

**City of Oakland  
Community and Economic Development Agency**

**Affirmative Fair Marketing Procedures**

**September, 2005**

**METHODS AND PRACTICES FOR INFORMING THE PUBLIC**

In order to inform the public, owners, and prospective tenants about federal fair housing laws and the City's affirmative marketing policies, the developer will include the Equal Housing Opportunity logotype and/or slogan, and a logotype and/or slogan indicating accessibility to the disabled, in all press releases, solicitations, and program information materials.

In addition, the City provides funding to a number of fair housing agencies to provide information and counseling regarding fair housing laws and policies.

**REQUIREMENTS AND PRACTICES FOR OWNERS**

All developers who receive funds from the City are required to enter into loan and regulatory agreements with the City prior to receiving any funds. These agreements are designed to bind the recipients to all of the program requirements, including the affirmative fair marketing procedures.

Developers receiving federal funds are required to create units that are accessible to people with disabilities. At least five percent of the new units must be accessible to people with mobility impairments and at least two percent must be accessible to people with hearing or vision impairments.

In addition to Federal laws requiring units for people with physical disabilities, Fair Housing laws require owners to make reasonable accommodations for people with all types of disabilities. In doing so, recipients are required to make and pay for structural modifications to dwelling units and common areas when needed as a reasonable accommodation for tenants or applicants with disabilities. In such cases where providing a requested accommodation would result in an undue financial and administrative burden, developers are required to take any other action that would not result in an undue burden.

As a condition of the agreements, not less than 120 days prior to project completion, owners must submit proposed marketing and management plans to the City for review and approval. Prior to commencing marketing activities, owners will be required to meet with City staff to review the proposed marketing strategy to ensure that affirmative marketing efforts will be employed.

Management plans must include policies for ensuring reasonable accommodation for persons with disabilities. Management plans must also contain policies and provisions for recordkeeping and monitoring. The City will provide written guidance on selection of tenants and reasonable accommodation during occupancy.

Marketing plans must include information on strategies for reaching persons and groups not likely to apply including, but not limited to, households with a disabled member. Marketing plans must also include procedures for ensuring that accessible units are occupied by people with disabilities who require accessible features, as described below.

Marketing plans must include the use of the fair housing logotype and/or slogan, and use of a logotype and/or slogan indicating accessibility to the disabled, and fair housing posters must be displayed at the project rental or sales office. Owners are required to advertise in newspapers of general circulation, and to provide notice to community groups when units become available.

Marketing strategies must include use of a welcoming statement to encourage people with disabilities to apply for units, as well as a description of available units, accessible features, eligibility criteria, and the application process. The City will provide developers with sample notices.

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

#### **PROCEDURES FOR OUTREACH TO PERSONS NOT LIKELY TO APPLY**

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

In particular, owners are required to advertise in media which are reasonably likely to reach such targeted groups, and to provide notice to community organizations, fair housing agencies, and other similar organizations. A list of local disability organizations and community development boards will be provided by CEDA. CEDA will also provide developers with sample advertisements.

Multilingual advertising is encouraged where such efforts would result in reaching persons and groups not likely to apply.

#### **SPECIFIC PROCEDURES FOR ENSURING THAT ACCESSIBLE UNITS ARE OCCUPIED BY PEOPLE WITH DISABILITIES WHO REQUIRE ACCESSIBLE FEATURES**

Outreach by owners to the disability community shall include the distribution of notices describing:

- the availability of all units
- specific information regarding the availability and features of accessible units
- eligibility criteria; and
- application procedures.

All application forms shall include information indicating that people with disabilities requiring accessible features shall receive priority for accessible units. The application must include a section to be filled out by any applicant requesting an accommodation with details on the applicant's special needs for accessible features or other accommodations. Under no circumstance should an applicant be required to disclose a disability unless requesting an accommodation. This will allow developers to provide, upfront, any necessary accessible features and/or accommodations for those people requesting accommodations. For sample application language, see the document entitled "Allowable Inquiries to Applicants Regarding the Need for Accommodations."

Owners shall take reasonable nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, any vacant, accessible unit should first be offered to a current, disabled tenant of the same project or comparable project under the owner's control. The disabled occupant must require the features in the vacant unit and must be occupying a unit not having such features. If no such occupant exists, the developer shall then offer the unit to a qualified applicant on the waiting list who has a disability requiring the accessibility features of the unit.

Furthermore, when offering an accessible unit to applicants without disabilities, the owner may require such applicants to agree to move to a non-accessible unit when one becomes available or when the accessible unit is needed by a disabled household. Such an agreement may be incorporated into the lease.

**Note:** An owner may not prohibit an eligible family with a member who has a disability from accepting a non-accessible unit which may become available before an accessible unit. Owners are required to modify such a non-accessible unit as needed or move a disabled household into a unit that can be altered, unless the modifications would result in an undue financial and administrative burden or alteration in the nature of a program. All applicants should be provided information about how to request a reasonable accommodation at the time they apply for admission and at every recertification.

#### **RECORDKEEPING AND MONITORING**

Owners must maintain records for at least five years regarding marketing and tenant selection practices. Upon request, Owners are required to submit to the City copies of all advertisements indicating the date the advertisements were placed and the media outlets which were used. Owners must also provide copies of notices sent to community groups and a listing of those groups to which notices were sent.

Owners must maintain records regarding the characteristics of persons applying for vacant units, and the characteristics (including race and familial status) of persons actually selected for the units. Owners' records must also include the number, location, and description of accessible units, and success in filling such units with people who need accessible features or other accommodations. In addition Owners should document any reasonable accommodations made to, or requested by, tenants during the reporting year.

As part of the City's monitoring of assisted housing developments, the City will review the Owners' records to verify that each qualified household living in an accessible unit has at least one household member who needs the accessible features of the unit.

The duration of monitoring of Affirmative Fair Housing Marketing (AFHM) Requirements varies with each housing program. For homeownership programs, AFHM requirements apply through the completion of initial sales transactions on units covered by the approved AFHM plan. For assisted rental housing, AFHM requirements apply throughout the term of the loan and regulatory agreements, including those periods when the project does not maintain sustaining occupancy.

#### **ASSESSMENT OF SUCCESS AND CORRECTIVE ACTIONS**

The City will review records maintained by owners to ensure that affirmative fair marketing requirements are being met. Where the characteristics of applicants are significantly different from the make-up of the City's population (i.e., in cases where specific groups are over-represented or under-represented), the City will examine in more detail the owner's actions to determine if a violation of the requirements has occurred.

The City employs a variety of corrective actions. Initially, owners who have not fully complied with the requirements are directed to engage in targeted marketing efforts to reach groups not initially reached. In cases where owners refuse to comply with the affirmative fair marketing procedures, the City may take additional actions to secure performance under the loan agreement, including declaring the loan in default and recapturing the funds.

#### **ATTACHMENTS**

Attachment A: Additional Resources Available from the City of Oakland

Attachment B: Sample Advertisement/Listing

**ATTACHMENT A**  
**Additional Resources Available from The City of Oakland**

- List of local disability organizations and community development boards
- Model Notice of Housing Availability
- Model Notice of Right of Reasonable Accommodation
- Model Tenant/Client Request for a Reasonable Accommodation
- Model Response to a Request for Reasonable Accommodation
- Model Verification of Need for a Reasonable Accommodation Request
- Sample Reasonable Accommodation Policy
- Selection of Individual Tenants
- Operation and Management of Housing
- Equal Housing Opportunity Logotype and Slogan
- Accessibility to the Disabled Logotype and Slogan

**ATTACHMENT B**  
**Sample Advertisement**

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