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FAIR HOUSING COMMISSION ANNUAL REPORT-FY 2021

In accordance with 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 2021 (July 1, 2020-June 30, 2021), which the ordinance states is to be submitted to the Mayor and City Council. Primarily due to staff turnover in 2021 and 2022,¹ the FY 21 report is being transmitted around the time the annual report for FY 22 (July 1, 2021-June 30, 2022) typically would be completed. Housing Division staff expect to follow up with the FY 22 report after transmittal of the FY 21 report.

To ensure sufficient context to recent Commission efforts considered in this report, the document begins with a review of issues at play on the national and local levels over the last several years.

I. National and State Context

National context: 2015-2020

In July 2015, the United States Department of Housing and Urban Development (HUD) passed the “Affirmatively Further Fair Housing” rule (AFFH).² The intent of the rule was to ensure that municipalities took 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. In 2016, HUD issued guidelines for municipalities receiving federal housing and community development funds to prepare and submit an “Assessment of Fair Housing” (AFH).³

After suspending the AFFH rule in 2018⁴, the Trump administration revoked it on July 23 2020, asserting that many AFFH plans submitted by local governments had been rejected either for being incomplete or for being inconsistent with fair housing requirements.⁵

¹ Fair Housing and Inclusionary Housing Support Specialist Bryant Gaspard left his former position in September, 2022 before beginning a new opportunity. Stayce Pelton started their work in the same position in December 2021 and left in late August 2022 after accepting another position as well. Thanks are due to both of them for their contributions to this report.

² See <https://www.nhlp.org/wp-content/uploads/2017/09/Affirmatively-Furthering-Fair-Housing-2015.pdf>

³ See <https://www.hud.gov/AFFH>

⁴ See Docket No. FR – 5173-N-15, Federal Reg Vol. 83 No 4 (Jan 5, 2018) <https://www.govinfo.gov/content/pkg/FR-2018-01-05/pdf/2018-00106.pdf>

⁵ See <https://www.hud.gov/sites/dfiles/ENF/documents/6228-F-01%20Preserving%20Housing%20and%20Neighborhood%20Choice.pdf>

Trump administration representatives contended that the rule imposed an undue burden on local government, specifically claiming that the rule forced these municipalities to change existing zoning laws. Then- HUD Secretary Ben Carson asserted that the AFFH rule had “a devastating impact” on “once thriving suburban areas” further stating that the rule would “destroy the suburbs”, and that it was “not fair to homeowners.” The revocation was strongly criticized by several civil rights and housing organizations, who issued a joint statement condemning the Trump administration’s actions.⁶

In their statement, critics challenged the administration’s motivation for “gutting the only meaningful guidance...for how states and localities should correct discriminatory housing practices and undo the harms caused by racial segregation.” The statement further noted that the Trump administration’s case for the rule’s revocation included several factual inaccuracies. (For example, the administration’s claim that jurisdictions were required to change zoning laws was unmerited. In fact, no jurisdiction was forced to change such laws.)

In suspending the AFFH rule in 2018, HUD noted that only 49 AFH plans had been submitted by local jurisdictions to that point. In fact, however, the Obama administration had acknowledged when it issued the 2015 rule that there would be an immense learning curve and that there would be an interactive process. Thirty-two (32) of the 49 plans were accepted prior to the rule’s suspension which the advocates’ statement noted was hardly a “high failure” rate of the kind suggested when the rule was revoked.

On June 10, 2021 HUD issued a press release announcing that there would be an interim final rule to restore the AFFH rule on June 10, 2021.⁷ This announcement was consistent with a memorandum President Biden issued on January 26, 2021 – less than a week after his January 20th inauguration – titled *Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies*.⁸ The purpose of the memorandum was to communicate the Biden administration’s intent to meaningfully address the ongoing and lasting effects of housing discrimination. The memo stated in part:

... it is the policy of my Administration that the Federal Government shall work with communities to end housing discrimination, to provide redress to those who have experienced housing discrimination, to eliminate racial bias and other forms of discrimination in all stages of home-buying and renting, to lift barriers that restrict housing and neighborhood choice, to promote diverse and inclusive communities, to ensure sufficient physically accessible housing, and to secure equal access to housing opportunity for all.

HUD has stated its intended purposes in moving to restore the AFFH rule as being to provide municipalities who receive federal housing or community development funds the means to identify their own fair housing concerns and to commit to community-specific steps to remedy them.⁹ This restoration and stated dedication to fair housing aligns with comments the City of Somerville Fair Housing Commission (FHC) and its staff submitted in 2019 and 2020 in support of the rule.¹⁰

⁶ See “Leading Civil Rights & Housing Groups Condemn President’s Effort to Gut Fair Housing, Use of Incendiary Racial Rhetoric for Political Gain” (Jul 23, 2020) National Low Income Housing Coalition. See <https://nlihc.org/news/leading-civil-rights-housing-groups-condemn-presidents-effort-gut-fair-housing-use-incendiary>; see also “Trump Administration Eliminates Affirmatively Furthering Fair Housing Rule, NLIHC and Other Advocates Condemn Action, Rhetoric” (Jul 27, 2020) National Low Income Housing Coalition. <https://nlihc.org/resource/trump-administration-eliminates-affirmatively-furthering-fair-housing-rule-nlihc-and-other>

⁷ See [HUD Restores Affirmatively Furthering Fair Housing Requirement | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/newsroom/press-releases/20210610)

⁸ See [Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies | The White House](https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/26/)

⁹ See [HUD Restores Affirmatively Furthering Fair Housing Requirement | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](https://www.hud.gov/newsroom/press-releases/20210610)

¹⁰ For further discussion of the FHC’s comments, see its FY 2020 annual report.

Local context at the start of FY 21 (July 2020)

In July 2020, Suffolk University's Housing Discrimination Testing Program (HDTP) released a study titled *Qualified Renters Need Not Apply: Race and Voucher Discrimination in the Metro Boston Rental Housing Market*.¹¹ This report contained the results of a housing discrimination study conducted by the HDTP in collaboration with the Analysis Group, The Boston Foundation, and the Fund for Racial Justice Innovation. While the report focused predominantly on Boston, the issues and trends discussed in the report are highly relevant to Somerville and other municipalities in the Greater Boston Area.

The report contained extensive data that showed a large disparity in housing accessibility between households with a Section 8 Housing Choice Voucher and those without. The report also provided data demonstrating that Black households were shown a much lower percentage of rental units than their White counterparts. The FHC discussed the study and will continue to use it to inform the Commission's work on prevalent issues in housing discrimination, particularly for source-of-income discrimination and racial discrimination, and the intersection of these two (2) protected classes in specific regard to housing.

II. FY21 FHC Activities – Complaint Data and Continued Collaborative work

Any report from a resident or prospective tenant or buyer stating they were discriminated against in attempting to rent or purchase a property in Somerville is considered to be a fair housing complaint. By this standard, nine (9) fair housing complaints were filed with the Housing Division during FY21; all of the complaints filed concerned rental units.

This complaint total does not include instances in which a Somerville resident or prospective tenant or buyer filed a complaint directly with any other Fair Housing agency, including MCAD, HUD or the Massachusetts Attorney General's office. Prospective renters or buyers who have faced housing discrimination may go to one of these agencies directly; in such cases Housing staff would not have access to such data.

When a resident, housing advocate, or other individual involved in a housing dispute reports a potential fair housing claim, the Housing Division's Fair Housing Program Specialist enters the information in an electronic "log." The staff member tracks some or all of the following information, depending on what the household involved is willing to share: date of the complaint, name of the reporter, contact information, address/prospective address, whether a "protected class" is involved, a summary of the issue, whether a referral is made, and the outcome of the claim.

Reports can be made by filling out the Fair Housing form on the City's website or by directly contacting the Program Specialist. Reports may also come by referral, such as from the Office of Strategic Planning and Community Development's (OSPCD) Office of Housing Stability (OHS). The issues OHS staff work on, such as assisting constituents with landlord tenant issues or connecting tenants with resources like rental assistance frequently overlap with fair housing concerns constituents may have.

Selected Comparative Data of Fair Housing Complaints – FY18 - FY21

Table 1 below provides information on the number of complaints received over most of the past 4 fiscal years. The table reflects an increase in complaints received between FY18 and FY20, with a decrease in reports for FY21. One potential reason for the decline in cases seen in FY21 is that the fiscal year in question started July 1, 2020 – roughly three months into the nationwide lockdown 2020 that brought most apartment hunting activity to a stop.

¹¹See *Qualified Renters Need Not Apply: Race and Voucher Discrimination in the Metro Boston Rental Market* <https://www.tbf.org/-/media/tbf/reports-and-covers/2020/housing-voucher-report-20200701.pdf?la=en>

Table 1: Fair Housing complaints received by Fiscal Year (FY 18 - FY 21)

FY18 (July 1, 2017-June 30, 2018)	FY19 (July 1, 2018-June 30, 2019)	FY20 (July 1, 2019-June 30, 2020)	FY21 (July 1, 2020-June 30, 2021)
5	10	13	9

Totaling complaints by calendar year offers another way to see the same data presented above in Table 1 in fiscal-year format. Six (6) fair housing complaints were submitted for the three quarters of the 2018 calendar year for which data was available, 14 complaints were submitted during the 2019 calendar year, 10 complaints were submitted during 2020 calendar year, and 8 complaints were submitted in the 2021 calendar year.

Table 2: Fair Housing complaints received by Calendar Year (2018—2021)

2018 Calendar Year	2019 Calendar Year	2020 Calendar Year	2021 Calendar Year
6	14	10	8

The nature of the 9 complaints received in FY21 varied. There was at least one complaint related to 6 of the 15 categories of protected classes that exist under Massachusetts’ anti-discrimination law. (One logged complaint did not have data for the protected class in question, despite efforts to contact the complainant.)

Protected Classes Identified in FY21

- 4 based on the protected class of Disability
- 2 based on the protected class of Source of Income/Recipient of Public Assistance
- 1 based on the protected class of Familial Status (having children)
- 1 based on the protected class of Race
- 1 based on the protected class of National Origin; and
- 1 based on the protected class of Gender

Analysis and Outcomes of Fair Housing Complaints

Of the complaints submitted in FY21, Housing Division staff referred two to Suffolk’s Housing Discrimination Testing Program (HDTP). A test under the HDTP involves testers who are given specified profiles and pose as either prospective renters or prospective buyers at the property being tested. The testers then write a report detailing their encounter with the housing provider. By comparing the profiles and reports from different testers, the HDTP may find that the housing provider is in violation of fair housing laws.¹² If evidence of discrimination is found, the complainant may work with a Student Attorney to file a case in court, or they may choose to file a complaint with MCAD or HUD.

The other 8 complaints did not result in direct referrals to Suffolk’s HDTP, MCAD, or HUD. One complaint involved a constituent who believed that they were being evicted due to being mixed-race, which could potentially be a fair housing violation. In this instance, the constituent was referred to Cambridge and Somerville Legal Services (CASLS) for legal assistance. This case highlights the intersecting issues that constituents may face regarding fair housing law and housing stability issues; in this case, there were both housing stability matters along with potential fair housing concerns at stake.

Several fair housing complaints were initiated by constituents who believed a property owner or management agent engaged in discriminatory behavior towards them, but who then became unresponsive or chose not to move forward with a fair housing report.

¹² For a more in depth understanding of how Suffolk’s HDPT conducts tests, see the aforementioned study “*Qualified Renters Need Not Apply*”.

Priorities and Progress Toward Implementation

Three priorities referenced in the 2017 Assessment of Fair Housing that was submitted to HUD included: (1) ensuring the FHC is fully seated and staffed; (2) increasing outreach to tenants and landlords on fair housing issues; and (3) exploring regional collaborations with local fair housing agencies. Below is information regarding work in these areas and challenges encountered in their pursuit during FY21.

1. Ensuring the Fair Housing Commission is fully seated and staffed

Prior to amendments to Section 7-46 of the Fair Housing ordinance that were adopted in 2018, the law required all 5 members of the Somerville Fair Housing Commission to be residents of the City at the time of their appointment. The section in its prior form also enumerated specific requirements for each member of the Commission such as having requisite experience in a particular field. These prerequisites led to challenges in reaching a quorum of at least three members to vote at meetings.

Amendments to the ordinance adopted in September 2018 require a minimum of three Somerville residents at the time of appointment on the commission. Additionally, members would need experience or have a demonstrated interest in housing, social services and civil rights. These changes granted much needed flexibility in identifying potential candidates to serve on the commission and have been instrumental in ensuring that the FHC is fully populated.

This positive trend continued during FY21. As of the end of that fiscal year on June 30 2021, the FHC had 5 members and no vacancies. Along with requiring that at least three commissioners live in Somerville, the ordinance call for one commissioner represent the Somerville Housing Authority administration and that another is eligible for affordable housing in Somerville. A full 5 member board was in place from 2019 through June 2021, with a vacancy subsequently opening in the second half of calendar year 2021.

FY21 commission members included Claudia DeAndrade, Patrice Faulkner, Dennis Fischman, Rona Fischman, and Natasha Sierra. FY21 commissioners included 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.

2. Increasing outreach to tenants and landlords on fair housing issues

FHC members and staff worked to manage the challenges to increasing fair housing outreach brought on by the COVID-19 pandemic. The FHC has met virtually since April 2020 and continues to meet virtually at the time this report is being issued. In addition to virtual meetings, the FHC also used online platforms, such as the FHC landing page (www.somervillema.gov/fhc) and the FHC Facebook page (www.facebook.com/somervillefairhousingcommission) as primary methods of outreach.

Resources from previous years are also accessible on the FHC website, including Frequently Asked Questions, tenant resources, information on when the FHC meetings are happening, and contact information for anyone who wishes to file a Fair Housing complaint. Among the outreach efforts commissioners led during FY21 were a virtual “Know Your Rights” Fair Housing webinar on Zoom on April 8th, 2021. The advertisement for this event was posted (virtually) in English and Spanish and interpretation services were offered for the event. Additional resources on the FHC landing page include a Tenant Handbook updated by commissioners in 2018 and condensed to enhance ‘readability’. The 2018 version of the Handbook provides updated resources and information pertaining to landlord/tenant law and housing rights.

A Facebook page maintained by one of the commissioner has been another source of community engagement, with topics, articles and questions related to fair housing and landlord/tenant law. Such posts are featured on a weekly basis; at each meeting, the commissioner reports on articles posted to the Facebook page and how the community engaged with the post.

3. *Exploring regional collaborations with local fair housing agencies*

In addition to virtual outreach, the FHC also continued to explore regional collaborations with local fair housing agencies and other local housing organizations. This included participation of the Fair Housing Specialist in a recurring First Time Homebuyer (FTHB) class offered through the Somerville Community Corporation (SCC). The first part of Housing staff member's presentation typically involved making participants aware of upcoming homeownership opportunities through the City's Inclusionary Housing program. Housing Division staff would also then provide information on fair housing law.

Participants have also been encouraged to contact the Fair Housing Specialist through an online reporting system or by calling the Housing Division directly if they suspect they have experienced a fair housing violation. In addition to the FTHB course, the FHC also made referrals to enforcement agencies like the MCAD and Suffolk University's HDTP for constituents who reported fair housing violations.

III. Other Progress and Remaining Challenges Going Forward

The FHC continued to make progress in several areas during FY21. Along with maintaining a fully-seated board, FHC staff continued to use a standardized system of tracking submitted fair housing complaints, using both an online form and receiving referrals from other organizations. Additionally, staff continued to collaborate with the Suffolk University HDTP to assist current and prospective Somerville tenants by arranging for housing discrimination tests and, when appropriate and possible, providing free legal resources to victims of fair housing violations.

The FHC continued to conduct community outreach including a City-sponsored "Know Your Rights" event to inform tenants and property owners about fair housing issues and law. The FHC also continued to produce fair housing materials in both electronic and print form that have been translated into the most-spoken non-English languages in Somerville: Spanish, Portuguese, Haitian Creole and Nepali. Mediums to deliver information included videos, fact sheets, brochures, and flyers.

Among remaining challenges, there was continued need for a Language Access Plan (LAP) for Housing Division, in order to have detailed information available on how to maximize engagement with households with limited English proficiency. Preparation of such a plan is being led by Somerville's Office of Immigrant Affairs (SOIA) at the time this report is issued. The need for an updated LAP is one among many ongoing needs (and initiatives) to support immigrant communities in Somerville.

Some immigrant residents who experience housing discrimination may not report their experience due to understandable concerns pertaining to immigration status and potential retaliation. Housing Division staff continue collaborate with SOIA (formerly known as SomerViva), and local agencies that work with immigrant families and communities. Completion and implementation of a LAP hopefully will help inform households of their rights and increase access to resources supporting them.

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 or requests for information regarding this report may be directed the general housing division line at 617-625-6600, extension x2577.

Appendix 1
FY 21 Fair Housing Complaints by Ward

Ward	# of complaints	Protected Class
1	2	Disability, Source of Income
2	2	National Origin, Family Status
3	1	Disability
4	0	
5	0	
6	2	Family Status, Gender/Sex, Disability
7	1	Race
Total*	8	Representing 6 out of 15 protected classes under Massachusetts anti-discrimination law.

*Note: There were 9 total complaints logged for FY21, however one complainant did not identify their address/prospective address, nor did they identify what protected class they identified with.