

MANAGING AN EFFECTIVE FAIR HOUSING PROGRAM

OCCD
OHIO COMMUNITY DEVELOPMENT CONFERENCE
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AGENDA

☞ FAIR HOUSING HISTORY

☞ OVERVIEW OF FEDERAL AND STATE REGULATIONS

☞ ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

☞ RESPONSIBILITIES OF THE DESIGNATED COORDINATOR

☞ AN EFFECTIVE PROGRAM INCLUDES

Enforcement - Complaint Intake Procedure

Training - Education

Outreach - Getting the word out

▪ ☞ THE STATE'S MINIMUM FAIR HOUSING PROGRAM

▪ ☞ AN OVERVIEW OF TESTING

“Discrimination, especially racial discrimination in housing, is the predominant reason for today’s urban and rural housing patterns. . . . Urban planners know best of all the staggering costs of ‘redevelopment’ and ‘revitalization’ that have been occasioned by housing discrimination. But it doesn’t take an urban planner to understand that until we effectively enforce the fair housing laws, it’s just folly to fund even one more ‘affordable housing’ project.”

A HISTORICAL PERSPECTIVE

The Evolution of America’s Dual Housing Market

From Reconstruction to the 21st Century



The Reconstruction Congress provided for a unitary housing market (society) by enacting appropriate legislation from 1865 - 1875

- The Thirteenth Amendment - Abolished Slavery
- The Civil Rights Act of 1866 - ALL Citizens have equal protection under the law
- The Fourteenth Amendment - Grants Citizenship to all born in U.S.
- To protect former slaves but used in Roe V. Wade & Bush v. Gore
- The Fifteenth Amendment - Guarantees the Right to Vote
- The Enforcement Act of 1870 - C.R.A. of 1870 or Ku Klux Klan Act - Empowers the President to enforce the 15th Amendment -To protect African-Americans for Actions by States.

- The Enforcement Act of 1871 - Federal oversight of elections in cities over 20K - Did little in South due to size of cities.
- The Enforcement Act of 1875 - C.R.A. of 1875 - Outlaws racial segregation in all public accommodations such as hotels, theaters, trains, etc.

Reconstruction Dies

Three significant events combined to frustrate Congress's intent, and to establish a dual society:

- The Compromise of 1876 (withdrew federal troops from the South - Hayes - Tilden Presidential election)
- Supreme Courts decision in *The Civil Rights Cases* (struck down the Civil Rights Act of 1875)
- [The Supreme Court's decision in Plessy v. Ferguson \(declared separate but equal the law of the land\)](#)

Historic Impediments to Unitary Housing Market

As African-Americans and other's migrated to the cities, they encountered a variety of obstacles/impediments that were designed to segregate them from the majority, and to maintain a dual society:

- Municipal segregation ordinances - (Outlawed by *Buchana v Warley* in 1917)
- Racially restrictive covenants (validated by *Corrigan v Buckley* in 1926, but invalidated by *Shelley v Kramer* in 1948)
- Post WW2 exclusionary suburban migration
- FHA appraisal and underwriting rules and NAR policies prohibiting the "introduction of destabilizing influences" into white neighborhoods.

Historic Impediments, continued

- Discriminatory site selection of publicly funded and/or insured multifamily housing projects.
- Abandonment & disinvestment from minority neighborhoods by the private sector.
- Block busting by realtors
- Discriminatory refusals to deal in the sales and rental market.

A Little-Known Fact:

- By 1968, the year that the Fair Housing Act of 1968 was enacted, every city, town, and village in America containing more than a nine percent African-American or Hispanic population was segregated, or, operated two separate and unequal housing markets.



Correcting the Dual Market

Tools

- Civil Rights Act of 1958 (Fair Housing Act, Section 3 - Title 8)
- Housing & Community Development Act of 1974
- Equal Credit Opportunity Act of 1974
- Home Mortgage Disclosure Act fo 1975
- Housing & Community Development Act of 1977 (CRA; UDAG)
- Fair Housing Amendments Act of 1988
- Cranston-Gonzales National Affordable Housing Act of 1990 (HOME, HOPE, CHAS)

Federal & State Regulations

THE FAIR HOUSING AMENDMENTS ACT OF 1988

- This amendment expanded the scope of protection to prohibits discrimination against persons with disabilities and against families with children. FHAA also significantly enchained the investigative and enforcement mechanism available to the Secretary of HUD.

FHAA of 1988

Protected Classes

- Race
- Color
- Religion
- National Origin
- Gender
- Familial Status (children under 18)
- Disability

FHAA of 1988

- The Fair Housing Act prohibits ANY act, policy, custom, OR practice which is intended to OR has the effect of denying housing opportunities to persons because of their membership in one of the ABOVE PROTECTED CLASSES

This also includes any city, municipality, village, or county from administering housing related programs in a manner that excludes, limits or deny's members of the protected class from participating.

Ohio's Fair Housing Act

- ORC Section 4112
- Includes Ancestry and Military Status as protected classes
- Covers Virtually all housing
 - ▶ Private Housing
 - ▶ Apartments
 - ▶ Condominiums
 - ▶ Shelters
 - ▶ Nursing Homes
- Covers Nearly all housing transactions
- Is stronger than the FHAA of 1988 and has little exclusions

- As diverse as this country is, there were more than 10,000 housing discrimination complaints filed annually. Forty percent alleged Racial discrimination, while nearly the same percentage alleged discrimination based on disabilities. Most often it is alleged that discrimination occurred in the terms and conditions of the sale or rental of housing, or refusal to rent.

THE A.I.

The Analysis of Impediments to Fair Housing Choice

- Past Assumptions
 - ▶ HUD nor the State Didn't Care ☐
 - ▶ HUD or the State Never Read Anything ☐
 - ▶ It Just Didn't Matter ☐
 - ▶ If HUD or the State Didn't Care Why Should We? ☐
- Certification of Fair Housing Civil Rights Compliance has been required since 1995!
- NIMBY - Lets talk about attitudes...

- To be eligible for CDBG and related funds (such as HOME) a State or local government must certify that they will comply with a range of Federal Civil Rights Laws and *AFFIRMATIVELY FURTHER FAIR HOUSING (AFFH)*
- This obligation has required recipients to conduct an Analysis of Impediments since 1995.
- The State is required to do the Ai as well as entitlement communities and the State requires recipients of formula money to do and Ai also.

AI's Identify and Analyze

- Fair Housing Funding & Activities
- Advertising
- Local programs, rules, laws ordinance, actions, etc.
- Lending - mortgage, commuter credit
- Sales and rental markets
- Zoning, subdivision rules and regulations
- Public housing
- Employment opportunities
- Education opportunities
- Transportation

WHAT DO WE DO NOW?

- Review the State of Ohio's AI Planning Guide - you can get one from the State.
- Review all current planning documents including your consolidated plan - *THE AI SHOULD BE A PART OF THAT DOCUMENT!*
- While you final AI might not change much, you are still required to analyze everything anew from A to Z. The amount of work will be the same.
- Read your old AI after you complete your new one.

- Don't be surprised if little has changed - you are required to look at it with fresh eyes.
- You also must do yearly updates of your current AI and the results should become part of your next year's FH program

Why is Fair Housing So Strong in Ohio

The simple answer...Litigation

- Like all major decisions in the Civil Rights movement it took litigation to make changes and to assure those changes became the law as well as the practice of the land!
- The Supreme Court or the Warren Court as it was often called did more to promote civil rights, equality and fair housing in America than any Court since.
- The role of HUD after passage of the FHA of 1968.

- In Ohio the case that set the precedence of a strong, effective fair housing climate was OFHC v HUD. The who, what and where of the case...
- This case was never litigated but the fact that it was filed changed the way Ohio did business where fair housing was concerned.
- It was based on the idea that the State of Ohio was doing nothing to promote, encourage or enforce fair housing as required by CDBG regulations.
- The outcome of this case is why we are here today and why you have to do the things you have to do when it comes to fair housing.

The Fair Housing Coordinator

- The community must place the local number for their Fair Housing Coordinator on all related documents.
- The Coordinator must have a basic knowledge of Fair Housing regulations both state and federal.
- The Coordinator should be comfortable talking before an audience.
- The Coordinator must have available other resources in the community that might assist those who call. (Legal aid, disability advocates, state offices, etc.)
- If the program is going to assist with tenant/landlord calls a basic knowledge of Ohio's Tenant/Landlord law.

Should We Do Tenant/Landlord Calls ?????

- Offering this service can help increase your call to the program.
- Many tenant/landlord calls end up being fair housing complaints. For Example...
- It can be time consuming. But it also can be worth the effort.
- It offers a broader outreach to the community.

What is an Effective FH Program

Enforcement

- This is how you intake FH complaints.
- What is the procedure to maintain the records.
- What form will you use. (HUD's, OCRC, Your Own, etc.)
- There is always an issue of confidentiality.
- How do you proceed with a FH complaint.
- If you don't know who do you call?
- *This process is important! You can not take it lightly! If you do not have a good enforcement procedure you leave the community liable.*

What is an Effective FH Program

Training

- What is the Who and Where of your Community?
- All communities are different, all have a unique personality.
- How you do your training should reflect that personality.
- Who in the community needs FH training? (Landlords, Realtors, Lenders, Elected Officials, Advocacy Groups, Government Offices, etc.)
- To use a tired phrase...Think Outside The Box! (Churches, Schools, etc.)
- Training can be one on one or a group.
- Make the trainings design easy for you.

Training

- Don't be afraid to copy others. You don't have to recreate the wheel.
- What trends are there on a state and national level that you could train on.
 - ▶ Reverse Mortgages
 - ▶ Elder Fraud
 - ▶ Consumer Fraud
 - ▶ Mortgage Fraud
 - ▶ How to buy a home.
 - ▶ Ten tips on renting

What is an Effective FH Program

Outreach

- Brochures and Posters
- Flyers
- Information Sheets
- Billboards
- Being

State Requirements

Ohio CDBG, HOME, CHIP and Ohio Trust Fund Programs

- Designated Local Fair Housing Coordinator
- Name, Address, and Phone Number must appear in all fair housing materials.
- Develop a system for in-taking and processing fair housing complaints.
- Coordinate efforts with the appropriate regional office of the OCRC.

State Requirements, Cont.

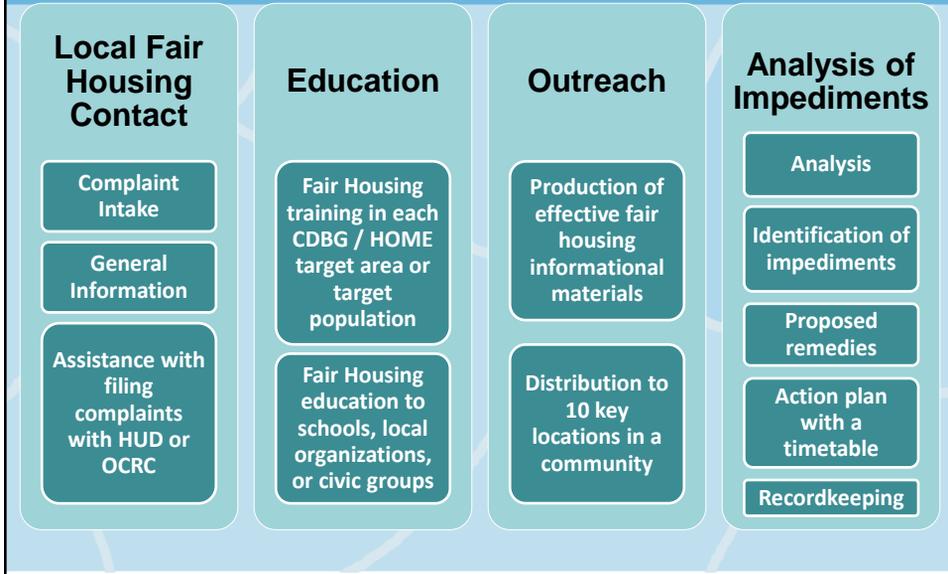
Ohio CDBG, HOME, CHIP and Ohio Trust Fund Programs

- Must certify to *Affirmatively Further Fair Housing (AFFH)*
- AFFH requires:
 - ▶ Conduct a comprehensive analysis to identify and impediments.
 - ▶ Take appropriate actions to correct impediments found.
 - ▶ Update the AI annually.
 - ▶ Maintain records reflecting the analysis and actions taken.

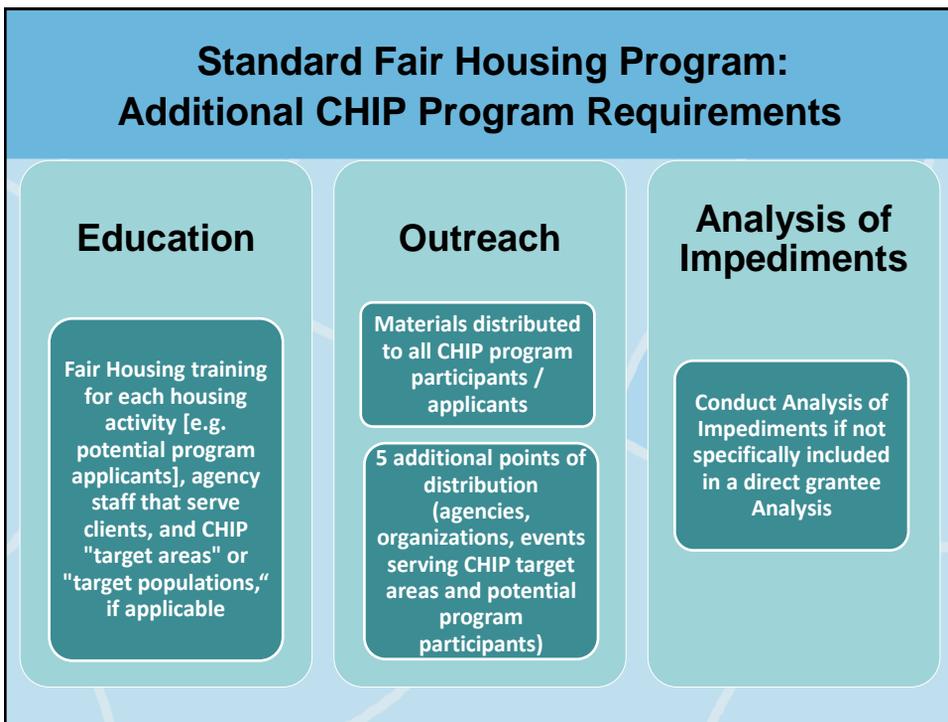
State Requirements, Cont.

- Conduct annual training to provide education material and activities regarding FH to residents in project areas
- Conduct At Least Three (3) additional trainings annually to civic or social groups and/or schools in the community.
- At least one (1) training every quarter.
- Outreach to the community with FH information and materials.
- A minimum of ten (10) public events, agencies or organizations EACH QUARTER.
- But we have already trained and distributed to every living soul in the community...what now?

Standard Fair Housing Program



Standard Fair Housing Program: Additional CHIP Program Requirements



Testing

- Testing...Don't do it unless you have to!
- Why...

The End..At Last

- FAIR HOUSING IS A SERIOUS EFFORT! DISCRIMINATION BASED ON THE PROTECTED CLASSES IS STILL OUT THERE. IT IS OFTEN DISGUISED BUT IN TODAY'S WORLD IT IS BECOMING MORE PUBLIC.
- YOU MUST BE DEDICATED BEYOND JUST FULFILLING SOME REQUIREMENTS!