

Regulations of Connecticut State Agencies

TITLE 8. Zoning, Planning, Housing, Economic and Community Development and Human Resources

Agency

Department of Housing

Subject

Fair Housing Regulations

Inclusive Sections

§§ 8-37ee-1—8-37ee-314

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Sec. 8-37ee-1. Definitions

The following definitions apply to Section 8-37ee-1 through Section 8-37ee-17 of the Regulations of Connecticut State Agencies:

(1) “Commissioner” means the Commissioner of the State of Connecticut Department of Housing.

(2) “Compliance Meeting” means a meeting held by the department for those recipients who fail to comply with their approved affirmative fair housing marketing plan.

(3) “Department” means the State of Connecticut Department of Housing.

(4) “Family” means a household consisting of one or more persons.

(5) “Income Group” means one of the following household groups, adjusted by family size and based on the appropriate area median income established by the United States Department of Housing and Urban Development: (1) households with incomes twenty-five per cent (25%) or less of the area median income; (2) households with incomes more than twenty five per cent (25%) but not more than fifty percent (50%) of the area median income; (3) households with incomes more than fifty per cent (50%) but not more than eighty percent (80%) of the area median income; (4) households with incomes more than eighty per cent of the area median income but not more than one hundred percent (100%) of the area median income; and (5) households with incomes more than one hundred per cent of the area median income.

(6) “Least Likely to Apply” means those persons who, in the main, do not live in the area of the development because of racial or ethnic patterns, perceived community attitudes, price or other factor, and thus need additional outreach to inform them of their opportunity to live in the development. With regards to race, in predominantly white areas, these shall be minority groups; in predominantly minority areas, these shall be white groups.

(7) “Minority” means those persons identified in Section 8-37ee-1 (h) subsections (b) through (g).

(8) “Primary Metropolitan Statistical Area or Metropolitan Statistical Area” means areas as defined by the United States Department of Housing and Urban Development. These areas are: Bridgeport-Milford, Bristol, Danbury, Hartford, Middletown, New Britain, New Haven-Meriden, New London-Norwich, Norwalk, Stamford, and Waterbury.

(9) “Race or Ethnic Group” means (a) White (not of Hispanic origin) persons with origins in Europe, North Africa, and the Middle East such as Canadians, Italians, Arabs, and so forth; (b) Black (not of Hispanic origin) persons with origins in Africa such as Black Puerto Ricans, Jamaicans, Nigerians, Haitians, and so forth and who may identify themselves as “Black” or “Negro” or “African-American;” (c) American Indian persons with origins in American Indian tribes such as Canadian Indians, Spanish American Indians, and French-American Indians; (d) Eskimo persons with origins in North America such as Arctic Slope and Yupik; (e) Aleut persons with origins in the Americas such as Alutiqs and Egegiks; (f) Asian or Pacific Islander persons with origins in Asia and the Pacific Islands including Chinese, Filipinos, Japanese, Asian Indians, Koreans, Vietnamese, Samoans, Hawaiians,

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and so forth; (g) Hispanic persons with origins in Spain, Central or South America, Mexico, the Dominican Republic or Puerto Rico who may identify themselves as “Spanish,” Hispanic,” “Latino,” “Mexican” or others.

(10) “Recipient” means a person, organization or individual who applies or may receive state financial assistance from the department.

(11) “Resident” means a person who lives or works in the town where the development is located. Durational residency requirements are not permitted.

(Effective February 2, 1994)

Sec. 8-37ee-2. Description

(a) The department is legislatively mandated under Section 8-37ee of the Connecticut General Statutes and the Connecticut Fair Housing Act, 46a-64b et seq. to promote fair housing choice and racial and economic integration in all housing funded in whole or in part by the department. Further, owners of state assisted housing are responsible for including in their Affirmative Fair Housing Marketing Plan provisions for the recruitment of an applicant pool that includes residents of municipalities of relatively high populations of those that would be least likely to apply. The goal of the department is to promote integrated housing by means of standards for Affirmative Fair Housing Marketing and Occupant Selection Criteria. At least twenty percent (20%) of the units shall be promoted to the group identified as “least likely to apply.”

(b) Affirmative Fair Housing Marketing and Occupant Selection Criteria determine both who shall have the opportunity to apply for state assisted housing and who shall ultimately be selected for such housing. Because the state is providing financing for the rehabilitation or construction of decent, safe, and attractive housing at a very low cost to the occupant, it is incumbent upon all owners to assure that broad based marketing as well as equitable and responsible occupant selection procedures be implemented.

(c) The affirmative fair housing marketing requirements set forth in Section 8-37ee-1 through Section 8-37ee-17 of this regulation shall apply to all recipients where department funding is used for the development or rehabilitation of:

- (1) Subdivisions or multifamily developments of five or more lots or units; or
- (2) Scattered site dwelling units, where the recipient’s participation in department programs has exceeded, or shall thereby exceed, the development or rehabilitation of five such dwelling units during the year.

(d) Developers shall be required to comply with all rules and orders that may be promulgated, from time to time, by the Commissioner and consistent with the Connecticut General Statutes for the development and management of projects.

(e) The Commissioner may waive any nonstatutory requirements imposed by Section 8-37ee-1 to Section 8-37ee-17, inclusive, of these regulations. Requests for a waiver shall be in writing, addressed to the Commissioner. Such waiver may only be granted with sufficient evidence that:

- (1) the literal enforcement of such provisions provide for exceptional difficulty or

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unusual hardship not caused by the recipient;

(2) the benefit to be gained by waiver of the provisions is clearly outweighed by the detriment which shall result from enforcement;

(3) the waiver is in harmony with conserving public health, safety and welfare; and

(4) the waiver is in the best interest of the state.

(Effective February 2, 1994)

Part 1

Affirmative Fair Housing Marketing Requirements

Sec. 8-37ee-3. Characteristics of affirmative fair marketing programs

Each recipient shall meet the following requirements or, if he contracts marketing responsibility to another party, be responsible for that party's carrying out the requirements:

(1) Carry out an affirmative program to attract buyers or tenants of all minority and majority groups to the housing for initial or ongoing sale or rental. An affirmative marketing program shall be in effect for each multifamily development throughout the life of the mortgage, assistance agreement or regulatory agreement, whichever is longer. The program shall include a carefully documented assessment of what groups are in need of affirmative marketing and a clearly articulated affirmative marketing policy and outreach effort. Such effort shall typically involve publicizing to those least likely to apply, the availability of housing opportunities through the type of media customarily utilized by the recipient, including minority publications or other minority outlets which are available in the housing market area. All advertising shall include the U.S. Department of Housing and Urban Development approved fair housing logo or slogan or statement and all advertising depicting persons shall depict persons of majority and minority groups.

(2) Maintain a nondiscriminatory policy in recruiting for staff engaged in the sale or rental of properties.

(3) Instruct all employees and agents, in writing and orally, in the policy of nondiscrimination and fair housing.

(4) Specifically solicit eligible buyers or tenants who may be referred to the recipient by the department or other organizations.

(5) Prominently display in all offices in which sale or rental activity pertaining to the project occurs, the U.S. Department of Housing and Urban Development approved Fair Housing Poster and include in any printed material used in connection with sales and rentals, the U.S. Department of Housing and Urban Development approved fair housing logo or slogan or statement.

(6) Post in a conspicuous position on all department project sites a sign displaying prominently either the U.S. Department of Housing and Urban Development approved Equal Housing Opportunity logo or slogan or statement.

(Effective February 2, 1994)

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Sec. 8-37ee-4. The affirmative fair housing marketing plan

Each recipient to which section 8-37ee-1 through 8-37ee-17 of these regulations apply shall provide, on a form and in the manner prescribed by the department in its affirmative fair housing marketing and selection procedures manual, information indicating his affirmative fair housing marketing plan to comply with the requirements set forth in Section 8-37ee-1 above. The plan, once approved by the department, shall be available for public inspection at the sales or rental office of the recipient.

(Effective February 2, 1994)

Sec. 8-37ee-5. Notice of housing opportunities

The department shall prepare quarterly a list of all projects covered by section 8-37ee-1 through 8-37ee-17 of these regulations on which commitments have been issued during the preceding ninety days. The department shall maintain a roster of interested organizations and individuals, including public agencies responsible for providing relocation assistance and local housing agencies, desiring to receive the quarterly list and shall provide the list to them.

(Effective February 2, 1994)

Part 2

Affirmative Fair Housing Marketing Compliance

Sec. 8-37ee-6. Procedures

(a) The purpose of this Part is to establish a process to implement the department's affirmative fair housing marketing requirements set forth in Part 1, section 8-37ee-1 through 8-37ee-5 of these regulations, by developing a comprehensive procedure which provides all recipients subject to these requirements advance information as to departmental procedures to assure compliance.

(b) Compliance procedures consist of: approval of the affirmative fair housing marketing plan and selection procedures, approval of any modifications to the plan and procedures, pre-marketing conference if necessary, reports during the application and selection period, compliance review, if necessary, and initiation of sanctions.

(Effective February 2, 1994)

Sec. 8-37ee-7. Requisite approvals, notifications, and reports

(a) The affirmative fair housing marketing plan and selection procedures shall be approved by the affirmative action office of the department prior to final approval of the recipient's application.

(b) Any modifications made to the plan and procedures subsequent to final approval shall also be approved by the affirmative action office.

(c) Recipients shall submit a Notification of Intent to Begin Marketing to the department, no later than 90 days prior to engaging in sales or rental marketing activities. Upon receipt

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of the Notification of Intent to Begin Marketing from the recipient, the department's affirmative action office shall review any previously approved plan and, if necessary, may schedule a preoccupancy conference at the department.

(d) Such conference shall be held prior to initiation of sales or rental marketing activities. At the preoccupancy conference, the previously approved plan shall be reviewed with the recipient to determine if the plan, and/or its proposed implementation, requires modification prior to initiation of marketing in order to achieve the objectives of the affirmative fair housing marketing regulation and the plan.

(e) Three reports regarding racial and economic make up of housing shall be made to the affirmative action office before final occupancy: one after the period for submission of applications; one after pre-screening; and one after final selection. These may be done by telephone with written follow-ups for verification. If the affirmative action office finds at any stage that there are insufficient "least likely to apply" candidates due to a lack of good faith affirmative fair marketing efforts, then the affirmative action office shall reserve the right to require additional outreach until such time as a sufficient effort has been expended or a sufficient number of applicants are available. Such additional outreach may delay the occupancy of units. The affirmative action office may further require a compliance meeting, as specified in Section 8-37ee-8, below.

(f) Recipients shall be required to collect racial and economic data from tenants and persons on waiting lists. The data collected shall analyze income groups and races served, and shall be reported to the Commissioner annually, before October thirty-first for the year ending the preceding September thirtieth. The analysis shall also include data for all households entering the housing development or project during the year ending the preceding September thirtieth and in occupancy the preceding September thirtieth.

(Effective February 2, 1994)

Sec. 8-37ee-8. Compliance meeting

(a) If a recipient fails to comply with the affirmative fair housing marketing requirements or it appears that the goals of the plan may not be achieved or that the implementation of the plan should be modified, the department's affirmative action office may schedule a meeting with the recipient.

(b) The purpose of the meeting is to review the recipient's compliance with the affirmative fair housing marketing requirements and the implementation of the plan and to indicate any changes or modifications which may be required in its plan.

(c) A notice of the compliance meeting shall be sent to the last known address of the recipient, by certified mail, or through personal service. The notice shall advise the recipient of the right to respond within seven (7) days to the matters identified as subjects of the meeting and to submit information and relevant data evidencing compliance with the affirmative fair housing marketing regulations and the plan.

(d) The recipient shall be requested in writing to provide, prior to or at the compliance meeting, specific documents, records and other information relevant to compliance

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including but not limited to:

- (1) copies of all advertising in the Metropolitan Statistical Area (MSA) or housing market area, as appropriate, including newspaper, radio and television advertising;
 - (2) photo of any sale or rental sign at the site of construction;
 - (3) copies of brochures and other printed material used in connection with sales or rental;
 - (4) evidence of outreach to community organizations and any other evidence of affirmative outreach to groups which are least likely to apply for the subject housing;
 - (5) evidence of instructions to employees with respect to company policy of nondiscrimination in housing;
 - (6) description of training conducted with staff;
 - (7) evidence of nondiscriminatory hiring and recruiting policies for staff engaged in the sale or rental activities;
 - (8) copies of applications and waiting lists of prospective buyers and renters maintained by the recipient;
 - (9) copies of sign-in lists maintained on site for prospective buyers and renters who are shown the housing;
 - (10) copies of the selection and screening criteria;
 - (11) copies of relevant sales or lease agreements; and
 - (12) any other information which documents efforts to comply with the plan.
- (e) Based on the evidence, the department shall notify the recipient within (10) ten days of the meeting whether or not the recipient is in compliance with the affirmative fair housing marketing regulations or plan, or if the matters raised at the compliance meeting can not be resolved.

(f) If the evidence indicates an apparent failure to comply, the department shall conduct a comprehensive compliance review.

(g) If the recipient fails to attend the meeting scheduled, the department shall notify the recipient no later than ten days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, and shall advise the recipient as to whether a comprehensive compliance review shall be conducted or to recommend the imposition of sanctions.

(Effective February 2, 1994)

Sec. 8-37ee-9. Compliance reviews

(a) All compliance reviews shall be conducted by the department's affirmative action office.

(b) Even in the absence of a complaint or other information indicating noncompliance, the department may conduct periodic compliance reviews throughout the life of the project.

(c) The purpose of a compliance review is to determine whether the recipient is in compliance with the department's requirements and the approved affirmative fair housing marketing plan. The recipient shall be given at least five days notice of the time set for any compliance review and the place or places for such review.

(d) The compliance review shall cover the following areas:

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(1) sales and rental practices, including practices in soliciting buyers and tenants, determining eligibility, selecting and rejecting buyers and renters and in concluding sales and rental transactions;

(2) activities to attract minority and majority buyers and renters, including the use of advertising media, brochures, pamphlets, fair housing poster; and

(3) data relating to size and location of units, services provided, sales and/or rental price ranges and other matters relating to the marketing of the units.

(e) Following the compliance review, a report shall be prepared finding whether the project is in compliance or noncompliance. Whenever a finding of noncompliance is made, the report shall list specifically the violations found. The recipient shall be sent a copy of the report by certified mail, return receipt requested.

(Effective February 2, 1994)

Sec. 8-37ee-10. Hearings

Should a hearing be requested it shall be conducted in accordance with the following:

(1) Designation of Parties In issuing the notice of hearing, the Commissioner shall designate as parties any persons known to the Commissioner whose legal rights, duties or privileges are being determined in the contested case and any person whose participation as a party is deemed by the Commissioner to be necessary to the proper disposition of such proceeding. Subsequent to the issuance of the notice of hearing, no other person before the Commissioner shall have standing as a party within the definition of section 4-166 (5) of the General Statutes, except upon the express order of the Commissioner.

(2) Participation by Persons Other Than Parties

(A) At any time prior to the Commencement of oral testimony in any hearing on a contested case, any person may request that the Commissioner permit that person to participate in the hearing. Any person not a party that is so permitted to participate in the hearing shall be identified as an intervenor for purposes of section 8-37ee-10 and shall participate in those portions of the contested case that the Commissioner shall expressly authorize.

(B) No grant or leave to participate in the hearing as an intervenor or in any other manner shall be deemed to be an admission by the Commissioner that the person he/she had permitted to participate is a party in interest that may be aggrieved by any final decision, order or ruling of the Commissioner, unless such grant of leave to participate expressly so states. An intervenor is a party of record for the limited purposes described in section 4-183 of the General Statute.

(3) Representation of Parties and Intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the Commissioner. Such appearance may be filed in behalf of parties and intervenors by an attorney, an agent or other duly authorized representative subject to the rules here-in-above stated. The filing of a written appearance may be excused on behalf of the Commissioner.

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(4) Commencement of Hearing

When a hearing is required by law as to any person, the contested case shall commence on the date of filing of the request or petition.

(5) Place of Hearing

All hearings shall be held at the department, 505 Hudson Street, Hartford, 06106, unless a different place is designated by statute or by the direction of the Commissioner.

(6) Notice of Hearing

(A) Except when the Commissioner shall otherwise direct, the Commissioner shall give written notice of a hearing in any pending matter to all persons designated as parties, to all persons permitted to participate as intervenors, to all persons otherwise required by statute to be notified and to such other persons as have filed with the department their written request for notice of hearing in the particular matter. Written notice shall be given to such additional persons as the Commissioner shall direct. The Commissioner may give such public notice of the hearing as the Commissioner shall deem appropriate within the provisions of Section 1-21 of the General Statutes.

(7) General Provisions

(A) Purpose of Hearing—The purpose of any hearing the Commissioner conducts under chapter 54 of the General Statutes shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the Commissioner.

(B) Order of Presentation—In hearing on requests and petitions, the party shall open and close the presentation of any part of the matter shall be the person making the request or petitioner.

(C) Limiting the Number of Witnesses—To avoid unnecessary cumulative evidence, the Commissioner may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(D) Written Testimony—The Commissioner may permit any party to offer testimony in written form. Such written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witness who has given evidence, provided that each such witness shall be present at the hearing at which testimony is offered, shall adopt the written testimony under oath, and shall be available for cross-examination as directed by the Commissioner. Prior to its admission, such written testimony shall be subject to objections by parties.

(8) Witnesses and Testimony

(A) Powers - The Commissioner shall have the power to administer oaths, take testimony under oath relative to the matter of inquiry or investigation, subpoena witnesses and require the production of records, physical evidence, papers and documents.

(B) Superior Court - If any person disobeys the subpoena or, having appeared, refuses to answer any questions put to him/her or to produce any records, physical evidence, papers and documents requested by the Commissioner, the department may apply to the superior court in accordance with section 4-177b of the General Statutes.

(9) The following rules of evidence shall be followed in the admission of testimony and

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exhibits in all hearings held under section 4-178 of the General Statutes.

(A) General - any oral or documentary evidence may be received but the Commissioner shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The Commissioner shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing. Subject to these requirements any testimony may be received in written form as herein provided.

(B) Documentary Evidence - Documentary evidence shall be submitted in original form, but may be received in the form of copies or excerpts at the discretion of the Commissioner. Upon request by any party an opportunity shall be granted to compare the copy with the original if available, which shall be produced for this purpose by the person offering such copy as evidence.

(C) Cross-examination - Cross-examination may be conducted as the Commissioner shall find to be required for a full and true disclosure of the facts.

(D) Facts Noticed, Records - The commissioner may take administrative notice of judicially cognizable facts, including the records and the prior decisions and orders of the department.

(E) Facts Noticed, Scope and Procedure - The Commissioner may take administrative notice of generally recognized technical or scientific facts within the department's specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing or by an appropriate reference in preliminary reports or otherwise of the material noticed. The Commissioner shall nevertheless employ the department's experience, technical competence and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making his finding of facts and arriving at a final decision.

(Effective February 2, 1994)

Sec. 8-37ee-11. Filing of testimony and exhibits

Upon the order of the Commissioner before, during or after the hearing any party shall prepare and file exhibits and testimony. Any additional exhibits and testimony shall be deemed to be an offer of evidence and shall be subject to such comment, reply and contest as due process shall require.

(Effective February 2, 1994)

Sec. 8-37ee-12. Uncontested disposition

Unless precluded by law any request or petition may be resolved by stipulation, agreed settlement, consent-order or default, subject to the order of the Commissioner. Upon such disposition, a copy of the order of the Commissioner shall be served one each party.

(Effective February 2, 1994)

Sec. 8-37ee-13. Delegation of powers

The Commissioner may designate any employee of the department to serve as hearing

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officer at a contested case hearing and to render a final decision or proposed final decision.
(Effective February 2, 1994)

Sec. 8-37ee-14. Record

The record before the Commissioner in a contested case shall include (1) all motions, requests of action, petitions, pleadings, notices of hearing and intermediate rulings; (2) the evidence received and considered by the Commissioner; and (3) questions and offers of proof, objections and the rulings thereon during the hearing.

(Effective February 2, 1994)

Sec. 8-37ee-15. Final decision

(a) The Commissioner shall render a final decision within ninety (90) days following the close of evidence or the due date for the filing of briefs, whichever is later, in such proceedings. All decisions and orders of the Commissioner concluding a contested case shall be in writing and shall include findings of fact and conclusions of law. The Commissioner shall serve a copy of the final decision by certified mail on each party in the manner required by these rules of practice.

(b) If the Commissioner fails to comply with the provisions of subsection (a) above, in any contested case, any party thereto may apply to the superior court for an order requiring the Commissioner to render a final decision.

(Effective February 2, 1994)

Sec. 8-37ee-16. Petition for reconsideration of final decision

(a) Unless otherwise provided by law, a party in a contested case may, within fifteen (15) days after the personal delivery or mailing of the final decision, file with the department a petition for reconsideration on the grounds that (1) an error of fact or law should be corrected; (2) new evidence has been discovered which materially affects the merits of the case and which for good reasons was not presented in the hearing; or (3) other good cause for reconsideration has been shown.

(b) Within twenty-five (25) days of the filing of the petition, the department shall decide whether to reconsider the final decision. The failure of the department to make a decision within twenty-five (25) days of such filing shall constitute a denial of the petition.

(c) Within forty (40) days of the personal delivery or mailing of the final decision, the department, regardless of whether a petition for reconsideration has been filed, may decide to reconsider the final decision.

(d) If the department decides to reconsider the final decision, it shall proceed within thirty (30) days to conduct such additional proceedings as may be necessary to render a decision modifying, affirming or reversing the final decision.

(e) On a showing of changed conditions, the department may reverse or modify the final decision at any time, at the request of any person or on the department's own motion.

(f) The party or parties who were the subject of the original final decision or their

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successors, if known, and intervenors in the original case, shall be notified of the proceeding and shall be given the opportunity to participate in the proceeding. Any decision to reverse or modify the final decision shall make provision for the rights or privileges of any person who has been shown to have relied on such final decision.

(g) A person who has exhausted all administrative remedies available within the department and who is aggrieved by the final decision may appeal to the superior court as provided in section 4-183 of the General Statutes.

(Effective February 2, 1994)

Sec. 8-37ee-17. Compliance for existing state assisted units

Each owner of five or more state assisted housing units shall comply with these requirements within at least one year of the effective date of this regulation.

(Effective February 2, 1994)

Sec. 8-37ee-18—8-37ee-299. Reserved

Affirmative Fair Housing Marketing and Selection Procedures Manual

Sec. 8-37ee-300. General information

(a) This manual should be used in conjunction with the Fair Housing regulations under Section 8-37ee-1 through Section 8-37ee-17 of the Regulations of Connecticut State Agencies, and the instructions accompanying the Affirmative Fair Housing Market Form included in this manual.

(b) The purpose of this manual is to assist recipients of state financial assistance from the department in understanding what shall be required of them, as well as to further implement the provisions of Section 8-37ee-1 through Section 8-37ee-17 of the Regulations of Connecticut State Agencies.

(c) The Affirmative Fair Housing Marketing Plan shall be submitted on the form, and in the manner, prescribed by the department. The plan shall include all of the techniques which recipients intend to employ to assure that marketing is broad-based and that prospective buyers and/or renters of varied income groups, including persons with physical disabilities would feel welcome to apply. At least twenty percent (20%) of the units shall be promoted to the “least likely to apply” group.

(Effective February 2, 1994)

Sec. 8-37ee-301. Definitions

All terms defined in Section 8-37ee-1 of the Regulations of Connecticut State Agencies shall have the meanings set forth there.

The following apply to Section 8-37ee-300 through Section 8-37ee-314 of the Regulations of Connecticut State Agencies:

(1) “Least likely to apply” means those persons who, in the main, do not live in the area of the development because of racial or ethnic patterns, perceived community attitudes,

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price or other factor, and thus need additional outreach to inform them of their opportunity to live in the development. In predominantly white areas, these shall be minority groups; in predominantly minority areas, these shall be white groups.

(2) “Recipient” means a person, organization or individual who applies or may receive state financial assistance from the department.

(3) “Resident” means a person, including an applicant, living or working in the municipality in which the housing is located. Durational residency requirements are not permitted.

(Effective February 2, 1994)

Sec. 8-37ee-302. Affirmative fair housing marketing process

(a) Assessing Affirmative Marketing Needs

Recipient plans shall identify the group(s) “least likely to apply” to the housing through the submission of relevant demographic data. Data may be derived from the U.S. Census, municipal sources, regional planning agencies, civil rights groups, fair housing officers, social service agencies, and like organizations. Source documentation shall be clearly identified.

(b) Affirmative Marketing Outreach

(1) Mechanisms - Recipients’ plans shall determine and identify the most appropriate outreach mechanisms which should include: newspaper, radio, television, and other media advertisements as well as flyers and announcements to social service agencies and other organizations with the desire and capacity to inform potential applicants of the availability of housing. These mechanisms or organizations shall represent those most likely to be read, heard, seen by, or in contact with applicants least likely to apply.

(2) Locale - Recipients’ plans shall provide for the dissemination of information at a minimum in (a) the largest city located in the nearest Primary Metropolitan Statistical Area or Areas or Metropolitan Statistical Area or Areas, (b) the regional planning area, and (c) any other areas which are likely to contain high minority populations and where public transportation or public highways and/or job availability make it likely that minorities might wish to move where the development is located.

(3) Time frame - Recipients’ plans shall identify the time frame, duration, and frequency of the materials to be announced or distributed. At a minimum affirmative fair housing marketing shall begin prior to general marketing. There shall be at least three (3) documented efforts with updated materials as necessary: the first at the beginning of construction; the second at approximately 50 percent completion; and the final, six to eight weeks prior to completion.

(4) Notice of Intent to Begin Marketing - Recipients are required to give notice to the department no later than 90 days prior to engaging in sales or rental marketing activities.

(5) Prominence - Recipients’ plans shall provide that any materials shall be prominently displayed or appear where they are most likely to be read or seen, e.g. not in the “legal notices” section of the paper but in more prominent ads.

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(6) Content - Recipients' plans shall identify the content of the materials to be used which at a minimum shall: (a) identify the location of the housing; (b) provide a narrative description of the housing; (c) identify when the application process shall begin and end; (d) be neutral in the sense of encouraging all potentially eligible applicants to apply; (e) include a contact person and telephone number; (f) display the fair housing logo and clearly state the owner's commitment to Fair Housing and non-discrimination; (g) where relevant, be provided in both English and Spanish; (h) where there is any advertising depicting persons, depict persons of both sexes and persons of majority and minority groups; (i) describe the application and selection process as stated in Section 8-37ee-304 and Section 8-37ee-305 of these regulations; and (j) include the fair housing policy statement as stated in Section 8-37ee-311 below.

(7) Community contacts - Recipients' plans shall identify community contacts which shall include individuals and organizations that are well known in the area who can reach and assist those least likely to apply. These may include church groups, housing counseling groups, legal services organizations, labor unions, minority and women's organizations, shelters, social service agencies, housing authorities, and town officials. Each of these entities shall receive appropriate materials as described in subsection (5) with additional instructions, if necessary.

(8) Counseling and application assistance - Recipients' plans shall provide that either the contact person or a housing counseling organization, fair housing officer, or other similar party is trained in fair housing and its requirements and is ready and willing to assist all applicants including the least likely to apply with the application process.

(9) Follow-up - Recipients' plans shall provide for follow-up meetings or telephonic reports from the various outreach organizations listed in subsection (7) in order to evaluate the effectiveness of the affirmative marketing. Where organizations determine that few potential applicants are displaying an interest, alternative approaches should be considered.

(10) Public inspection - Recipient approved plans shall be available for public inspection.

(Effective February 2, 1994)

Sec. 8-37ee-303. Application process

(a) The application period shall extend for at least 90 days before initial occupancy. An application deadline shall be established when all applications shall be completed and returned. Applications received after the deadline shall not be considered unless there is: (1) an insufficient number of initial applicants; and/or (2) the department determines that more affirmative marketing is necessary.

(b) Recipients shall use a standard application form furnished by the department included in this manual.

(c) Anyone seeking to apply shall be given the opportunity to do so.

(d) Anyone needing help in filling out the forms shall be assisted.

(e) Each application received shall be immediately dated and time stamped. Each applicant shall be given a receipt with the date and time on it.

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- (f) Each applicant shall have a control number assigned in chronological order.
- (g) A file shall be opened for each applicant. The file shall remain confidential information.
- (h) Selection shall occur at least thirty (30) days before scheduled occupancy to prevent vacancies.

(Effective February 2, 1994)

Sec. 8-37ee-304. Selection process

(a) Recipients should develop a written selection plan which covers the tenant selection process they intend to use. Such plan should include, at a minimum, the following:

- (1) Procedures for accepting applications and screening applicants;
- (2) Fair housing requirements;
- (3) When applicants may be rejected; and
- (4) Procedures for selecting applicants from the waiting list(s).

(b) At a minimum, the following factors shall be used to screen applicants:

- (1) demonstrated ability to pay rent on time;
- (2) housekeeping habits based on visits to the applicant's current residence;
- (3) comments from former landlords; endorsement from at least two is preferred; and
- (4) Credit checks may be obtained. These may be useful when no rental payment history is available. A lack of credit history, as opposed to a poor credit history, is not sufficient grounds to reject an applicant. Recipients should try to obtain all credit checks, landlord and personal references and so forth before the home visit and interview so that if negative information is received the applicant shall be given the opportunity to explain the circumstances.

(c) Recipients shall also prepare one Occupant Selection List which shall be subdivided by the number of units available and bedroom size. The following guidelines shall be used to determine minimum and maximum housing capacity:

Bedroom Size	Minimum	Maximum
00 (single room occupancy)	1	1
0 (efficiency unit)	1	1
1	1	2
2	2	4
3	3	6
4	5	8

(Effective February 2, 1994)

Sec. 8-37ee-305. Selection methodology

(a) For purposes of fairness and equity the department allows either a point system or a

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purely random lottery selection method. However, if there is a tie score under the point system method and there is a limited number of units available for persons with the same point score, the random selection method or first come, first serve (chronological order) shall be used in conjunction with the point system to select which applicant gets the unit.

(b) Point System Selection Method

(1) Point systems may be altered by the Commissioner to comply with fair housing goals. Where a program dictates other kinds of requirements, e.g. limited equity cooperatives may look for participants willing to put in sweat equity, points for such neutral categories may be added with the approval of the Commissioner.

(A) Calculation of Points - The applicant receives the full point score or none; subjective practical scoring is not allowed. Where department program requirements mandate selection criteria such as age, income, etc., applicants shall first meet that standard. Where an applicant does not meet the program requirements, the applicant may be rejected without further analysis.

(2) The following is the Department's approved point system that recipients shall use.

POINT SYSTEM METHOD

(i) SUBSTANDARD HOUSING	25 point maximum
condemned or verified serious housing code violations	25 points
inadequate heating, plumbing, or cooking facilities	20 points
(ii) LIVING SITUATION	25 point maximum
living in documented physically or emotionally abusive situation	25 points
living in a shelter or transitional housing	25 points
living in temporary housing with others because of conditions beyond applicant's control (condemnation, foreclosure, fire, loss of job, etc.)	20 points

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living in overcrowded conditions in own housing unit (e.g. 1.5 persons per room)	15 points
(iii) INCOME/RENT RATIO	15 point maximum
currently paying more than 50% of income for rent or housing	15 points
currently paying between 31-50% of income for rent/housing	10 points
(iv) (OPTIONAL) RESIDENT OR LEAST LIKELY TO APPLY APPLICANT	10 points

(a) If this resident selection category is used, the 10 points shall be awarded to *both* residents and least likely to apply applicants. However, if the owner chooses, more points may be awarded to the least likely to apply applicants (e.g. 15, 20, 25 points, etc.).

(3) Points shall be added up for each applicant. The department recommends that the recipient create a pool of candidates with the highest score and which exceed the number of available units by bedroom size by at least three times. Applicants shall be selected by a lottery.

(4) If the number of applicants does not exceed the number of available units by bedroom size by at least three times applicants may be selected on a first come first serve basis.

(c) Random Selection Method - Lottery

If recipients select the random selection method the factors they shall use in determining selection shall include:

- (1) Determining the income eligibility of all applicants;
- (2) Pre-screening/interviewing for credit worthiness and other reasonable common rental or ownership criteria; and for verification of applicant information.
- (3) Putting all applicants with favorable interviews, that is, having no ground for disqualification based on subsection (e) of this section, back in the pool and choosing by a lottery system.

(d) Interview or Home Visit

(1) Ideally all applicants meeting income guidelines should be interviewed. When a large number of applicants apply, recipients may conduct interviews and/or home visits with only those who meet the minimum threshold point score, so long as the number of interviewees significantly exceeds the number of available units.

(2) The interview should be used for purposes of verifying and clarifying information in

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the application as well as exploring the ability and willingness of the applicant to meet financial commitments and to assume the other responsibilities of tenancy or ownership. Points should not be added or subtracted as a result of the home visit and interview unless information on the application was erroneous.

(e) Grounds for disqualification

(1) Applicants may be disqualified from final selection upon documentary verification of any of the following: (A) the applicant or any member of the applicant's household has a history of disturbing neighbors, destroying property, or living or housekeeping habits which would substantially interfere with the health, safety, or peaceful enjoyment of other residents; (B) the applicant has a history of rental nonpayments within the past 12 months without reasonable justification (justification might be: substandard housing, loss of a job, etc.); (C) the applicant has knowingly falsified information in the application process; or (D) the applicant cannot demonstrate an ability to pay the base rent.

(2) Applicants deemed ineligible, for whatever reason(s), shall be notified in writing, before the final selection, of the reason(s) for rejection and their right to appeal within ten days of the rejection. Recipients should inform applicants that an appeal should be made immediately to assure their return to the applicant pool if they prevail. An impartial hearing officer shall be chosen by the recipient who shall issue a written opinion within five days of the hearing. All appeals should be heard within five days of the request.

(3) Applicants still aggrieved shall be informed of their right to appeal the decision of the hearing officer to the department's affirmative action office. Such appeal shall be made in writing, and brought within ten days of the adverse decision.

(4) Recipients shall keep the following materials on file for at least three years: (1) application; (2) initial rejection notice; (3) any applicant reply; (4) the recipient's final response; and (5) all interview and verified information on which the rejection was based.

(Effective February 2, 1994)

Sec. 8-37ee-306. Insufficient number of least likely to apply applicants

(a) If the Affirmative Action Office finds, at any stage, that there is an insufficient amount of least likely to apply candidates due to a lack of good faith affirmative fair marketing it shall have the right to require additional outreach until such time as a sufficient effort has been expended or a sufficient number of applicants is available. Such additional outreach may delay the occupancy of units.

(b) Where the department determines that good faith efforts have been made to recruit applicants who are least likely to apply and there is still an insufficient number of eligible applicants, recipients shall be given permission to rent or sell units to other eligible applicants.

(c) The department's determination of the owner's good faith efforts shall include, but not be limited to: substantiating that the outreach which it stated in its Affirmative Fair Housing Marketing Plan was actually completed; that such efforts met time and durational requirements; that the marketing approach was amended or enhanced when found deficient;

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and that there were particular local, regional, and/or market reasons for the failure of the Affirmative Fair Housing Marketing Plan to attract a sufficient pool of applicants who are least likely to apply. The owner shall develop and maintain adequate documentation in a manner prescribed by the department of its good faith efforts.

(Effective February 2, 1994)

Sec. 8-37ee-307. Post occupancy requirements

(a) Following the initial lease-up or sales, recipients shall continue to affirmatively market to those least likely to apply for the life of the mortgage, assistance agreement or regulatory agreement, whichever is longer. Recipients shall make every good faith effort to maintain a racially and economically integrated housing development.

(b) Recipients should schedule application periods as in the initial lease-up or sales at reasonable intervals. Such application periods shall have a deadline and new applicants shall be chosen as in the initial selection system. Prospective applicants shall only be considered during this application period. Where point systems are used, new applicants with higher points may not displace previous waiting list applicants unless the waiting lists have been reviewed and updated.

(c) The department shall require annual updates on whether recipient affirmative fair marketing goals have been met and whether recipients have been able to sustain their goals. Upon review of the information the department may require remedial action where it is deemed necessary. Records of all affirmative fair marketing, tenant selection, and waiting lists should be retained for at least five years or as set forth in the Assistance or Regulatory Agreement with the Department.

(d) Recipients may be monitored on a yearly basis for compliance with the fair housing requirements stated herein and may be subject to random on site monitoring.

(Effective February 2, 1994)

Sec. 8-37ee-308. Reserved

Sec. 8-37ee-309. Recipient training

Prior to any disbursement of financial assistance recipients shall be required to attend a seminar on implementing the department's Fair Housing regulations. Recipients are encouraged to attend other fair housing forums and participate in fair housing events. All recipient employees and agents shall be informed, in writing, and orally, of fair housing requirements.

(Effective February 2, 1994)

Sec. 8-37ee-310. Affirmative marketing for other grantees

Recipients who are not producing housing shall affirmatively market their programs so that a broad range of majority and minority beneficiaries are encouraged to apply for whatever assistance is provided. Outreach should comply with the Affirmative Fair Housing

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Marketing Plan Guidelines.

(Effective February 2, 1994)

Sec. 8-37ee-311. Fair housing policy statement and publicity

(a) Any recipient, including but not limited to sponsors of housing, technical assistance organizations, and subcontractors, shall adopt a fair housing statement prior to the receipt of department funds which shall include the following:

(1) Recipient's commitment to promote Fair Housing choice and not to discriminate against any person as prohibited in General Statutes 46a-64c as amended. Protected classes include: race, creed, color, national origin, ancestry, sex, marital status, age, lawful source of income, familial status, physical or mental disability, or sexual orientation. The provisions of 46a-64c should be specifically included in the pledge.

(2) Recipient's commitment to promote racial and economic integration in any housing developed or supported with department funds being sought or recipient's commitment to seek beneficiaries from all racial and ethnic groups as well as the physically and mentally handicapped and families with children, and to seek a broad range of income eligible beneficiaries, whichever provision is relevant to the kinds of services provided by the grantee.

(3) Identifies the person assigned Fair Housing responsibilities by name, position, address, and telephone.

(4) Includes a discrimination complaint procedure which shall be disseminated to applicants and posted.

(5) Is revised as needed.

(6) States how the policy shall be disseminated.

(7) Is signed by the Board President, CEO, or other comparable party.

(b) Before dissemination the policy shall be approved by the department. The policy shall be prominently posted in the recipient's offices and also on the site where building or rehabilitation is taking place.

(c) Recipients shall prominently display in all offices, in printed materials, and on housing sites fair housing posters and/or the fair housing logo which may be obtained from the department's affirmative action office.

(Effective February 2, 1994)

Sec. 8-37ee-312. Modification of requirements

(a) Where another program funding requires stricter fair housing requirements, upon approval of the department those shall be followed.

(b) Where federal sources are also funding the housing, federal fair housing requirements, as well as these shall be adhered to.

(c) Where the department is funding minor rehabilitation, these requirements may be adjusted as determined by the department.

(Effective February 2, 1994)

Sec. 8-37ee-313. Reporting requirements

(a) Three reports regarding racial and economic information shall be submitted to the Affirmative Action Office before final occupancy: one after the period for submission of applications; one after pre-screening; and one after final selection. These may be done by telephone with written follow-ups for verification.

(b) Recipients shall be required to collect racial and economic data from tenants and persons on waiting lists. The data collected shall analyze income groups and races served, and shall be reported to the Commissioner annually, before October thirty-first for the year ending the preceding September thirtieth. The analysis shall also include data for all households entering the housing development or project during the year ending the preceding September thirtieth and in occupancy the preceding September thirtieth. This information shall be in report form (written) and in the manner prescribed by the department.

(Effective February 2, 1994)

Sec. 8-37ee-314. Fair housing compliance for existing state assisted units

(a) Each owner of five or more state assisted housing units shall develop an affirmative fair housing marketing plan for each such development as described in Section 8-37ee-302, and selection procedures as described in Section 8-37ee-304 of these regulations.

(b) Each owner of state assisted housing shall evaluate its waiting list for each development to determine whether or not the waiting list provides for racial and economic diversity as required by Public Act 91-362.

(c) If there are either insufficient families who are least likely to apply on the list or near the top of the list such that they might be housed within the next year, then the units shall be affirmatively fair marketed.

(d) Eligible applicants currently on the waiting list may not be removed from such list unless duly purged. However, once any additions are to be made to the list, all requirements of this manual shall apply to the new applicants.

(e) Owners of currently assisted state housing shall be expected to comply with all other requirements of this manual within a reasonable time after its effective date and, at a maximum, within one year of such date.

AFFIRMATIVE FAIR HOUSING MARKETING PLAN TIME FRAMES/PHASES

For recipient's convenience, please find below, an outline of the Affirmative Fair Housing Marketing Plan time frames/phases.

PRE-APPLICATION/APPLICATION PHASE

(a) A pre-application briefing is held at the department before the application for funding is submitted.

(b) The affirmative fair housing marketing plan (plan) and selection procedures (procedures) are submitted with the funding application. They are reviewed and approved or returned for resubmission. They shall be approved before the final application is approved by the department.

(c) Any modifications made to the plan and/or procedures shall be submitted for

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approval.

MARKETING PHASE

(a) 90 days prior to affirmative fair housing marketing (which shall begin prior to general marketing), a Notification of Intent to Begin Marketing shall be submitted to the department.

(b) The plan and procedures are reviewed and a preoccupancy conference may be scheduled.

(c) Affirmative fair housing marketing begins at the start of construction.

(d) A second such marketing effort takes place at 50 percent completion.

(e) Final fair housing marketing occurs 6-8 weeks prior to completion.

(f) If inadequate numbers of “least likely to apply” candidates are applying, recipients should reassess outreach mechanisms.

APPLICATION PHASE

(a) The time for receipt of all applications shall extend for at least 90 days.

(b) Reports to the department regarding racial and economic make-up shall be submitted:

(1) after the application period ends

(2) after pre-screening is completed

(3) after final selection

POST OCCUPANCY PHASE

(a) Affirmative fair housing marketing and selection procedures shall be continued for the life of the project.

(b) Yearly updates on meeting and sustaining goals shall be required.

(c) The department may randomly monitor housing to assure continuing compliance.

(d) If at any time the department determines that there are insufficient “least likely to apply” applicants or occupants due to the lack of a good faith effort on the part of the recipient, further outreach and/or a Compliance Meeting may be required.

(Effective February 2, 1994)