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FAIR HOUSING COMMISSION ANNUAL REPORT: FY 2022

This document serves as an annual report on Fair Housing Commission activities for FY 2022 (July 1, 2021-June 30, 2022) 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 board of aldermen a full written report of all its activities and of its recommendations.”¹ Primarily due to a vacancy in the Fair Housing Commission staff liaison role between September 2022 and February 2023, this FY 2022 report is being transmitted when the FY 2023 report normally would be submitted; work on the FY23 report has begun and staff expect it to be completed in coming weeks.

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

Background

In July 2015 the United States Department of Housing and Urban Development (HUD) passed the initial “Affirmatively Further Fair Housing” rule (AFFH).² This rule was the first significant federal Fair Housing regulation passed since the Fair Housing Act of 1968.³ The AFFH rule was promulgated to ensure that municipalities take meaningful action to foster inclusive communities by overcoming patterns of segregation and housing discrimination.

HUD issued guidelines for municipalities that received federal housing and community development funds to prepare and submit an “Assessment of Fair Housing” (AFH)⁴ to HUD for review. The City of Somerville submitted theirs in October 2017. This rule was in place until the Trump administration suspended it in January 2018 and then repealed it in July 2020. Housing advocates filed suit against HUD for violating the Administration Procedure Act (APA) by failing to provide public notice and comment before suspending the AFH requirement, acting in an arbitrary manner without providing adequate reasoning for the suspension, and abdicating its duty under the Fair Housing Act to ensure that recipients of HUD funds affirmatively further fair housing.

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https://library.municode.com/ma/somerville/codes/code_of_ordinances?nodeId=PTIICOOR_CH7HO_ARTIIIFAH_O_S7-47FAHOCODU

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

³ <https://nlihc.org/resource/trump-administration-eliminates-affirmatively-furthering-fair-housing-rule-nlihc-and-other>

⁴ <https://www.hud.gov/AFFH>

In June of 2021, HUD published a press release regarding an interim final rule to restore the AFFH rule alongside a January 2021 memorandum from President Biden. HUD intends to use the restoration of the AFFH rule to provide municipalities that receive federal housing or community development funds the means and structure to identify fair housing concerns within their communities and commit to local/community specific steps to address the inequities and meet the needs of their constituents.⁵ In 2023, HUD announced a new proposal for AFFH and asked for public comments closing in April of 2023,⁶ with results forthcoming. The submitted AFH commitments of City of Somerville Fair Housing Commission (FHC) and its staff align with the restoration and public dedication intended by the rule.

FY22 FHC Activities

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 this standard, nineteen (19) fair housing complaints were filed with the Housing Division during FY22. All of the complaints filed concerned rental units.

This complaint total does not include ones that a Somerville resident, prospective tenant, or buyer may have filed a 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.

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). OHS staff work on issues such as assisting constituents with landlord tenant conflicts or connecting tenants with resources like rental assistance; their work frequently overlaps with fair housing concerns raised by Somerville constituents.

Visual Representation of Fair Housing Complaint Data FY18 - FY22

Table 1 below provides information on the number of complaints received over the past 5 fiscal years. The table reflects an increase in complaints received between FY18 and FY20, with a decrease in reports for FY21 and a sharp increase in FY22. One potential reason for the increase in fair housing complaints seen in FY22 is that COVID restrictions on rental properties expired at the beginning of FY22 (on August 26, 2021).

Table 1: Fair Housing complaints received by Fiscal Year (FY 18 - FY 22)

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)
5	10	13	9	19

Totalling complaints by calendar year offers another way to see the data that was 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,

⁵ <https://archives.hud.gov/news/2021/pr21-098.cfm>

⁶ <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>

10 complaints were submitted during 2020 calendar year, 8 complaints were submitted in the 2021 calendar year, and 21 complaints were submitted in the 2022 calendar year. Please see Appendix One for the number of complaints per ward in Somerville.

Table 2: Fair Housing complaints received by Calendar Year (2018—2022)

2018 Calendar Year	2019 Calendar Year	2020 Calendar Year	2021 Calendar Year	2022 Calendar Year
6	14	10	8	21

The nature of the 19 complaints received in FY22 varied. There were one or more complaints related to 6 of the 15 categories of protected classes that exist under Massachusetts’ anti-discrimination law. Note that some complaints are protected under multiple protected classes; for this reason, the number of complaints listed below is greater than 19.

Protected Classes Identified in FY22 Complaints:

- 5 based on the protected class of Disability,
- 3 based on the protected class of Familial Status,
- 7 based on the protected class of Sex,
- 2 based on the protected class of National Origin,
- 4 based on the protected class of Race, and
- 11 based on the protected class of Source of Income/Recipient of Public Assistance.

Fair Housing Complaints- outcome information

Of complaints submitted in FY22, Housing Division staff referred two complaints to Suffolk University Law School’s Housing Discrimination Testing Program (HDTP). A test with the HDTP involves testers being given 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.⁷ 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.

Of the remaining complaints, 5 complainants submitted complaints through MCAD, 6 were referred to the Somerville Office of Housing Stability (OHS), 4 were referred to community or legal aid services, and 6 were unresolved due to a lack of response from the complainant. Several complaints were submitted after a property owner or renting agent did not return calls after the prospective tenant disclosed membership of a protected class, especially source of income (SOI).

One of the complaints that refused a referral requested an extension on their Section 8 voucher, due to a realtor refusing to rent to a family with children. This highlights the intersections between fair housing law and housing stability that Somerville constituents face. The pressures of timing, housing stability, and fair housing concerns serve to place families in sometimes intensely stressful situations.

Progress Toward Implementation

Three priorities were included in the Assessment of Fair Housing (AFH) that was submitted to HUD under AFFH by the City of Somerville in 2017. The first was ensuring that the Fair Housing Commission is fully seated and staffed. The second priority was increasing outreach to Somerville constituents, specifically tenants and landlords on fair housing issues. The final priority was looking into collaborations

⁷ For a more in depth understanding of how Suffolk’s HDPT conducts tests, see the study “*Qualified Renters Need Not Apply*”.

with local fair housing agencies in the region. Below is information regarding work in these areas and challenges encountered during FY22.

1. *Ensuring the Fair Housing Commission is fully seated and staffed:* Prior to the September 2018 amendments to Section 7-46 of the Fair Housing ordinance, all seats on the Somerville Fair Housing Commission were required to be residents of the City. Section 7-46 also listed requirements for each Commissioner such as experience in the field. While the requirements were well intentioned and aimed at ensuring necessary experience, they made it difficult to staff the Commission and for a quorum to be reached.

The amendments altered the requirements so that three-fifths of the Commissioners must be Somerville residents as well as have experience or demonstrated interest in housing, social services, and civil rights. These amendments allowed for needed flexibility in appointing Commissioners. The Commission was fully populated in FY21, and only one member changed over in FY22. Janine Lotti was appointed to the Fair Housing Commission in June 2022. The Commission remained fully populated; current members include 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 to manage Fair Housing outreach in a virtual setting. The Fair Housing Commission has met using a virtual video platform since April 2020 and continues to do so at the time of this report. 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.

The Commissioners have also hosted virtual events on racism in Massachusetts housing which took the form of a virtual book discussion about the book, *The Color of Law* by Richard Rothstein. Commissioners also draft and published a series of questions for City Council candidates titled “Fair Housing questions for candidates, 2021”⁸ to help inform constituents of the candidates’ stances on Fair Housing issues. The blank questionnaire as well as the candidates’ response, sorted by question, were posted on the City of Somerville Fair Housing webpage. Additional resources on the FHC landing page include a Tenant Handbook.

The Facebook page mentioned above is maintained by Commissioner Dennis Fischman and remains another primary source of community engagement. He posts topics, articles and questions related to fair housing and landlord/tenant law on a weekly basis. Commissioner Dennis Fischman reports on the Facebook page activity and which posts saw the highest engagement at the monthly Commission meetings.

3. *Exploring regional collaborations with local fair housing agencies:* In addition to virtual outreach, the FHC also continued to collaborate with local housing organizations. This includes ongoing participation in First Time Homebuyer (FTHB) classes offered through the Somerville Community Corporation (SCC) by the Fair Housing Specialist. The presentation by the Fair Housing Specialist covers the basics of Fair Housing Law, the structure of the Inclusionary Housing Program including funding opportunities, and current inclusionary homeownership units.

Class attendees are encouraged to contact the Fair Housing Specialist 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. The Fair Housing Specialist refers complainants to enforcement agencies depending on the kind of Fair Housing violation reported.

⁸ <https://s3.amazonaws.com/somervillema.gov.if-us-east-1/s3fs-public/FHCquestions-for-candidates2021.pdf>

Other Fair Housing Efforts

The City of Somerville made progress in several other areas during FY22. 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, and Nepali. The Fair Housing Staff continued collaborations with the Somerville Office of Immigrant Affairs to conduct outreach to non-English speaking residents who may not otherwise submit Fair Housing violation reports due to a lack of understanding of the complaint process or concerns around immigration status and retaliation.

The Fair Housing Commission and staff remain committed to their AFH 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.

Appendix 1
FY 22 Fair Housing Complaints by Ward

Ward	# of complaints	Protected Class(es)
1	1	Source of Income (SOI)
2	-	-
3	1	Family status
4	1	SOI
5	2	Disability, sex, SOI
6	3	Disability, SOI
7	2	Race, sex, SOI
Unknown ⁹	9	Disability, family status, national origin, sex, SOI
Total	19	Representing 6 out of 14 protected classes under Massachusetts anti-discrimination law. ¹⁰

⁹ The category “unknown” indicates that the address was not specified.

¹⁰ <https://www.mass.gov/info-details/overview-of-types-of-discrimination-in-massachusetts#housing->