

Fair Housing Act

Title VIII of the Civil Rights Act of 1968

Context:

- De jure racial discrimination in housing
- Housing segregation based on race
- Civil Rights Movement
- Kerner Commission (1968)

“our nation is moving toward two societies, one Black, one white – separate and unequal”

Fair Housing Act

Prohibited discrimination concerning the sale, rental, and financing of housing based on:

- Race
- Color
- Religion
- National Origin
- Sex (Act Amended 1974)
- Familial Status (1988)
- Disability (1988)
- Sexual Orientation/Gender Identity by Rule Interpreting Sex (2012)

Fair Housing Act – Affirmatively Furthering Fair Housing

Going Beyond Just Anti-Discrimination:

Administer programs “in a manner affirmatively to further the policies” of the Fair Housing Act

42 U.S.C. §3608(e)(5)

Do “more than simply refrain from discriminating;” must also “assist in ending discrimination & segregation”

NAACP v. Sec. of HUD, 817 F.2d

149 (1st Cir. 1987)

Fair Housing Act – Affirmatively Furthering Fair Housing

HUD Rule Issued July 2015

- Public Housing Authorities and Recipients of Federal funds like CDBG/Home
- Data and mapping
- Community engagement requirements
- Making Analysis of Impediments real
- Action to remove those identified
- Regional collaboration encouraged but not required

Fair Housing Act – Affirmatively Furthering Fair Housing

Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. ____ (2015)

Claim: State allocation of tax credits too focused on minority areas vs. white

- disparate impact claims allowed under FHA, but plaintiff must prove defendant's policies are cause of disparity
- statistical disparity alone not enough

(Remand resulted in loss – couldn't prove)

Fair Housing Act – Affirmatively Furthering Fair Housing

Examples of Judgments/Settlements:

- Westchester County
- Baltimore County
- Minneapolis and St. Paul (Fair Housing Implementation Council: Minneapolis and St. Paul, Anoka County, Dakota County, Hennepin County, Ramsey County, Washington County, Bloomington, Coon Rapids, Eden Prairie, Minnetonka, Plymouth and Woodbury)



DENVER
THE MILE HIGH CITY

Resident Preference Policies

FOR CITY SERVICES VISIT | CALL
DenverGov.org | **311**

- Purpose: Provide preference for portion of units in new affordable housing developments for a specific population (ex: residents that have been displaced or are at risk of being displaced)
- But, residents with preference must also meet requirements of the specific housing development:
 - Must be income qualified
 - Must meet other requirements of the housing development
 - » Special populations (ex. seniors)
 - » Rental vs. for sale
 - » Specific AMI level

- Examples of resident preference policies in other cities:
 - Portland's Preference Policy
 - San Francisco's Neighborhood Resident Housing Program (NRHP)
 - San Francisco's Anti-Displacement Housing Preference (ADHP)

- **Purpose:** Help families stay in their neighborhoods and help others move back into the Interstate Corridor urban renewal area
 - Preference applied to new development with federal and local resources in North and Northeast Portland
 - Focused on direct and economic displacement
- **Qualifications:**
 - Give **preference** to families based on:
 - The **amount of urban renewal activity** that occurred where they lived
 - Address **generational displacement** of families by urban renewal
 - Give preference to families regardless of where they currently live
 - Give **top priority to families with property taken by the city**
- **Administration of program:** Waitlist used to fill units in projects developed in inner North and Northeast neighborhoods where urban renewal displaced residents.

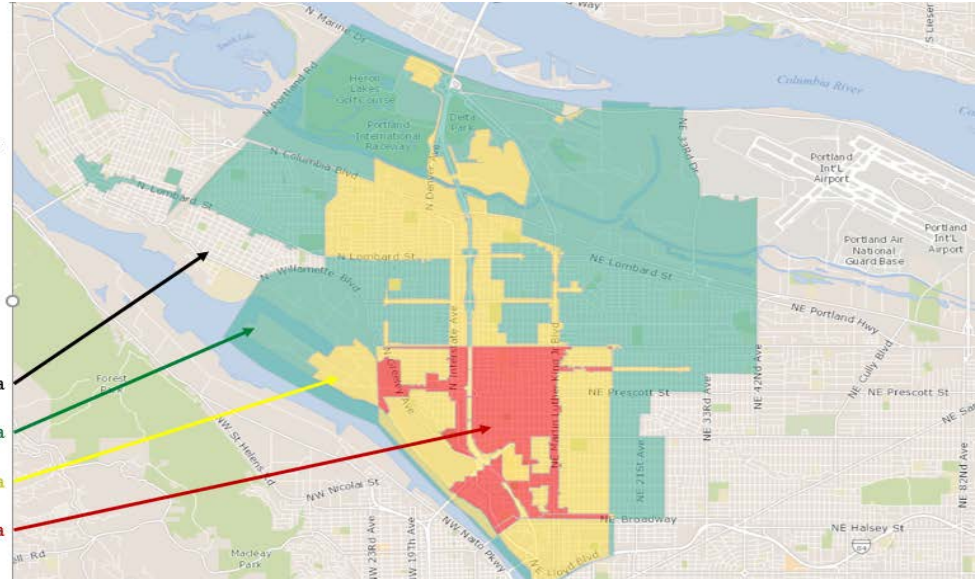
Criteria:

Plan uses a 6-point ranking system to generate and maintain a waitlist

- 0-3 points for the households applying
- 0-3 points for the households' ancestors
- Families who have had property taken by the city in North and Northeast Portland move to the top of the list

Albina Community Plan Boundary
+
Urban Renewal Areas
+
Areas of City Condemnation Actions

0 Point Area
1 Point Area
2 Point Area
3 Point Area

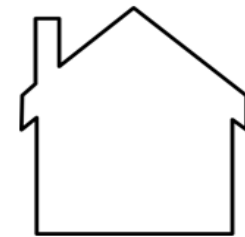


Households Applying



0 to 3 Preference Points Possible

Household's Ancestors



0 to 3 Preference Points Possible

+

Example of Portland's Preference Policy:

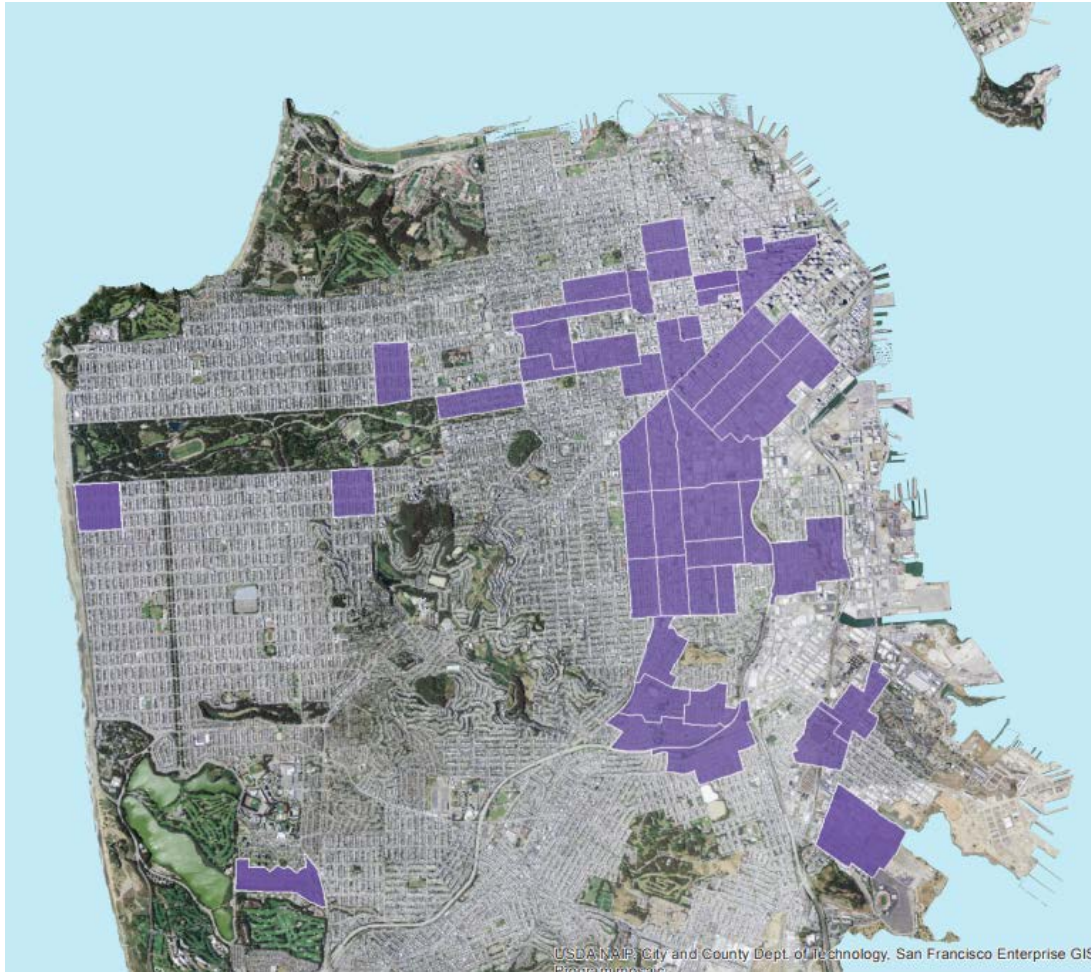
- 80-unit housing project received a \$7.35 million loan from the Urban Renewal Area fund with affordability between 30-60% AMI
- It will also be the first city-funded project to use Portland Housing Bureau's preference policy to prioritize rental homes for previously-displaced residents.
 - Policy gives preference for housing development to families and their ancestors who were directly displaced from the North and Northeast neighborhoods by urban renewal

- **Purpose:** The NRHP is designed to benefit residents living in the same neighborhood as projects containing city supported affordable housing units
 - Policy only applies to projects that receive local funding from city
 - Applies to new residential developments with 5 or more affordable housing units (city funded or inclusionary), 40% of the units in the development are set aside for the preference
- **Qualifications:**
 - At least one member of household must have a primary residence located in Supervisorial (Council) District as project or within ½ mile buffer of the project
- **Administration of program:**
 - Applicants who qualify for the preference are included in a special lottery pool
 - Once 40% of the units are filled from the Neighborhood Preference pool, any additional neighborhood residents are included among other applicants from outside the neighborhood for consideration for the remaining units.

San Francisco's Anti-Displacement Housing Preference (ADHP)

- **Purpose:** ADHP is designed to benefit residents living in neighborhoods undergoing extreme displacement pressure (economic displacement)
 - Policy only applies to projects that receive federal funding from city
 - Applies to new residential developments with 5 or more federally funded affordable housing units, 40% of the units in the development are set aside for the preference
- **Qualifications:**
 - Lottery preference given to households living in citywide census tracts that have been identified as having the greatest risk of displacement.
- **Administration of program:**
 - Applicants who qualify for the preference are included in a special lottery pool
 - Once 40% of the units are filled from the Anti-Displacement Preference pool, any additional neighborhood residents are included among other applicants from outside the neighborhood for consideration for the remaining units.

San Francisco Census Tracts Undergoing Displacement and Gentrification



San Francisco's NRHP and ADHP preferences:

- *Applicants who are homeless at the time of application may demonstrate eligibility for the NRHP and ADHP preference by providing a letter from a case manager or homeless shelter attesting to the fact that the applicant is homeless and identifying where they are currently staying.*

Considering a preference policy requires careful analysis of the possible impacts under the Fair Housing Act, including:

- 1) Understanding the demographic and geographic trends of the city at large
- 2) Understanding the demographic and geographic trends of the population that could be served by housing investments
- 3) Determining framework for the preference policy (ex: based on economic displacement)
- 4) Developing methodology for implementing the framework (ex: process to identify census tracts)
- 5) Confirming that methodology for the framework will not have a disparate impact under Fair Housing Act
- 6) Implementing the preference policy framework for a real project
- 7) Analyzing the outcomes of the preference policy for populations served

- Questions for Exploring the Framework
 - What kind of projects/funding would preference apply to? (ex: *federal, local or both*)
 - Citywide vs. area specific approach (ex: *North and Northeast Portland policy*)
 - Approach to determining preference (ex: *direct and/or economic displacement*)
 - Specific method and criteria for determining preference (ex: *documentation to demonstrate residency or past residency, length of time in area, etc.*)
 - Administration of policy (ex: *special lottery, waiting list*)

City's Affirmatively Furthering Fair Housing (AFFH) Process

- The Regional planning process began in Summer 2017
- Includes the following jurisdictions:
 - The City and County of Denver
 - The Housing Authority of the City and County of Denver
 - The City of Aurora
 - The Housing Authority of the City of Aurora
 - The Boulder Broomfield Consortium
 - Boulder County Housing Authority
 - Boulder Housing Partners
 - Longmont Housing Authority
- Plan due to HUD April 2018

Questions/Discussion