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FAIR HOUSING COMMISSION ANNUAL REPORT-FY 2020

As per Chapter 7-Housing, Article III Section 7-47 of the Somerville Code of Ordinances, this document serves as an annual report on Fair Housing Commission activities for Fiscal Year 2020 (July 1, 2019-June 30, 2020) to be submitted to the Mayor and City Council.

While this is the report for the most recently completed fiscal year (FY20), readers will find information relating to the last several years, as much of the Commission's work in FY20 was integrally related to efforts that extend to preceding years.

Background

The single-most critical issue informing the work of the Fair Housing Commission and Commission staff over the last several years has its roots in the passage of a federal rule issued by the U.S. Department of Housing and Urban Development (HUD) in July, 2015 known as HUD's "Affirmatively Furthering Fair Housing" rule (AFFH). That rule is itself rooted in the 1968 Fair Housing Act. Section 4-401 of the 1968 Act called for the Secretary of Housing and Urban Development to (among other actions):

promulgate regulations in consultation with the Department of Justice and Federal banking agencies regarding programs and activities of executive agencies related to housing and urban development that shall:

- (1) describe the responsibilities and obligations of executive agencies in ensuring that programs and activities are administered and executed in a manner that furthers fair housing;
- (2) describe the responsibilities and obligations of applicants, participants, and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing; and
- (3) describe a method to identify impediments in programs or activities that restrict fair housing choice and implement incentives that will maximize the achievement of practices that affirmatively further fair housing.

The intent of HUD's AFFH rule, as articulated at the time it was issued in 2015, was to ensure that municipalities take meaningful actions to combat housing discrimination that overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunities based on protected characteristics. The title of the rule, based on language in the 1968 Act itself, was meant to convey that it was, quite literally, taken directly from the Act and entirely consistent with it.

After a period in which HUD worked to educate municipalities on the intent of the rule and its requirements, in 2016 HUD issued guidelines on the need for municipalities receiving federal housing and community development funds to prepare and submit an, “Assessment of Fair Housing” (AFH) on a schedule based on a series of “rolling deadlines” that began in July, 2017. The content of the report involved discussing the myriad of housing issues residents faced and the goals of meaningful actions being taken to combat housing discrimination and segregation.

The Housing Division submitted the City of Somerville’s AFH to HUD in October, 2017 following several months of outreach to stakeholders that included Fair Housing Commissioners engaging with the public during the summer and preparation of the report, the hard copy of which was over 166 pages in length. Somerville was one of the few jurisdictions in Massachusetts and less than 50 nation-wide to submit an AFH plan that was accepted by HUD without conditions. As referenced in a Boston Globe article published on August 17, 2020, only 49 plans were submitted nationwide, with the City’s AFH submission being one of them and subsequently accepted by HUD in June of 2018.¹

In anticipation of the work involved on fair housing-related efforts, in 2017 OSPCD Housing worked with the City’s Personnel Department to refine job descriptions and responsibilities of a vacancy being filled that fall. Resources used previously to fund a program specialist position that primarily supported the Division’s Home Rehab Program were reallocated to focus on Fair Housing and Operations activities. The efforts described in this report reflect work undertaken since the position of Fair Housing and Operations Specialist was filled for the first time in the first quarter of 2018.

Ordinance Changes and Board membership

Prior to amendments to Section 7-46 of the Ordinance that were adopted in 2018, that section of the law had required that all 5 members of the Somerville Fair Housing Commission be residents of the City at the time of their appointment. The section in its prior form also required that every member of the Commission fit into a specific “slot”, such as having requisite experience in a particular field. This combination of requirements presented a recurring challenge in regard to maintaining a fully populated board and – for some periods – meant the Commission could not officially meet because there were not enough members seated to meet the minimum number of attendees (3) needed to reach quorum.

Amendments adopted by the City Council (then Board of Aldermen) on September 13, 2018 and signed by the Mayor on September 17, 2018 allowed there to be a minimum of three Somerville residents at the time of appointment on the commission and members would need experience or have a demonstrated interest in housing, social services and civil rights. These changes granted critical flexibility in identifying potential candidates to serve on the commission.

As of June 2020, Somerville’s Fair Housing Commission (FHC) had five members and no vacancies. Section 7-46 of the Fair Housing Ordinance now calls for, at least three of the commissioners to live in the City of Somerville, one commissioner is a representative of the Somerville Housing Authority and another is eligible for affordable housing in the City. There has been a full five-member board since 2019, the first time that has been the case since at least 2014.

Members include Claudia DeAndrade, Patrice Faulkner, Dennis Fischman, Rona Fischman, and Natasha Sierra. Among the diverse perspectives and demographics the present composition of commissioners encompass are 4 Somerville residents, 4 persons who speak a foreign language, 3 persons of color, 3 tenants, 2 homeowners, 2 persons over the age of 60, and one person with a child under the age of 18.

¹ “Trump says Biden would ‘destroy’ the suburbs. What is he talking about?” by Tim Logan of the Boston Globe. August, 17, 2020.

Selected Comparative Data – FY2018-20

Table 1 below provides information on the number of complaints received over most of² the past three fiscal years. The table reflects an increase in complaints received over the three fiscal years for which complaints have been tracked. In FY18 (July 1, 2017-June 30, 2018) 5 fair housing complaints were recorded. For FY19 (July 1, 2018-June 30, 2019) 10 fair housing complaints were received. For recently completed FY20, 13 fair housing complaints were received.

Table 1: Fair Housing complaints received by Fiscal Year, FY 18 -- 20

FY18 (July 1, 2017-June 30, 2018)	FY19 (July 1, 2018-June 30, 2019)	FY20 (July 1, 2019-June 30, 2020)
5	10	13

Totaling complaints by calendar year offers a different way to see the same data presented above in fiscal-year format. For calendar year 2020, 10 fair housing complaints were received. For calendar year 2019, 14 fair housing complaints were lodged. For the three quarters of calendar year 2018 for which data was compiled, there was a total of 6 complaints.

Table 2: Fair Housing complaints received by Calendar Year, 2018—2020

2018 Calendar Year	2019 Calendar Year	2020 Calendar Year (as of 12/31/2020)
6	14	10

Priorities and Progress Toward Implementation

Beyond the overall importance of fair housing as a local priority and the City’s commitment to it, specific goals mentioned in the 2017 AFH submitted to HUD included:

- ensuring the Fair Housing Commission is fully populated and staffed;
- increasing outreach to tenants and landlords on fair housing issues; and
- exploring regional collaborations with local fair housing agencies.

As previously noted, changes to the City’s Fair Housing ordinance drafted by the Housing Division’s Fair Housing Specialist in consultation with commission members and the City’s Law Department were adopted in September 2018, roughly 6 months after the Fair Housing and Operations Specialist position was filled. Work on the second and third priority areas listed above – targeted outreach and exploration of collaborative efforts – quickly followed successful implementation of the first. Outreach-related efforts initially focused on increasing the level of engagement and follow-up with individuals contacting staff with complaints or concerns, and building awareness of the FHC and fair housing law generally.

Efforts in this regard have included initiating controls and formalizing practices like logging all fair housing inquiries and complaints, documenting follow-up conducted on each complaint, providing detailed reports on them at the Commission meeting, and increasing outreach at City-sponsored events and other public events by staff and, when possible, FHC members. Reflecting the AFH goals of outreach to tenants and landlords and pursuit of collaborative efforts, staff and Commissioners shifted efforts during April (recognized as Fair Housing Month), moving away from school-based events involving an annual fair housing poster contest each April in order to conduct fair housing events that targeted tenants, landlords and property managers. Events organized in 2018 and 2019 focused on outreach to tenants and homeowners, respectively.

The 2018 Fair Housing month event, held at Somerville Housing Authority’s Mystic Activity Center at the Mystic public housing development, featured an attorney from the Massachusetts Commission

² Staff hired into the Fair Housing Specialist position started at the end of February, 2018 and worked initially at the Edgerly School where the Housing Division was temporarily housed in 2018. Full tracking of complaints started in earnest in April and was done for the last quarter of FY18.

Against Discrimination (MCAD). The attorney presented on the basics of fair housing law and the duties and powers of MCAD in relation to enforcing the fair housing laws of Massachusetts. At the 2019 event, a property owner workshop was held at Somerville Central Library to inform landlords and management companies of state fair housing law, resources available through the Housing Division, and the City's recently established Office of Housing Stability.

Other forms of ongoing collaborative outreach that touch on fair housing issues involve Housing staff and a Fair Housing Commission member who is a real estate broker presenting on a regular basis to prospective first-time homebuyers in a First Time Homebuyer Class (FTHB) offered by Somerville Community Corporation (SCC). The first part of Housing staff's presentation typically involves informing participants of prospective homeownership opportunities through the City's inclusionary housing program; another component focuses on information about fair housing law, and enforcement agencies like MCAD and Suffolk University's Housing Discrimination Testing Program (HDTP). Participants are encouraged to contact the office via an online reporting system or to call the Housing Division. The Fair Housing Commission member discusses the role and responsibility of a real estate professional during the home buying process and the fair housing laws they must comply with. The FTHB classes tend to have 20 to 30 participants, most of whom live in Somerville. Outreach has also been conducted through "tabling" community events held throughout the year, most actively during the summer, to discuss housing issues and disseminate fair housing information.

Two of the Commissioners who are landlords participated in a presentation in March 2020 highlighting a new City program called the Somerville Voucher Incentive Program (SomervIP) offered through the Office of Housing Stability and the Somerville Homeless Coalition. The Commissioners discussed the benefits of the program which offers one-time incentive payments, money for necessary repairs, and technical support to landlords and realtors who lease Somerville properties for the first time to Somerville residents holding vouchers and other mobile tenant-based programs.

The main outreach event anticipated for FY20 Fair Housing month was going to feature the Community Action Agency of Somerville providing housing search information for residents with a Section 8 Voucher and include a discussion of related fair housing issues with staff from the Suffolk HDTP. That event had to be canceled due to the ongoing COVID-19 public health emergency. However, as described below, staff and Commissioners have been able to continue their important work, especially in connection with previously-established AFH priorities – despite working and meeting remotely since April, 2020.

FY20 Activities -- Complaint Data and Continued Collaborative Work

A total of 13 fair housing complaints were filed with the Housing Division during FY20. Any report from a resident or prospective tenant/buyer stating they were discriminated against in an attempt to rent or purchase a property in Somerville is considered to be a fair housing complaint. All complaints filed in FY20 were in regard to rental units.

This complaint total does not include instances in which a Somerville resident or prospective tenant/buyer filed a complaint directly with MCAD, HUD or the Massachusetts Attorney General's office – each of which deals with housing discrimination matters and accepts complaints from Somerville residents. Some prospective tenants/buyers who have faced housing discrimination may go to one (or more) of these agencies directly. The FHC's website and brochure contain contact information for the agencies. The Commission's primary interest is to ensure that concerns about discrimination get reported, and so the website and written materials do not call for concerned individuals to first contact the OSPCD Housing in regard to such matters.

The nature of the complaints varied across the 13 that were received. In fact, there was at least one complaint related to 6 of the 15 categories of protected classes that exist under the Commonwealth's anti-discrimination law, including:

- 5 based on the protected class of Source of Income/Recipient of Public Assistance;
- 3 based on the protected class of Familial Status (having children);

- 2 based on the protected class of Race;
- 1 based on the protected class of Disability;
- 1 based on the protected class of National Origin; and
- 1 based on the protected class of Religion

Of the 13 complaints submitted, Housing Division Fair Housing staff referred 7 to Suffolk University's HDTP for testing. Testing in this context involves individuals hired by Suffolk who, without an actual intent to rent or purchase a home, apartment, or other dwelling, pose as prospective buyers or renters for the purpose of gathering information. This information may indicate whether a housing provider is complying with fair housing laws.

OSPCD's Housing Division collaborates with the Suffolk HDTP to conduct housing discrimination tests at no cost to the City. (Suffolk has consistently secured funding from HUD to operate its testing program.) Evidence of discrimination was found in 4 of the 7 tests, the evidence in 2 tests was inconclusive, and no evidence of discrimination was found in 1 test. When evidence of discrimination is found, the complainant may work with student-attorneys and a supervising attorney at the HDTP and/or may choose to file a complaint with MCAD or HUD.

As noted, test referrals were not submitted for every complaint. Some complaints were from complainants with a current tenancy who believed the property owner/management firm involved was engaged in discriminatory behavior toward them. Despite that conviction, in several instances complainants chose not to move forward with a test or they did not respond to multiple inquiries. To the extent possible, staff to the FHC encourage households to pursue cases if there is evidence of possible housing discrimination.

According to Appendix 1 listed below, residents and prospective renters submitted fair housing complaints that were categorized based on the number of complaints in each ward. Rental properties in Ward 1, 3 and 6 received the most complaints (three each). Ward 1 includes the Assembly Square and East Somerville neighborhoods, Ward 3 includes the Prospect and Spring Hill Neighborhood and Ward 6 includes Davis Square. No complaints were received for Ward 5.

The onset of the COVID-19 pandemic has required commissioners and staff to transition to holding meetings virtually and other adjustments. In response to this circumstance (which remains the "new reality" at the time of report issuance) there has been a renewed focus on finding ways to ensure residents are aware of the Commission's meetings and activities. An idea that staff is working with Commissioners to implement has been to create videos on various aspects of fair housing law and the FHC's efforts to help uphold it.

Videos are being recorded by each commissioner and will be posted online on the City's YouTube page (<https://www.youtube.com/user/SomervilleCityTV>). At this time, 3 of the 5 videos have been completed with the help of staff from the City's Communications department. The videos are being created in several languages in addition to English, in which Commissioners and staff discuss different aspects of fair housing law as it relates to property owners and tenants. The content of each Commissioner's video is based on their personal and/or professional experience in housing and/or living in Somerville. For example, one of the commissioners speaks Spanish fluently; her video is spoken in Spanish and is about immigration status and housing discrimination.

Another form of outreach and information is the Fair Housing Commission website (somerillema.gov/fhc). The website contains a section for Frequently Asked Questions, tenant resources, information on when the FHC meetings occur and a form for current and prospective tenants/buyers to report housing discrimination. Additional resources that can be found on the City website include a Tenant Handbook updated by one of the Commissioners in 2018 and condensed to be reader-friendly. The 2018 version of the Handbook provides updated resources and information pertaining to landlord/tenant law and housing rights. A Fair Housing Commission Facebook page

maintained by one of the commissioners is another source of community engagement, with topics, articles and questions related to fair housing and landlord/tenant law featured on a weekly basis.

AFFH as an Issue of Renewed Federal Focus

A notable development over the last quarter of FY20 (that has continued into FY21) was the outgoing federal administration's increasingly vocal criticism of the 2015 (AFFH) rule that has informed so much of the FHC and Housing Division's fair housing work. The outgoing administration suspended the rule in 2018, based on the assertion that the process was too burdensome for local governments with many initial submitted plans that were rejected as incomplete or inconsistent with fair housing requirements.

The FHC submitted comments opposing any substantial changes to the 2015 AFFH rule that was submitted to HUD in October 2018 and posted on the City website.³ On July 23, 2020 the administration decided to fully rescind the 2015 AFFH rule which the FHC adamantly opposed. The Secretary of HUD cited that the 2015 AFFH rule was not helpful to local municipalities because it was complicated, costly and ineffective.

Beyond the 2015 AFFH rule itself, the outgoing administration had sought to further weaken the Fair Housing Act by amending something known as the disparate impact standard. Disparate impact refers to the practice of considering how actions that may affect a protected class or protected characteristic, regardless of whether they are applied by landlords or banks neutrally and are not discriminatory in intent. The amendment would create an additional burden for a complainant to bring forth a disparate impact claim which has been a tool used by fair housing advocates to address housing discrimination. The FHC submitted comments to HUD in October 2019 opposing the proposed rule to amend the Fair Housing Act's disparate impact standard.⁴

Regardless of such actions on the national level, Somerville's FHC intends to continue working to implement the goals prioritized in the AFH report and based on community needs and recommendations.

Progress Review and Remaining Challenges

The last several years have been marked by progress on several established FHC goals including:

- a fully seated and diverse commission of 5 members;
- a formalized system for reporting and tracking follow-up on all fair housing complaints, and active collaboration with Suffolk University HDTP to conduct housing discrimination tests in Somerville; and
- An increase in community outreach which includes City-sponsored events to inform tenants and property owners about fair housing issues and law

Efforts have also been made to produce fair housing materials (electronic and print) in the most commonly spoken foreign languages in Somerville, specifically Spanish, Portuguese, Haitian Creole and Nepali through videos, fact sheets, brochures, and flyers. Additionally, staff is working toward drafting a Language Access Plan for the Housing Division that will provide detailed information on how to communicate and better assist residents with limited English proficiency. Other potential resources, such as contracting with a language translation and interpretation agency, are still being explored.

One of the most critical remaining challenges is effective engagement with the immigrant community in Somerville. Some of these residents who have experienced housing discrimination may well be fearful of reporting/filing a complaint due to their immigration status and understandable concerns about potential retaliation. Staff is working to increase collaborative efforts with SomerViva and local agencies that work

³ See Reference List at the end of this report for the web link to the comments submitted to HUD in 2018 regarding changes to the 2015 AFFH rule.

⁴ See Reference List.

with immigrant families and communities.⁵ Components of any collaboration would include ideas on how it is best and most feasible for these communities to report instances of housing discrimination and access fair housing information.

Another challenge evident in and exacerbated by the pandemic is the ongoing reality of a “digital divide” -- the gap between those with easy access to electronic information and resources and those who do not, primarily underprivileged populations including low income, elderly, and/or disabled populations who do not have access to computers or the internet. The experience of workers and students who have struggled to work and learn remotely because of the pandemic has highlighted that many such households are not able to access critical information online due to the lack of internet and computer access. Attempting to meet these communities “where they are” and get information to them in an accessible and effective form is a continuing challenge. Some initial ideas to disseminate fair housing information to work around the digital divide includes advertising on local radio stations and television channels, especially those that cater to certain demographics such as Brazilian and Haitian residents.

Moving forward, the FHC plans to expand outreach to these communities through various modes of communication. A primary goal of the FHC is to inform, educate and respond to fair housing complaints from *all* those affected by housing discrimination. Questions and/or requests for information regarding this report may be directed to Fair Housing and Operations Specialist Bryant Gaspard at bgaspard@somervillema.gov or 617-625-6600, extension x2578.

⁵ SomerViva was created to assist in community engagement efforts with local immigrants using four foreign language liaisons who conduct outreach and provide access to City information in Spanish, Portuguese, Nepali and Haitian Creole.

References

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“2015 Affirmatively Furthering Fair Housing rule” Dept. of Housing and Urban Development:

<https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>

“2017 Somerville Assessment of Fair Housing report” OSPCD-Housing:

<https://www.somervillema.gov/sites/default/files/assessment-of-fair-housing.pdf>

“Public comments submitted to HUD in 2018 about the 2015 AFFH rule” OSPCD-Housing:

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Logan, Tim, “Trump says Biden would ‘destroy’ the suburbs. What is he talking about?” Boston Globe August, 17, 2020:

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Appendix 1

FY 20 Fair Housing Complaints by Ward

Ward	# of complaints	Protected Class
1	3	Source of income(2x); Disability
2	1	Family status (have children)
3	3	Source of income(2x); Family Status
4	2	Religion; Source of income
5	0	N/A
6	3	National Origin; Race; Family Status
7	1	Race
Total	13	6 out of 15 protected classes under Massachusetts anti-discrimination law.

*Addresses associated with fair housing complaints derive from two sources:

- The address of a prospective rental unit
- Address where a complainant resides is used when the complaint is against the management agent/property owner