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FAIR HOUSING COMMISSION ANNUAL REPORT: FY 2023

This document serves as an annual report on Fair Housing Commission (FHC) activities for FY 2023 (July 1, 2022 - June 30, 2023) as per the Somerville Code of Ordinances. Ordinance Chapter 7 – Housing, Article III Section 7-47 calls for staff “to render each year to the mayor and city council a full written report of all its activities and of its recommendations.”¹ As local fair housing issues occur within national and state-level contexts, the discussion of Somerville FHC activities that follows begins with background information on national and state fair housing issues during the report period.

Background

While some of the national and state level issues discussed below were reviewed in prior year reports, they remained relevant to local fair housing efforts in Somerville in FY23.

Federal context. The Affirmatively Furthering Fair Housing (AFFH) rule, originally issued by the Department of Housing and Urban Development (HUD) under the Obama administration in 2015, continued to inform Somerville’s approach to fair housing during the fiscal year. The AFFH rule called for municipalities to foster inclusive communities by addressing persistent segregation and housing discrimination. The rule did so by requiring municipalities receiving federal housing and community development funds to submit an “Assessment of Fair Housing” (AFH).² City of Somerville Housing Division staff submitted an AFH for Somerville in October 2017. (Footnote 3 below includes a link to the assessment.³)

AFFH was suspended by HUD during the Trump administration and subsequently repealed in 2020. Within the first six months of the ensuing administration assuming office in January, the Biden administration announced it would work toward reinstating the rule. A modified version that simplified compliance requirements completed its public comment period in April 2023. While HUD had not released any updates as of the end of Fiscal Year 2023 (or since), HUD has continued to encourage municipalities to identify and address fair housing concerns.

State context. The FHC worked on state-level issues in FY23 focused on the Massachusetts Commission Against Discrimination (MCAD), the entity that enforces anti-discrimination laws in the Commonwealth. MCAD is charged with investigating discrimination complaints in employment, housing and public accommodations among other areas. Following media reports of people facing multi-year delays after

¹ Somerville Ordinance (Code 1963, § 17-7)

² Affirmatively Furthering Fair Housing Notice of Proposed Rulemaking <https://www.hud.gov/AFFH>

³ City of Somerville AFH s3.amazonaws.com/somervillema-live/s3fs-public/assessment-of-fair-housing-2017.pdf

filing a complaints, FHC members explored potential means of addressing this issue on the local level. (See FY23 FHC Activities for detailed information on that work.).⁴

Local context. At the local level, Somerville City Council worked to expand the Fair Housing ordinance. In May 2023, the City Council updated Ordinance 2023-12, to include relationship status and structure as a protected class.⁵ This amendment follows the domestic partnership policy adopted in 2020 that recognized polyamorous partnerships.⁶

FY23 FHC Activities

This section describes three primary areas of FHC activity in Fiscal Year 2023.

Enforcement. In December 2022, the Fair Housing Commission submitted a letter to the Somerville City Council on the status of Fair Housing enforcement in Somerville. The letter discussed the backlog at the Massachusetts Commission Against Discrimination described above, and its implications on Fair Housing enforcement.

MCAD considers complaints to be backlogged when they have been in process for more than 100 days. In Somerville, this affects people looking to rent or buy as they cannot count on a timely response. While MCAD received an increase in funding in 2022 to assist in addressing these delays, the problem continued to persist in Fiscal Year 2023.⁷

Commissioners shared their concerns regarding this backlog along with an increase in Somerville’s case counts. Commissioners suggested exploring steps to become what is known as a “substantially equivalent agency” to HUD as a way to address these issues. Such an approach would allow the Commission to enforce federal protections against discrimination in housing. The letter, which also advocated for the allotment of additional funds to MCAD to help address the backlog, prompted a series of follow-up discussions which continued into the current fiscal year.⁸

Educational and Outreach Activities. The Fair Housing Commission promotes community knowledge of fair housing rights and responsibilities in several ways. The most prominent of these are the events run for Fair Housing Month and presentations at First Time Homebuyer Classes.

With April being national Fair Housing Month, the Fair Housing Commission held two events in April 2023, both of which were promoted in collaboration with the Somerville Public Library. The first event was a discussion of Richard Rothstein’s book *The Color of Law*. This event was held on Zoom to connect with people who may not otherwise have been able to participate.

The other event was held in person at Somerville Central Library. Commissioners screened the short film, *Segregated By Design*, based on the book. The film was available in English with Spanish subtitles. Commissioners planned to build on these events in FY24, based on the positive reaction by participants.

The Commission has been actively engaged with the work of Somerville’s Anti-Displacement Task Force, with one member serving on the task force committee focusing on issues of residential displacement. The task force’s work to identify ways to prevent displacement continued through FY23 and into the ensuing fiscal year. At the end of FY23, the task force was preparing to submit a home rule petition to Somerville’s City Council on rent stabilization measures.

⁴ “Ballooning case backlog at the state’s anti-discrimination agency forces people to wait years for justice”, Boston Globe Article

⁵ Somerville Ordinance NO. 2023-12, Sec. 7-41

⁶ Somerville Ordinance (Ord. No. 2020-16 , 6-25-2020)

⁷ WBUR article “Mass. boosts anti-discrimination funding 78% to help clear backlog of complaints”
[wbur.org/news/2022/07/30/mcad-funding-increase-budget-baker](https://www.wbur.org/news/2022/07/30/mcad-funding-increase-budget-baker)

⁸ FHC Letter to City Council sent December 20th, 2022

The Housing Division's Program Specialist for Fair Housing and Inclusionary Housing continued to present at the Somerville Community Corporation's First Time Homebuyer classes (FTHB) throughout FY23, on a bimonthly basis. These classes are open to anyone who would like to learn about the homebuying process. The Fair Housing Specialist's presentation included information on the respective rights and responsibilities of tenants, purchasers, and sellers in Somerville.

The presentation reviewed examples of what kind of behaviors can constitute discriminatory action, who is protected under the City's fair housing ordinance, and what individuals and families can do if they experience discriminatory behavior. The presentation also included information on the City's Inclusionary Housing Program such as the Closing Cost Assistance and Down Payment Assistance Programs. (These items are included because a First Time Homebuyers Certificate is a prerequisite for applying to an Inclusionary Unit.)

Complaint Procedures. Any report from a resident, 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 that standard, thirteen (13) fair housing complaints were filed with the Fair Housing Commission during FY23. It should be noted that this total does not include ones that a Somerville resident, prospective tenant, or buyer may have filed 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 that data due to data privacy practices.)

Reports can be made by filling out the Fair Housing form on the City's website or by directly contacting Housing staff. Reports may also come by referral, such as from the Office of Strategic Planning and Community Development's (OSPCD) Office of Housing Stability (OHS). OHS staff work on issues such as assisting constituents with landlord tenant conflicts or connecting tenants with resources like rental assistance and their work often overlaps with fair housing concerns raised by Somerville constituents. When a report is made to the Fair Housing Commission, it is recorded in an electronic log and the Fair Housing Program Specialist assists the individual with filing their complaint with relevant enforcement agencies as defined in the ordinance.⁹

When a complaint is submitted, the Fair Housing Specialist assists the individual with filing complaints with all relevant enforcement agencies. In many situations, the situation described in the complaint is under both state and federal jurisdiction, so the complaint is referred to both levels of government. The practice of referring complainants to as many organizations as may be helpful to them can mean there is a discrepancy between the total number of referrals and the number of complaints.

Multi-year Trends and Visual Representation of Fair Housing Complaint Data FY18 - FY23

The data presented below encompasses a six-year review of complaints received by the Fair Housing Commission, followed by data from Fiscal Year 2023 alone. (Interested parties can view prior annual reports on the Fair Housing Commission website linked in the footnotes.¹⁰). Readers can also see Appendix 1 for a breakdown of complaints received, based on the City Ward in which the alleged discriminatory action took place.

Table 1 below describes the number of complaints received by the Fair Housing Commission over the past 6 fiscal years. The table reflects an increase in complaints received between FY18 and FY20, a decrease in reports for FY21, and a sharp increase in FY22. The number of complaints in FY23 was lower than those in FY22, returning to a level consistent with most other years for which data is available.

⁹ Somerville Ordinance (Code 1963, § 17-7)

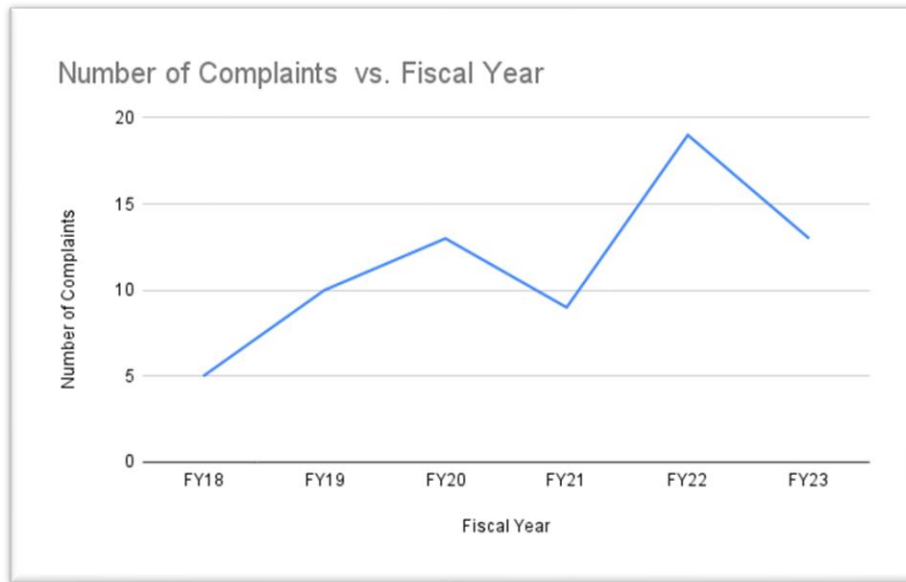
¹⁰ Somerville Fair Housing Commission [somervillema.gov/departments/fair-housing-commission](https://www.somervillema.gov/departments/fair-housing-commission)

Table 1: Fair Housing complaints received by Fiscal Year (FY 18 - FY 23)

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)	FY22 (July 1, 2021-June 30, 2022)	FY23 (July 1, 2022 – June 30, 2023)
5	10	13	9	19	13

Chart 1 below provides a graphical depiction of complaints received in fiscal years over same period covered in Table 1. The graph illustrates the increase in complaints received between FY18 and FY20, fewer complaints reported in FY21, and significant increase in FY22. As noted in Table 1, the number of complaints received in FY23 was lower than those in FY22.

Chart 1: Fair Housing complaints received vs Fiscal Year (FY 18 - FY 23)



The 13 complaints received in FY23 involved 6 of the 14 categories of protected classes in Massachusetts. (Note that some complaints were determined to not be Fair Housing complaints; they are represented in the aggregate data, but not included in the preceding table and chart. A summary of the classes identified in association with complaints received in FY23 follows below.

- 4 based on the protected class of Race
- 2 based on the protected class of Color¹¹
- 2 based on the protected class of Disability
- 1 based on the protected class of Familial Status
- 1 based on the protected class of Sexual Preference, and
- 1 based on the protected class of Source of Income/Recipient of Public Assistance.

Fiscal Year 2023 Complaint Outcomes

Following is summary information on resolution of complaints at the City level during Fiscal Year 2023.

¹¹ Race discrimination involves treating an applicant or apprentice differently because of his or her race, while color discrimination involves differential treatment because of skin color, pigmentation, complexion, shade or tone, regardless of race. (U.S. Department of Labor <https://www.dol.gov/agencies/eta/apprenticeship/eo/protected/race-color>)

In FY23 Fair Housing staff submitted (or helped complainants submit) 5 complaints to MCAD; 5 were referred to the Somerville Office of Housing Stability (OHS); 1 was referred to community or legal aid services, and 5 were unresolved due to a lack of response from the complainant. Several complainants were referred to more than one organization or service. Several complaints were submitted after a property owner or agent did not return calls or refused to show a unit after the prospective tenant or buyer disclosed membership of a protected class, especially source of income (SOI) and race.

Additionally, Housing Division staff referred 4 complaints to Suffolk University Law School's Housing Discrimination Testing Program (HDTP). Under this option, HDTP gives testers specified profiles to pose as either prospective renters or prospective buyers at the test property. The testers then submit a report detailing their encounter with the housing provider. The profiles and reports from different testers are compared to determine whether 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 to file a complaint with MCAD or HUD.

Several people referenced realtors refusing to show units, which contributed to their housing instability. The households most affected by this, as represented in the breakdown of complaints by protected category above, included people of color. While in previous years source of income (such as use of a Section 8 housing voucher) has been the basis of most Fair Housing complaints, FY23 saw a rise in complaints on the basis of racial discrimination. Dual pressures experienced by people experiencing housing instability while navigating discriminatory bias placed some of Somerville's most vulnerable residents in acutely stressful circumstances, often without adequate support to contend with such intense sources of stress.

Progress Toward AFH Priorities and Other Efforts

Three priorities were included in the Assessment of Fair Housing (AFH) submitted to HUD in 2017: ensuring that the Fair Housing Commission is fully seated and staffed, increasing outreach to Somerville constituents - specifically tenants and landlords on fair housing issues – and exploring collaborations with local fair housing agencies in the region. Below is information regarding work in these areas and related challenges encountered during FY23.

1. *Ensuring the Fair Housing Commission is fully seated and staffed.* The Fair Housing Commission was fully populated in Fiscal Year 2023. Members included Claudia DeAndrade, Patrice Faulkner, Dennis Fischman, Rona Fischman, and Janine Lotti.
2. *Increasing outreach to tenants and landlords on fair housing issues.* The Fair Housing Commission and City staff continued outreach efforts in primarily virtual settings such as GoToWebinar and the Commission's Facebook page. The Commission continued to meet virtually in FY23 and expects to transition to Zoom in Fiscal Year 2024. All meeting information is added to the City calendar to allow and encourage the public to join the monthly meetings. The Commission also used online platforms such as the City of Somerville Fair Housing webpage and the Fair Housing Commission Facebook page to promote Fair Housing outreach.

The Commission hosted virtual and in person events on racism in housing for Fair housing Month. Commissioners hosted a book discussion about The Color of Law by Richard Rothstein and held a screening of the short film, "Segregated by Design". Additional resources for people renting, selling, or buying property in Somerville can be found on the City of Somerville Fair Housing webpage. (Most resources were available in multiple languages.)

¹² For a more in depth understanding of how Suffolk's HDPT conducts tests, see the study "*Qualified Renters Need Not Apply*" https://www.suffolk.edu/-/media/suffolk/documents/news/2020/law-news/rental_housing_study_july2020.pdf?la=en&hash=B0FFF5916ECA23DFD054170DA223780EDA571241

The Facebook page mentioned above continued to be maintained by Commissioner Dennis Fischman during FY23 and remained a valuable source of community engagement. Commissioner Dennis Fischman posted topics, articles and questions related to fair housing and landlord/tenant law on a weekly basis. At monthly meetings, he reported on Facebook page activity and which posts saw the highest levels of engagement.

3. *Exploring regional collaborations with local fair housing agencies.* FHC also continued to collaborate with local housing organizations. This included ongoing participation in First Time Homebuyer (FTHB) classes offered by the Somerville Community Corporation (SCC). Those presentations cover the basics of Fair Housing law and resources available if someone feels that they may have encountered discrimination, and current Inclusionary homeownership opportunities. Class attendees were encouraged to contact the Fair Housing Program Specialist with concerns through the complaint portal on the Somerville Fair Housing Webpage or by calling their City phone extension if they suspect they have experienced a violation of their fair housing rights. As noted, the Specialist referred complainants to enforcement agencies depending on the kind of Fair Housing violation reported, which can determine whether it would qualify as a local, state, and/or federal violation. As also noted, the Fair Housing Specialist also connected households with resources such as the Office of Housing Stability and/or legal services for concerns that are determined not to be of fair housing nature.

The FHC also has taken steps to raise awareness of the statewide backlog of fair housing complaints with the Massachusetts Commission Against Discrimination (MCAD). As noted previously, Commissioners drafted and submitted a letter regarding the backlog with the Somerville City Council in December 2022. The City of Somerville ordinance requires that fair housing complaints are referred to MCAD when discrimination appears to be present. This backlog has affected constituents who face discrimination in housing, as MCAD exceeded its own 100 day standard for discrimination investigations in 45.8% of the investigations between January 1, 2019, and December 31, 2020.¹³ Commissioners and City staff met through Fiscal Year 2023 to discuss how the City of Somerville can address and enforce Fair Housing law.

Other Fair Housing Efforts and Concluding Information

The Fair Housing Commission and staff continued to facilitate use of the City's Language Access Plan, by providing materials in several languages commonly spoken by Somerville residents including Spanish, Portuguese, Haitian Creole, Mandarin, Cantonese, and Nepali. This has helped to address gaps in knowledge between the City's English-speaking residents and those who rely on translated resources. Fair Housing staff continue to collaborate with the Somerville Office of Immigrant Affairs (SOIA) to conduct outreach to non-English speaking residents who may not otherwise submit Fair Housing violation reports due to a lack access to the complaint process or concerns around immigration status and retaliation.

The Fair Housing Commission and staff remain committed to its AFFH goals of informing, educating, and responding to Fair Housing complaints from all current or prospective Somerville residents affected by housing discrimination. Questions or requests for information regarding this report may be directed to the Program Specialist for Fair Housing and Inclusionary Support at 617-625-6600, extension x2584.

¹³ Massachusetts Commission Against Discrimination Official Audit Report [mass.gov/doc/audit-of-the-massachusetts-commission-against-discrimination/download](https://www.mass.gov/doc/audit-of-the-massachusetts-commission-against-discrimination/download)

Appendix 1: Fair Housing complaints received by Ward in FY23

Appendix 1 shows Fair Housing complaints received in FY23 by City ward. Note that the addresses used to determine the Ward for the data in this table are the address of the incident reported in the complaint, even if that address is not the current residence of either party. There does not appear to be a clear distribution pattern based on ward.

Fair Housing complaints received by Ward in FY23

Ward	# of complaints	Protected Class(es)
1	3	Race, color, disability
2	-	-
3	-	-
4	2	Race, color, sexual orientation
5	1	N/A
6	1	Family status
7	2	Race, disability
Unknown ¹⁴	4	SOI (Source of Income)
Total	13	Representing 6 out of 14 protected classes under Massachusetts anti-discrimination law. ¹⁵

¹⁴ The category “unknown” indicates that the address was not specified.

¹⁵ Overview of Types of Discrimination in Massachusetts <https://www.mass.gov/info-details/overview-of-types-of-discrimination-in-massachusetts#housing->