

NVDA

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Fair Housing

The U.S. Fair Housing Act (42 U.S.C. 3604) prohibits discrimination based upon race, color, religion, gender, family status, national origin, or disability in the sale, rental, or advertising of housing. Vermont fair housing law (9 V.S.A. Section 4503) extends this prohibition to discrimination based upon age, marital status, sexual orientation, or reception of public assistance.

Any Vermont municipality that wishes to be eligible for federal (HUD) block grant funds administered by the Vermont Community Development Program, Vermont Agency of Commerce and Community Development is required to certify that it affirmatively furthers fair housing.

Local land use planning and regulation can facilitate and further fair housing. Municipal officials should assess their land use plans and regulations with fair housing concerns in mind, and consider drafting or revising plans as needed. The guides that follow can be used by local officials (Planning Commissioners and Selectboards) to assess needs and impediments; remove barriers; support fair housing opportunities; and, provide incentives for fair housing opportunities.

Town Plan Review Guide

Assessing needs and impediments:

1. The town plan should include information on the following populations:
 - a. elderly (65+)
 - b. people with disabilities (or special needs)
 - c. racial and ethnic groups represented by local residents
 - d. families with children
 - e. families on public assistance
 - f. families making less than 80% of the median family income

A good source for local data is www.housingdata.org or NVDA, your regional planning commission. Data can be used to make projections or illustrate trends over time.

2. The town plan should include income data for all groups of people, such as low and moderate-income individuals, persons in poverty, etc. An inability to afford housing can be an added burden for those who may already be suffering housing discrimination.
3. Data on the monthly costs of home ownership and rental should be included in the housing section of the town plan. Again, www.housingdata.org is a good source of

information. When home ownership or rental costs exceed 30% of household wages or income, housing affordability may be an issue.

4. The housing section of the town plan should identify the number of single-family and multi-family units and structures, mobile homes, and special needs or accessible housing units in the town. This information can be found in a town's grand list, and can be used to create a baseline for future planning.
5. Local assessors have data that shows the prices of all homes sold in town over a given period of time. The town plan should compare the changes in home sale prices with changes in household income and wages. Local assessors have this information available and it can be a good indicator of housing affordability.
6. State and federal agencies can be contacted on the number of housing discrimination complaints in town. This can be a direct indicator of fair housing problems in the area, but data will reflect only what was reported. The Vermont Human Rights Commission, the Fair Housing Project, and U.S. HUD Fair Housing and Equal Opportunity organizations are good contacts for complaint information.
7. Local officials can use primary observations and housing data to identify impediments to fair housing: Are multi-family and or special needs units located in low income areas? Are there potential areas of segregation in town? Are certain racial groups housed separately from other groups?

Removing Barriers

Language in a town plan supported by data and information can make a strong case for eventual bylaw revision. All land use bylaws are required to be compatible with the municipal plan.

Town plan language should be reviewed and statements that conflict with fair housing should be removed. Excluding mobile homes and multi-family units from certain neighborhoods in a town is contradictory to fair housing. Similarly, creating an image of the town as a bedroom community for single family homes contradicts the idea of fair housing.

Supporting Fair Housing

An example statement that supports federal and state fair housing law could be:

"This town's policies will support the goal that all residents of this town, regardless of race, sex, sexual orientation, age, income, marital or familial status, religious creed, color, national origin or handicap of a person, may enjoy fair, equal and affordable access to housing opportunities."

A call for land use policies, incentives, and initiatives that might facilitate fair and affordable housing opportunities may include:

1. Higher densities allowed in some zoning areas
2. Accessory apartment language in compliance with Vermont law (24 V.S.A. 4412)
3. Planned Unit Developments (PUDs)
4. Fairer treatment of mobile homes, multi-family units, and special needs housing
5. Providing incentives for affordable units such as allowing higher densities or subsidies in the local permitting process

Communities can also create local housing commissions to further fair housing and develop housing opportunities, or they can express their intent to partner with public, private, and non-profit entities for the same and more.

Local Bylaw Review Guide – Zoning Bylaws & Subdivision Bylaws

Removing Barriers

Local officials should review their requirements for minimum densities, minimum lot sizes, and setbacks. If higher densities, smaller lot sizes, and shorter setbacks are possible, it may result in cheaper land and unit costs and more efficient access and provision of municipal services.

Vermont law (24 V.S.A. 4412) stipulates that mobile homes, modular, and prefabricated housing cannot be treated any differently than conventional housing in land use bylaws. Mobile home parks and multi-unit or multi-family dwellings cannot be excluded. State licensed group homes shall be treated as permitted single-family residential use. All local land use regulation language should be in line with these requirements.

Supporting Fair Housing

In both zoning and subdivision bylaws, there should be provision for Planned Unit Developments (PUDs), which allow for smaller lots and higher densities.

Vermont statute (24 V.S.A. 4412) indicates that local bylaws must allow for accessory apartments that have sufficient wastewater capacity and do not exceed 30% of the habitable floor area of a single family dwelling. Local officials can expand the definition of accessory apartments and use them as tools for creating affordable housing and family care opportunities.

24 V.S.A. 4412(1)(G) & (5) further stipulates that licensed or registered residential care or group homes serving up to 8 persons and licensed or registered child care homes serving up to 6 children are to be considered to constitute a permitted single-family residential use. Zoning bylaws should cite compliance with these standards.

The federal Fair Housing Act [42 U.S.C. 3604(a)(3)(B)] prohibits the “refusal (of local boards) to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

Providing Incentives for Fair Housing

Local bylaws should allow density and lot coverage bonuses for affordable units. This creates an incentive for housing developers to play a role in providing fair and affordable housing opportunities.

Another recognized incentive to further fair and affordable is to subsidize certain types of development by waiving or reducing permitting fees and/or expediting the permitting process.

Creating “inclusionary” housing is practiced in some areas whereby towns encourage (through incentives) or require (through zoning bylaws) housing developments include a certain percentage of affordable units, typically between 10 and 30 percent of the units constructed. The inclusion may be based on land use zone, or the number of acres or units developed. The definitions of “affordable” under Vermont statute (24 V.S.A., Ch. 117, 4303) are:

- (1) "Affordable housing" means either of the following:

(A) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.

(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

(2) "Affordable housing development" means a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

Assistance

The intent of the federal and state Fair Housing acts is to ensure that Americans and Vermonters have equal access to housing that meet their needs. The purpose of this report is to make local officials aware of the need for fair housing and their fair housing obligations. For questions on this report, or local assistance, please contact NVDA at (802) 748-5181. Thank you.

For more information on fair housing, please visit the Fair Housing Project at:
http://www.cvoeo.org/htm/Housing/fair_housing/fair_housing.html