Entitlement Community Development Block Grant grantees*)
- Executive Order 12892: Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing, January 17, 1994
- Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994
- Executive Order 13166: Improving Access To Services For Persons With Limited English Proficiency, August 11, 2000

¹ Go to <http://www.hud.gov/offices/cpd/communitydevelopment/toolkit/files/Module-5-Contents-WEB.pdf>

And click on the title to access the resources listed in electronic format.

- Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities, June 19, 2001
- Executive Order 13330: Human Service Transportation Coordination, February 24, 2004

Applicable Regulations

- 24 Code of Federal Regulations Part 1: Nondiscrimination in Federally Assisted Programs of HUD
- 24 Code of Federal Regulations Part 3: Nondiscrimination on the Basis of Sex in Education Programs or Activities receiving Federal Financial Assistance
- 24 Code of Federal Regulations Part 8: Nondiscrimination Based on Handicap in Federally Assisted Programs and Activities of the Department of Housing and Urban Development
- 24 Code of Federal Regulations Part 91.225 (a)(1): Affirmatively Furthering Fair Housing (*jurisdiction*)
- 24 Code of Federal Regulations Part 91.325 (a)(1): Affirmatively Furthering Fair Housing (*State Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 570.487(b): Affirmatively Furthering Fair Housing
- 24 Code of Federal Regulations Part 570.601: Affirmatively Further Fair Housing
- 24 Code of Federal Regulations Parts 100-125: Fair Housing
- 24 Code of Federal Regulations Part 570.206(c): Fair Housing Activities
- 24 Code of Federal Regulations Part 570.602: HCDA Section 109 nondiscrimination (*Entitlement Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 570.495(b): HCDA Section 109 nondiscrimination (*State Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 570.904: Equal Opportunity and Fair Housing Review (*Entitlement Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 91.325(b)(5): Compliance with Anti-discrimination laws
- 24 Code of Federal Regulations Part 570.912: Nondiscrimination compliance
- 24 Code of Federal Regulations Part 570.490(a)(b): Recordkeeping requirements
- 24 Code of Federal Regulations Part 570.506(g): Fair Housing and equal opportunity records
- 24 Code of Federal Regulations Part 570.614: Architectural Barriers Act and Americans with Disabilities Act (*Entitlement Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 570.487(e): Architectural Barriers Act and Americans with Disabilities Act (*State Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 570.608 and Part 35: Lead-Based Paint

HUD Notices

- Community Planning and Development 05-03: Implementing the New Freedom Initiative and Involving Persons with Disabilities in the Preparation of the Consolidated Plan through Citizen Participation (issued June 6, 2005)
- Community Planning and Development 05-09: Accessibility Notice: Section 504 of the Rehabilitation Act of 1973 and The Fair Housing Act and their applicability to housing programs funded by the HOME Investment Partnerships Program and the Community Development Block Grant Program (issued November 3, 2005)
- Community Planning and Development 05-10: Accessibility for Persons with Disabilities to Non-Housing Programs funded by Community Development Block Grant Funds – Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and the Architectural Barriers Act (issued November 3, 2005)

Other HUD Documents

- Handbook 6509.2, Rev-5: Community Planning and Development Monitoring Handbook- Chapter 22: Fair Housing and Equal Opportunity
- Fair Housing: Equal Opportunity for All (HUD 1686, English)
- Fair Housing: Equal Opportunity for All (HUD 1686-1, Spanish)
- Discrimination Against Persons With Disabilities: Testing Guidance for Practitioners (July 2005)
- Fair Housing Act Design Manual (Revised April 1998)
- Fair Housing Planning Guide, Volume 1 (March 1996) and Volume 2 (out of print)
- Joint Letter on Analysis of Impediments to Fair Housing Choice (August 4, 2004)
- Fair Housing News
- Reasonable Accommodations under the Fair Housing Act: Joint Statement of the Department of Housing and Urban Development and the Department of Justice
- Report On Section 504 Self-Evaluation Of HUD Conducted Programs And Activities – Phase I (March 2005)
- Handbook 8003.2, Fair Housing and Equal Opportunity Monitoring of Community Development Programs
- Civil Rights Threshold Requirements and Other Threshold Requirements from the General Section of the Super Notice of Funding Availability (SuperNOFA)
- Occupancy Standards – Keating Memorandum (March 1991)
- Guidelines for FHEO Implementation of HUD Policy on Race and Ethnicity Data (November 2002)

Other Documents

- Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (*Federal Register*, January 22, 2007)
- Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (*Federal Register*, December 19, 2003)
- Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance
- Language Identification Flash Cards 2004
- ADA Title II Technical Assistance Manual (Department of Justice, 1993, with yearly supplements)
- ADA Title III Technical Assistance Manual (Department of Justice, 1993, with yearly supplements)
- ADA Guide for Small Towns (Department of Justice, March 2000)
- The ADA and City Governments: Common Problems
- ADA Questions and Answers (Department of Justice & Equal Employment Opportunity Commission, August 2002)

Forms

- HUD 903.1: Are You a Victim of Housing Discrimination? (English)
- HUD 903.1A: Are You a Victim of Housing Discrimination? (Spanish)
- HUD 903.1B: Are You a Victim of Housing Discrimination? (Chinese)
- HUD 903.1C: Are You a Victim of Housing Discrimination? (Arabic)
- HUD 903.1CAM: Are You a Victim of Housing Discrimination? (Cambodian)
- HUD 903.1F: Are You a Victim of Housing Discrimination? (Vietnamese)
- HUD 903.1KOR: Are You a Victim of Housing Discrimination? (Korean)
- HUD 903.1R: Are You a Victim of Housing Discrimination? (Russian)
- HUD 928.1: Fair Housing Poster (English)

- HUD 928.1A: Fair Housing Poster (Spanish)

Sample Grantee Policies/Procedures

- Maine Office of Community Development, Civil Rights Technical Assistance Manual

Training Materials

- Training Curriculum
- Trainer Guide
- PowerPoint Presentation
- “Top Seven Keys to Affirmatively Further Fair Housing”
- Case Study – Fair Housing
- Case Study – Limited English Proficiency
- Discussion Questions

Part II: Section 3 Program

Applicable Statute and Regulations

- Section 3 of the Housing and Urban Development Act of 1968
- 24 Code of Federal Regulations Part 91.325(a)(8): Section 3 Certification
- 24 Code of Federal Regulations Part 135: Economic Opportunities for Low- and Very Low- Income Persons
- 24 Code of Federal Regulations Part 570.607(b): Section 3 (*Entitlement grantees*)
- 24 Code of Federal Regulations Part 570.487(d): Section 3 (*State grantees*)

Other HUD Documents

- Fact Sheet on Section 3
- Section 3 Plan (SAMPLE)
- Examples of Procurement Procedures That Provide for Preference for Section 3 Business Concerns
- Form HUD 60002: Section 3 Summary Report

Training Materials

- Trainer Guide
- PowerPoint Presentation
- “Top Six Keys to Monitoring Section 3 Compliance”

Part III: Minority Business Enterprise/Women’s Business Enterprise

Applicable Executive Orders and Regulations

- Executive Order 11625 – Prescribing additional arrangements for developing and coordinating a national program for minority business enterprise
- Executive Order 12138 – Creating a National Women's Business Enterprise Policy and prescribing arrangements for developing, coordinating and implementing a national program for women's business

enterprise

- Executive Order 12432 – Minority Business Enterprise Development (*State Community Development Block Grant grantees*)
- 24 Code of Federal Regulations Part 85.36(e) (*Entitlement grantees*)
- HUD Acquisition Regulation (HUDAR), Part 2426 Other Socioeconomic Programs, Subpart 2426.70 Minority Business Enterprises (February 2006)

HUD Documents

- Guidance on Minority Business Enterprise/Women’s Business Enterprise Outreach
- HUD Form 2516 – Contract and Subcontract Activity

Training Materials

- Trainer Guide
- PowerPoint Presentation
- “Top Six Ways to Improve Minority Business Enterprise/Women’s Business Enterprise Outreach”
- Case Study - “The Case of the Missing Outreach”

Related Resources:

HUD Office of Fair Housing and Equal Opportunity (FHEO)

<http://www.hud.gov/offices/fheo/index.cfm>

National Fair Housing Training Academy (NFHTA)

<http://www.hud.gov/offices/fheo/nfhta.cfm>

HUD’s Fair Housing Assistance Program. This program strengthens nationwide fair housing efforts by helping individual State and local governments administer laws of their own that are consistent with the Federal Fair Housing Act. <http://www.hud.gov/offices/fheo/partners/FHAP/index.cfm>

HUD’s Fair Housing Initiatives Program. This program provides funding to public and private organizations that develop programs that are designed to prevent or eliminate discriminatory housing practices. <http://www.hud.gov/offices/fheo/partners/FHIP/fhip.cfm>

Fair Housing Accessibility FIRST is an initiative designed to promote compliance with the Fair Housing Act design and construction requirements. The program offers comprehensive and detailed instruction programs, useful online web resources, and a toll-free information line for technical guidance and support. www.fairhousingfirst.org

Information and Technical Assistance on the Americans with Disabilities Act

www.ada.gov

ADA Technical Assistance CD-ROM

<http://www.usdoj.gov/crt/ada/adatacd1.htm>

Housing Discrimination Hot Line:

1-800-669-9777 (Voice)

1-800-927-9275 (TTY)

ADA Information Line:

1-800-514-0301 (voice)

1-800-514-0383 (TTY)

Limited English Proficiency

<http://www.lep.gov/>

Section 3 - Economic Opportunities

<http://www.hud.gov/offices/fheo/section3/section3.cfm>

Whom to Contact:

HUD FHEO Headquarters Directory:

<http://www.hud.gov/offices/fheo/fheodir.cfm>

HUD FHEO Regional Offices:

<http://www.hud.gov/offices/fheo/aboutfheo/fhhubs.cfm>

HUD Columbus, OH Fair Housing Center:

<http://www5.hud.gov:63001/po/i/netlocator/>

Ohio Civil Rights Commission:

<http://crc.ohio.gov/>

For state of Ohio Small Cities CDBG Program:

<http://www.odod.state.oh.us/cdd/ohcp/civilrights.htm>

Joyce A. Hill

Civil Rights Specialist

Housing and Community Partnerships Office

614 | 466 2285

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Link to HUD Housing Discrimination Complaint 903-form

<http://www.hud.gov/offices/adm/hudclips/forms/files/903-1.pdf>

Sec. 4112.01. (A) As used in this chapter:

- (1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.
- (2) "Employer" includes the state, any political subdivision of the state, any person employing four or more persons within the state, and any person acting directly or indirectly in the interest of an employer.
- (3) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.
- (4) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.
- (5) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities to work or to procure, recruit, refer, or place employees.
- (6) "Commission" means the Ohio civil rights commission created by section 4112.03 of the Revised Code.
- (7) "Discriminate" includes segregate or separate.
- (8) "Unlawful discriminatory practice" means any act prohibited by section 4112.02, 4112.021, or 4112.022 of the Revised Code.
- (9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement of which the accommodations, advantages, facilities, or privileges are available to the public.
- (10) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, by any other person pursuant to authorization of the owner, by the owner, or by the owner's legal representative.
- (11) "Restrictive covenant" means any specification limiting the transfer, rental, lease, or other use of any housing accommodations because of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry, or any limitation based upon affiliation with or approval by any person, directly or indirectly, employing race, color, religion, sex, military status, familial status, national origin, disability, or ancestry as a condition of affiliation or approval.
- (12) "Burial lot" means any lot for the burial of deceased persons within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by municipal corporations, townships, or companies or associations incorporated for cemetery purposes.
- (13) "Disability" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.
- (14) Except as otherwise provided in section 4112.021 of the Revised Code, "age" means at least forty years old.
- (15) "Familial status" means either of the following:
 - (a) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;
 - (b) Any person who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.

(16)(a) Except as provided in division (A)(16)(b) of this section, "physical or mental impairment" includes any of the following:

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;

(ii) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.

(b) "Physical or mental impairment" does not include any of the following:

(i) Homosexuality and bisexuality;

(ii) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(iii) Compulsive gambling, kleptomania, or pyromania;

(iv) Psychoactive substance use disorders resulting from the current illegal use of a controlled substance or the current use of alcoholic beverages.

(17) "Dwelling unit" means a single unit of residence for a family of one or more persons.

(18) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.

(19) "Public use areas" means interior or exterior rooms or spaces of a privately or publicly owned building that are made available to the general public.

(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.

(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5903.01 of the Revised Code.

(B) For the purposes of divisions (A) to (F) of section 4112.02 of the Revised Code, the terms "because of sex" and "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, any illness arising out of and occurring during the course of a pregnancy, childbirth, or related medical conditions. Women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in division (B) of section 4111.17 of the Revised Code shall be interpreted to permit otherwise. This division shall not be construed to require an employer to pay for health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from the abortion, provided that nothing in this division precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

Sec. 4112.02. It shall be an unlawful discriminatory practice:

(A) For any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(B) For an employment agency or personnel placement service, because of race, color, religion, sex, military status, national origin, disability, age, or ancestry, to do any of the following:

(1) Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any person;

(2) Comply with a request from an employer for referral of applicants for employment if the request directly or indirectly indicates that the employer fails to comply with the provisions of sections 4112.01 to 4112.07 of the Revised Code.

(C) For any labor organization to do any of the following:

(1) Limit or classify its membership on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry;

(2) Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any person as an employee because of race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(D) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any person because of race, color, religion, sex, military status, national origin,

disability, or ancestry in admission to, or employment in, any program established to provide apprentice training.

(E) Except where based on a bona fide occupational qualification certified in advance by the commission, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

(1) Elicit or attempt to elicit any information concerning the race, color, religion, sex, military status, national origin, disability, age, or ancestry of an applicant for employment or membership;

(2) Make or keep a record of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any applicant for employment or membership;

(3) Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding race, color, religion, sex, military status, national origin, disability, age, or ancestry; but an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;

(4) Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination, based upon race, color, religion, sex, military status, national origin, disability, age, or ancestry;

(5) Announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of that group;

(6) Utilize in the recruitment or hiring of persons any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against persons because of their race, color, religion, sex, military status, national origin, disability, age, or ancestry.

(F) For any person seeking employment to publish or cause to be published any advertisement that specifies or in any manner indicates that person's race, color, religion, sex, military status, national origin, disability, age, or ancestry, or expresses a limitation or preference as to the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any prospective employer.

(G) For any proprietor or any employee, keeper, or manager of a place of public accommodation to deny to any person, except for reasons applicable alike to all persons regardless of race, color, religion, sex, military status, national origin, disability, age, or ancestry, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(H) For any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(2) Represent to any person that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;

(3) Discriminate against any person in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any person in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national

- origin or because of the racial composition of the neighborhood in which the housing accommodations are located;
- (6) Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple;
- (7) Print, publish, or circulate any statement or advertisement, or make or cause to be made any statement or advertisement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any housing accommodations, or relating to the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, that indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, military status, familial status, ancestry, disability, or national origin, or an intention to make any such preference, limitation, specification, or discrimination;
- (8) Except as otherwise provided in division (H)(8) or (17) of this section, make any inquiry, elicit any information, make or keep any record, or use any form of application containing questions or entries concerning race, color, religion, sex, military status, familial status, ancestry, disability, or national origin in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations. Any person may make inquiries, and make and keep records, concerning race, color, religion, sex, military status, familial status, ancestry, disability, or national origin for the purpose of monitoring compliance with this chapter.
- (9) Include in any transfer, rental, or lease of housing accommodations any restrictive covenant, or honor or exercise, or attempt to honor or exercise, any restrictive covenant;
- (10) Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual, military status, familial status, or ethnic composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of persons of any race, color, religion, sex, military status, familial status, ancestry, disability, or national origin, in the block, neighborhood, or other area will or may have results including, but not limited to, the following:
- (a) The lowering of property values;
- (b) A change in the racial, religious, sexual, military status, familial status, or ethnic composition of the block, neighborhood, or other area;
- (c) An increase in criminal or antisocial behavior in the block, neighborhood, or other area;
- (d) A decline in the quality of the schools serving the block, neighborhood, or other area.
- (11) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any person in the terms or conditions of that access, membership, or participation, on account of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry;
- (12) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by division (H) of this section;
- (13) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change with respect to its religious, racial, sexual, military status, familial status, or ethnic composition;
- (14) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any person because of the race, color, sex, military status, familial status, age, ancestry, disability, or national origin of any prospective owner or user of the lot;
- (15) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or renter because of a disability of any of the following:
- (a) The buyer or renter;
- (b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;
- (c) Any individual associated with the person described in division (H)(15)(b) of this section.
- (16) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any person or in the provision of services or facilities to any person in connection with the housing accommodations because of a disability of any of the following:
- (a) That person;

- (b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;
 - (c) Any individual associated with the person described in division (H)(16)(b) of this section.
- (17) Except as otherwise provided in division (H)(17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities:
- (a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
 - (b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability;
 - (c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability;
 - (d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance;
 - (e) An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.
- (18)(a) Refuse to permit, at the expense of a person with a disability, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the person with a disability, if the modifications may be necessary to afford the person with a disability full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a disabled tenant from conditioning permission for a proposed modification upon the disabled tenant's doing one or more of the following:
- (i) Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;
 - (ii) Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;
 - (iii) Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.
- (b) A landlord shall not condition permission for a proposed modification upon a disabled tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations.
- (19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;
- (20) Fail to comply with the standards and rules adopted under division (A) of section 3781.111 of the Revised Code;
- (21) Discriminate against any person in the selling, brokering, or appraising of real property because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin;
- (22) Fail to design and construct covered multifamily dwellings for first occupancy on or after June 30, 1992, in accordance with the following conditions:
- (a) The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.
 - (b) With respect to dwellings that have a building entrance on an accessible route, all of the following apply:
 - (i) The public use areas and common use areas of the dwellings shall be readily accessible to and usable by persons with a disability.
 - (ii) All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by persons with a disability who are in wheelchairs.

(iii) All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual in a wheelchair to maneuver about such rooms.

For purposes of division (H)(22) of this section, "covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(I) For any person to discriminate in any manner against any other person because that person has opposed any unlawful discriminatory practice defined in this section or because that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under sections 4112.01 to 4112.07 of the Revised Code.

(J) For any person to aid, abet, incite, compel, or coerce the doing of any act declared by this section to be an unlawful discriminatory practice, to obstruct or prevent any person from complying with this chapter or any order issued under it, or to attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

(K)(1) Nothing in division (H) of this section shall bar any religious or denominational institution or organization, or any nonprofit charitable or educational organization that is operated, supervised, or controlled by or in connection with a religious organization, from limiting the sale, rental, or occupancy of housing accommodations that it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference in the sale, rental, or occupancy of such housing accommodations to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.

(2) Nothing in division (H) of this section shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(3) Nothing in division (H) of this section limits the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations. Nothing in that division prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

(4) Nothing in division (H) of this section requires that housing accommodations be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(5) Nothing in division (H) of this section pertaining to discrimination on the basis of familial status shall be construed to apply to any of the following:

(a) Housing accommodations provided under any state or federal program that have been determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended, to be specifically designed and operated to assist elderly persons;

(b) Housing accommodations intended for and solely occupied by persons who are sixty-two years of age or older;

(c) Housing accommodations intended and operated for occupancy by at least one person who is fifty-five years of age or older per unit, as determined under the "Fair Housing Amendments Act of 1988," 102 Stat. 1623, 42 U.S.C.A. 3607, as amended.

(L) Nothing in divisions (A) to (E) of this section shall be construed to require a person with a disability to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the person with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of a person with a disability in a job that requires the person with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the person's disability.

(M) Nothing in divisions (H)(1) to (18) of this section shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for a person with a disability, to relieve any person with a disability of any obligation generally imposed on all persons regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

(N) An aggrieved individual may enforce the individual's rights relative to discrimination on the basis of age as provided for in this section by instituting a civil action, within one hundred eighty days after the alleged unlawful discriminatory practice occurred, in any court with jurisdiction for any legal or equitable relief that will effectuate the individual's rights.

A person who files a civil action under this division is barred, with respect to the practices complained of, from instituting a civil action under section 4112.14 of the Revised Code and from filing a charge with the commission under section 4112.05 of the Revised Code.

(O) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation of division (A) of section 4112.14 of the Revised Code for any employer, employment agency, joint labor-management committee controlling apprenticeship training programs, or labor organization to do any of the following:

(1) Establish bona fide employment qualifications reasonably related to the particular business or occupation that may include standards for skill, aptitude, physical capability, intelligence, education, maturation, and experience;

(2) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, including, but not limited to, a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this section.

However, no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual, because of the individual's age except as provided for in the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 623, as amended.

(3) Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars, in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978," 92 Stat. 189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 631, as amended;

(4) Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio apprenticeship council pursuant to sections 4139.01 to 4139.06 of the Revised Code and is approved by the federal committee on apprenticeship of the United States department of labor.

(P) Nothing in this chapter prohibiting age discrimination and nothing in division (A) of section 4112.14 of the Revised Code shall be construed to prohibit the following:

(1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code;

(2) The mandatory retirement of uniformed patrol officers of the state highway patrol as provided in section 5505.16 of the Revised Code;

(3) The maximum age requirements for appointment as a patrol officer in the state highway patrol established by section 5503.01 of the Revised Code;

(4) The maximum age requirements established for original appointment to a police department or fire department in sections 124.41 and 124.42 of the Revised Code;

(5) Any maximum age not in conflict with federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter;

(6) Any mandatory retirement provision not in conflict with federal law of a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters;

(7) Until January 1, 1994, the mandatory retirement of any employee who has attained seventy years of age and who is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure, at an institution of higher education as defined in the "Education Amendments of 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a).

(Q)(1)(a) Except as provided in division (Q)(1)(b) of this section, for purposes of divisions (A) to (E) of this section, a disability does not include any physiological disorder or condition, mental or psychological disorder, or disease or condition caused by an illegal use of any controlled substance by an employee, applicant, or other person, if an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee acts on the basis of that illegal use.

(b) Division (Q)(1)(a) of this section does not apply to an employee, applicant, or other person who satisfies any of the following:

(i) The employee, applicant, or other person has successfully completed a supervised drug rehabilitation program

and no longer is engaging in the illegal use of any controlled substance, or the employee, applicant, or other person otherwise successfully has been rehabilitated and no longer is engaging in that illegal use.

(ii) The employee, applicant, or other person is participating in a supervised drug rehabilitation program and no longer is engaging in the illegal use of any controlled substance.

(iii) The employee, applicant, or other person is erroneously regarded as engaging in the illegal use of any controlled substance, but the employee, applicant, or other person is not engaging in that illegal use.

(2) Divisions (A) to (E) of this section do not prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:

(a) Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual described in division (Q)(1)(b)(i) or

(ii) of this section no longer is engaging in the illegal use of any controlled substance;

(b) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by all employees;

(c) Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;

(d) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended;

(e) Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;

(f) Exercising other authority recognized in the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, as amended, including, but not limited to, requiring employees to comply with any applicable federal standards.

(3) For purposes of this chapter, a test to determine the illegal use of any controlled substance does not include a medical examination.

(4) Division (Q) of this section does not encourage, prohibit, or authorize, and shall not be construed as encouraging, prohibiting, or authorizing, the conduct of testing for the illegal use of any controlled substance by employees, applicants, or other persons, or the making of employment decisions based on the results of that type of testing.

Sec. 4112.021. (A) As used in this section:

(1) "Credit" means the right granted by a creditor to a person to defer payment of a debt, to incur debt and defer its payment, or to purchase property or services and defer payment for the property or services.

(2) "Creditor" means any person who regularly extends, renews, or continues credit, any person who regularly arranges for the extension, renewal, or continuation of credit, or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit, whether or not any interest or finance charge is required.

(3) "Credit reporting agency" means any person who, for monetary fees or dues or on a cooperative nonprofit basis, regularly assembles or evaluates credit information for the purpose of furnishing credit reports to creditors.

(4) "Age" means any age of eighteen years or older.

(B) It shall be an unlawful discriminatory practice:

(1) For any creditor to do any of the following:

(a) Discriminate against any applicant for credit in the granting, withholding, extending, or renewing of credit, or in the fixing of the rates, terms, or conditions of any form of credit, on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry, except that this division shall not apply with respect to age in any real estate transaction between a financial institution, a dealer in intangibles, or an insurance company as defined in section 5725.01 of the Revised Code and its customers;

(b) Use or make any inquiry as to race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry for the purpose of limiting or specifying those persons to whom credit will be granted, except that an inquiry of marital status does not constitute discrimination for the purposes of this section if the inquiry is made for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and except that creditors are excepted from this division with respect to any inquiry, elicitation of information, record, or form of application required of a particular creditor by any instrumentality or agency of the United States, or required of a particular creditor by any agency or instrumentality to enforce the "Civil Rights Act of 1968," 82 Stat. 84, 85, 42 U.S.C.A. 3608(c);

(c) Refuse to consider the sources of income of an applicant for credit, or disregard or ignore the income of an

applicant, in whole or in part, on the basis of race, color, religion, age, sex, military status, marital status, disability, national origin, or ancestry;

(d) Refuse to grant credit to an individual in any name that individual customarily uses, if it has been determined in the normal course of business that the creditor will grant credit to the individual;

(e) Impose any special requirements or conditions, including, but not limited to, a requirement for co-obligors or reapplication, upon any applicant or class of applicants on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry in circumstances where similar requirements or conditions are not imposed on other applicants similarly situated, unless the special requirements or conditions that are imposed with respect to age are the result of a real estate transaction exempted under division (B)(1)(a) of this section or are the result of programs that grant preferences to certain age groups administered by instrumentalities or agencies of the United States, a state, or a political subdivision of a state;

(f) Fail or refuse to provide an applicant for credit a written statement of the specific reasons for rejection of the application if requested in writing by the applicant within sixty days of the rejection. The creditor shall provide the written statement of the specific reason for rejection within thirty days after receipt of a request of that nature. For purposes of this section, a statement that the applicant was rejected solely on the basis of information received from a credit reporting agency or because the applicant failed to meet the standards required by the creditor's credit scoring system, uniformly applied, shall constitute a specific reason for rejection.

(g) Fail or refuse to print on or firmly attach to each application for credit, in a type size no smaller than that used throughout most of the application form, the following notice: "The Ohio laws against discrimination require that all creditors make credit equally available to all credit worthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio civil rights commission administers compliance with this law." This notice is not required to be included in applications that have a multi-state distribution if the notice is mailed to the applicant with the notice of acceptance or rejection of the application.

(h) Fail or refuse on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry to maintain, upon the request of the individual, a separate account for each individual to whom credit is extended;

(i) Fail or refuse on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry to maintain records on any account established after November 1, 1976, to furnish information on the accounts to credit reporting agencies in a manner that clearly designates the contractual liability for repayment as indicated on the application for the account, and, if more than one individual is contractually liable for repayment, to maintain records and furnish information in the name of each individual. This division does not apply to individuals who are contractually liable only if the primary party defaults on the account.

(2) For any credit reporting agency to do any of the following:

(a) Fail or refuse on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry to maintain, upon the request of the individual, a separate file on each individual about whom information is assembled or evaluated;

(b) Fail or refuse on the basis of race, color, religion, age, sex, military status, marital status, national origin, disability, or ancestry to clearly note, maintain, and report any information furnished it under division (B)(1)(i) of this section.

(C) This section does not prohibit a creditor from requesting the signature of both spouses to create a valid lien, pass clear title, or waive inchoate rights to property.

(D) The rights granted by this section may be enforced by aggrieved individuals by filing a civil action in a court of common pleas within one hundred eighty days after the alleged unlawful discriminatory practice occurred. Upon application by the plaintiff and in circumstances that the court considers just, the court in which a civil action under this section is brought may appoint an attorney for the plaintiff and may authorize the commencement of a civil action upon proper showing without the payment of costs. If the court finds that an unlawful discriminatory practice prohibited by this section occurred or is about to occur, the court may grant relief that it considers appropriate, including a permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff compensatory and punitive damages of not less than one hundred dollars, together with attorney's fees and court costs.

(E) Nothing contained in this section shall bar a creditor from reviewing an application for credit on the basis of established criteria used in the normal course of business for the determination of the credit worthiness of the individual applicant for credit, including the credit history of the applicant.

Sec. 4112.023. The decision of *Fisher v. Peters*, 249 F.3d 433 (6th Cir. 2001), which held that if a person's civilian

job is inherently military, the person must pursue military, rather than civilian, channels when pursuing employment discrimination claims, shall be applied when construing the prohibitions contained in this chapter against discrimination on the basis of a person's military status.

Sec. 4112.04. (A) The commission shall do all of the following:

- (1) Establish and maintain a principal office in the city of Columbus and any other offices within the state that it considers necessary;
 - (2) Appoint an executive director who shall serve at the pleasure of the commission and be its principal administrative officer. The executive director shall be paid a salary fixed pursuant to Chapter 124. of the Revised Code.
 - (3) Appoint hearing examiners and other employees and agents who it considers necessary and prescribe their duties subject to Chapter 124. of the Revised Code;
 - (4) Adopt, promulgate, amend, and rescind rules to effectuate the provisions of this chapter and the policies and practice of the commission in connection with this chapter;
 - (5) Formulate policies to effectuate the purposes of this chapter and make recommendations to agencies and officers of the state or political subdivisions to effectuate the policies;
 - (6) Receive, investigate, and pass upon written charges made under oath of unlawful discriminatory practices;
 - (7) Make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state;
 - (8) Report, from time to time, but not less than once a year, to the general assembly and the governor, describing in detail the investigations, proceedings, and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, which report shall include a copy of any surveys prepared pursuant to division (A)(7) of this section and shall include the recommendations of the commission as to legislative or other remedial action;
 - (9) Prepare a comprehensive educational program, in cooperation with the department of education, for the students of the public schools of this state and for all other residents of this state that is designed to eliminate prejudice on the basis of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry in this state, to further good will among those groups, and to emphasize the origin of prejudice against those groups, its harmful effects, and its incompatibility with American principles of equality and fair play;
 - (10) Receive progress reports from agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or any of its political subdivisions and their agencies, instrumentalities, institutions, boards, commissions, and other entities regarding affirmative action programs for the employment of persons against whom discrimination is prohibited by this chapter, or regarding any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of race, color, religion, sex, military status, familial status, national origin, disability, or ancestry. All agencies, instrumentalities, institutions, boards, commissions, and other entities of this state or its political subdivisions, and all political subdivisions, that have undertaken affirmative action programs pursuant to a conciliation agreement with the commission, an executive order of the governor, any federal statute or rule, or an executive order of the president of the United States shall file progress reports with the commission annually on or before the first day of November. The commission shall analyze and evaluate the progress reports and report its findings annually to the general assembly on or before the thirtieth day of January of the year immediately following the receipt of the reports.
- (B) The commission may do any of the following:
- (1) Meet and function at any place within the state;
 - (2) Initiate and undertake on its own motion investigations of problems of employment or housing accommodations discrimination;
 - (3) Hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, require the production for examination of any books and papers relating to any matter under investigation or in question before the commission, and make rules as to the issuance of subpoenas by individual commissioners.
- (a) In conducting a hearing or investigation, the commission shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy the premises, records, documents, and other evidence or possible sources of evidence and take and record the testimony or statements of the individuals as reasonably necessary for the furtherance of the hearing or investigation.

In investigations, the commission shall comply with the fourth amendment to the United States Constitution relating to unreasonable searches and seizures. The commission or a member of the commission may issue subpoenas to compel access to or the production of premises, records, documents, and other evidence or possible sources of evidence or the appearance of individuals, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in a court of common pleas.

(b) Upon written application by a respondent, the commission shall issue subpoenas in its name to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of the respondent and shall state that they were issued at the respondent's request.

(c) Witnesses summoned by subpoena of the commission are entitled to the same witness and mileage fees as are witnesses in proceedings in a court of common pleas.

(d) Within five days after service of a subpoena upon any person, the person may petition the commission to revoke or modify the subpoena. The commission shall grant the petition if it finds that the subpoena requires an appearance or attendance at an unreasonable time or place, that it requires production of evidence that does not relate to any matter before the commission, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the commission or person at whose request it was issued may petition for its enforcement in the court of common pleas in the county in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(4) Create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of this chapter. The commission may itself, or it may empower these agencies and councils to, do either or both of the following:

(a) Study the problems of discrimination in all or specific fields of human relationships when based on race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry;

(b) Foster through community effort, or otherwise, good will among the groups and elements of the population of the state.

The agencies and councils may make recommendations to the commission for the development of policies and procedures in general. They shall be composed of representative citizens who shall serve without pay, except that reimbursement for actual and necessary traveling expenses shall be made to citizens who serve on a statewide agency or council.

(5) Issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry.

Sec. 4112.05. (A) The commission, as provided in this section, shall prevent any person from engaging in unlawful discriminatory practices, provided that, before instituting the formal hearing authorized by division (B) of this section, it shall attempt, by informal methods of conference, conciliation, and persuasion, to induce compliance with this chapter.

(B)(1) Any person may file a charge with the commission alleging that another person has engaged or is engaging in an unlawful discriminatory practice. In the case of a charge alleging an unlawful discriminatory practice described in division (A), (B), (C), (D), (E), (F), (G), (I), or (J) of section 4112.02 or in section 4112.021 or 4112.022 of the Revised Code, the charge shall be in writing and under oath and shall be filed with the commission within six months after the alleged unlawful discriminatory practice was committed. In the case of a charge alleging an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the charge shall be in writing and under oath and shall be filed with the commission within one year after the alleged unlawful discriminatory practice was committed.

(2) Upon receiving a charge, the commission may initiate a preliminary investigation to determine whether it is probable that an unlawful discriminatory practice has been or is being engaged in. The commission also may conduct, upon its own initiative and independent of the filing of any charges, a preliminary investigation relating to any of the unlawful discriminatory practices described in division (A), (B), (C), (D), (E), (F), (I), or (J) of section 4112.02 or in section 4112.021 or 4112.022 of the Revised Code. Prior to a notification of a complainant under division (B)(4) of this section or prior to the commencement of informal methods of conference, conciliation, and persuasion under that division, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or

that otherwise pertains to a preliminary investigation other than one described in division (B)(3) of this section.

(3)(a) Unless it is impracticable to do so and subject to its authority under division (B)(3)(d) of this section, the commission shall complete a preliminary investigation of a charge filed pursuant to division (B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, and shall take one of the following actions, within one hundred days after the filing of the charge:

- (i) Notify the complainant and the respondent that it is not probable that an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code has been or is being engaged in and that the commission will not issue a complaint in the matter;
- (ii) Initiate a complaint and schedule it for informal methods of conference, conciliation, and persuasion;
- (iii) Initiate a complaint and refer it to the attorney general with a recommendation to seek a temporary or permanent injunction or a temporary restraining order. If this action is taken, the attorney general shall apply, as expeditiously as possible after receipt of the complaint, to the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred for the appropriate injunction or order, and the court shall hear and determine the application as expeditiously as possible.

(b) If it is not practicable to comply with the requirements of division (B)(3)(a) of this section within the one-hundred-day period described in that division, the commission shall notify the complainant and the respondent in writing of the reasons for the noncompliance.

(c) Prior to the issuance of a complaint under division (B)(3)(a)(ii) or (iii) of this section or prior to a notification of the complainant and the respondent under division (B)(3)(a)(i) of this section, the members of the commission and the officers and employees of the commission shall not make public in any manner and shall retain as confidential all information that was obtained as a result of or that otherwise pertains to a preliminary investigation of a charge filed pursuant to division (B)(1) of this section that alleges an unlawful discriminatory practice described in division (H) of section 4112.05 of the Revised Code.

(d) Notwithstanding the types of action described in divisions (B)(3)(a)(ii) and (iii) of this section, prior to the issuance of a complaint or the referral of a complaint to the attorney general and prior to endeavoring to eliminate an unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code by informal methods of conference, conciliation, and persuasion, the commission may seek a temporary or permanent injunction or a temporary restraining order in the court of common pleas of the county in which the unlawful discriminatory practice allegedly occurred.

(4) If the commission determines after a preliminary investigation other than one described in division (B)(3) of this section that it is not probable that an unlawful discriminatory practice has been or is being engaged in, it shall notify any complainant under division (B)(1) of this section that it has so determined and that it will not issue a complaint in the matter. If the commission determines after a preliminary investigation other than the one described in division (B)(3) of this section that it is probable that an unlawful discriminatory practice has been or is being engaged in, it shall endeavor to eliminate the practice by informal methods of conference, conciliation, and persuasion.

(5) Nothing said or done during informal methods of conference, conciliation, and persuasion under this section shall be disclosed by any member of the commission or its staff or be used as evidence in any subsequent hearing or other proceeding. If, after a preliminary investigation and the use of informal methods of conference, conciliation, and persuasion under this section, the commission is satisfied that any unlawful discriminatory practice will be eliminated, it may treat the charge involved as being conciliated and enter that disposition on the records of the commission. If the commission fails to effect the elimination of an unlawful discriminatory practice by informal methods of conference, conciliation, and persuasion under this section and to obtain voluntary compliance with this chapter, the commission shall issue and cause to be served upon any person, including the respondent against whom a complainant has filed a charge pursuant to division (B)(1) of this section, a complaint stating the charges involved and containing a notice of an opportunity for a hearing before the commission, a member of the commission, or a hearing examiner at a place that is stated in the notice and that is located within the county in which the alleged unlawful discriminatory practice has occurred or is occurring or in which the respondent resides or transacts business. The hearing shall be held not less than thirty days after the service of the complaint upon the complainant, the aggrieved persons other than the complainant on whose behalf the complaint is issued, and the respondent, unless the complainant, an aggrieved person, or the respondent elects to proceed under division (A)(2) of section 4112.051 of the Revised Code when that division is applicable. If a complaint pertains to an alleged unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code, the complaint shall notify the complainant, an aggrieved person, and the respondent of the right of the complainant, an aggrieved person, or the respondent to elect to proceed with the administrative hearing process under this section or to proceed under division (A)(2) of section 4112.051 of the Revised Code.

(6) The attorney general shall represent the commission at any hearing held pursuant to division (B)(5) of this section and shall present the evidence in support of the complaint.

(7) Any complaint issued pursuant to division (B)(5) of this section after the filing of a charge under division (B)(1) of this section shall be so issued within one year after the complainant filed the charge with respect to an alleged unlawful discriminatory practice.

(C) Any complaint issued pursuant to division (B) of this section may be amended by the commission, a member of the commission, or the hearing examiner conducting a hearing under division (B) of this section, at any time prior to or during the hearing. The respondent has the right to file an answer or an amended answer to the original and amended complaints and to appear at the hearing in person, by attorney, or otherwise to examine and cross-examine witnesses.

(D) The complainant shall be a party to a hearing under division (B) of this section, and any person who is an indispensable party to a complete determination or settlement of a question involved in the hearing shall be joined. Any person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the unlawful discriminatory practices complained of may be permitted, in the discretion of the person or persons conducting the hearing, to appear for the presentation of oral or written arguments.

(E) In any hearing under division (B) of this section, the commission, a member of the commission, or the hearing examiner shall not be bound by the Rules of Evidence but, in ascertaining the practices followed by the respondent, shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing contained in this section shall be construed to authorize or require any person to observe the proportion that persons of any race, color, religion, sex, military status, familial status, national origin, disability, age, or ancestry bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant.

(F) The testimony taken at a hearing under division (B) of this section shall be under oath and shall be reduced to writing and filed with the commission. Thereafter, in its discretion, the commission, upon the service of a notice upon the complainant and the respondent that indicates an opportunity to be present, may take further testimony or hear argument.

(G)(1) If, upon all reliable, probative, and substantial evidence presented at a hearing under division (B) of this section, the commission determines that the respondent has engaged in, or is engaging in, any unlawful discriminatory practice, whether against the complainant or others, the commission shall state its findings of fact and conclusions of law and shall issue and, subject to the provisions of Chapter 119. of the Revised Code, cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice, requiring the respondent to take any further affirmative or other action that will effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement, or upgrading of employees with or without back pay, or admission or restoration to union membership, and requiring the respondent to report to the commission the manner of compliance. If the commission directs payment of back pay, it shall make allowance for interim earnings. If it finds a violation of division (H) of section 4112.02 of the Revised Code, the commission additionally shall require the respondent to pay actual damages and reasonable attorney's fees, and may award to the complainant punitive damages as follows:

(a) If division (G)(1)(b) or (c) of this section does not apply, punitive damages in an amount not to exceed ten thousand dollars;

(b) If division (G)(1)(c) of this section does not apply and if the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed one violation of division (H) of section 4112.02 of the Revised Code during the five-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed twenty-five thousand dollars;

(c) If the respondent has been determined by a final order of the commission or by a final judgment of a court to have committed two or more violations of division (H) of section 4112.02 of the Revised Code during the seven-year period immediately preceding the date on which a complaint was issued pursuant to division (B) of this section, punitive damages in an amount not to exceed fifty thousand dollars.

(2) Upon the submission of reports of compliance, the commission may issue a declaratory order stating that the respondent has ceased to engage in particular unlawful discriminatory practices.

(H) If the commission finds that no probable cause exists for crediting charges of unlawful discriminatory practices or if, upon all the evidence presented at a hearing under division (B) of this section on a charge, the commission finds that a respondent has not engaged in any unlawful discriminatory practice against the complainant or others, it shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the

complaint as to the respondent. A copy of the order shall be delivered in all cases to the attorney general and any other public officers whom the commission considers proper.

(I) Until the time period for appeal set forth in division (H) of section 4112.06 of the Revised Code expires, the commission, subject to the provisions of Chapter 119. of the Revised Code, at any time, upon reasonable notice, and in the manner it considers proper, may modify or set aside, in whole or in part, any finding or order made by it under this section.

Sec. 4112.08. This chapter shall be construed liberally for the accomplishment of its purposes, and any law inconsistent with any provision of this chapter shall not apply. Nothing contained in this chapter shall be considered to repeal any of the provisions of any law of this state relating to discrimination because of race, color, religion, sex, military status, familial status, disability, national origin, age, or ancestry, except that any person filing a charge under division (B)(1) of section 4112.05 of the Revised Code, with respect to the unlawful discriminatory practices complained of, is barred from instituting a civil action under section 4112.14 or division (N) of section 4112.02 of the Revised Code.

New Civil Rights Protections for Members of the Military

Matthew Miko, OCRC Chief Legal Council

In December 2007, Governor Ted Strickland signed into law House Bill 372, which added “military status” as a protected class to the employment, housing and public accommodations provisions of the Ohio Civil Rights Act. The term “military status” - defined as a person’s status in “service in the uniformed services” -means “the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority.” This includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time national guard duty, and performance of duty or training by a member of the Ohio organized militia.

By defining military status as “the performance of duty . . . in a uniformed service,” the amendment prohibits not only discrimination on the basis of military membership, but also the broader basis of military service. With respect to employment, this means that an employee cannot be discharged because he or she is called upon to perform military service. In addition, an employee who leaves employment to undertake military service or perform a duty in a uniformed service must be reemployed, and restored to the job, rate of pay, seniority status and with all other benefits that the employee would have attained had there been no absence due to military service:

At a time when a significant number of troops are leaving or returning to employment as a result of being called to active duty, many facing unfair treatment in the workplace, it is even more important to ensure that no member of the military is denied employment or loses a job because of a selfless decision to serve and protect this Nation.

The prohibition against military status discrimination is effective on March 24, 2008. For assistance in filing a complaint, or for any other information, please contact the Ohio Civil Rights Commission at 1-888-278-7101 or (614) 752-2391 (TTY), or visit our website at crc.ohio.gov.

State of Ohio Housing Discrimination Charge

OCRC Use Only:		OCRC Number:	HUD Number:	Filing Date:	
1. Name of person or organization alleging harm:		Home Phone Number: ()		Business Phone Number: ()	
Street Address	City	County	State OH	Zip	
2. Against whom is this complaint being filed ?			Phone Number ()		
Street Address	City	County	State	Zip	
Check the applicable box or boxes which describe(s) the party named above: <input type="checkbox"/> Builder <input type="checkbox"/> Owner <input type="checkbox"/> Broker <input type="checkbox"/> Salesperson <input type="checkbox"/> Supt. or Manager <input type="checkbox"/> Bank or Other Lender <input type="checkbox"/> Other					
If you named an individual above who appeared to be acting for a company in this case, check this box <input type="checkbox"/> and write the name and address of the company below: Name: _____ Address: _____					
Name and identify others (if any) you believe violated the law in this case:					
3. What did the person you are complaining against do? Check all that apply and give the most recent date these act(s) occurred in block 6a. <input type="checkbox"/> Refuse to rent, sell, or deal with you <input type="checkbox"/> Falsely deny housing was available <input type="checkbox"/> Engage in blockbusting <input type="checkbox"/> Discriminate in broker's services <input type="checkbox"/> Discriminate in the conditions or terms of sale, rental occupancy, or in services or facilities <input type="checkbox"/> Threaten, intimidate, interfere, or coerce you to keep you from the full benefit of the State or Federal Fair Housing Law <input type="checkbox"/> Advertise in a discriminatory way <input type="checkbox"/> Discriminate in financing <input type="checkbox"/> Other (explain): _____					
4. Do you believe you were discriminated against because of your: (Check all that apply) <input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> Religion <input type="checkbox"/> Sex <input type="checkbox"/> Handicap <input type="checkbox"/> National Origin <input type="checkbox"/> Ancestry <input type="checkbox"/> Retaliation <input type="checkbox"/> The presence of children under 18, or a pregnant female in the family					
5. What kind of house or property was involved?: <input type="checkbox"/> Single-Family house <input type="checkbox"/> A house or building for 2,3, or 4 families <input type="checkbox"/> A building for 5 families or more <input type="checkbox"/> Other, including vacant land held for residential use (explain): _____ Did the owner live there? Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown <input type="checkbox"/> Is the house or property: <input type="checkbox"/> being sold? <input type="checkbox"/> being rented?					
What is the address of the house or property? (street, city, county, state and zip code):					
6. When did the act(s) checked in item 3 occur? (include the most recent date if several dates are involved.)					
7. Summarize in your own words what happened. Use this space for a brief statement of the facts. Additional details may be submitted on an attachment. Note: OCRC will furnish a copy of the charge to the person or organization against whom the charge is made.					

OCRC HOUSING CHARGE

Page Two

I declare under penalty of perjury that I have read this charge (including attachments) and that it is true and correct.

Signature: _____

Date: _____

OCRC Representative: _____

Date: _____

OHIO LANDLORDS AND TENANTS LAW

Ohio Revised Code- Chapter 5321

5321.01 Landlord and tenant definitions.

As used in this chapter:

(A) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

(B) "Landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

(C) "Residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant. "Residential premises" includes a dwelling unit that is owned or operated by a college or university. "Residential premises" does not include any of the following:

(1) Prisons, jails, workhouses, and other places of incarceration or correction, including, but not limited to, halfway houses or residential arrangements that are used or occupied as a requirement of a community control sanction, a post-release control sanction, or parole;

(2) Hospitals and similar institutions with the primary purpose of providing medical services, and homes licensed pursuant to Chapter 3721. of the Revised Code;

(3) Tourist homes, hotels, motels, recreational vehicle parks, recreation camps, combined park-camps, temporary park-camps, and other similar facilities where circumstances indicate a transient occupancy;

(4) Elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition;

(5) Orphanages and similar institutions;

(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;

(7) Dwelling units subject to sections 3733.41 to 3733.49 of the Revised Code;

(8) Occupancy by an owner of a condominium unit;

(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:

(a) The occupancy is for a period of less than sixty days.

(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:

(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of mentally ill persons, developmentally disabled persons, adults or juveniles convicted of criminal offenses, or persons suffering from substance abuse;

(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.

(10) Emergency shelters operated by organizations exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, for persons

whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways.

(D) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(E) "Security deposit" means any deposit of money or property to secure performance by the tenant under a rental agreement.

(F) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(G) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Student tenant" means a person who occupies a dwelling unit owned or operated by the college or university at which the person is a student, and who has a rental agreement that is contingent upon the person's status as a student.

(I) "Recreational vehicle park," "recreation camp," "combined park-camp," and "temporary park-camp" have the same meanings as in section 3729.01 of the Revised Code.

(J) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(K) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(L) "School premises" has the same meaning as in section 2925.01 of the Revised Code.

(M) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(N) "Preschool or child day-care center premises" has the the same meaning as in section 2950.034 of the Revised Code.

Effective Date: 01-01-2004; 10-13-2004; 2007 SB10 07-01-2007

5321.02 Retaliatory action by landlord prohibited.

(A) Subject to section 5321.03 of the Revised Code, a landlord may not retaliate against a tenant by increasing the tenant's rent, decreasing services that are due to the tenant, or bringing or threatening to bring an action for possession of the tenant's premises because:

(1) The tenant has complained to an appropriate governmental agency of a violation of a building, housing, health, or safety code that is applicable to the premises, and the violation materially affects health and safety;

(2) The tenant has complained to the landlord of any violation of section 5321.04 of the Revised Code;

(3) The tenant joined with other tenants for the purpose of negotiating or dealing collectively with the landlord on any of the terms and conditions of a rental agreement.

(B) If a landlord acts in violation of division (A) of this section the tenant may:

(1) Use the retaliatory action of the landlord as a defense to an action by the landlord to recover possession of the premises;

(2) Recover possession of the premises; or

(3) Terminate the rental agreement.

In addition, the tenant may recover from the landlord any actual damages together with reasonable attorneys' fees.

(C) Nothing in division (A) of this section shall prohibit a landlord from increasing the rent to reflect the cost of improvements installed by the landlord in or about the premises or to reflect an increase in other costs of operation of the premises.

Effective Date: 11-04-1974

5321.03 Action for possession by landlord.

(A) Notwithstanding section 5321.02 of the Revised Code, a landlord may bring an action under Chapter 1923. of the Revised Code for possession of the premises if:

(1) The tenant is in default in the payment of rent;

(2) The violation of the applicable building, housing, health, or safety code that the tenant complained of was primarily caused by any act or lack of reasonable care by the tenant, or by any other person in the tenant's household, or by anyone on the premises with the consent of the tenant;

(3) Compliance with the applicable building, housing, health, or safety code would require alteration, remodeling, or demolition of the premises which would effectively deprive the tenant of the use of the dwelling unit;

(4) A tenant is holding over the tenant's term.

(5) The residential premises are located within one thousand feet of any school premises or preschool or child day-care center premises, and both of the following apply regarding the tenant or other occupant who resides in or occupies the premises:

(a) The tenant's or other occupant's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the tenant or other occupant was convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(B) The maintenance of an action by the landlord under this section does not prevent the tenant from recovering damages for any violation by the landlord of the rental agreement or of section 5321.04 of the Revised Code.

(C) This section does not apply to a dwelling unit occupied by a student tenant.

Effective Date: 07-31-2003; 2007 SB10 07-01-2007

5321.031 College or university student tenant rental agreements.

A college or university may terminate a rental agreement with a student tenant prior to the expiration of the term of the agreement and require that the student vacate the dwelling unit only when the termination follows a hearing in which it was determined by the college or university that the student violated a term of the rental agreement or violated the college's or university's code of conduct or other policies and procedures. The hearing must be preceded by a written notice to the student, must include a right to be heard, and must otherwise comply with the college's or university's procedures for disciplinary hearings. The written rental agreement must specify the conditions under which the rental agreement may be terminated and specify the college's or university's notice and hearing procedures that will be followed in making a determination under this section.

Effective Date: 10-12-1994

5321.04 Landlord obligations.

(A) A landlord who is a party to a rental agreement shall do all of the following:

- (1) Comply with the requirements of all applicable building, housing, health, and safety codes that materially affect health and safety;
- (2) Make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition;
- (3) Keep all common areas of the premises in a safe and sanitary condition;
- (4) Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, and air conditioning fixtures and appliances, and elevators, supplied or required to be supplied by him;
- (5) When he is a party to any rental agreements that cover four or more dwelling units in the same structure, provide and maintain appropriate receptacles for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of a dwelling unit, and arrange for their removal;
- (6) Supply running water, reasonable amounts of hot water and reasonable heat at all times, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection;
- (7) Not abuse the right of access conferred by division (B) of section 5321.05 of the Revised Code;
- (8) Except in the case of emergency or if it is impracticable to do so, give the tenant reasonable notice of his intent to enter and enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.
- (9) Promptly commence an action under Chapter 1923. of the Revised Code, after complying with division (C) of section 5321.17 of the Revised Code, to remove a tenant from particular residential premises, if the tenant fails to vacate the premises within three days after the giving of the notice required by that division and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in that division. Such actual knowledge or reasonable cause to believe shall be determined in accordance with that division.

(B) If the landlord makes an entry in violation of division (A)(8) of this section, makes a lawful entry in an unreasonable manner, or makes repeated demands for entry otherwise lawful that have the effect of harassing the tenant, the tenant may recover actual damages resulting from the entry or demands, obtain injunctive relief to prevent the recurrence of the conduct, and obtain a judgment for reasonable attorney's fees, or may terminate the rental agreement.

Effective Date: 08-22-1990

5321.05 Tenant obligations.

(A) A tenant who is a party to a rental agreement shall do all of the following:

- (1) Keep that part of the premises that he occupies and uses safe and sanitary;
- (2) Dispose of all rubbish, garbage, and other waste in a clean, safe, and sanitary manner;
- (3) Keep all plumbing fixtures in the dwelling unit or used by him as clean as their condition permits;

(4) Use and operate all electrical and plumbing fixtures properly;

(5) Comply with the requirements imposed on tenants by all applicable state and local housing, health, and safety codes;

(6) Personally refrain and forbid any other person who is on the premises with his permission from intentionally or negligently destroying, defacing, damaging, or removing any fixture, appliance, or other part of the premises;

(7) Maintain in good working order and condition any range, refrigerator, washer, dryer, dishwasher, or other appliances supplied by the landlord and required to be maintained by the tenant under the terms and conditions of a written rental agreement;

(8) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises;

(9) Conduct himself, and require persons in his household and persons on the premises with his consent to conduct themselves, in connection with the premises so as not to violate the prohibitions contained in Chapters 2925. and 3719. of the Revised Code, or in municipal ordinances that are substantially similar to any section in either of those chapters, which relate to controlled substances.

(B) The tenant shall not unreasonably withhold consent for the landlord to enter into the dwelling unit in order to inspect the premises, make ordinary, necessary, or agreed repairs, decorations, alterations, or improvements, deliver parcels that are too large for the tenant's mail facilities, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(C)(1) If the tenant violates any provision of this section, other than division (A)(9) of this section, the landlord may recover any actual damages that result from the violation together with reasonable attorney's fees. This remedy is in addition to any right of the landlord to terminate the rental agreement, to maintain an action for the possession of the premises, or to obtain injunctive relief to compel access under division (B) of this section.

(2) If the tenant violates division (A)(9) of this section and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in that division, then the landlord promptly shall give the notice required by division (C) of section 5321.17 of the Revised Code. If the tenant fails to vacate the premises within three days after the giving of that notice, then the landlord promptly shall comply with division (A)(9) of section 5321.04 of the Revised Code. For purposes of this division, actual knowledge or reasonable cause to believe as described in this division shall be determined in accordance with division (A)(6)(a)(i) of section 1923.02 of the Revised Code.

Effective Date: 08-22-1990

5321.051 Eviction of tenant allowing sex or child victim offenders to occupy premises near school.

(A)(1) No tenant of any residential premises located within one thousand feet of any school premises or preschool or child day-care center premises shall allow any person to occupy those residential premises if both of the following apply regarding the person:

(a) The person's name appears on the state registry of sex offenders and child-victim offenders maintained under section 2950.13 of the Revised Code.

(b) The state registry of sex offenders and child-victim offenders indicates that the person was convicted of or pleaded guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense

or a child-victim oriented offense in a criminal prosecution and was not sentenced to a serious youthful offender dispositional sentence for that offense.

(2) If a tenant allows occupancy in violation of this section or a person establishes a residence or occupies residential premises in violation of section 2950.034 of the Revised Code, the landlord for the residential premises that are the subject of the rental agreement or other tenancy may terminate the rental agreement or other tenancy of the tenant and all other occupants.

(B) If a landlord is authorized to terminate a rental agreement or other tenancy pursuant to division (A) of this section but does not so terminate the rental agreement or other tenancy, the landlord is not liable in a tort or other civil action in damages for any injury, death, or loss to person or property that allegedly results from that decision.

Effective Date: 07-31-2003; 2007 SB10 07-01-2007

5321.06 Terms and conditions of rental agreement.

A landlord and a tenant may include in a rental agreement any terms and conditions, including any term relating to rent, the duration of an agreement, and any other provisions governing the rights and obligations of the parties that are not inconsistent with or prohibited by Chapter 5321 . of the Revised Code or any other rule of law.

Effective Date: 11-04-1974

5321.07 Failure of landlord to fulfill obligations - remedies of tenant.

(A) If a landlord fails to fulfill any obligation imposed upon him by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, or any obligation imposed upon him by the rental agreement, if the conditions of the residential premises are such that the tenant reasonably believes that a landlord has failed to fulfill any such obligations, or if a governmental agency has found that the premises are not in compliance with building, housing, health, or safety codes that apply to any condition of the premises that could materially affect the health and safety of an occupant, the tenant may give notice in writing to the landlord, specifying the acts, omissions, or code violations that constitute noncompliance. The notice shall be sent to the person or place where rent is normally paid.

(B) If a landlord receives the notice described in division (A) of this section and after receipt of the notice fails to remedy the condition within a reasonable time considering the severity of the condition and the time necessary to remedy it, or within thirty days, whichever is sooner, and if the tenant is current in rent payments due under the rental agreement, the tenant may do one of the following:

(1) Deposit all rent that is due and thereafter becomes due the landlord with the clerk of the municipal or county court having jurisdiction in the territory in which the residential premises are located;

(2) Apply to the court for an order directing the landlord to remedy the condition. As part of the application, the tenant may deposit rent pursuant to division (B)(1) of this section, may apply for an order reducing the periodic rent due the landlord until the landlord remedies the condition, and may apply for an order to use the rent deposited to remedy the condition. In any order issued pursuant to this division, the court may require the tenant to deposit rent with the clerk of court as provided in division (B)(1) of this section.

(3) Terminate the rental agreement.

(C) This section does not apply to any landlord who is a party to rental agreements that cover three or fewer dwelling units and who provides notice of that fact in a written rental agreement or, in the case of an oral tenancy, delivers written notice of that fact to the tenant at the time of initial occupancy by the tenant.

(D) This section does not apply to a dwelling unit occupied by a student tenant.

Effective Date: 10-12-1994

5321.08 Rent deposits - duty of clerk of court.

(A) Whenever a tenant deposits rent with the clerk of a court as provided in section 5321.07 of the Revised Code, the clerk shall give written notice of this fact to the landlord and to his agent, if any.

(B) The clerk shall place all rent deposited with him in a separate rent escrow account in the name of the clerk in a bank or building and loan association domiciled in this state.

(C) The clerk shall keep in a separate docket an account of each deposit, with the name and address of the tenant, and the name and address of the landlord and of his agent, if any.

(D) For his costs, the clerk may charge a fee of one per cent of the amount of the rent deposited, which shall be assessed as court costs.

(E) All interest that has accrued on the rent deposited by the clerk of a county court under division (B) of this section shall be paid into the treasury of the political subdivision for which the clerk performs his duties. All interest that has accrued on the rent deposited by the clerk of a municipal court under division (B) of this section shall be paid into the city treasury as defined in division (B) of section 1901.03 of the Revised Code.

Effective Date: 09-01-1975

5321.09 Landlord application for release of rent.

(A) A landlord who receives notice that rent due him has been deposited with a clerk of a municipal or county court pursuant to section 5321.07 of the Revised Code, may do any of the following:

(1) Apply to the clerk of the court for release of the rent on the ground that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied. The clerk shall forthwith release the rent, less costs, to the landlord if the tenant gives written notice to the clerk that the condition has been remedied.

(2) Apply to the court for release of the rent on the ground that the tenant did not comply with the notice requirement of division (A) of section 5321.07 of the Revised Code, or that the tenant was not current in rent payments due under the rental agreement at the time the tenant initiated rent deposits with the clerk of the court under division (B)(1) of section 5321.07 of the Revised Code.

(3) Apply to the court for release of the rent on the ground that there was no violation of any obligation imposed upon the landlord by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, any obligation imposed upon him by the rental agreement, or any obligation imposed upon him by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied.

(B) The tenant shall be named as a party to any action filed by the landlord under this section, and shall have the right to file an answer and counterclaim, as in other civil actions. A trial shall be held within sixty days of the date of the filing of the landlord's complaint, unless, for good cause shown, the court continues the period for trial.

(C) If the court finds that there was no violation of any obligation imposed upon the landlord by section 5321.04 of the Revised Code, other than the obligation specified in division (A)(9) of that section, any obligation imposed upon him by the rental agreement, or any obligation imposed upon him by any building, housing, health, or safety code, that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code has been remedied, that the tenant did not comply with the notice requirement of division (A) of section 5321.07 of the Revised Code, or that the tenant was not current in rent payments at the time the tenant initiated rent deposits with the clerk of court under division (B)(1) of section 5321.07 of the Revised Code, the court shall order the release to the landlord of rent on deposit with the clerk, less costs.

(D) If the court finds that the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code was the result of an act or omission of the tenant, or that the tenant intentionally acted in bad faith in proceeding under section 5321.07 of the Revised Code, the tenant shall be liable for damages caused to the landlord and costs, together with reasonable attorney's fees if the tenant intentionally acted in bad faith.

Effective Date: 08-22-1990

5321.10 Release of part of rent.

(A) If a landlord brings an action for the release of rent deposited with a clerk of court, the court may, during the pendency of the action, upon application of the landlord, release part of the rent on deposit for payment of the periodic interest on a mortgage on the premises, the periodic principal payments on a mortgage on the premises, the insurance premiums for the premises, real estate taxes on the premises, utility services, repairs, and other customary and usual costs of operating the premises as a rental unit.

(B) In determining whether to release rent for the payments described in division (A) of this section, the court shall consider the amount of rent the landlord receives from other rental units in the buildings of which the residential premises are a part, the cost of operating those units, and the costs which may be required to remedy the condition contained in the notice given pursuant to division (A) of section 5321.07 of the Revised Code.

Effective Date: 11-04-1974

5321.11 Failure of tenant to fulfill obligations - remedies of landlord.

If the tenant fails to fulfill any obligation imposed upon him by section 5321.05 of the Revised Code that materially affects health and safety, other than the obligation described in division (A)(9) of that section, the landlord may deliver a written notice of this fact to the tenant specifying the act or omission that constitutes noncompliance with the pertinent obligations and specifying that the rental agreement will terminate upon a date specified in the notice, not less than thirty days after receipt of the notice. If the tenant fails to remedy the condition specified in the notice, the rental agreement shall terminate as provided in the notice.

Effective Date: 08-22-1990

5321.12 Recovery of damages.

In any action under Chapter 5321. of the Revised Code, any party may recover damages for the breach of contract or the breach of any duty that is imposed by law.

Effective Date: 11-04-1974

5321.13 Terms prohibited in rental agreement.

(A) No provision of this chapter may be modified or waived by any oral or written agreement except as provided in division (F) of this section.

(B) No warrant of attorney to confess judgment shall be recognized in any rental agreement or in any other agreement between a landlord and tenant for the recovery of rent or damages to the residential premises.

(C) No agreement to pay the landlord's or tenant's attorney's fees shall be recognized in any rental agreement for residential premises or in any other agreement between a landlord and tenant.

(D) No agreement by a tenant to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or its related costs shall be recognized in any rental agreement or in any other agreement between a landlord and tenant.

(E) A rental agreement, or the assignment, conveyance, trust deed, or security instrument of the landlord's interest in the rental agreement may not permit the receipt of rent free of the obligation to comply with section 5321.04 of the Revised Code.

(F) The landlord may agree to assume responsibility for fulfilling any duty or obligation imposed on a tenant by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section.

Effective Date: 08-22-1990

5321.14 Unconscionable terms.

(A) If the court as a matter of law finds a rental agreement, or any clause thereof, to have been unconscionable at the time it was made, it may refuse to enforce the rental agreement or it may enforce the remainder of the rental agreement without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(B) When it is claimed or appears to the court that the rental agreement, or any clause thereof, may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

Effective Date: 11-04-1974

5321.15 Acts of landlord prohibited if residential property involved.

(A) No landlord of residential premises shall initiate any act, including termination of utilities or services, exclusion from the premises, or threat of any unlawful act, against a tenant, or a tenant whose right to possession has terminated, for the purpose of recovering possession of residential premises, other than as provided in Chapters 1923., 5303., and 5321. of the Revised Code.

(B) No landlord of residential premises shall seize the furnishings or possessions of a tenant, or of a tenant whose right to possession has terminated, for the purpose of recovering rent payments, other than in accordance with an order issued by a court of competent jurisdiction.

(C) A landlord who violates this section is liable in a civil action for all damages caused to a tenant, or to a tenant whose right to possession has terminated, together with reasonable attorneys fees.

Effective Date: 11-04-1974

5321.16 Procedures for security deposits.

(A) Any security deposit in excess of fifty dollars or one month's periodic rent, whichever is greater, shall bear interest on the excess at the rate of five per cent per annum if the tenant remains in possession of the premises for six months or more, and shall be computed and paid annually by the landlord to the tenant.

(B) Upon termination of the rental agreement any property or money held by the landlord as a security deposit may be applied to the payment of past due rent and to the payment of the amount of damages that the landlord has suffered by reason of the tenant's noncompliance with section 5321.05 of the Revised Code or the rental agreement. Any deduction from the security deposit shall be itemized and identified by the landlord in a written notice delivered to the tenant together with the amount due, within thirty days after termination of the rental agreement and delivery of possession. The tenant shall provide the landlord in writing with a forwarding address or new address to which the written notice and amount due from the landlord may be sent. If the tenant fails to provide the landlord with the forwarding or new address as required, the tenant shall not be entitled to damages or attorneys fees under division (C) of this section.

(C) If the landlord fails to comply with division (B) of this section, the tenant may recover the property and money due him, together with damages in an amount equal to the amount wrongfully withheld, and reasonable attorneys fees.

Effective Date: 11-04-1974

5321.17 Termination of tenancy.

(A) Except as provided in division (C) of this section, the landlord or the tenant may terminate or fail to renew a week-to-week tenancy by notice given the other at least seven days prior to the termination date specified in the notice.

(B) Except as provided in division (C) of this section, the landlord or the tenant may terminate or fail to renew a month-to-month tenancy by notice given the other at least thirty days prior to the periodic rental date.

(C) If a tenant violates division (A)(9) of section 5321.05 of the Revised Code and if the landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the residential premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code, the landlord shall terminate the week-to-week tenancy, month-to-month tenancy, or other rental agreement with the tenant by giving a notice of termination to the tenant in accordance with this division. The notice shall specify that the tenancy or other rental agreement is terminated three days after the giving of the notice, and the landlord may give the notice whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in division (A)(6)(a)(i) of section 1923.02 of the Revised Code. If the tenant fails to vacate the premises within three days after the giving of that notice, then the landlord promptly shall comply with division (A)(9) of section 5321.04 of the Revised Code. For purposes of this division, actual knowledge or reasonable cause to believe as described in this division shall be determined in accordance with division (A)(6)(a)(i) of section 1923.02 of the Revised Code.

(D) This section does not apply to a termination based on the breach of a condition of a rental agreement or the breach of a duty and obligation imposed by law, except that it does apply to a breach of the obligation imposed upon a tenant by division (A)(9) of section 5321.05 of the Revised Code.

Effective Date: 08-22-1990

5321.18 Written rental agreement for residential premises provisions.

(A) Every written rental agreement for residential premises shall contain the name and address of the owner and the name and address of the owner's agent, if any. If the owner or the owner's agent is a corporation, partnership, limited partnership, association, trust, or other entity, the address shall be the principal place of business in the county in which the residential property is situated or if there is no place of business in such county then its principal place of business in this state, and shall include the name of the person in charge thereof.

(B) If the rental agreement is oral, the landlord, at the commencement of the term of occupancy, shall deliver to tenant a written notice containing the information required in division (A) of this section.

(C) If the landlord fails to provide the notice of the name and address of the owner and owner's agent, if any, required under division (A) or (B) of this section, the notices to the landlord required under division (A) of section 5321.07 and division (A) of section 5321.08 of the Revised Code shall be waived by the landlord and his agent.

Effective Date: 11-04-1974

5321.19 Effect of chapter on municipal ordinances, township resolutions.

No municipal corporation may adopt or continue in existence any ordinance and no township may adopt or continue in existence any resolution that is in conflict with this chapter, or that regulates the rights and obligations of parties to a rental agreement that are regulated by this chapter. This chapter does not preempt any housing, building, health, or safety code, or any ordinance as described in division (A)(9) of section 5321.04 of the Revised Code, of any municipal corporation or township.

Effective Date: 09-17-1991

OHIO FY 2008
COMMUNITY DEVELOPMENT PROGRAM

ANNUAL STANDARD FAIR HOUSING PROGRAM

September 1, 2008 to August 31, 2009

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability). As a recipient of CDBG funds, the grantee is required certify to affirmatively further fair housing and conduct the minimum requirements set by the state's Standard Fair Housing Program. A definition the Standard Fair Housing Program is included in the instructions.

GRANTEE (or Acquired City): _____
(Submit Housing Table for each acquired city undertaking its own Fair Housing Program)

List of Jurisdiction(s) covered by Program: _____

1. LOCAL FAIR HOUSING CONTACT AND INTAKE PROCESS

A. LOCAL FAIR HOUSING CONTACT

Grantee is required to provide the following information of the designated local fair housing coordinator, a) who is an employee of the unit of local government, b) who is generally accessible Monday through Friday, and, c) who will be responsible to intake initial fair housing complaints and concerns. The person's name, address, and phone number must appear in all fair housing materials. County and consortia grantees are encouraged to obtain a toll free phone number: Check here if this person had held this position for 1 year or less.

Name: _____ Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Local: _____ Phone Toll Free: _____

E-mail address: _____

Website: _____

B. CONSULTANT SERVICES FOR OUTREACH OR ANALYSIS

A consultant or agency may be used to carry out the fair housing requirements with the exception of the local contact responsibilities. If using consultant services is planned, attach a copy of the Request for Proposals (RFP). If the consultant has been selected attach evaluation sheets for proposal and the contract for fair housing services, and complete the following information. If the RFP has not been developed, check here. If a contract has not been entered into check here.

Agency: _____ or Unknown to date; or None planned

Contact Person: _____ Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Local: _____ Phone Toll Free: _____

E-mail Address: _____

C. COMPLAINT PROCESS

Each Grantee is required to establish a system for intaking and processing fair housing complaints and coordinating efforts with the appropriate regional office of the Ohio Civil Rights Commission. Attach a description of your method of intaking of fair housing complaints, the method by which complaints will be forwarded to OCRC, and the method of follow-up on complaints regardless if previously submitted to OHCP.

List the expected number of complaints received from September 1, 2007 to July 1, 2008:

_____ Housing Discrimination _____ Landlord-Tenant

Indicate the Ohio Civil Rights Commission (OCRC) Office with which you will coordinate:

_____ Columbus Regional Office _____ Cincinnati Regional Office
_____ Cleveland Regional Office _____ Dayton Regional Office
_____ Akron Regional Office _____ Toledo Regional Office

2. ANALYSIS OF IMPEDEMENTS TO FAIR HOUSING (AI)

As a requirement of receiving federal CDBG funds, a grantee certifies it will affirmatively further fair housing (AFFH). HUD defines AFFH as requiring a grantee to:

- conduct an analysis to identify impediments to fair housing choice within the jurisdiction
- take appropriate actions to overcome the effects of any impediments identified through the analysis
- maintain records reflecting the analysis and actions in this regard

OHCP provides guidance on its web page in 2 OHCP publications, [Standard Fair Housing Program/Conducting an Analysis of Impediments](#) and [Analysis of Impediments Checklist](#) -- provide comprehensive guidance on how to develop an AI and a plan of action to overcome the identified impediments. The publications are available on OHCP's Civil Rights web link at <http://www.odod.state.oh.us/cdd/ohcp/CivilRights.htm>. An additional publication [How To Analyze Impediments To Fair Housing And Develop A Plan](#) was distributed at the Community Development Program training in April. A copy can be obtained by contacting Joyce Hill, Civil Rights Specialist by e-mail at jhill@odod.state.oh.us or by telephone at (614) 466-2285.

Attach a copy of your current updates.

Grantees are required to update their analysis annually, include what actions have been done during the past year and their results, and develop an action plan for the following year. Attach the grantee's action plan for September 1, 2008 to August 31, 2009. Additionally, please e-mail your action plans to jhill@odod.state.oh.us by the application deadline. If the action plan is in a format that cannot be e-mailed, please check here.

3. TRAINING PROGRAM - September 1, 2008 through August 31, 2009

Annually, grantees are required to conduct training to provide educational material and activities regarding fair housing to: residents of project areas, or targeted protected populations, in which CDBG or HOME activities funded in a fiscal year are being undertaken, and b) at least, 3 additional civic or social groups and/or schools in your community. There should be at least 1 training event each quarter. Also list training you will conduct as part of your annual effort to eliminate barriers to fair housing identified in your AI. (*Training and outreach conducted for the CDBG Community Development Standard Fair Housing Program do not meet the CHIP fair housing requirements. CHIP fair housing requirements are in addition to the CDBG Community Development Standard Fair Housing Program requirements.*)

List the proposed Community Development Program CDBG activity areas and/or targeted, protected populations (e.g., elderly, handicapped, homeless, etc.). Develop a training strategy and list these training in the following chart (be specific). Add additional sheets as needed. Training sessions should be scheduled and held quarterly throughout the program period. Indicate which training will be conducted as part of your annual effort to eliminate barriers to fair housing identified in your local AI.

Community Development Program Fair Housing Training Plan
(Schedule no earlier than Sept 1, 2008 and no later than Aug 31, 2009)

CDBG TARGET AREAS/TARGET AUDIENCE	TRAINING LOCATION	AI	DESCRIPTION OF TRAINING	APPROXIMATE DATE & TIME <i>(Schedule between Sept 1, 2008 and Aug 31, 2009)</i>
e.g., Removal of Arch. Barriers at Appleton's Senior Center	Appleton Senior Center/ Senior Citizens	<input type="checkbox"/>	Fair Housing Rights & Complaint Process Housing for Persons with Disabilities & Elderly	Oct. 10, 2008- 7:00 P.M.
		<input type="checkbox"/>		

		<input type="checkbox"/>		
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4. **OUTREACH PROGRAM** Grantees are required to develop and distribute fair housing information and materials to a total of a minimum of 10 public events, agencies or organizations. Materials must be distributed at least **QUARTERLY** throughout the grant program period to agencies or organizations. Develop a distribution strategy and list in the chart located below: (Add additional sheets as needed.)

FAIR HOUSING OUTREACH PROGRAM

AGENCY, ORGANIZATION, PUBLIC EVENT	LIST OF MATERIALS TO BE DISTRIBUTED	AI	EST. NUMBER OF	APPROXIMATE DATES OF DISTRIBUTION <i>(Distribute at least quarterly)</i>
e.g., Erie County Human Resource Office	Fair Housing & Landlord-Tenant Brochures	<input type="checkbox"/>	150 of each brochure	9/15/08, 12/5/08, 3/28/09, 7/19/09
1.		<input type="checkbox"/>		
2.		<input type="checkbox"/>		
3.		<input type="checkbox"/>		
4.		<input type="checkbox"/>		
5.		<input type="checkbox"/>		
6.		<input type="checkbox"/>		
7.		<input type="checkbox"/>		
8.		<input type="checkbox"/>		
9.		<input type="checkbox"/>		
10.		<input type="checkbox"/>		

5. **Attach** your current local fair housing ordinance or resolution. Check if grantee does not have a local fair housing resolution or ordinance.

6. **BUDGET: Grantee must enter a budget amount for implementation of the standard fair housing program, whether from Community Development or other local resources. This same amount should also be reflected on the CD budget summary form.** If Community Development funding is being utilized to implement the community's current or future CHIP Fair Housing Program requirements, the grantee must complete the CHIP FH Program chart.

SOURCE OF FUNDS AND USE OF FUNDS
September 1, 2008 - August 31, 2009

2008 CDBG CD FUNDS FUNDS	OTHER FUNDS	SOURCE OF OTHER FUNDS	TOTAL BUDGET	OUTCOME/ACTIVITY
\$	\$		\$	FH COORDINATOR
				FH COMPLAINT SYSTEM
				FH TRAINING PROGRAM
				FH EDUCATION OUTREACH
				FH ANALYSIS
\$	\$		\$	TOTAL - 12 MO. BUDGET

CHIP FAIR HOUSING PROGRAM
SOURCE OF FUNDS AND USE OF FUNDS

Check here if fair housing activities are being carried out by other persons than those identified in section 1 above and identify: (All literature must reference the Local Fair Housing Contact identified in section 1 and all complaint intake must also be performed by the Local Fair Housing Contact.)

Agency: _____
 Contact Person: _____ Title: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone: _____ E-mail address: _____

2008 CDBG CD FUNDS FUNDS	CHIP FUNDS	OTHER FUNDS	TOTAL BUDGET	OUTCOME/ACTIVITY
\$	\$		\$	FH COORDINATOR, COMPLAINT SYSTEM
				FH TRAINING PROGRAM
				FH EDUCATION OUTREACH
				FH ANALYSIS
\$	\$		\$	TOTAL - 24 MO. CHIP FAIR HOUSING BUDGET

TOTAL CDBG COMMUNITY DEVELOPMENT FAIR HOUSING BUDGET:

\$ _____ CDBG Standard Fair Housing Program
 \$ _____ CHIP Fair Housing Program

\$ _____ **Total FY 2008 CDBG Community Development funds**

7. SUMMARY OF ATTACHMENTS

1. B. If applicable:

- Request for Proposals
- RFP evaluation forms
- Contract

1. C. Description of complaint intake, method of referral to Civil Rights Commission, and method of follow-up on complaints

2. Updates to Analysis and previous year's action plan and annual evaluation of outcomes and results

E-mailed to OHCP

Action Plan for September 1, 2008 through August 31, 2009

E-mailed to OHCP

If applicable:

Current local fair housing ordinance or resolution

**FY 2008 Formula Allocation Program (CDBG)
Fair Housing Program Review**

APPLICANT COMMUNITY: _____

Did the applicant designate a local fair housing contact? Yes No

Does the applicant have a system for taking and processing complaints and coordinating with the Ohio Civil Rights Commission? Yes No

TRAINING:

Did the applicant propose at least one fair housing training and provide educational materials to residents of project areas or targeted populations in which CDBG or HOME activities are funded in this fiscal year. Yes No

Comments: _____

Will fair housing training be made available to at least 3 additional groups, schools, etc. Yes No

Comments: _____

OUTREACH:

Does the applicant indicate that fair housing informational materials will be distributed to a minimum of 10 area groups, organizations and/or agencies during the grant period? Yes No

FUNDS BUDGETED TO CARRY OUT FAIR HOUSING PROGRAM:

Was a source of funding identified to carry out the CDBG fair housing program? Yes No

Other Concerns:

Reviewed by: _____ Date: _____

**Community Housing Improvement Program (CHIP)
FY 2008 Fair Housing Program Review**

APPLICANT COMMUNITY: _____
TARGET AREA (s) _____

ACTIVITIES: Private Rehab ____ units Home Repair ____ units Homebuyer Ed ____ HH
Other: _____ Total Proposed Beneficiaries _____

NOTES: _____

Did the applicant identify the local fair housing contact? Yes No
Is the CHIP applicant currently a direct Formula Allocation Program applicant? Yes No

TRAINING:
Did the applicant propose one fair housing training for each primary, supportive or secondary activity and for targeted groups and locations? Yes No NA
Comments: _____

Do homebuyer education activities contain a fair housing component that includes information related to lending, insurance and real estate practices including abusive or unfair lending practices? Yes No NA
Comments: _____

Did the applicant propose training and/or informational materials for owners who are participating in rental rehabilitation projects ? Yes No NA
Comments: _____

Is the community or owners undertaking projects containing 5 or more units that require Affirmative Fair Housing Marketing Plans? Yes No NA
If yes, were the plans submitted to OHCP for review and approval? Yes No NA
Comments: _____

If the community was not a direct Formula Allocation Program applicant, will fair housing training be made available to 3 additional groups, schools, etc. Yes No NA
Comments: _____

OUTREACH:
Did the applicant indicate that fair housing informational materials will be distributed to all CHIP program applicants and participants? Yes No

Did the community develop a distribution strategy to provide fair housing materials to at least five agencies, organizations, etc. which serve the CHIP Target Areas and potential program participants? Yes No

If the community was not a direct Formula Allocation Program applicant, will fair housing materials be distributed to at least 10 agencies, organizations, etc. which serve the CHIP Target Areas, and potential program participants? Yes No NA
Comments: _____

Are fair housing activities to be conducted by a consultant or agency? Yes No NA

If yes, did the applicant include a summary of the RFPs and a copy of the contract for services? Yes No NA
Comments: _____

SOURCE AND BUDGET TO CARRY OUT THE CHIP FAIR HOUSING PROGRAM
Did applicant identify source of funding to carry out the CHIP fair housing program? Yes No
\$ _____ CHIP Admin.
\$ _____ FY 2007 CDBG Formula Allocation (SPECIAL CONDITION)
\$ _____ Other funding - Identify source _____

Special Conditions: _____

COMMUNITY HOUSING IMPROVEMENT PROGRAM

GRANT AGREEMENT ATTACHMENT B

SPECIAL CONDITIONS

4. FAIR HOUSING REQUIREMENTS. Grantees are required to affirmatively further fair housing and document actions and compliance. Listed below are the specific minimum requirements for Grantees receiving Community Development Program and/or Community Housing Improvement Program (CHIP) funds.

- a. Appoint one local fair housing coordinator for each Grantee, who is an employee of the unit of local government and will generally be accessible Monday through Friday. A consultant or agency may be used to carry out the fair housing requirements with the exception of the local contact responsibilities. The name of local contact and consultant/agency, if applicable, along with addresses and phone numbers must be printed in all fair housing materials and reported to OHCP.
- b. Conduct or maintain an Analysis of Impediments to Fair Housing Choice (AI) to determine impediments to fair housing choice. The AI will present a clear analysis of the information collected; identify any changes needed to correct or overcome impediments identified in governmental policies, real estate and lending institutions, zoning restrictions, etc.; include a specific plan of action; and include a timeline or schedule for the resolution of the identified problems or impediments. Grantee will have an on-going process for identifying all fair housing concerns and problems and for analyzing the local efforts in mitigating or remedying problems. At a minimum, the analysis and action undertaken will be updated annually.
- c. Establish and implement a process to receive fair housing complaints and forward the complaints to the Ohio Civil Rights Commission, which is charged with investigation and enforcement. Records must describe the type of referral, copies of Housing Discrimination Complaint records (HUD-903 or equivalent), date of the referral, and any follow-up action.
- d. Annually, conduct training activities and provide education material to residents of project/activity areas, or targeted protected populations, in which CDBG or HOME activities planned to be undertaken. Additionally, provide training and information to at least, three (3) additional civic, social groups and/or schools in the community. Records will contain an agenda, sign-in sheet, minutes, a description of the audience, and any follow-up to occur for each training session.
- e. Develop and distribute fair housing information and materials (posters, brochures, or materials) quarterly throughout the grant period to a minimum of ten (10) public events, agencies or organizations (county fair, post office, employment services office, etc.). The telephone number (including a telephone number for use by the hearing impaired) of the local fair housing coordinator will be printed in this information or materials. Maintain a list of the places of distribution dates of distribution, and estimated quantities and types of material distributed.

Community Housing Improvement Program (CHIP) fair housing requirements are in addition to the CDBG Standard Fair Housing requirements listed above. The CHIP fair housing requirements include the following:

- Distribute fair housing information to all housing activity applicants and program participants including tenant based rental assistance applicants/participants. Information must include information related to potential discriminatory actions related to lending, insurance, and real estate practices including abusive or unfair lending practices;
- Distribute fair housing materials to at least five agencies, organizations, etc. which serve CHIP target areas and potential program participants;
- Provide at least one fair housing training for each Community Housing Improvement Program (CHIP) primary, supportive and secondary activity and for each targeted group and location;
- Provide owners of rental properties receiving assistance fair housing and tenant landlord training and/or information;
- Include information related to potential discriminatory actions related to lending, insurance, and real estate practices including abusive or unfair lending practices in all homebuyer educational or counseling activities;

- Submit the Affirmative Fair Housing Marketing (AFHM) plans and affirmative marketing procedures for all CDBG and HOME assisted housing sale or rental projects containing five (5) or more units to OHCP Civil Rights Specialist. Grantees developing five (5) or more units for sale or rental must submit an affirmative marketing plan for review.
- Homebuyer counseling sessions must include a fair housing educational component that includes information related to potential discriminatory actions related to lending, insurance and real estate practices including abusive or unfair lending practices.
- Public Housing Authorities (PHA) administering HOME funded Tenant-Based Rental Assistance (TBRA) programs, may merge the waiting lists for tenant-based assistance. Admission procedures for HOME TBRA are different from the PHA's. The HOME funded TBRA program must be administered in compliance with HOME regulations (24 CFR 92.209) and is not subject to the HUD "One-Strike" rule. Fair housing information must be given to all TBRA applicants. Grantee must provide fair housing training to the PHA.

**CIVIL RIGHTS
MONITORING REVIEW INFORMATION**

**FAIR HOUSING PROGRAM
CDBG FORMULA ALLOCATION PROGRAM**

(For the program period of September 1, _____ through August 31, _____)

1. Grantee (or Acquired City): _____
2. List of Jurisdictions Covered by Program: _____
3. How were services performed? _____ Local Staff _____ Non-profit Agency _____ Private Agency/Person

Provide the following information of the designated **local fair housing contact**:

Name: _____ Title: _____
Address: _____ P. O. Box: _____
City, State: _____ Zip: _____
Phone Local: _____ Phone Toll Free: _____

If applicable, list agency of consultant coordinator below:

Agency: _____ Contact Person: _____
Address: _____ P. O. Box: _____

City, State: _____ Zip: _____

Phone Local: _____ Phone Toll Free: _____

4. Does the grantee have a satisfactory of process for handling fair housing complaints, a method of forwarding complaints to OCRC, and a procedure for follow-up on complaints. **Yes No Finding Advisory**

COMMENTS:

Number of **fair housing** complaints received during grant period: _____

Number of **landlord-tenant** complaints received during grant period: _____

Were records maintained to help the community define where discriminatory practices are occurring in the community, measure the effectiveness of the outreach efforts, and provide a means to gain information to design future techniques and implementation strategies to eliminate fair housing impediments?

COMMENTS:

5. Was the local **analysis of impediments to fair housing choice** updated during grant period?
 Attach a copy of the updated analysis if available. **Yes No Finding Advisory**
- Does the analysis identify impediments to fair housing choice, outline a plan to remedy impediments and include a timeline for implementation of the plan? **Yes No Finding Advisory**
- Were any training and/or outreach activities undertaken to address barriers identified in the AI? **Yes No Finding Advisory**
6. Has the community adopted a local fair housing ordinance or resolution? If it was passed or changed during this grant period, obtain a copy for file. **Yes No**
7. Fair Housing Training Program
 Did the grantee complete all activities in the as proposed in the community's OHCP-approved fair housing program? **Yes No Finding Advisory**
- Do the grant files contain adequate documentation* that the grantee delivered oral presentations and answered questions on fair housing related issues for the residents of project target areas and/or targeted populations; and 3 additional sessions for groups, organizations or schools? **Yes No Finding Advisory**
- *Adequate documentation includes (1) list of specific date, time and location of each training; (2) description of actual training, including agenda, brochures and materials that were distributed, brief narrative or meeting minutes, etc.); (3) a copy of the sign in sheet which lists non-staff persons in attendance; and (4) marketing materials such as copies of advertisements, flyers, posters, etc.

COMMENTS:

8. Fair Housing Outreach Program
 Were fair housing materials distributed to at least 10 local agencies, organizations or public events? **Yes No Finding Advisory**
- Do grant files include specific information including the names of agencies, organizations or public events where fair housing materials were distributed, specific materials distributed, quantities and dates of distribution? **Yes No Finding Advisory**

COMMENTS:

Reviewer _____

Date of Review _____

**Fair Housing Program
Comprehensive Housing Improvement Program (CHIP)**

Grant Program Period _____ through _____

Grantee: _____

Jurisdiction Covered: _____

Designated Fair Housing Contact: _____

Number of fair housing complaints _____ Number of Landlord/Tenant Issues _____

Is the CHIP grantee currently a direct Formula Allocation Program grantee? Yes No

Did the grantee complete one fair housing training per activity location for each supportive or secondary activity, tenant based rental assistance location and for targeted groups? Yes No Finding Advisory

Did homebuyer education activities contain a fair housing component which included information related to lending, insurance and real estate practices? Yes No Finding Advisory
or NA

Did owners who participated in rental rehabilitation projects receive fair housing and landlord tenant information? Yes No Finding Advisory
or NA

If the community was not a direct Formula Allocation Program grantee, was fair housing training made available to 3 additional groups, schools, etc. Yes No Finding Advisory

Were fair housing informational materials distributed to all CHIP program applicants and participants? Yes No Finding Advisory

Did the community develop a distribution strategy and distribute fair housing Materials to at least five agencies, organizations, etc. which serve the CHIP Target Areas and potential program participants? Yes No Finding Advisory

If the community was **not** a direct Formula Allocation Program grantee, were fair housing materials distributed to at least 10 agencies, organizations, etc. which serve the CHIP Target Areas, and potential program participants? Yes No Finding Advisory

Was the fair housing training conducted by a person/agency different than indicated on page 1 of Table IX? Yes No
If yes, who conducted the training:

COMMENTS: _____

Reviewer _____

Date of Review: _____

**CIVIL RIGHTS
MONITORING REVIEW INFORMATION**

EQUAL OPPORTUNITY

PART A: RECIPIENT EMPLOYMENT
[Regulation requirements Section 570.907(f)(4)]

1. Has the grantee designated an Equal Opportunity Official? **Yes No Finding Advisory**

Name: _____

Title: _____

2. Are employment records available? **Yes No Finding Advisory**

Is employment data sufficiently detailed enough to allow assessment of the composition of staff by:

Sex? Yes No

Race? Yes No

Handicap Status? Yes No

National Origin? Yes No

3. Have any CDBG positions been filled within this grant period? **Yes No Finding Advisory**

If yes, what steps did the grantee undertake to solicit disadvantaged groups to apply?

4. Have any employment discrimination complaints been filed against the community? Yes No

If yes, explain the nature of the complaint and its resolution:

5. Is there a written policy on EEO in use by the community? **Yes No Finding Advisory**

6. Does the community have a written Affirmative Action Plan? **Yes No Finding Advisory**

7. Does the community have the Federal EEO-4 on file that indicates employment data? **Yes No Finding Advisory**

8. Has the community taken actions to ensure nondiscrimination for persons with disabilities such as:

▪ Establishing and communicating a nondiscrimination policy? Yes No

▪ Recruiting persons with disabilities? Yes No

▪ Reviewing the physical and mental qualifications for jobs and Job-relatedness? Yes No

▪ Making job facilities and services accessible to persons with physical disabilities? Yes No

If yes to any of #8, please explain: _____

9. Does employment data indicate possible deficiencies in providing employment opportunity to any group? **Yes No Finding Advisory**

If yes, does the grantee have a valid reason for any deficiencies noted in its employment or personal practices?

Explain:

10. Has the community taken actions to ensure nondiscrimination for disabled persons such as:

- Establishing and communicating a nondiscrimination policy? Yes No
- Recruiting disabled persons Yes No
- Reviewing the physical and mental qualifications for jobs and job-relatedness? Yes No
- Making job facilities and services accessible to physically handicapped person Yes No

If yes to any of # 9, please explain:

Reviewer _____

Date of Review _____

**CIVIL RIGHTS
MONITORING REVIEW INFORMATION**

SECTION 3

- | | | | | | |
|----|---|------------|-----------|----------------|-----------------|
| 1. | Does grantee maintain records of its actions to meet the requirements of Section 3 of the Housing and Urban Development Act of 1968 relative to the hiring and training of low and moderate Income persons and use of local businesses as required by Section 570.506 (g)(5)? | Yes | No | Finding | Advisory |
| 2. | Does the community have an adopted MBE/WBE strategy? | Yes | No | Finding | Advisory |

COMMENTS: _____

MINORITY AND WOMEN'S BUSINESS ENTERPRISES

- | | | | | | |
|----|---|------------|-----------|----------------|-----------------|
| 1. | Does the grantee maintain records on the racial/ethnic characteristics of each business receiving a contract or subcontract over \$1,000? | Yes | No | Finding | Advisory |
| 2. | Does the grantee maintain data on contracts over \$1,000 utilizing women-owned businesses? | Yes | No | Finding | Advisory |
| 3. | Does the grantee maintain data documenting the affirmative steps it has taken to utilize minority and women's business enterprises? | Yes | No | Finding | Advisory |
| 4. | Does the grantee complete and submit a Notice of Contract Award Report form for all contracts awarded in which the total costs exceeds \$1,000? | Yes | No | Finding | Advisory |

COMMENTS: _____

Reviewer _____ Date of Review _____

**CIVIL RIGHTS
MONITORING REVIEW INFORMATION**

**EQUAL OPPORTUNITY
PART B: PROGRAM BENEFICIARIES**

1. What is the racial/ethnic composition of the grantee jurisdiction's population?
(1) White % (2) Black % (3) Other % (4) Hispanic %
2. Does the community record data as required by Section 570.506 (g)(2) on the extent to which each racial and ethnic group, single headed household (by gender of household head) and disabled status have applied for, participated in or benefited from, any program or activity funded in whole or in part with CDBG funds? **Yes** **No** **Finding** **Advisory**
3. What process was used to identify special needs and problems of minorities, women and persons with disabilities?

4. Are minorities, women and persons with disabilities adequately represented on the policy-making Bodies and Advisory Committees? **Yes** **No** **Finding** **Advisory**

5. In what specific areas are minorities, women and persons with disabilities represented?

6. Select a primary program activity that has direct beneficiaries. Identify the number of direct beneficiaries for the selected activity below:
Activity: _____
Total Number of Beneficiaries _____ 100 %
Total Minority _____ %
Total Disabled _____ %
7. Does the available data indicate deficiencies in providing services or benefits to any group? **Yes** **No** **Finding** **Advisory**
If yes, what explanation does the recipient have for the deficiencies noted:

8. Do grantee records reflect that subrecipients maintain records as required? **Yes** **No** **Finding** **Advisory**
9. Does the grantee monitor the subrecipients' recordkeeping system? **Yes** **No** **Finding** **Advisory**

- | | | | | | |
|-----|--|------------|-----------|----------------|-----------------|
| 10. | Does the grantee maintain records, as required by Section 570.506(g)(4) on households displaced by CD funded activities, including data indicating the race and ethnicity (and the gender of single heads of households) of the household displaced? | Yes | No | Finding | Advisory |
| 11. | Do the records document efforts made to provide displaced persons choices of housing in neighborhoods outside as well as inside areas of minority concentration? | Yes | No | Finding | Advisory |

COMMENTS:

Reviewer _____

Date of Review _____