



Human Rights Commission Meeting

Thursday, March 13, 2025 at 6:00 PM

Agenda

ACCESS INFORMATION:

- A. This meeting will be held on March 13, 2025 at 6:00 PM. Location: Council Chamber
 - B. The Public may join the virtual meeting online: <https://watertown-ma.zoom.us/j/83935116963>
 - C. This meeting will be televised through Watertown Cable Access Television (WCATV): <http://vodwcatv.org/CablecastPublicSite/watch-now?site=3>
 - D. Public may comment through email: dnewton@watertown-ma.gov
 - E. Please visit the Human Rights Commission website here: <https://www.watertown-ma.gov/1195/Human-Rights-Commission>
-

- 1. Call to Order
- 2. Roll Call
- 3. Acceptance of Minutes
 - A. Minutes 2.10.25
- 4. City Attorney Mark Reich
 - A. Human Rights Commission Rules
 - B. Information and Q&A
- 5. Introduction of Student Liaisons
- 6. Fair Housing Report
 - A. West Metro Homes Consortium Housing Discrimination Testing Program Report
- 7. Committee Reports
 - A. Action Plan Subcommittee
 - B. Immigrant Rights Subcommittee
 - C. Rules Subcommittee
- 8. Discussion
 - A. February 19th event at Watertown Free Public Library
 - B. Storywalk Project on Indigenous History in Watertown
 - C. Juneteenth event for 2025 and future years
 - D. Watertown Safe Space Campaign with World in Watertown

- E. Watertown Pride 2025
 - F. Watertown Juneteenth 2025
- 9. Public Comment
- 10. Adjournment

Human Rights Commission Meeting Minutes

February 10, 2025

1. Call to Order

Mel Poindexter called the meeting to order at 6:05 PM

2. Roll Call

Municipal Policy Analyst Doug Newton called the roll. Present were Corey Barr, Elizabeth Bruise, Gabriel Camacho (by zoom), Lisa Laplante, Susan Musinsky, Mel Poindexter, and Liz Aeschlimann. Xin Peng informed the Commission he would not be attending as he is traveling, and Sarah Zoen informed the Commission that she would be joining late.

3. Acceptance of Minutes

a. Minutes 1.15.25

Mel Poindexter made a motion, seconded by Elizabeth Brusie, to approve the minutes. The Commission voted eight to zero to approve the motion and the minutes were approved.

4. Discussion

a. Democracy Talks Event on February 19th

Corey Barr shared that Gabriel Camacho would be opening the event, and the Commission discussed sharing its statement on the rights and protection of immigrants at the event .

b. Future Human Rights Day & Juneteenth Events

Tiffany York, who has been taking the lead on Watertown's Juneteenth event in the past, spoke to the Commission asking them to help sponsor the event this year and eventually take the lead on hosting it. Gabriel Camacho made a motion, seconded by Mel Poindexter, that the Commission spend up to \$2,000 to support the Juneteenth event in Watertown in 2025. The Commission voted eight to zero to approve the motion.

c. Massachusetts Human Rights Commission & International Association of Human Rights Agencies

The Commission asked Councilor John Gannon, who was present in the audience, to further explain the open meeting law to the Commission. Councilor Gannon provided some additional information but suggested a conversation with the City Attorney may be beneficial.

d. Distribution of Brochure/Know Your Rights Cards

Captain Dan Unsworth spoke to the Commission and explained that an order has been made for an extra two-thousand pamphlets in addition to the 1000 that had already been distributed at and since the Unity Breakfast.

e. MassCOSH Teens Lead at Work Program

Sarah Zoen suggested that this item can be tabled to the next meeting, and that someone from the program could come and speak at a future meeting.

f. Sponsoring Book Event with WFPL: Loretta Ross Livestream on April 2nd

Lisa Laplante explained that Loretta Ross will be having a livestream event on her recent book on April 2nd. Ross shares insight on an approach to talking to people with whom one might initially not want to interact with.

g. Reaching out to Massachusetts Commission Against Discrimination (MCAD)

The Commission discussed having a meeting with the Executive Director of MCAD. Consideration was given to if it would be appropriate to invite the executive director to present at a meeting of the Human Rights Commission. This led to further discussion as to the open meeting law.

5. Municipal Policy Analyst's Report

a. HRC Rules of Procedure/Complaint Procedure

Doug Newton explained that the City Attorney is reviewing both the Rules of Procedure and the Complaint Procedure. The Commission asked that particularly the Complaint Procedure please be expedited as it is time sensitive.

b. Action Plan

The Commission noted that its Action Plan subcommittee will be having its inaugural meeting soon to discuss the Commission's action plan as prescribed in the ordinance.

6. Public Comment

Mel Poindexter asked Councilor Gannon if there is anything else he would like to share, and Councilor Gannon offered that it may make sense to have a vote to ask the City Attorney to speak to the Commission. Lisa Laplante made a motion, seconded by Mel Poindexter, that the City Attorney be asked to speak to the Human Rights Commission at or by its next meeting. The Commission voted eight to zero to approve the motion.

7. Adjournment

Mel Poindexter made a motion, seconded by Elizabeth Brusie, to adjourn the meeting. The Commission voted eight to zero to approve the motion and the meeting adjourned at 7:43 PM.

Watertown Human Rights Commission Rules of Procedure

Purpose

The Watertown Human Rights Commission ~~affirms~~was established by an Ordinance Establishing the Watertown Human Rights Commission, approved on _____, 202_ (Ordinance). The Ordinance outlines in detail the commitments of the City and the Commission to affirming that human rights are universal and inalienable, indivisible, interdependent and interrelated. All of these, and to protecting those rights, whether civil, political, economic, social or cultural, are inherent to the dignity of every person. All of these rights all have equal status as further detailed in the City of Watertown.

~~The purpose of the Watertown Human Rights Commission is to affirm that our city is an inclusive community that values freedom from:~~

- ~~• discrimination;~~
- ~~• disrespect;~~
- ~~• bigotry;~~
- ~~• hatred and~~
- ~~• oppression.~~

~~The Watertown Human Rights Commission reaffirms the city's commitment to uphold and defend everyone's right to free and equal exercise of their human and civil rights and privileges.~~

~~The Watertown Human Rights Commission strives to ensure that everyone enjoys equal opportunity to, including (but not limited to):~~

- ~~—housing;~~
- ~~—employment;~~
- ~~—education;~~
- ~~—public accommodation;~~
- ~~—access to city services;~~
- ~~—insurance;~~
- ~~—credit;~~
- ~~—banking and~~
- ~~—health care~~
- ~~—and other civil, political, social, economic, and cultural rights~~

~~The Watertown Human Rights Commission strives to ensure everyone enjoys these opportunities equally, regardless of:~~

- ~~—race;~~
- ~~—color;~~
- ~~—ancestry;~~

- ~~—national origin;~~
- ~~—sex;~~
- ~~—sexual orientation;~~
- ~~—gender identity or expression;~~
- ~~—citizenship;~~
- ~~—age;~~
- ~~—religion;~~
- ~~—disability;~~
- ~~—health status;~~
- ~~—marital or familial status;~~
- ~~—military or veteran status;~~
- ~~—socioeconomic status;~~
- ~~—ex-offender status;~~
- ~~—genetic, and/or~~

~~“protected class” status~~Ordinance.

Organization

Presiding officers: ~~The Each April, the~~ Commission shall elect at a regular meeting from amongst its members a Chairperson ~~in April at a regular meeting, by majority of votes cast, to serve~~, Vice Chairperson, and Clerk, each for a one-year term ~~as.~~ Notwithstanding the Chairperson with their term beginning upon election.

~~Nothing in these Rules provisions of Procedure shall prohibit members of this paragraph, however, the Commission from electing two~~may reorganize at any time during the year.

Co-Chairs. Notwithstanding the preceding paragraph, the Commission may elect Co-Chairs to share the responsibilities of being the position of Chair. In any year when Co-Chairs are elected, a Vice Chair need not be elected for that year; provided, however, that one of the Co-chairs shall be deemed the Chair for purposes of finalizing the agenda for each meeting and for facilitating the conduct of Commission meetings. Except as otherwise specified, for purposes of these Rules, a single chair, or co-chairs, shall be referred to as the “Chairperson or Co-Chairs to be re-elected for an additional term.” or “Chair”.

Duties of Chairperson(s): ~~The Chairperson(s) of the Human Rights Commission, if present, shall preside at the full Commission meetings. In the Commission meetings; provided, however, that if there are Co-chairs, one shall function as the Chair for purposes of facilitating each meeting, and, if only one is present, that person shall chair the meeting. If there is a single Chairperson, in their absence of the Chairperson(s), the Vice-Chairperson shall preside, and in the absence of both.~~ Notwithstanding the provisions of this paragraph, if there is no Chair or Vice Chair present

at a particular meeting, a temporary Chairperson ~~as~~shall be chosen by the Commission ~~shall serve for that meeting~~.

The Chairperson(s) ~~shall conduct the meeting to manage it efficiently; preserve decorum and order; may speak to points of order in preference to other members; and shall decide all questions of order, subject to an appeal to the full Commission.~~

The Chairperson(s) ~~will be responsible for coordinating~~ shall coordinate with the City staff liaison for preparation of the meeting agenda with the City staff liaison. The Chairperson ~~shall have the discretion to appoint committees, conduct the meeting, decide all questions of order, and perform other duties that arise in the course of business of the Commission.~~

declare votes taken at the meeting. Additional duties of the Chairperson(s): shall include:

- ~~— The Chairperson(s) shall not move for action but may second motions.~~
- ~~- The Chairperson(s) shall be responsible~~ Appointment of subcommittee members;
- ~~- Inviting and seconding motions;~~
- ~~- Responsibility for the communications of the Commission.~~
- ~~- The Chairperson(s) shall be responsible for submitting~~ Submitting to the full Commission for review and approval an Annual Work Plan and Annual Report ~~to the Commission for review and approval prior to presenting it to the City Council, both of which are described in further detail below.~~

Vacancies: If the Chairperson ~~retires during their term of office~~ resigns, the Co-chair, if applicable, or the Vice-Chairperson, shall become Chairperson. A new Co-chair, if applicable, or Vice-Chairperson, will be elected at the next Commission meeting. ~~If both retire, new officers shall be elected at a meeting called as soon as possible, but not to exceed 60 days from the date of stepping down.~~

Responsibilities of Commissioners

~~Commissioners appointed to the Human Rights Commission are expected to attend all Commission meetings, as well as any special meetings. Commissioners are encouraged to join committees of interest or in line with their expertise. Commissioners are expected to contribute to the development and implementation of the Action Plan and to assist with the preparation of the annual report.~~

Code of Conduct

Commission Conduct

The Chairperson(s) shall be the official spokesperson(s) for the Commission. ~~Individual commissioners regarding votes taken by the Commission on any matter within its jurisdiction or as otherwise authorized by a vote of the Commission. An individual commissioner shall not express personal opinions on any matter that has come, or is likely to come, before the Commission without clarifying~~ expressly stating that the such opinion is his or her their own

personal opinion and does not reflect or represent the opinion or position of the Commission on the matter.

Each Commissioner shall adhere to the highest standards of ethical conduct ~~and support to further~~ the Commission's mission, goals, and objectives, and to instill in the public a sense of confidence in the Commission's operations. ~~The standard of conduct for the Commission includes, but is not limited to, including compliance with:~~

- The Open Meeting Law (G. L. c. 30A, §§ 18-25);
 - The Conflict of Procedure Interest Law (G. L. c. 268A); and decisions;
 - The Public Records Law (G.L. c. 66, § 10)
- ~~and promoting accountability of all members of the~~ other applicable laws. The Commission ~~reating all members of the Commission, members of the public and colleagues with courtesy, respect, objectivity, reasonableness, and fairness;~~
- Conducting all Commission- shall conduct its business in a transparent, timely manner and, except as otherwise allowed by law, in public meetings ~~with transparency;~~

- Subcommittees ~~Reviewing its actions, recommendations, and procedures periodically to determine whether the Commission has adhered to its Code of Conduct and mission in all respects.~~

Committees

The Commission may establish such ~~committees~~ subcommittees as are deemed necessary to carry out the work of the Commission. ~~The Chairperson(s) shall seek Commissioners' requests for Committee appointments and then appoint members as s/he deems necessary. The Committees~~ Subcommittees shall meet at such times and places as each ~~Committee~~ deems suitable and subject to in accordance with the provisions of the Open Meeting Law, G.L. c. 30A. ~~The proceedings and/or output of every Committee meeting, §§ 18-25. Each subcommittee shall be reported at report to the full Commission meeting for inclusion in the meeting's minutes from time to time or at the full Commission's request.~~

Meetings

Regular meetings: ~~Regular meetings of the~~ The Commission shall ~~be held on a regularly meet~~ monthly ~~basis. Aat City Hall and post its~~ schedule ~~of the regular meetings shall be publicized on~~ the Commission's webpage. ~~Regular meetings shall ordinarily be held at Watertown City Hall with virtual meeting options as regulated by State Law. Meetings may be held inshall, to the extent feasible, offer remote access and/or offer other accessible facilities as the Commission deems necessary. If the Commission decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is required for a special meetingoptions consistent with the Americans with Disabilities Act.~~

Special meetings: Special meetings may be called from time to time by the Chairperson(s), or by at the request of three members of the Commission. ~~Special meetings may be called only when such meetings comply with the advance notice requirements of Open Meeting Law, G.L. c. 30A. A quorum for a special meeting shall be the same as for a regular meeting. A majority of the commissioners participating in this meeting may take action on any matter presented.~~

Emergency meetings: In the unlikely event an emergency occurs meeting the requirements of the Open Meeting Law, the Chairperson(s) may call an emergency meeting with forty-eight (less than 48) hours' notice. ~~Notice of the emergency meeting must be given via the public website per Open Meeting laws. A quorum for~~ At an emergency meeting, the Commission shall be the same as for a regular meeting. A majority of the commissioners participating in this meeting may take action on any matter presented. If action is taken, a report shall be presented, to the full Commission at the next regularly scheduled meeting. The report shall include the nature of the emergency, the issue(s) presented for consideration, and the action taken extent possible, comply with all other provisions of the Open Meeting Law.

Public comments

There ~~will~~shall be a public comment period ~~following monthly~~included on the agenda at all regular meetings of the ~~full Human Rights Commission.~~ At special meetings of created by the Commission will have, and at subcommittee meetings, public comment at their meetings at their shall be included on the agenda at the discretion. ~~Commentators will~~ of the Chair. To facilitate the orderly conduct of the meeting and to ensure that matters are raised that fall within the jurisdiction of the Commission or subcommittee, as applicable, each person recognized for public comment shall state their name and address, have three minutes to speak and shall, speak only address once, and limit their comments to matters on the agenda of the for that meeting just concluded. ~~Individuals are requested to~~shall address the Commission or subcommittee from the podium to ensure the that the remarks can be heard by the remote audience. ~~There shall only be one commentator at a time. The chair may rule a commentator out of order for not complying with these rules. No person shall: speak without being recognized by the Chair, speak over another, continue to speak when asked to conclude, speak to others while another person has the floor, or otherwise disrupt the meeting.~~ If a comment pertains to a particular complaint or grievance, to ensure respect for the privacy of the person making the complaint or grievance or the person against whom such a matter is raised, the Commissioners may request that the individual first submit the matter using the official complaint form. The Commission encourages but cannot require commentators to engage in a mutually respectful and civil manner. In light of the constitutional protections for free speech, however, the Commission cannot place limits on the content of speech other than by limiting comments to the matters listed on its agendas. For that reason, it is possible that comments made by persons during a public comment period may offend, upset, or otherwise disturb listeners.

Attendance

Commissioners shall attend all regular meetings of the. ~~The Commission regularly and participate actively. Commissioners may recommend for removal a Commissioner who have~~ misses three (3) unexcused absences or more regular meetings during a one-year period ~~shall be recommended for removal. An unexcused absence is defined as an absence without notifying, provided, however, that such action may be taken only in the event that for each of the missed meetings the Commissioner failed to notify the City staff liaison prior to the beginning of the Commission's regular monthly~~ that meeting, or, if the absence was unanticipated due to unforeseen circumstances, such as illness or emergency, shall also qualify as notified absence where the Commissioner reports such absence to the staff liaison as soon as reasonably possible thereafter.

Quorum and Action

A quorum shall consist of ~~five (5) Commissioners. Decision-making shall be subject to a majority vote of the Commissioner~~ total number of Commissioners, or, if a subcommittee, a majority of the total number of subcommittee members, and action can be taken by a majority of those present, provided that a quorum has been established, and voting. When a quorum fails to attend a scheduled meeting or the Commission loses a quorum because of the departure of ~~some~~ members, the only official actions the Commission may take are to: 1) fix the ~~time~~date to which to adjourn, continue the meeting, with notice of such continued meeting to be provided in accordance with the Open Meeting Law; 2) adjourn the meeting; and/or 3) recess the meeting; or 4) and take measures to secure quorum. Any other action taken by the Commission while it does not have a quorum is void.

Each regular meeting ~~must begin with a role~~ agenda shall include the following items: roll call. The staff liaison will ask that the previous meeting's for attendance; approval of the minutes are approved. Before ending from the prior meeting, a commissioner must make a motion to adjourn, which must be seconded.; public comment; Action Plan progress; and adjournment.

Cancellation of meetings

The Chairperson(s) may cancel a regular meeting ~~in the event that if~~ a quorum will not be present or ~~if the meeting date other~~ conflicts with other responsibilities exist, notice of the Commissioners. Notices of continued, rescheduled, or canceled meetings which cancellation shall be posted on the City website as soon as practicable following the cancellation.

Liaisons

The Commission will work with ~~the~~ liaisons from designated by the Watertown Police Department and the Watertown School Department, and the Superintendent, and, if deemed appropriate by the Superintendent, with designated student liaisons chosen by the superintendent, to understand issues of concern and ideas and help explore possible responses and solutions.. The Commission may invite other City agencies and community organizations to formulate constructive resolutions, as needed. appoint liaisons to work with the Commission.

Action Plan

The Commission shall develop an annual Action Plan ~~annually that outlines~~outlining specific goals and associated activities for the upcoming year, ~~aligned in alignment~~ with the Commission's purposes as ~~stated~~described in the ordinance. ~~The goals and activities outlined in the Action Plan shall directly relate to one or more of the Commission's core purposes as outlined in the ordinance.~~

Action Plan content: The Action Plan shall include:

- Primary goals for the year
- Specific, measurable activities associated with each goal
- Timelines for completion of each activity
- Responsible parties or subcommittees for each activity
- Resources required for implementation

Development process: The Commission shall annually dedicate at least one full meeting to Action Plan development ~~and/or deliberation annually~~. Prior to this meeting, Commissioners shall review the previous year's Action Plan and progress and consider ~~current~~ human rights issues then affecting the ~~community~~City. The Commission shall endeavor to engage and collaborate with local stakeholders, including through surveys, public forums, or other means. The Commission may ~~form~~designate a ~~temporary Action Plans~~single member or a subcommittee to draft the plan for full Commission review and approval.

Approval and implementation: The Action Plan must be approved by a majority vote of the full Commission. Once approved, the Action Plan shall be:

- ~~Published~~Posted on the Commission's website;
- Submitted to the City Council; and
- Distributed to ~~relevant city~~City departments and community partners

Progress monitoring: The Commission shall review Action Plan progress as a standing agenda item at each regular meeting. Commissioners or subcommittees responsible for specific activities shall provide brief updates on their progress.

Mid-year review and updates: The Commission shall conduct a comprehensive mid-year review of the Action Plan. Based on the review, the Commission may vote to:

- Adjust timelines for existing activities;
- Modify or remove activities that are no longer feasible or relevant; or
- Add new activities in response to emerging issues or opportunities.

Any substantive changes to the Action Plan must be approved by a majority vote of the Commission.

Annual Reporting: The Commission shall prepare an annual report summarizing Action Plan achievements, challenges, and lessons learned. ~~This~~In accordance with the Watertown Home Rule Charter, this report shall be submitted to the City Council on or before March 15 each year, filed with the City Clerk, and made publicly available. The Commission may designate a single member or form a temporary subcommittee to draft the annual report for review and approval by the Chairperson(s) and subsequently the full Commission ~~review and approval.~~

Continuous improvement: As part of the annual Action Plan development process, the Commission shall reflect on the effectiveness of the previous year's plan and process. Based on this reflection, the Commission may vote to modify these Rules of Procedure to improve the Action Plan's impact and the efficiency of the development process.

Training/onboarding

Each new member of the Commission shall be furnished with orientation materials upon their appointment, to include the Ordinance, Annual Plan, Annual Report, the last two months of minutes, a meeting calendar, materials and certifications provided by the City Clerk in accordance with the Open Meeting Law, and any other pertinent information. ~~An orientation will be held for~~ The City shall assist newly appointed Commissioners to ~~familiarize them understand and become familiar with:~~ the Ordinance ~~Establishing the Watertown Human Rights and its purposes; the Open Meeting, Public Records and Conflict of Interest Laws;~~ Commission; ~~Open Meeting Law; the Commission's purpose;~~ attendance requirements, roles, and meeting dates; these Rules of Procedure; and other relevant information.

Amendment of Rules of Procedure

~~These Rules of Procedure may be amended, repealed, or suspended following discussion among Commissioners, and new Rules of Procedure adopted, by~~In accordance with the Human Rights Watertown Home Rule Charter, these rules shall be filed with the City Clerk. The Commission by majority may vote, if a quorum is present, to amend, repeal, or suspend these Rules. Prior to the adoption of ~~the any~~ amendment, the City staff liaison shall e-mail notice meeting the requirements of the Open Meeting Law to each Commissioner ~~shall be given~~ at least 10 days' ~~notice~~in advance, along with a copy of the date, time, Rules of Procedure and place of the meeting at which the proposed amendment is to be considered, and the notice shall state that one of the purposes. If amended, an updated copy of the meeting is to consider a proposed amendment to the Rules of Procedure and shall contain a copy of the proposed amendment. will be filed with the City Clerk.

Watertown Human Rights Commission Rules of Procedure

Purpose

The Watertown Human Rights Commission was established by an Ordinance Establishing the Watertown Human Rights Commission, approved on _____, 202__ (Ordinance). The Ordinance outlines in detail the commitments of the City and the Commission to affirming that human rights are universal and inalienable, indivisible, interdependent and interrelated, and to protecting those rights, all as further detailed in the Ordinance.

Organization

Presiding officers: Each April, the Commission shall elect at a regular meeting from amongst its members a Chairperson, Vice Chairperson, and Clerk, each for a one-year term.

Notwithstanding the provisions of this paragraph, however, the Commission may reorganize at any time during the year.

Co-Chairs. Notwithstanding the preceding paragraph, the Commission may elect Co-Chairs to share the responsibilities of the position of Chair. In any year when Co-Chairs are elected, a Vice Chair need not be elected for that year; provided, however, that one of the Co-chairs shall be deemed the Chair for purposes of finalizing the agenda for each meeting and for facilitating the conduct of Commission meetings. Except as otherwise specified, for purposes of these Rules, a single chair, or co-chairs, shall be referred to as the “Chairperson” or “Chair”.

Duties of Chairperson: The Chairperson shall preside at Commission meetings; provided, however, that if there are Co-chairs, one shall function as the Chair for purposes of facilitating each meeting, and, if only one is present, that person shall chair the meeting. If there is a single Chairperson, in their absence, the Vice-Chairperson shall preside. Notwithstanding the provisions of this paragraph, if there is no Chair or Vice Chair present at a particular meeting, a temporary Chairperson shall be chosen by the Commission for that meeting.

The Chairperson shall coordinate with the City staff liaison for preparation of the meeting agenda, conduct the meeting, decide all questions of order, and declare votes taken at the meeting. Additional duties of the Chairperson shall include:

- Appointment of subcommittee members;
- Inviting and seconding motions;
- Responsibility for the communications of the Commission.
- Submitting to the full Commission for review and approval an Annual Work Plan and Annual Report, both of which are described in further detail below.

Vacancies: If the Chairperson resigns, the Co-chair, if applicable, or the Vice-Chairperson, shall become Chairperson. A new Co-chair, if applicable, or Vice-Chairperson, will be elected at the next Commission meeting.

Commission Conduct

The Chairperson shall be the official spokesperson for the Commission regarding votes taken by the Commission on any matter within its jurisdiction or as otherwise authorized by a vote of the Commission. An individual commissioner shall not express personal opinions on any matter that has come, or is likely to come, before the Commission without expressly stating that such opinion is their own personal opinion and does not reflect or represent the opinion or position of the Commission on the matter.

Each Commissioner shall adhere to the highest standards of ethical conduct to further the Commission's mission, goals, and objectives, and to instill in the public a sense of confidence in the Commission's operations, including compliance with:

- The Open Meeting Law (G. L. c. 30A, §§ 18-25);
- The Conflict of Interest Law (G. L. c. 268A); and
- The Public Records Law (G.L. c. 66, § 10)

and all other applicable laws. The Commission shall conduct its business in a transparent, timely manner and, except as otherwise allowed by law, in public meetings.

Subcommittees

The Commission may establish such subcommittees as are deemed necessary to carry out the work of the Commission. Subcommittees shall meet at such times and places as each deems suitable and in accordance with the provisions of the Open Meeting Law, G.L. c. 30A, §§ 18-25. Each subcommittee shall report to the full Commission meeting from time to time or at the full Commission's request.

Meetings

Regular meetings: The Commission shall meet monthly at City Hall and post its schedule on the Commission's webpage. Meetings shall, to the extent feasible, offer remote access and/or offer other accessible options consistent with the Americans with Disabilities Act.

Special meetings: Special meetings may be called from time to time by the Chairperson, or at the request of three members of the Commission.

Emergency meetings: In the unlikely event an emergency occurs meeting the requirements of the Open Meeting Law, the Chairperson may call a meeting with less than 48 hours' notice. At an emergency meeting, the Commission shall, to the extent possible, comply with all other provisions of the Open Meeting Law.

Public comments

There shall be a public comment period included on the agenda at all regular meetings of the Commission. At special meetings of the Commission, and at subcommittee meetings, public comment shall be included on the agenda at the discretion of the Chair. To facilitate the orderly conduct of the meeting and to ensure that matters are raised that fall within the jurisdiction of the

Commission or subcommittee, as applicable, each person recognized for public comment shall state their name and address, have three minutes to speak, speak only once, and limit their comments to matters on the agenda for that meeting. Individuals shall address the Commission or subcommittee from the podium to ensure the that the remarks can be heard by the remote audience. No person shall: speak without being recognized by the Chair, speak over another, continue to speak when asked to conclude, speak to others while another person has the floor, or otherwise disrupt the meeting. If a comment pertains to a particular complaint or grievance, to ensure respect for the privacy of the person making the complaint or grievance or the person against whom such a matter is raised, the Commissioners may request that the individual first submit the matter using the official complaint form. The Commission encourages but cannot require commentators to engage in a mutually respectful and civil manner. In light of the constitutional protections for free speech, however, the Commission cannot place limits on the content of speech other than by limiting comments to the matters listed on its agendas. For that reason, it is possible that comments made by persons during a public comment period may offend, upset, or otherwise disturb listeners.

Attendance

Commissioners shall attend all regular meetings. The Commission may recommend for removal a Commissioner who misses three or more regular meetings during a one-year period, provided, however, that such action may be taken only in the event that for each of the missed meetings the Commissioner failed to notify the City staff liaison prior to the beginning of that meeting, or, if the absence was unanticipated due to circumstances such as illness or emergency, as soon as possible thereafter.

Quorum and Action

A quorum shall consist of a majority of the total number of Commissioners, or, if a subcommittee, a majority of the total number of subcommittee members, and action can be taken by a majority of those present and voting. When a quorum fails to attend a scheduled meeting or the Commission loses a quorum because of the departure of members, the only official actions the Commission may take are to: 1) fix the date to which to continue the meeting, with notice of such continued meeting to be provided in accordance with the Open Meeting Law; 2) adjourn the meeting; and/or 3) recess the meeting and take measures to secure quorum.

Each regular meeting agenda shall include the following items: roll call for attendance; approval of the minutes from the prior meeting; public comment; Action Plan progress; and adjournment.

Cancellation of meetings

The Chairperson may cancel a regular meeting if a quorum will not be present or other conflicts exist, notice of which cancellation shall be posted on the City website as soon as practicable following the cancellation.

Liaisons

The Commission will work with liaisons designated by the Watertown Police Department and the Watertown School Superintendent, and, if deemed appropriate by the Superintendent, with designated student liaisons, to understand issues of concern and explore possible responses and solutions.. The Commission may invite other City agencies and community organizations to appoint liaisons to work with the Commission.

Action Plan

The Commission shall develop an annual Action Plan outlining specific goals and associated activities for the upcoming year in alignment with the Commission's purposes as described in the ordinance.

Action Plan content: The Action Plan shall include:

- Primary goals for the year
- Specific, measurable activities associated with each goal
- Timelines for completion of each activity
- Responsible parties or subcommittees for each activity
- Resources required for implementation

Development process: The Commission shall annually dedicate at least one full meeting to Action Plan development. Prior to this meeting, Commissioners shall review the previous year's Action Plan and progress and consider human rights issues then affecting the City. The Commission shall endeavor to engage and collaborate with local stakeholders, including through surveys, public forums, or other means. The Commission may designate a single member or a subcommittee to draft the plan for full Commission review and approval.

Approval and implementation: The Action Plan must be approved by a majority vote of the full Commission. Once approved, the Action Plan shall be:

- Posted on the Commission's website;
- Submitted to the City Council; and
- Distributed to City departments and community partners

Progress monitoring: The Commission shall review Action Plan progress as a standing agenda item at each regular meeting. Commissioners or subcommittees responsible for specific activities shall provide brief updates on their progress.

Mid-year review and updates: The Commission shall conduct a comprehensive mid-year review of the Action Plan. Based on the review, the Commission may vote to:

- Adjust timelines for existing activities;
- Modify or remove activities that are no longer feasible or relevant; or
- Add new activities in response to emerging issues or opportunities.

Any substantive changes to the Action Plan must be approved by a majority vote of the Commission.

Annual Reporting: The Commission shall prepare an annual report summarizing Action Plan achievements, challenges, and lessons learned. In accordance with the Watertown Home Rule Charter, this report shall be submitted to the City Council on or before March 15 each year, filed with the City Clerk, and made publicly available. The Commission may designate a single member or form a temporary subcommittee to draft the annual report for review and approval by the Chairperson and subsequently the full Commission.

Continuous improvement: As part of the annual Action Plan development process, the Commission shall reflect on the effectiveness of the previous year's plan and process. Based on this reflection, the Commission may vote to modify these Rules of Procedure to improve the Action Plan's impact and the efficiency of the development process.

Training/onboarding

Each new member of the Commission shall be furnished with orientation materials upon their appointment, to include the Ordinance, Annual Plan, Annual Report, the last two months of minutes, a meeting calendar, materials and certifications provided by the City Clerk in accordance with the Open Meeting Law, and any other pertinent information. The City shall assist newly appointed Commissioners to understand and become familiar with: the Ordinance and its purposes; the Open Meeting, Public Records and Conflict of Interest Laws; Commission attendance requirements, roles, and meeting dates; these Rules of Procedure; and other relevant information.

Amendment of Rules of Procedure

In accordance with the Watertown Home Rule Charter, these rules shall be filed with the City Clerk. The Commission may vote to amend, repeal, or suspend these Rules. Prior to the adoption of any amendment, the City staff liaison shall e-mail notice meeting the requirements of the Open Meeting Law to each Commissioner at least 10 days' in advance, along with a copy of the Rules of Procedure and the proposed amendment. If amended, an updated copy of the Rules will be filed with the City Clerk.

**PROCEDURE FOR FILING COMPLAINTS
WITH THE
WATERTOWN HUMAN RIGHTS COMMISSION**
10/15/24 Draft (Commissioner Lisa Laplante, Rules Committee)

- 1) Pursuant to the ~~charge established in provisions of~~ Ordinance 0-2023-66-05 “Duties”, § 31.73, the following ~~rules establish the~~ procedures ~~for receiving~~ shall apply to the Commission’s receipt and ~~managing~~ management of human rights complaints brought to the Commission.

Competence

~~The Commission may receive concerns, complaints or questions regarding anything related so as to its general aim established in [0-2023-66-02 “Purpose”] which is “to “ensure the protection of every individual in the enjoyment and exercise of their human and civil rights and to encourage and bring about mutual understanding and respect among all people who live, work, visit, and travel within the Town~~City.”

A. Jurisdiction

- 1) ~~The Commission serves as a resource for residents, employees, visitors and those doing business with or in the City, with regard to concerns, complaints, or questions of discrimination or unequal treatment of individuals in the City of Watertown. The Commission does not have the jurisdiction to investigate or resolve complaints directly between parties to a dispute.~~
- 2) The Commission may ~~consider such communications concerning the receive concerns, complaints or questions regarding the full~~ range of human rights, whether civil, political, economic, social, or cultural ~~in nature~~ in nature, as recognized by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other related international human rights instruments related to human rights, including but not limited to:
 - i. ~~In particular, the Commission may receive complaints related to the~~Perceived withholding, denying, interfering with, threatening or subjecting of any individual to coercion or intimidation concerning equitable access to and/or discrimination in employment, housing, education, recreation, services, public access and accommodation and public area against a person is based upon race, color, religious views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status, sexual orientation, disability, source of income, military or veteran status. ~~Similarly, the Commission may receive complaints about; and~~
 - ii. Perceived acts of prejudice, intolerance, bigotry, bias, unlawful discrimination, threats, coercion, or intimidation based upon an individual’s race, color, religious

views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status in any form, sexual orientation, disability, source of income, or military or veteran status. Such events may also amount to violations of Massachusetts General Laws, Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. §3601, et. (the Federal Fair Housing Act), and other relevant state and federal anti-discrimination laws.

- 3) ~~Such concerns may implicate the provisions of state and federal laws including but not limited to G.L. c. 151B (the Massachusetts Anti-Discrimination Law), 42 U.S.C. § 3601, et. seq. The Commission serves as a resource for residents, employees, those doing business with or in the city, or visitors on concerns, complaints, or questions of discrimination or unequal treatment of individuals in the City of Watertown. It does not have the jurisdiction to investigate or resolve complaints directly between parties of a dispute.~~
- 3) (the Federal Fair Housing Act), the Americans with Disabilities Act, and other relevant state and federal anti-discrimination laws. As such, the Commission may, after review and as appropriate, refer any such complaints to an appropriate authority having jurisdiction, including but not limited to local, state, or federal law enforcement agencies, social services agencies, the Massachusetts Commission against Discrimination, or the City's Human Resources Department. Whether or not the Commission makes such a referral, the complainant retains the right to seek any and all remedies available to them in law and in equity, and the failure of the Commission to make such a recommendation in no way reflects a determination by the Commission that such remedies are unavailable or inappropriate.
- 4) **IMPORTANT INFORMATION FOR COMPLAINANTS:**
- i. The Commission cannot as a matter of law guarantee the confidentiality of any concerns, complaints or questions brought to its attention, as all records received by the Commission, and all meetings of the Commission, are subject to the requirements of the Public Records and Open Meeting Laws.
 - ii. In the event a complaint is made to or filed with the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint.
 - iii. The Commission reserves the right to refer a concern, complaint, or question concerning a potential crime, after notice to the person bringing the same to the attention of the Commission, if possible, to appropriate local, state or federal law enforcement authorities.

B. Directions for Filing a Complaint

- 4) ~~Any person or class of persons claiming to be aggrieved by acts or events believed to be violations of their human rights may submit a complaint or concern with the Commission in writing and/or appear in person during a regularly scheduled meeting.~~
- 1) Submissions By Mail, E-Mail, Telephone or In Person. Any person or class of persons with a concern, complaint or question concerning an act or event perceived to be a human rights violation may submit the same to the Commission by mail, e-mail, or telephone; in

person at a meeting; or by making an appointment to meet with a Commissioner and/or the City staff liaison. Generally, submissions shall be made within one year of the relevant act or event; however, the Commission may accept submissions outside of that timeframe should circumstances so require. Contact information is as follows, and confirmation of a written complaint will be provided as soon as possible but within seven days:

In Person or By Mail: Human Rights Commission, Watertown City Hall, 149 Main Street, Watertown, MA 02472

By E-mail: Doug Newton at dnewton@watertown-ma.gov

By Telephone:

- ~~1)2)~~ Substance of Written Complaints ~~should. While anonymous concerns, complaints, and questions will be accepted, written complaints may state the name and address of the person making the complaint and must include a concise description of the events or acts believed to constitute a violation of human rights. When possibleappropriate, the complaint shouldmay indicate the person, institution, or company believed to be responsible for the violation. Complaints and concerns can be filed anonymously.~~
- ~~5) Complaints should be submitted through emailAll Remedies Available to Doug Newton, Municipal Policy Analyst at dnewton@watertown-ma.gov or mailed to Watertown Human Rights Commission, City of Watertown, Massachusetts, 149 Main Street, Watertown, MA 02472. Confirmation of receipt of and Complainant. Neither the complaint will be made within seven business days.~~
- ~~6) The complaint should be filed within one year of the alleged act or event. The WHRC reserves the right to waive this requirement based on reasonable grounds.~~
- ~~7) The WHRC does not guarantee the confidentiality of such complaints or concerns in accordance with Massachusetts Public Records Law (M.G.L. c. 66). [Question: do we affirmatively state that any evidence of a criminal violation would be reported to the authorities?]~~
- ~~2)3) The filing of a complaint, with the Commission, nor the failure to makefile a complaint, or the dismissal of a complaint by the Commission shall not bar thea complainant from seeking assistance from or relief in any other administrative or judicial forum. Nor shall filing or failingSimilarly, neither the filing of a complaint nor the failure to file a complaint within any other Federal, Stateadministrative or City agencies or courtsjudicial forum bar thea complainant from seeking assistance from the Commission. The Human Rights Commission may also submit areas of concern to be reviewed by a Complaint Review Committee.~~
- ~~4) After filingConfidentiality. In the event of anya complaint, made to the Chairperson(s)Commission outside of a public meeting, the Commission shall designate a Complaint Review Committee of one or more of the Commissioners to review the, to the extent possible and consistent with law, protect the privacy of the complainant and~~

~~any person(s) named in the complaint. Any commissioner who identifies a conflict of interest shall recuse themselves from participating in any stage of handling the~~

~~3)5) City Employees. If the concern, complaint, or question involves a City employee, the Chairperson shall refer the matter to the City's Human Resources Director for appropriate action. If the alleged violation involves the City Manager or a City Councilor, the Human Resources Director shall consult with the City Council President on next steps. In both cases, consideration may be given to hiring an outside investigator, if necessary.~~

~~6) The Review Committee shall make an initial determination of whether or not the stated matter based on the alleged facts constitutes a prima facie violation of a human right as recognized either by these rules, state or federal law, or international human rights law. If the matter does not amount to Review/Designation of Complaint Review. If the concern, complaint, or question involves any other person, the Chairperson may elect to review the same themselves or designate one or more Commissioners to conduct a Complaint Review. If two or more Commissioners are assigned to review the complaint together, they shall constitute a subcommittee subject to the requirements of the Open Meeting Law, and all meetings shall be held in open session unless one of the executive session purposes in G.L. c. 30A, §21 is applicable.~~

~~Pursuant to G.L. c. 30A, §21(a)(1), public bodies may meet in executive session to, "discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual." Under such circumstances, the individual to be discussed must be provided with written notice at least 48 hours in advance of the session, and that person must be afforded the following rights:~~

- ~~i. to be present at such executive session during deliberations which involve that individual;~~
- ~~ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;~~
- ~~iii. to speak on his own behalf; and~~
- ~~iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.~~

~~7) Complaint Review Resolution –~~

~~8) Evidence Suggesting Further Action May be Warranted. If the Complaint Review finds evidence suggesting a further inquiry is appropriate as to whether the act or event at issue constitutes a human rights violation, the Complaint Review Committee will dismiss Commissioner(s) reviewing the complaint and/or refer it back to the Commission. The complainant will be notified within seven days of such action and have an opportunity to appeal the decision within 10 business days following the same procedure outlined in (H) above.~~

- i. ~~If the matter does amount to a prima facie violation of a human right, the Review Committee may informally meet~~may request an informal, purely voluntary meeting with the complainant to learn more about the facts or to request additional information, if deemed necessary by the committee, related to. Regardless of whether such a meeting is held, however, the Commissioner(s) reviewing the complaint. At that time, the Complaint Review Committee may choose to educate shall notify the complainant of their initial impressions and work with respectthe complainant to provide information and resources about possible other administrative and judicial avenues to resolve the complaint. See Annex 1 for a list of relevant venuespursue and address the complaint, and, further, to identify, and/or refer the complainant to support from state agencies, nonprofits, or other professionals that may be available resources.
- 9) ~~If such Review Committee determines after such informal meetings and review of the complaint that there is probable cause to find a violation of a human right, the Review Committee shall endeavor to facilitate access to a third-party mediator or facilitator to assist with the complaint. It may also refer the complaint to the appropriate town agency or body established to handle the subject matter of the complaint, which may include those listed in Annex 1. The Commission shall also endeavor to produce a report with its determinations on the matter and any possible recommendations that may be directed towards the general public as well as relevant town bodies that are either involved in the complaint or otherwise involved in the general subject matter.~~
 - ii. Complaint Review Resolution – No Evidence Suggesting Further Action May be Warranted. If the Complaint Review suggests that insufficient evidence exists to warrant further inquiry into the matter, the Commissioner(s) conducting the complaint review shall notify the complainant, provide information and resources about possible administrative and judicial avenues to pursue the complaint, and provide such additional information as may be appropriate to support the complainant.
 - iii. The Commissioner or Commissioners charged with conducting the Complaint Review shall prepare a report, protecting the names and identifying details of the complainant and any person(s) named in the complaint, summarizing the nature of the complaint, the Complaint Review result, and the information and resources provided.
- 8) As part of the Commission’s Annual Action Plan, the Commission shall aggregate the information and resources provided during that year to complainants so as to make the same information available to all persons without the need for them to first file a complaint.
- 4)9) Nothing set forth herein is intended to~~shall~~ alter or limit the authority of any other municipal employee, officer, board, commission, authority or agent pursuant to any federal,or state ~~or local~~ statute,or regulation or City ordinance.

C. Applicability

- 1) ~~These provisions of this ordinance~~procedures shall be construed liberally for the accomplishment of the purposes of ~~these the Commission’s Rules;~~ and the Ordinance

creating the Commission, ~~and any ordinances or portions thereof inconsistent with any provision of this Ordinance is hereby repealed.~~

- 2) The Human Rights Commission may periodically vote to amend these procedures as warranted necessary for the efficiency and effectiveness of its mission.

**PROCEDURE FOR FILING COMPLAINTS
WITH THE
WATERTOWN HUMAN RIGHTS COMMISSION**

Pursuant to the provisions of Ordinance 0-2023-66, § 31.73, the following procedures shall apply to the Commission's receipt and management of human rights complaints so as to "ensure the protection of every individual in the enjoyment and exercise of their human and civil rights and to encourage and bring about mutual understanding and respect among all people who live, work, visit, and travel within the City."

A. Jurisdiction

- 1) The Commission serves as a resource for residents, employees, visitors and those doing business with or in the City, with regard to concerns, complaints, or questions of discrimination or unequal treatment of individuals in the City. The Commission does not have the jurisdiction to investigate or resolve complaints directly between parties to a dispute.
- 2) The Commission may receive concerns, complaints or questions regarding the full range of human rights, whether civil, political, economic, social, or cultural nature in nature, as recognized by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other related international human rights instruments related to human rights, including but not limited to:
 - i. Perceived withholding, denying, interfering with, threatening or subjecting of any individual to coercion or intimidation concerning equitable access to and/or discrimination in employment, housing, education, recreation, services, public access and accommodation and public area against a person is based upon race, color, religious views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status, sexual orientation, disability, source of income, military or veteran status; and
 - ii. Perceived acts of prejudice, intolerance, bigotry, bias, unlawful discrimination, threats, coercion, or intimidation based upon an individual's race, color, religious views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status in any form, sexual orientation, disability, source of income, or military or veteran status.
- 3) Such concerns may implicate the provisions of state and federal laws including but not limited to G.L. c. 151B (the Massachusetts Anti-Discrimination Law), 42 U.S.C. § 3601, et. seq. (the Federal Fair Housing Act), the Americans with Disabilities Act, and other relevant state and federal anti-discrimination laws. As such, the Commission may, after review and as appropriate, refer any such complaints to an appropriate authority having jurisdiction, including but not limited to local, state, or federal law enforcement agencies, social services agencies, the Massachusetts Commission against Discrimination, or the City's Human Resources Department. Whether or not the Commission makes such a

referral, the complainant retains the right to seek any and all remedies available to them in law and in equity, and the failure of the Commission to make such a recommendation in no way reflects a determination by the Commission that such remedies are unavailable or inappropriate.

4) IMPORTANT INFORMATION FOR COMPLAINANTS:

- i. The Commission cannot as a matter of law guarantee the confidentiality of any concerns, complaints or questions brought to its attention, as all records received by the Commission, and all meetings of the Commission, are subject to the requirements of the Public Records and Open Meeting Laws.
- ii. In the event a complaint is made to or filed with the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint.
- iii. The Commission reserves the right to refer a concern, complaint, or question concerning a potential crime, after notice to the person bringing the same to the attention of the Commission, if possible, to appropriate local, state or federal law enforcement authorities.

B. Directions for Filing a Complaint

- 1) Submissions By Mail, E-Mail, Telephone or In Person. Any person or class of persons with a concern, complaint or question concerning an act or event perceived to be a human rights violation may submit the same to the Commission by mail, e-mail, or telephone; in person at a meeting; or by making an appointment to meet with a Commissioner and/or the City staff liaison. Generally, submissions shall be made within one year of the relevant act or event; however, the Commission may accept submissions outside of that timeframe should circumstances so require. Contact information is as follows, and confirmation of a written complaint will be provided as soon as possible but within seven days:

In Person or By Mail: Human Rights Commission, Watertown City Hall, 149 Main Street, Watertown, MA 02472

By E-mail: Doug Newton at dnewton@watertown-ma.gov

By Telephone:

- 2) Substance of Written Complaints. While anonymous concerns, complaints, and questions will be accepted, written complaints may state the name and address of the person making the complaint and must include a concise description of the events or acts believed to constitute a violation of human rights. When appropriate, the complaint may indicate the person, institution, or company believed to be responsible for the violation.
- 3) All Remedies Available to Commission and Complainant. Neither the filing of a complaint with the Commission, nor the failure to file a complaint, shall bar a complainant from seeking assistance from or relief in any other administrative or judicial forum. Similarly, neither the filing of a complaint nor the failure to file a complaint in any other

administrative or judicial forum bar a complainant from seeking assistance from the Commission.

- 4) Confidentiality. In the event of a complaint made to the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint.
- 5) City Employees. If the concern, complaint, or question involves a City employee, the Chairperson shall refer the matter to the City's Human Resources Director for appropriate action. If the alleged violation involves the City Manager or a City Councilor, the Human Resources Director shall consult with the City Council President on next steps. In both cases, consideration may be given to hiring an outside investigator, if necessary.
- 6) Review/Designation of Complaint Review. If the concern, complaint, or question involves any other person, the Chairperson may elect to review the same themselves or designate one or more Commissioners to conduct a Complaint Review. If two or more Commissioners are assigned to review the complaint together, they shall constitute a subcommittee subject to the requirements of the Open Meeting Law, and all meetings shall be held in open session unless one of the executive session purposes in G.L. c. 30A, §21 is applicable.

Pursuant to G.L. c. 30A, §21(a)(1), public bodies may meet in executive session to, "discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual." Under such circumstances, the individual to be discussed must be provided with written notice at least 48 hours in advance of the session, and that person must be afforded the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
 - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
 - iii. to speak on his own behalf; and
 - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.
- 7) Complaint Review Resolution –
- i. Evidence Suggesting Further Action May be Warranted. If the Complaint Review finds evidence suggesting a further inquiry is appropriate as to whether the act or event at issue constitutes a human rights violation, the Commissioner(s) reviewing the complaint may request an informal, purely voluntary meeting with the complainant to learn more about the facts or to request additional information. Regardless of whether such a meeting is held, however, the Commissioner(s) reviewing the complaint shall notify the complainant of their initial impressions and work with the complainant to provide information and resources about possible

- administrative and judicial avenues to pursue and address the complaint, and, further, to identify, and/or refer the complainant to support from state agencies, nonprofits, or other professionals that may be available resources.
- ii. Complaint Review Resolution – No Evidence Suggesting Further Action May be Warranted. If the Complaint Review suggests that insufficient evidence exists to warrant further inquiry into the matter, the Commissioner(s) conducting the complaint review shall notify the complainant, provide information and resources about possible administrative and judicial avenues to pursue the complaint, and provide such additional information as may be appropriate to support the complainant.
 - iii. The Commissioner or Commissioners charged with conducting the Complaint Review shall prepare a report, protecting the names and identifying details of the complainant and any person(s) named in the complaint, summarizing the nature of the complaint, the Complaint Review result, and the information and resources provided.
- 8) As part of the Commission's Annual Action Plan, the Commission shall aggregate the information and resources provided during that year to complainants so as to make the same information available to all persons without the need for them to first file a complaint.
- 9) Nothing set forth herein shall alter or limit the authority of any other municipal employee, officer, board, commission, authority or agent pursuant to any federal or state statute or regulation or City ordinance.

C. Applicability

- 1) These procedures shall be construed liberally for the accomplishment of the purposes of the Commission's Rules and the Ordinance creating the Commission.
- 2) The Human Rights Commission may periodically vote to amend these procedures as warranted necessary for the efficiency and effectiveness of its mission.

OPEN MEETING, PUBLIC RECORDS & CONFLICT OF INTEREST LAWS OVERVIEW

CITY OF WATERTOWN
February 6, 2024

PRESENTED BY MARK R. REICH, ESQ.

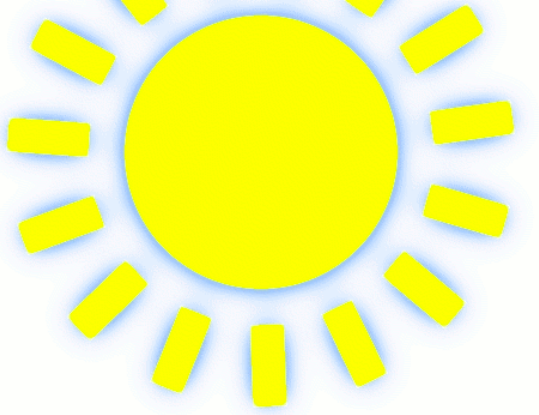


THE LEADER IN PUBLIC SECTOR LAW
ATTORNEYS AT LAW

© 2024 KP LAW, P.C. | ALL RIGHTS RESERVED.

Disclaimer

This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship between the presenter and the recipient. You are advised not to take, or to refrain from taking, any action based on this information without consulting legal counsel about the specific issue(s).



Sunshine Laws

Open Meeting Law

Public Records Law

Conflict of Interest Law

Open Meeting Law

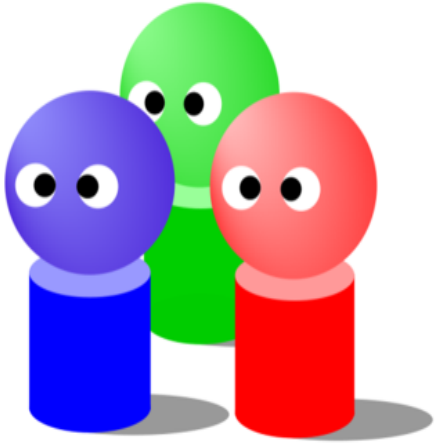
- ➔ **What types of meetings are subject to the law?**
- ➔ **What rules need to be followed to hold a meeting?**
- ➔ **What are common violations and why?**

OML Definitions



- **Meeting:** A **deliberation** amongst a **quorum** of a **public body** to discuss matters within the jurisdiction of the body
- **Deliberation:** “[A]n oral or written communication ***through any medium, including electronic mail,*** between or among a quorum of a public body on any public business within its jurisdiction...”
- **Quorum:** A majority of the full complement of members of a multiple-member body, except in limited circumstances
- **Public body:** A “multiple-member board, commission, committee or subcommittee...within any...city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose....”

Subcommittees



- ***Subcommittee*** – any multiple-member body created to advise or make recommendations to a public body:
 - Intent to create a subcommittee is not required or determinative;
 - Attorney General looks to three factors in determining if group constitutes subcommittee: is it “within government”, “empowered to act collectively”, and serving a “public purpose”.
- **Practical way to avoid violations:**
 - One person does not constitute a subcommittee
 - Conservative approach - when two or more members are tasked to accomplish something together, post meetings and comply with OML
- Committees created by sole officer who has authority to act independently are **not** subject to application of OML. Connelly v. School Committee of Hanover, 409 Mass 232 (1991)

OML – Legal Requirements



Law addresses 4 major issues:

1. Notice

- a) Timing - posting no less than 48 weekday hours prior
- b) Location - must be posted in location accessible 24-hours a day, including website, and meeting must be held in ADA accessible location
- c) Detailed subject matter items

2. Nature of Meeting

- a) Presumption for open session
- b) Certain reasons for closed session; subject to different procedures

3. Conduct of Meetings

- a) Difference between a meeting and a hearing
- b) Who gets to speak and when
- c) Remote and hybrid meetings

4. Minutes

- a) Content – detailed to allow someone who was not present to know what was discussed
- b) Timing – for open meetings, within three meetings or 30 days, whichever is later
- c) Approval - in accordance with above timeframe, either the body or a designee thereof
(executive session minutes – until purpose has been served)

Quick Summary - Meetings



- (1) Nearly all meetings must be posted not less than 48 weekday hours prior to the date of the meeting;
- (2) The meeting notice must list all of the topics to be discussed with specificity, including executive sessions.
- (3) Regardless of whether a meeting was posted correctly, a meeting occurs whenever a quorum of a public body discuss matters within its jurisdiction
- (4) The quorum can be reached simultaneously (an e-mail to everyone on the board) or serially (one person forwards the e-mail to the next who forwards it to the next)

Meetings - Statutory Exceptions

Provided no opinions of the governmental body are expressed, attendance or distribution amongst a quorum will **not** constitute a “meeting” or a “deliberation”:

1. Distribution to the public body by a member of:
 - A meeting agenda;
 - Scheduling or procedural information;
 - Reports or documents that may be discussed at an upcoming meeting, so long as the material does not express the ideas, feelings, beliefs, opinions of a member of the body.
2. Attendance at an on-site inspection
3. Attendance at a public or private gathering or social event
4. Attendance at a posted meeting of another public body, communicating only by open participation on matters there under discussion and not privately among themselves

Tips to Stay Out of Trouble!!

- If attending a meeting of another body or a social event, avoid creating the appearance that a body is discussing municipal business;
- If attending a site visit or meeting of another body, post follow-up meeting of board or committee if members anticipate that they may want to discuss matters amongst themselves or respond to matters raised;
- If a member wishes to speak at a posted meeting of another public body, the member should be clear that the member is not representing their public body, but instead speaking as an individual; **OR**
- Post “joint” meeting to be held at same time and place



Deliberation – E-mail



E-mail explicitly addressed in the OML – Often reason for violation

- A quorum may not use e-mail to share ideas, feelings, opinions, beliefs, concerns, whether serially or in a single e-mail, regarding board business, and may not use a non-member to avoid law

Practical approaches to avoid violations:

- ✓ Beware of “**reply to all**” on e-mails
- ✓ Limit use of **e-mail to scheduling purposes**, and try to avoid using e-mail to undertake City business
- ✓ Assume that e-mail may be forwarded to unintended recipients, and therefore limit content to business matters; be prepared to read e-mail in local newspaper or blog
- ✓ Don't ask for or express opinions, ideas, feelings, beliefs or impressions in an e-mail to other members



Deliberation – Social Media



■ Social media also subject to the OML

Alternative electronic communications have become more prevalent, including blogging, instant messaging, texting, social networking such as Facebook, Snapchat, and Twitter

Practical approaches to avoid violations:

- ✓ Do not direct comments to other members of body
- ✓ If matter directly involves issue pending before body, consider not engaging (particularly if more than one member has already commented)
- ✓ Be thoughtful about manner in which comments are made
- ✓ Consider using separate accounts for campaign purposes and following election
- ✓ Remember that applicants have due process rights; if the board member is involved in a matter adjudicating the rights of others, only discuss matter at the hearing – due process issue



Before the Meeting - Notice/Agenda

The meeting notice (aka “agenda”) must be posted at least **48 hours** prior to the meeting, not counting Saturday, Sunday, or legal holidays.

The notice must include “the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.” G.L. c. 30A, § 20(b). The list of topics shall have “sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.” 940 CMR 29.03(I)(b).

- Per the Attorney General’s Office, a topic will generally be considered to include sufficient specificity when a reasonable member of the public could read the topic and understand the anticipated nature of the public body’s discussion.
- The sufficiency of the meeting notice will be judged both on its face, and in context of what was actually discussed.

Before the Meeting - Notice/Agenda

The City Clerk's office is responsible for posting – therefore, meeting notices should be forwarded to the office during regular business hours (remember, the meeting notice must be posted at least 48 weekday hours prior to the meeting)

The notice must include “the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.” G.L. c.30A, § 20(b). The list of topics shall have “sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.” 940 CMR 29.03(l)(b).

- Per the Attorney General's Office, a topic will generally be considered to include sufficient specificity when a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion.
- The sufficiency of the meeting notice will be judged both on its face, and in context of what was actually discussed.

Conducting the Meeting

- The Open Meeting Law does not mandate that any particular person be allowed to speak at a meeting
- The Open Meeting Law does not require that the public body allow any kind of public participation
- Instead, the Open Meeting Law provides that the Chair has sole discretion as to who may speak, and for how long

Allowing the public to speak during a meeting, or restricting such speech based upon issues other than time, place and manner, has serious first amendment implications.

Conducting the Meeting – Public Participation

Whether to allow public participation remains a policy decision with several implications, for example:

- When will the public participation period occur?
- How long will the period be?
- How long will each person be permitted to speak?
- Whether people will be permitted to speak more than once?

Conducting the Meeting – Policy Issues for Public Speak Periods

Any rules about public participation must relate to the process for such participation, and may not relate to speech protected by the First Amendment. Any restrictions on speech, including as to time, must be specific and narrowly tailored to the public body's interest.

Items to consider:

- Avoid debate

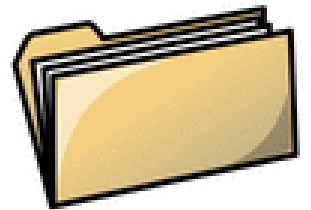
- Avoid responding to a comment before the board has had the opportunity to discuss it OR when the matter is controversial

- Leave matters raised during public speak “unresolved”

- Not engaging and instead placing the item on an upcoming agenda for which formal notice of the item appears

Meeting Minutes - Content

- Date, time, place of meeting, and members present and absent;
- **Detailed** summary of discussion of each topic sufficient to allow a person not present at the meeting to understand the substance of what occurred at that meeting;
- Decisions made, actions taken, and votes recorded (no secret ballots permitted); and
- List of documents and other exhibits **used** by the body at the meeting, which will be “part of record” but not of minutes;
 1. Document is physically present at meeting; and
 2. Document is verbally identified; and
 3. Content of document is discussed by members (OML 2012-42).



Minutes - Approval



Open session minutes must be created and approved in a timely manner.

- Attorney General regulations provide that approval must occur generally within the **next 3 meetings** or within 30 days, whichever is later.
- Minutes of open meetings are public records as of moment of their creation, regardless of whether they have been approved.
- Upon request, minutes must be made available within 10 **calendar days**.

Executive Session Minutes



- May be withheld until purpose of exemption has been met, **unless otherwise protected under the Public Records Law;**
- Chair of public body directed to review executive session minutes periodically and bring to the body for its approval minutes for which the purpose of the executive session has expired;
- Can approve in executive session, either under purpose for which session was originally held, or, if more than one purpose, under Exemption 7, referencing law that allows the meeting to proceed in executive session.
- Must provide a response to a request for executive session minutes within 10 calendar days.

Posting - Practical Considerations

A meeting may not be continued from one night to the next unless the following meeting is properly posted per the OML

The notice required under the OML *does not substitute for or otherwise supersede* notice requirements under other applicable laws.

More on Agendas...

- Location of Posting – must be filed with City Clerk and posted in a manner conspicuously visible to the public at all hours in, on or near City Hall (and accessible at Clerk's office during normal business hours).
- No acronyms
- No abbreviations
- Must indicate time/date of posting.
- If revised, must state both the date and time of the original posting and the date and time of the revised posting.

What can we talk about???

- **Matters not reasonably anticipated** by Chair **MUST** be added to agenda after posting deadline to extent feasible; if responsibility for the agenda is delegated to staff, then this may be critiqued from the perspective of that staff person
 - ✓ Updated agenda must show time and date of update, as well as change to agenda
- **Matters not reasonably anticipated** by Chair (see above) **MAY** be discussed and acted upon
 - ✓ **AG recommends** that unless matter requires immediate action, should be put off to later meeting and included in posting



Notice – Placeholders Now a “No Go”

Regularly occurring items need more detail, so, unless included to notify the public that unanticipated issues may be discussed:

New Business
Old Business
DPW Superintendent Report

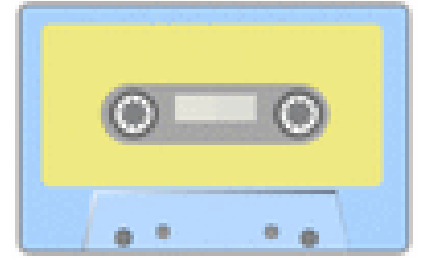


Notice – Emergencies

- Limited instances when a public body can meet without the requisite 48 hours advance notice/posting.
- **Poor planning does not equal an emergency!**
- Natural disasters and public safety issues do qualify as emergencies.
- **Practical Recommendations:**
 - Comply with the law to the extent possible;
 - Limit deliberations to emergency matter;
 - Take minutes of meeting, and review and include with minutes of next regularly scheduled meeting;
 - When posting an emergency meeting, consider posting a follow-up regular meeting as well, to allow body to ratify the action taken at emergency meeting.



Conducting Meetings - Recording



- Chair must make public statement regarding audio or video recording if attendee intends to record (basis – MA wiretap statute).
- Recording by individuals:
 - Must inform the Chair;
 - Chair must make required announcement;
 - Chair may reasonably regulate recordings (placement, operation of equipment)

Executive Session



Process:

- First convene in open session.
- Announce the purpose(s) of executive session **“stating all subjects that may be revealed without compromising the purpose for which the executive session was called.”**
- Take and record roll-call to go into executive session.
- Announce if open session will reconvene afterward.
- Maintain exhibits and documents used in reasonable proximity to minutes.
- Only discuss matters cited.
- Take all votes by roll-call.

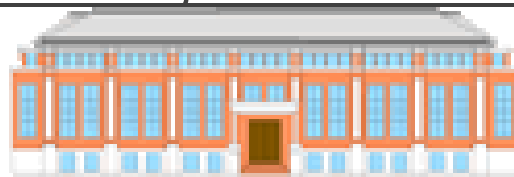
Executive Session – Purposes



1. Reputation, character, physical condition or mental health, rather than professional competence, **of an individual**, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. **(48 hours NOTICE to individual required)**
2. Conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. Strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body **and the chair so declares ...**
6. Consider purchase, exchange, lease or value of real property **if the chair declares** that an open meeting may have a detrimental effect on the negotiating position of the public body

Executive Session – Practical Issues

- If executive session is anticipated, it must be listed in appropriate detail on **meeting notice**, with such specificity as is possible without compromising purpose of the session.
- Related **vote to enter executive session** must also include all information possible without compromising purpose of session (i.e., name of non-union personnel or union must be identified in notice and vote if bargaining or negotiations will be conducted; case name to be discussed under litigation strategy must be listed, unless doing so would compromise City's position); **and declaration must be made, as needed.**



Enforcement

- **Attorney General requires Public Body to consider complaint at properly posted meeting:**
 - Matter must appear on meeting notice
 - Body must acknowledge receipt of complaint
 - Should deliberate concerning allegations possible resolution
 - Vote to resolve complaint
 - If appropriate, authorize response to be prepared and sent to Attorney General and Complainant
- **Cure:**
 - “Public deliberation (at a properly posted open meeting) effectively cured the private discussion which occurred over e-mail because it enabled the public to see the discussion that went into the creation of the policy. To cure a violation of

Enforcement

Complaint Process – Step 1

- 1. Written complaint filed with public body within 30 days of alleged violation;**
- 2. Public body must forward complaint to AG within 14 business days of receipt and inform AG of any remedial action taken; and**
- 3. Complaint may be filed with AG after 30 days from the date complaint was filed with public body.**

Attorney General Options – Step 2:

- Upon finding a violation, the AG has a range of enforcement options from compelling compliance with OML and/or attendance at a training session and/or creation or disclosure of minutes, nullifying action taken, imposition of \$1,000 fine for intentional violation. Public body may seek judicial review in Superior Court within 21 days of receipt (this would stay the AG's order, but the public body may not implement any action taken, pending appeal)
- AG may file action in Superior Court to require compliance.
- 3 registered voters may bring action in Superior Court.



Recent Notable Court Decisions

- Corey Spaulding v. Town of Natick School Committee, Middlesex Superior Court (November 2018) – public comment during public meetings. Committee improperly limited comments made by members of the public which were critical of the Committee in violation of free speech rights.
 - Where a multiple member body allows “public comment,” or “open forum,” its public comment policies and practices must ensure that any restrictions on such discussions, including as to time, are specific and narrowly tailored to the public body’s interest.
- Town of Swansea v. Maura Healey, Suffolk Superior Court (October 2018)—sufficiency of meeting notices. Division applied subjective criteria, such as available bulletin board space, to determine whether a meeting notice was sufficiently detailed.
- Boelter v. Board of Selectmen of Wayland, 479 Mass. 233 (2018)—employee evaluation process by public bodies. Circulation of employee evaluations containing opinions of Board members as to employee’s performance between a quorum of the Board violated the Open Meeting Law.
 - Updated guidance from the DOG on performance evaluations to track the Boelter decision.

Current State of the Open Meeting Law

How long will this last?

- Legislative pandemic era changes are in place until March 31, 2025.

What is authorized?

- Instead of holding meetings in a public place, a public body **may** provide “adequate alternative means” of public access.
- Public body members **may** participate in meetings remotely.

Must meetings be held remotely?

- No - these changes are optional; meetings may still (or again start to be) conducted in person.

Adequate Alternative Access

What does this mean?

- the meeting from being accessible in real time (e.g., the live stream crashes), the meeting should be A public body must provide real time access (lag of ~20 seconds is acceptable).
- If a technical problem prevents access, pausing or rescheduling may be necessary, depending on the severity of the technical issue.
- Continuing a meeting and subsequently posting a recording, even immediately afterwards, does not cure the violation. The public must be able to access the meeting as it happens. See OML 2021-166; OML 2021-17.
- Zoom is the typical “adequate alternative means” but it is not required; any method that allows the public to follow in real time is acceptable.

Additional Considerations if Remote

- If the meeting will be recorded, the Chair must make a public statement regarding the recording, allowing compliance with the MA wiretap statute.
- All votes must be taken by roll call (just as required in executive session).
- Remote members must introduce themselves (or be introduced) at start of meeting.
- Cameras should be on (not required if a device does not have camera).
- When holding an executive session remotely, each member participating remotely must state that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

Hybrid Meetings

- A public body may meet in person but require members of the public to watch a livestream. See OML 2020-100.
- Direct participants on agenda matters may still attend in person, even if the general public must attend remotely. See OML 2020-159.
- A member may attend remotely even if other members attend in person
- REMEMBER, if live access stops, the meeting must stop.
 - Be careful not to deliberate while troubleshooting occurs.
 - The public body may resume the meeting once the technical problem is resolved and members of the public are again able to view the meeting in real time.
- The public must be able to hear and follow the meeting from their remote location.

In Person Meetings

Meetings may be held in person.

- If a meeting is in-person and open to the public, it does not need to be accessible via Zoom or other “adequate alternative means.”

If a meeting is open to the public, there must be sufficient room for all of the public to attend (e.g., no capacity restrictions due to COVID). See OML 2021-43.

The AG’s Office has issued guidance stating that meetings may be held in locations that require masks.

Public Records Law

- ➔ **What is a public record?**
- ➔ **When do records have to be disclosed?**
- ➔ **When can I destroy records?**

What is a Public Record?

[A]ll books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee...



Public Records Requests

Request may be made in person, or in writing, whether by mail, request form at “counter”, or by e-mail or fax

Records Access Officer (“RAO”) must respond within ten **business** days – **not calendar days** (Saturdays, Sundays and legal holidays do not count; days City Hall is closed DO count, however)

If the response does not provide all requested records, detailed written response is required

Must list specific exemptions and provide detailed explanation of application of exemption to requested record

Public Records Requests - Response



Have 10 **BUSINESS** days to respond

Work with the Records Access Officer (RAO)

- Duties include assisting requesters, records custodians, preparing guidelines to enable requesters to make “informed” requests, including a listing of categories of records

If full response, including provision of records, cannot be made within 10 business days, RAO must respond to the requester in writing

A full list of required elements for response appear on next page, and requires:

- Confirming receipt
 - Identifying correct custodian/RAO if not correct
 - Outlining what will be withheld, if known, and reason why
 - Explaining reason for inability to provide the same within the timeframe
 - When a response is expected

Public Records Requests - Required Elements of Response

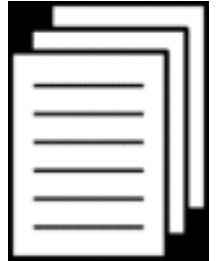


1. Confirm receipt and date of request;
2. Identify requested records or categories of records not within possession or custody of RAO; identify agency, municipality, RAO or custodian with custody, if known;
3. Identify records that RAO intends to withhold and/or redact, **detailing with specificity** reasons therefor and asserting applicable exemptions;
4. Identify records produced or intended to be produced and, if necessary, a detailed statement describing why response time in excess of 10 business days is required;
5. Identify anticipated timeframe for production – **cannot exceed 25 business days after receipt of request without extension** – and provide detailed explanation of how request unduly burdens other responsibilities, including, magnitude or difficulty of request, size of office, office hours;
5. Identify anticipated timeframe for production – **cannot exceed 25 business days after receipt of request without extension** – and provide detailed explanation of how request unduly burdens other responsibilities, including, magnitude or difficulty of request, size of office, office hours;
6. If more than 25 days response time is anticipated, notify requester of possible/actual petition to Supervisor for extension of time and include request for requester's voluntary assent to additional time;
7. Suggest a modification of request if appropriate to reduce estimated response time and cost;
8. Itemized good faith estimate of fees, if fees will be charged; if municipality has 20,000 residents or less, population data to justify charging fees for all time incurred; and
9. Statement informing requester of the right of administrative appeal to the Supervisor of Records under 950 CMR 32.08(1), and the right to seek judicial review of any unfavorable decision by commencing a civil action in the superior court pursuant to G.L. c.66, §10A(c).

Timing for Responses

Records or initial response within **10 business days**

If initial written response provided, additional **15 business days** to provide the records, for a total of **25 business days** from receipt of original request to provide full response



RAO may, within **20 business days** of receipt of request, petition the Supervisor of Records for additional time, **not to exceed an additional 30 business days** “for good cause shown”

Requestor can grant additional time, and such grant should be confirmed in writing

If request is in writing, request is deemed received on the first business day following receipt; oral request is deemed received on the day it was made

Fees

Copies \$.05/page for black and white, two sided

Otherwise, actual cost (of storage device, postage, oversize plan copying etc.)

Not eligible for “small town exception” (less than 20,000 people) – first two hours of search time must be provided at no cost

Rate capped at \$25.00 per hour (petition process available)

Segregation must be “authorized” by law

The provisions of 950 CMR 32.06 provide. “a records access officer may delay provision of records until all fees related to such requests are paid in full . . . in accordance with 950 CMR 32.07.”

Commonly Used Exemptions



Exemption (a) allows withholding of records that are “specifically or by necessary implication exempted from disclosure by statute.”

Examples include:

- CORI (e.g., 803 CMR 2.23; 803 CMR 5.14)
- Domestic Violence Reports (G.L. c. 41, §97D)
- Student Records (e.g., 603 CMR 23.07)
- MCAD documents (aside from the initial complaint and investigative determination) (804 CMR 1.04)
- Abatement Applications (G.L. c. 59, §60)

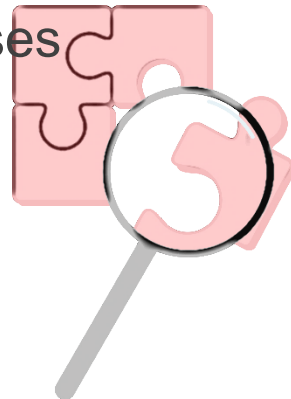
Exemption (c) – Personnel or medical records OR records where privacy rights of record subject outweigh public’s “right to know”

Exemption (d) – Deliberative process documents, including those between governments on matters for which policy positions are being developed, including legal advice

Commonly Used Exemptions

Exemption (e) – Personal notes not properly part of the “file” and that have not been shared

Exemption (f) – Records of ongoing investigations until disclosure will not affect investigation AND records reflecting the names and identifying details of voluntary complainants and witnesses



Exemption (n) – Infrastructure exemption for withholding of records that the custodian reasonably believes is “likely to jeopardize public safety”, including **cyber security**

Exemption (o) – Personal **e-mail**, home address and home telephone number of a public employee in public entity’s records where persons are characterized as such



Appeals



Forum Options

To Supervisor of Public Records (decision must issue in **10 days**);

If dissatisfied with Supervisor decision, requester may appeal decision to Superior Court

Attorney General may enforce orders of Supervisor, seek to intervene in a pending suit or bring her own suit in Superior Court; and/or

Requester may appeal directly to Superior Court;

Risks

In court, presumption for award of attorneys fees if plaintiff is successful even in part, including if once suit is filed municipality provides requested records;

In court, if plaintiff is successful, public records fees will also be waived unless municipality is able to demonstrate action consistent with previously existing precedent or with prior decisions of Supervisor of Public Records; court has discretion to waive fees even if plaintiff is unsuccessful

Electronic Records Preference

Posting of certain records required, if “feasible”, and posting should be monitored by RAO to ensure posting is timely:

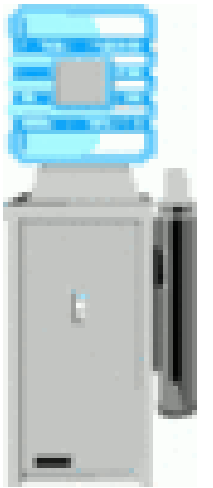


- final opinions, decisions, orders, or votes from proceedings;
- annual reports;
- notices of regulations proposed “under chapter 30A”;
- notices of hearings;
- winning bids for public contracts;
- awards of federal, state and municipal government grants;
- minutes of open meetings;
- budgets; and

- any public record information of significant interest that is deemed appropriate to post

Creating Records – Best Practices

- Use City e-mail account for City business;
- Deliver any records created outside of City Hall or off of City servers to City Hall;
- Ensure that when you hit “send” on an e-mail, you are comfortable with that e-mail being forwarded, printed, posted and tweeted;
- Use “formal tone” when conducting City business in writing (and otherwise);
- Avoid asking for or providing personal information in City e-mails, including unpublished telephone numbers, medical information, social security numbers, financial account numbers, and the like;
- Consider whether formal record is required (as one Town Manager put it, “Phones still work”)



Conflict of Interest Law

- ➔ **Who is a municipal employee?**
- ➔ **When am I prohibited from acting because of a financial interest?**
- ➔ **When do I have to file a disclosure?**



Red Flag Rule

Conflict of Interest Law is complex and complicated;

- The law does not provide for “disclosures” after the fact
- The best way to protect yourself is to completely avoid acting on anything that makes you feel “uncomfortable”, whether because of your relationship with the applicant or someone close to them, or because you or those close to you might have a financial interest in the matter
- The other option, if you or someone close to you does not have a financial interest in the matter, is to make a disclosure (if elected, with the clerk or make a statement on the record at a meeting; if appointed, with the appointing authority)
- Remember that abstention is not the same as recusal – if you do not want to participate, you must get up and leave the table

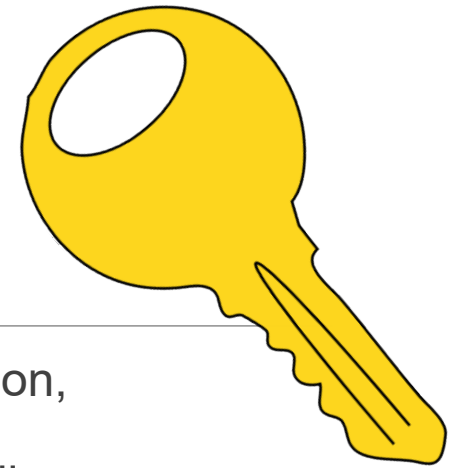


COI for “Municipal Employees”

General Laws c.268A – Conflict of Interest Law

- 17 - Agency – a municipal employee may not act as agent for any entity other than the municipality, except under very limited circumstances
- 19 - Financial Interests – a municipal employee may not participate in a matter in which they, a business in which they are an owner, director or employee, or an immediate family member has a financial interest
- 20 – Multiple Positions/Contracts – a municipal employee may not have a second paid position with the City, or a contract with the City, except under limited circumstances
- 23 - Code of Conduct – a municipal employee may not participate in a matter in which it appears they might act for reasons other than the City’s best interests

Chapter 268A, §1 – Key Definitions



“Municipal Employee” ... a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis, but excluding members of a charter commission established under Article LXXXIX of the Amendments to the Constitution.

A **“Special Municipal Employee”** is a position that:

- has been designated by the City Council (but cannot include a member of the City Council);
- is unpaid, or part-time up to 800 hours per year; and
- is treated less stringently under certain sections of the COI law.

“Immediate family” – the municipal employee, the employee’s spouse, and each of the employee’s and spouse’s parents, children, brothers and sisters.

“Disclosure” – a writing stating relevant facts and, either submitted by a municipal employee to the employee’s appointing authority, or, if no appointing authority exists, in a manner that is public in nature, such as filing with the City Clerk.

"Code of Conduct" – General Standards

G.L. c.268A, §23 establishes a so-called “Code of Conduct” applicable to all municipal employees, regardless of whether they are compensated.



- G.L. c.268A, §23(b)(2) – a municipal employee may not solicit or receive anything of substantial value (\$50) for or because of their position or use or attempt to their office to obtain for any unwarranted privilege of substantial value “not properly available to similarly situated individuals”.
- G.L. c.268A, §23(b)(3) – a municipal employee may not “act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances,” to conclude that the employee are acting with bias, favoritism or otherwise for personal reasons. **MUNICIPAL EMPLOYEES CAN REFUTE SUCH A CONCLUSION BY FILING A DISCLOSURE WITH THEIR APPOINTING AUTHORITY OR, IF ELECTED, WITH THE CITY CLERK, PRIOR TO TAKING ACTION ON THE MATTER.**

Restrictions on Gifts



G.L. c.268A, §3: May not accept gift of “substantial value” [\$50 or more], if given “for or because of” any official act performed or to be performed under your official responsibility.



Regulations: 930 CMR 5.00. Some gifts are exempt from G.L. c.268A, §3; some require written disclosure; others are prohibited.

Exempted gifts: If entirely unrelated to employee official or any official action, e.g. birthday present, city employee phone discount plan, raffle prize, etc.



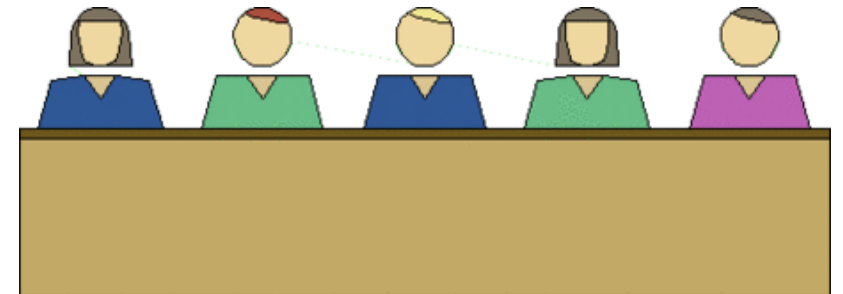
Certain Gifts - Allowed if Disclosed

Written disclosure required if related to office or action, and less than \$50.

Disclosure also necessary to avoid appearance of impropriety (see earlier slide concerning code of conduct issues).

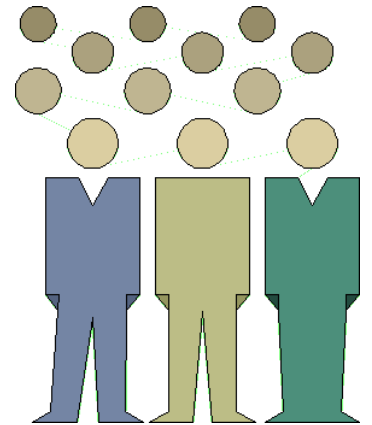
File disclosure with appointing authority or, if none, City Clerk.

- Exemptions: Several specific exceptions; for example, travel expenses if for legitimate, job-related public purpose. Training events/conferences = OK, for legitimate public purpose.
- Includes “incidental hospitality” [cost of admission, refreshments]. 930 CMR 5.08



Receiving Money from or Acting as Agent for Private Party

- G.L. c.268A, §17: May not (a) receive compensation from anyone other than the City, or (b) act as “agent or attorney” for anyone other than the City, with regard to any particular matter in which the City is a party or has a “direct and substantial” interest.
 - Purpose is to avoid appearance of, or actual, divided allegiance;
 - Note: Special municipal employees are prohibited only from acting as agent before **their own** board or office.



Acting as "Agent"

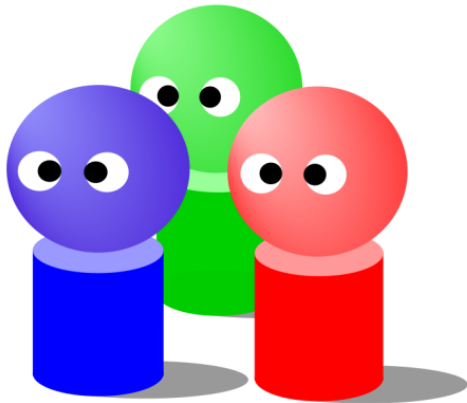
- Definition: A person who represents another person or organization in dealings with a third party, i.e., almost any instance where a municipal employee is acting on behalf of someone else by:
 - contacting or communicating with a City office
 - acting as a liaison with private party
 - providing documents to a City office; or
 - serving as spokesperson before a City authority



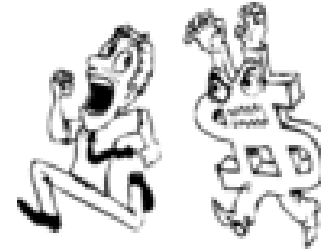
Acting as “Agent” - Exemption

You may always advocate for yourself before any City board, department or officer.

Doing so is not “acting as an agent.”



Financial Interests



- G.L. c.268A, 19: A municipal employee may not participate in their official capacity in any particular matter in which they, their “immediate family member” or their private business or employer has a financial interest - regardless of the size of financial interest.
- G.L. c.268A, §(b)(1) Exemption – **available for appointed officials only** – may disclose apparent conflict **prior to participating** and seek written approval from appointing authority; approval is not automatic and appointing authority must conclude that conflict will not interfere with service being provided to municipality.
- Financial interest is **any** amount, large or small, positive or negative that is direct or reasonably foreseeable
- Includes abutters to abutters within 300 feet, property diagonal from or directly across the street, or matter that would otherwise affect value of property



Financial Interests – Contracts and Multiple Positions

- G.L. c.268A, §20: A municipal employee may not have a financial interest in a contract with the City
- A “contract” includes a second office, if paid, unless employee qualifies for one of the G.L. c.268A, §20 exemptions.
- Many exemptions exist, all fact specific – special municipal employees, part-time or call firefighter/public safety officer, housing subsidy programs, etc.
- In accordance with applicable regulations, a person who has a contract with the City (i.e., who is employed by the City) may add any number of unpaid positions to a paid position without violating the law



Financial Interests – Contracts and Multiple Positions

- G.L. c.268A, §20(b): for a “regular” municipal employee to hold another paid position with the City, an exemption is available only if:
 - Contract is with different department;
 - Contract is made after public notice [newspaper at a minimum];
 - Employee files written disclosure with City Clerk; and, if
 - Contract for “personal services”, such as a second City position, must be outside normal hours of primary position, no more than 500 hours/yr., head of agency files certification, and Board of Selectmen

votes to approve

Any questions?

Mark R. Reich, Esq.

KP Law, P.C.

101 Arch Street, 12th Floor

Boston, MA 02110

(617) 556-0007

mreich@k-plaw.com

www.k-plaw.com



THE LEADER IN PUBLIC SECTOR LAW
ATTORNEYS AT LAW

© 2024 KP LAW, P.C. | ALL RIGHTS RESERVED.

RACE AND SOURCE OF INCOME HOUSING DISCRIMINATION IN THE WESTMETRO HOME
CONSORTIUM RENTAL MARKET

Author:

Paige A. Stopperich, Esq., Clinical Fellow, Suffolk University Law School

February 2025



ACKNOWLEDGEMENTS

The author would like to thank the individuals who served as fair housing testers throughout this project. This project would not have been possible without their dedication. This project would also not have been possible without the financial support of the WestMetro HOME Consortium, as well as the HOME Investment Partnership. Thank you to the City of Newton for their endless support and collaboration. Finally, thank you to Dean Andrew Perlman and Associate Dean for Experiential Learning and Clinical Director Sarah Boonin, Bill Berman, Jamie Langowski, Ashley Grant, Kelly Vieira, Stacy Daniel, and Suffolk University Law School for their continued guidance and support throughout this project.

Table of Contents

EXECUTIVE SUMMARY	4
Introduction.....	4
Purpose.....	4
INTRODUCTION	5
History of Housing Discrimination and Federal Laws Relating to Fair Housing.....	5
Commonwealth of Massachusetts Antidiscrimination Laws	5
Housing Discrimination Testing Program Overview.....	6
CONSORTIUM TESTING MARCH 2023 – JANUARY 2025	7
Methodology.....	7
Results and Outcomes.....	8
Tester Anecdotes.....	10
RECOMMENDATIONS.....	12
Best Practices for Fair Housing Enforcement.....	12
Best Practices for Expanding Community Education and Outreach.....	14
Best Practices for Local Ordinances to Address Housing Discrimination and Inequity.....	16
CONCLUSION.....	27
REFERENCES	28

EXECUTIVE SUMMARY

Introduction

Access to fair and equal housing is fundamental to one's safety, stability, and overall well-being. Housing impacts every facet of one's life including access to education, healthcare, and economic opportunities. Every person deserves to have the same access to housing and should have the freedom to choose where they want to live. Despite legal protections, housing discrimination based on race and source of income remains a barrier to housing choice.

Purpose

This project aims to address barriers to fair housing within the 13 Consortium communities, including Bedford, Belmont, Brookline, Concord, Framingham, Lexington, Natick, Needham, Newton, Sudbury, Waltham, Watertown, and Wayland, by conducting housing discrimination tests to reveal instances of discrimination and by identifying actionable and measurable solutions that will decrease discrimination. The *2020 WestMetro HOME Consortium Analysis of Impediments of Fair Housing* identified and committed to fair housing testing as one way to investigate and address discriminatory practices. Specifically, this project investigates levels of discrimination within the communities against renters based on their race or source of income. The goal of this project is to affirmatively further fair housing in these communities and to promote fair housing practices and policies.

INTRODUCTION

History of Housing Discrimination and Federal Laws Relating to Fair Housing

“Discrimination in the housing industry based on race and color has existed since America was born, and for centuries, it was legally protected and enforced.”¹ In the early 1600s, as colonial settlements and slavery began to take shape in America, so did housing discrimination.² Enslaved persons were often viewed by white settlers as inferior and thus underserving of rights to own land or property.³ During this time, property ownership was reserved almost exclusively for white males.⁴ Even after the Civil War, it remained difficult for Black Americans and people of color to purchase land and own homes. Following Emancipation, slave holding states enacted policies prohibiting Black land acquisitions.⁵ In other states, legally enforced residential segregation forced people of color to live in designated, and often less desirable, areas, thus preventing them from accessing housing and wealth-building opportunities.⁶

During the early 20th Century, a new wave of housing discrimination policies were introduced when the Supreme Court handed down decisions on two cases that upheld restrictive covenants and exclusionary zoning.⁷ “Exclusionary zoning” describes the use of zoning ordinances and building code requirements as a tool to exclude certain types of land uses within a community.⁸ Similarly, “restrictive covenants are provisions in a deed, mortgage, or other fair housing document that regulate the ownership or use of a property.”⁹ Restrictive covenants became increasingly popular as a way to maintain white neighborhoods.¹⁰ Shortly after, in 1934, the Fair Housing Administration was established and soon began to further segregation within the United States.¹¹ Using a policy called “redlining,” the Fair Housing Administration refused to insure mortgages in and around African American neighborhoods while simultaneously insuring mortgages with the requirement that homes be located in white-only neighborhoods.¹² These acts “contribut[ed] to urban decay and the growth of White suburban neighborhoods, while discriminating against Black/African American and other non-White communities.”¹³ From that point up until 1962, Black households in America received only 2% of government-backed mortgages and gained none of the equity appreciation white households did.¹⁴

The Fair Housing Act of 1968 (FHA) was enacted on April 11, 1968,¹⁵ one week after Dr. Martin Luther King Jr.’s assassination. The FHA prohibits discrimination based on a number of protected classes.¹⁶ Dr. King’s advocacy was closely associated with fair housing and President Lyndon Johnson urged for the Acts passing as a tribute to Dr. King’s legacy.¹⁷

The Fair Housing Act “prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks or other lending institutions and homeowner’s insurance companies whose discriminatory practices make housing unavailable to persons because of...” their membership of a protected class.¹⁸ A protected class is a category of people who benefit from protection under anti-discrimination laws.¹⁹ The protected classes specified under the Fair Housing Act include race and color, religion, sex, national origin, familial status, and disability.²⁰

Commonwealth of Massachusetts Antidiscrimination Laws

The Massachusetts Antidiscrimination statute enumerates additional protected classes to those contained in the FHA. The Massachusetts Antidiscrimination law, also known as Chapter 151B § 4 (“Chapter

151B”), adds protections based on gender identity, sexual orientation, genetic information, ancestry, age, marital status, and military status.²¹ In addition to the protected classes covered by the FHA, the Massachusetts Antidiscrimination law also protects against discrimination based on receipt of public assistance, also referred to as source of income. This means the Massachusetts Antidiscrimination law protects individuals against discrimination because they receive a Section 8/Housing Choice voucher, SSI or SSDI, Residential Assistance for Families in Transition (RAFT), or Medicare assistance, among other types of public assistance.

Chapter 151B prohibits landlords, real estate agents, or property managers from:

- Refusing to rent to somebody because of their housing voucher,
- Refusing to negotiate with somebody because they have a housing voucher,
- Setting different terms, conditions, or privileges for an individual because they have a housing voucher,
- Refusing to comply with a requirement of the rental assistance program,
- Telling a voucher holder the unit is no longer available in order to avoid renting to them,
- Placing an advertisement for housing that says individuals with housing vouchers cannot apply, or
- Using qualification criteria or procedures that would exclude voucher holders.²²

Housing Discrimination Testing Program Overview

The Housing Discrimination Testing Program (HDTP) is part of the Suffolk University Law School’s (SULS) Center for Housing Justice and Policy, which is centered in SULS’s Clinical Programs. HDTP has over a decade of experience coordinating housing discrimination tests, conducting empirical studies measuring and identifying trends within housing discrimination, representing victims of housing discrimination and educating community members and partners on their rights and responsibility within the housing market.²³ HDTP has conducted over 1,000 housing discrimination tests, trained thousands on fair housing topics and recovered thousands of dollars for victims of discrimination.

Methodology

Housing discrimination testing is an investigative tool used by fair housing agencies to uncover illegal housing discrimination.²⁴ For this project, the HDTP recruited and instructed individual testers to contact roughly 130 different properties advertised as available for rent. The properties were primarily randomly selected within the Consortium communities. HDTP trained the testers who participated in this project on testing procedures, techniques, and fair housing laws. HDTP trained the testers to be objective and unbiased. The testers were not associated with the subjects tested and they had no economic interest in the outcome of these tests.

Outside of a small handful of tests that involved an individual tester, HDTP conducted “matched pair” testing in order to analyze a housing providers behavior. For the purposes of this project, the term housing provider refers to real estate agents, real estate companies, property managers, and property owners – whoever the person that a prospective renter would interact with then enquiring about a rental advertisement. This type of testing enables fair housing advocates and researchers “to evaluate the nature and the extent of housing discrimination by comparing data on the interactions of multiple individuals who are similarly situated but for the protected class status (i.e., race and voucher status) with the same housing provider.”²⁵

For example, a race-based test would typically consist of one white tester paired with a Black, Hispanic, or Asian tester. The test coordinator introduced race in these tests by assigning each tester a “racially identifiable” name as their alias.²⁶ Testers were instructed to provide their name at the very beginning of the test when they first contacted the housing provider. Due to the research-backed nature of the names used during testing, the test coordinator was confident that housing providers were aware of the testers’ race upon hearing their name.²⁷

For voucher-based tests, one tester was assigned a market rate profile, while the other tester was assigned a profile where they would pose as a housing voucher recipient. The tester assigned a voucher was instructed to introduce the fact they had a voucher as soon as possible when interacting with a housing provider. Most commonly, testers would ask the housing provider to confirm the price of the unit because they would be using a housing voucher. If the original unit was no longer available, the tester with the voucher was instructed to ask if the housing provider had anything similar in the area within their budget.

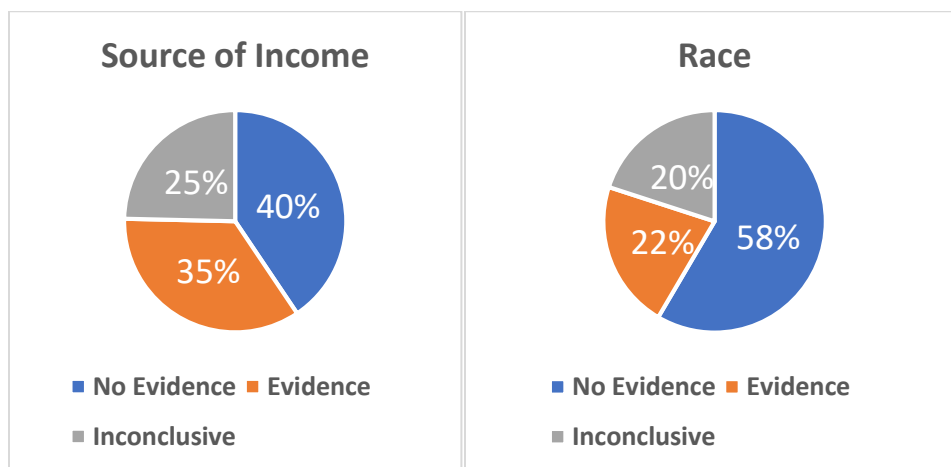
Results and Outcomes

HDTP completed 134 tests for this project. Testing is a valuable tool because of the insights gained into what people experience while searching for housing. It provides a way to compare treatment of housing seekers and reveals the behavior of housing providers toward those housing seekers. Matched paired testing, the testing methodology most frequently used throughout this project, involves using two people who are substantially similarly qualified to rent and who are otherwise very similar to one another (same sex, close in age, etc.), but for the variable being tested (here race or voucher status). Tests are determined to be inconclusive when differential treatment occurs but it is unclear if the treatment was because of the tester's protected class status.

The tables below provide a breakdown of this project's testing outcomes.

Test Outcomes:

Protected Class	Total Number of Tests	Evidence	No Evidence	Inconclusive
Race	65	14	38	13
Source of Income	69	24	28	17



Testing by Location:

	Total Number of Tests Conducted	Number of Source of Income Tests Finding Evidence of Discrimination	Number of Race Based Tests Finding Evidence of Discrimination
Bedford	10	1	1
Belmont	10	2	2
Brookline	10	1	3
Concord	10	1	1
Framingham	10	1	0
Lexington	11	2	0
Natick	11	3	0
Needham	11	1	1
Newton	10	1	1
Sudbury	9	2	1
Waltham	11	2	2
Watertown	10	3	2
Wayland	11	4	0

The fact that no tests conducted in a particular municipality resulted in a finding evidence of discrimination are not suggestive that town is free of discrimination. A randomized empirical study is required to produce generalizable data. These tests confirm the existence of both race and source of income discrimination in the consortium communities, but were not designed in a manner that would produce statistically significant data that can be applied to a broader context.

Type of Housing Provider Tested	How Many Tested (note: some agencies were tested multiple times)
Property Owner	4
Property Management Company	7
Apartment Complex	6
Real Estate Company with 1-20 Licensed Agents	36
Real Estate Company with 21-100 Licensed Agents	10
Real Estate Company with 101-1000 Licensed Agents	6
Real Estate Company with over 1000 Licensed Agents	6

Upon finding evidence of discrimination, HDTP evaluates and refers test evidence to enforcement agencies like the Attorney Generals Office, the Massachusetts Commission Against Discrimination, and the U.S. Department of Housing and Urban Development. These agencies then take action based on their available resources and priorities.

Over the course of this project, HDTP forwarded tests that showed evidence of a consistent pattern of discrimination to the MCAD. The first batch of test evidence that HDTP sent for enforcement was comprised of four tests, all of which found evidence of discrimination based on source of income. These instances of discrimination occurred in Brookline, Newton, Waltham, and Watertown and involved multiple licensed real estate agents at a real estate company which employs over 100 agents. The enforcement agency took swift action on this matter and sent written notice to the real estate company notifying it that the agency had concerns regarding their business practices and found its behavior to be

suspicious. The enforcement agency also put the real estate company on notice that they were being monitored for any future irregularities.

At the date of this report, the enforcement agency has also filed another enforcement action based on source of income test evidence that HDTP produced throughout this project. This matter involved a licensed real estate agent, at a real estate company with over 1,000 agents, and was comprised of five tests, all of which found evidence of discrimination. These instances of source of income discrimination occurred in, Natick, Waltham, and Wayland. The enforcement agency is also considering filing enforcement action against an additional real estate company based on source of income test evidence. This matter involved six tests, with four finding evidence of discrimination based on source of income and two finding inconclusive evidence based on source of income. These tests occurred in Belmont, Needham, Waltham, Watertown, and Wayland.

The remaining 53 tests, where evidence of discrimination was found or the results were inconclusive but enforcement action was not taken are now on a watchlist and are actively being monitored by HDTP for as long as possible pending available funding.

Tester Anecdotes

Below are examples of tests where discrimination was and was not found, as well as an example of a test that was deemed inconclusive.

Example 1, Discrimination Based on Source of Income – differences in treatment: The housing provider treated the Control tester and the Protected Class tester differently. The housing provider gave the Control tester a tour of the unit and a copy of the rental application. The housing provider also told the Control tester that the apartment was in a “great location” with lots of shops and restaurants and that the landlord was “really great” and “does not do rent increases.” To the contrary, when the Protected Class tester mentioned she had a voucher and asked if she could tour, the housing provider said she could not tour because the building’s apartments designated for “low income renters” were already full. The tester then explained that with her housing voucher she could afford a market rate apartment and asked if she could apply anyways. The housing provider again told her no she could not apply. When the tester asked why the housing provider did not provide an explanation and said “that is between the owner and City of [X].” The tester also mentioned that she felt the housing provider was quite impatient with her and “ready to terminate the call.” The municipality in this example is not being named because this matter is currently involved in active litigation.

Example 2, Discrimination Based on Source of Income – differences in treatment: The housing provider gave the Control tester a tour of the unit along with a group of other prospective renters. When the Protected Class tester mentioned she had a housing voucher and asked if she could tour, the housing provider told the tester the unit had never been inspected by a housing authority before. The housing provider continued on by saying that the housing authority would have to send over an inspector and the landlord has to comply with the suggested improvements. The housing provider mentioned that sometimes this is too much for the landlord to do. The housing provider also stated she has had a “bad experience” in the past with two different inspectors making different suggestions. The housing provider seemed to deter the tester with the housing voucher from touring and applying for the unit. The Control tester toured the unit, but the Protected Class tester did not.

Example 3, No Discrimination based on Source of Income: The housing provider treated both the Control Tester and the Protected Class tester similarly, even after the Protected Class tester mentioned the housing voucher. During the test, the housing provider gave both testers a tour of the unit, and provided literature on the unit as well as a copy of the rental application. In addition, when the Protected Class tester stated she had a housing voucher and asked if that was ok, the housing provider said “of course it is” and then said that if the tester talks to anybody who says it is not ok, that’s a problem. This type of fair and equal treatment is how all housing providers should treat prospective renters.

Example 4, Discrimination Based on Race – differences in treatment: The housing provider treated the Control tester (a white male) and the Protected Class tester (a Black male) differently by expressing concern only over the Protected Class tester’s ability to qualify for the apartment. When the Control tester asked the Housing Provider if he could tour the apartment, the Housing Provider asked if the Control tester could tell him a little more about himself and then the two set up a tour. The day after they went on a tour together, the Housing Provider also reached out to the Control tester, without being prompted, and offered to send him over the paperwork via email. When the Protected Class tester asked to tour the same apartment, the Housing Provider immediately asked what his income and credit score was. The Protected Class tester answered according to his assigned profile and the Housing Provider then asked if he could have a co-signer on standby. The Housing Provider also mentioned that the landlord would run a credit check and asked if the Protected Class tester had “anything you want me give me [sic] a heads up? So I can smooth it over for you?” The implication of this question seems to be an assumption that the Protected Class tester might have a credit issue he would need to warn the Housing Provider about. No assumptions related to credit or questions regarding income or the need for a cosigner were made towards the Control tester.

Example 5: Discrimination Based on Race – false information: In this test, the housing provider told the Protected Class tester (a Black female) that the apartment she asked about was already rented, but spent the following ten days communicating with the Control tester (a white female) about setting up a time to tour the apartment. During those ten days, the housing provider sent the Control tester a form to fill out with screening questions and offered to show the apartment to her multiple times, despite falsely telling the Protected Class tester the apartment was already rented.

Example 6, Inconclusive outcome based on Race: In this test, both the Control tester and the Protected Class tester were able to connect with the Housing Provider, introduce themselves, and ask about the availability of the apartment. The Housing Provider told both testers she would check to see if the unit was available, but was friendlier and more helpful in her response to the Control tester. Despite this, neither tester received a communication back from the Housing Provider regarding the unit’s availability. Both the Control tester and Protected Class tester reached out one more time, but did not receive any response. The test was deemed inconclusive is because it is not clear why the Housing Provider initially treated the Control tester with a higher level of customer service and then eventually ghosted both the Control and Protected Class testers.

This project also shed light on a hurdle that prospective renters, particularly renters with housing vouchers, often face. In some communities, especially those farther outside of Boston, there is a lack of available apartments that fall within the pre-set voucher payment standards. As a result, this lack of inventory makes it much more difficult, and sometimes virtually impossible, for voucher holders to move to these communities. Voucher payment standards are set by local public housing authorities and aim to reflect the Fair Market Rents (FMRs) for different unit sizes.²⁸ While Fair Market Rents are published by the Department of Housing and Urban Development (HUD) each year, housing authorities often have broad discretion when determining amounts in their jurisdiction.²⁹ For example, throughout this project, two communities, Sudbury and Wayland, had a consistent lack of available apartments. It was incredibly

difficult to find one, two, or even three-bedroom units within the voucher payment standards to test within those communities. At the time of publication, only seven Housing Choice Vouchers (HCV) were active in the Sudbury zip code 01776, while only five were active in the Wayland zip code 01778.³⁰ It is important to ensure that Massachusetts residents have a say in where they can live. Nobody should be unable to move to a particular community simply because they receive assistance by means of a housing voucher.

These results emphasize that housing discrimination based on race and source of income isn't limited to large cities – this discrimination is occurring everywhere.

RECOMMENDATIONS

For decades, federal, state, and local governments across the United States have systematically excluded people based on race and other protected classes. In order to undo the harm that's been done, definitive action must be taken. While laws that prohibit discrimination are crucial, they do not reverse the damage these racist policies and laws have done. We must take action in order to rewrite the injustices of the past and guarantee that everyone has access to safe and affordable housing.

Best Practices for Fair Housing Enforcement

1. Provide funding for fair housing initiatives

Under the current administration, funding for fair housing programs is at risk, and without it, HDTP and similar organizations will be unable or severely limited in the ability to investigate housing discrimination, therefore making it difficult to hold those who violate fair housing laws accountable. Now more than ever it is imperative for state and local governments to provide funding for fair housing programs in order to promote equal access to safe and affordable housing for all individuals, regardless of background or identity. Funding fair housing initiatives ensures resources are available to educate real estate professionals and the public, that fair housing laws are enforced, and that assistance is offered to those who have faced discrimination.

An effective way to combat housing discrimination is by conducting regular discrimination testing within communities. “Over the last two years, fair housing complaints have risen by 14.96% nationally” with 33,007 complaints being filed in 2022 alone.³¹ Nationally, the most common forms of discrimination are related to disability, making up roughly 53.26% of complaints, and race, making up 17.63%. Luckily, fair housing testing has a successful track record in decreasing rates of discrimination. For example, the city of Alexandria, VA annually conducts discrimination testing, with almost 2,000 fair housing tests completed since the program's inception in 1990.³² Over the last 23+ years, “the Program has recorded a dramatic decline in the identified discrimination practices...”³³ Ultimately, investing in fair housing programs and testing promotes social equity, enhances economic mobility, and helps create more inclusive communities where all residents have the opportunity to thrive.

2. Encourage real estate companies to hire DEI positions and participate in DEI trainings

When it comes to promoting fairness and equality in housing, it starts from within. “To combat bias in real estate, it is crucial to promote diversity, equity and inclusion within the industry. Brokerages should actively work toward diversifying their workforce and leadership positions, ensuring that individuals from all backgrounds have equal opportunities for success.”³⁴ Offering and promoting participation in different trainings and education programs is one key way real estate professionals can work to tackle these biases, thus providing more fair and equitable services to clients.³⁵ Realtors “pledge to protect the individual right of real estate ownership and widen the opportunity to enjoy it” and one way to accomplish this is by increasing diversity among real estate professionals and understanding past, present, and future barriers to fair housing.³⁶

A 2020 diversity and inclusion study, conducted by a company that collects employee feedback in the real estate industry, found that two-thirds of employees feel that employees are treated equally, while only 68% agree that job opportunities are promoted to all employees.³⁷ Furthermore, the study found that 80% of employees feel their company is committed to diversity and 82% agree their supervisor created an inclusive workplace.³⁸ While these numbers reflect the work the real estate industry has done in the past to promote diversity, equity, and inclusion, there is still room for improvement.

3. Hold real estate professionals accountable for violating fair housing laws

It should come as no surprise that one of the ways to enforce fair housing practices is to reprimand those who violate fair housing laws. As seen through the results of this project, as well as HDTP’s 2020 empirical study, there is no shortage of discriminatory conduct across the Commonwealth.³⁹ What there is a shortage of, however, is consequences for those who violate the Fair Housing Act. The National Fair Housing Alliance (NFHA) highlights that not only are those who violate fair housing laws engaging in unethical behavior, but they are also deliberately violating the laws in which they are required to be familiar with.⁴⁰ There needs to be significant consequences for those who violate fair housing laws, including license suspensions and revocations, along with significant financial penalties.

In 2016 on Long Island, New York, through systemic testing and investigating, it was discovered that NPS Property Corporations (NPS) was telling prospective African American tenants and prospective white tenants different information regarding the availability of housing.⁴¹ “This investigation also revealed that NPS was alleged to be discriminating against prospective tenants who use housing vouchers designed for those who have disabilities...”⁴² A settlement in this case was finally reached in April 2024 when NPS Property Corporation agreed to pay \$105,000 to end the lawsuit over alleged racial and disability discrimination.⁴³ Also in New York, in 2019 the New York Attorney General opened an investigation into several real estate companies where it uncovered agents “showing preferential treatment to white homebuyers, disparaging neighborhoods of color, and directing homebuyers of color to homes in neighborhoods where residents predominantly belonged to communities of color.”⁴⁴ The lawsuit was eventually settled in 2022 and the real estate companies agreed to pay \$115,000 to remedy their discriminatory practices and participate in regular fair housing trainings.⁴⁵ Attorney General Letitia James stated, “These settlements should send a clear message: if you discriminate and deny New Yorkers their basic right to housing, we will take action.”⁴⁶

In Massachusetts, numerous agencies have also been advocating for legislators and politicians to support bills aimed at ending discrimination and penalizing those who violate fair housing laws. For example, *An Act to End Housing Discrimination in the Commonwealth* (HD.2049), legislation filed again this year, directly addresses this topic.⁴⁷ This legislation, among other suggestions, calls for referring final judicial and administrative findings against licensed real estate brokers to the Board of Registration of Real Estate Brokers and Salespersons and requires the Board to temporarily suspend the broker's license.⁴⁸ This legislation also proposes that, for a second act of discrimination, the real estate broker's license shall be suspended for 180 days, rather than the 90 days under the existing statute.⁴⁹

Best Practices for Expanding Community Education and Outreach

1. Provide regular trainings for real estate agents and community members to ensure everybody knows their rights and responsibilities

Education is a key piece when it comes to affirmatively furthering fair housing and preventing discrimination within a community. Fair housing education is a two-step process. The first step in the process is educating community members, including current and future renters so they are aware of their rights under the law and if those rights are being violated.⁵⁰ The second part of the process is educating landlords and real estate professionals in order to ensure they “understand their obligations so they can stay in compliance with fair housing laws.”⁵¹ Educational campaigns for both the general public and real estate professionals can involve outreach techniques such as public service announcements, workshops, seminars, pamphlets, and multi-media advertisements.⁵² These educational campaigns can be particularly helpful for those who are new to renting, new to being landlords, and those who receive extra protections under the law.⁵³

Numerous cities and municipalities throughout the country have created educational campaigns and materials to ensure this two-step approach is successfully implemented. For example, the Greater New Orleans Fair Housing Action Center created a Fair Housing University which offers an array of trainings which can also be customized to particular group of agency needs.⁵⁴ Some of these trainings include: Fair Housing 101 for Small Landlords, Fair Housing 101 for the Management Team, Fair Housing 101 for Service Providers, as well as a customizable Affirmatively Furthering Fair Housing training.⁵⁵

In addition, Montgomery County, Maryland created a broad outreach campaign to support community members, along with landlords, lenders, property managers, and other real estate professionals.⁵⁶ Specifically, the county developed a Fair Housing Coordinating Group, as well as a high school fair housing curriculum.⁵⁷ The Fair Housing Coordinating Group consists of employees from six different local agencies in order to “facilitate and promote the County's efforts in preventing discrimination in housing.”⁵⁸ Moreover, the fair housing curriculum is implemented into all 10th grade social studies classrooms throughout the 23 Montgomery County high schools.⁵⁹ The county also discusses fair housing with 5th graders as part of a Human Rights camp.⁶⁰

2. Encourage municipalities to create a designated Fair Housing Advisory Committee/Commission

At the root, Fair Housing Committees and Commissions work to collaborate with the community to ensure all residents have fair and equal access to housing. This type of “civic engagement helps to increase awareness of fair housing at the local level, assist the municipality in defining needs, and insure issues and complaints are addressed.”⁶¹ It also helps community members become more involved in municipal government and gives them the opportunity to advocate for causes they feel passionate about.⁶² For example, both the City of Somerville and Newton have created committees/commissions to support local fair housing efforts.⁶³ Smaller municipalities, such as Melrose and Ashfield, which are more citizen led, allow them to bring to the table firsthand knowledge about what is going on in the community.⁶⁴

3. Encourage community participation and mobilize community members to feel comfortable bringing issues to light, and filing complaints

Providing opportunities for the public, especially those who are part of, or work with, marginalized groups, is crucial in fostering an effective fair housing plan.⁶⁵ In addition to individual community members, municipalities should also look to engage with community partners such as fair housing and tenant advocacy groups, neighborhood associations, real estate associations, social justice organizations, local businesses, and social service organizations, to name a few.⁶⁶ While it does not happen overnight, it is important to build trust and take time to develop meaningful relationships within the community.

One way to create and maintain relationships with individual community members can be seen by looking at the City of Winston-Salem’s Community Assistant Liaisons program.⁶⁷ The City began working on a plan to assess fair housing within the community and tasked liaisons with the responsibility of being their “eyes” within the community.⁶⁸ “City liaisons provide information on city services and programs, maintain relationships with non-profits, county and state agencies, and direct residents to those resources when appropriate.”⁶⁹ The liaisons also “organize and coordinate special events and community meetings on behalf of council members to engage residents and seek feedback on community issues.”⁷⁰ There are also options for non-city officials to canvass throughout the community. In Hamilton, Ohio, the local government realized that some residents, mostly among the Hispanic population, distrusted the government and therefore sent out non-city employees to gain feedback on their experiences.⁷¹

4. Engage with social service organizations in the area to bridge gaps between services

In addition to building relationships with fair housing non-profits and elected officials, it is also important to remember to develop relationships with individuals and non-governmental organizations committed to furthering fair housing goals. This might look like fostering and maintaining relationships with “fair housing advocates, real estate professionals, landlords, employers, health care providers, universities and other schools, transit agencies, [fair housing organizations], and other organizations that represented protected classes and hard-to-reach populations.”⁷² Engaging with multiple local leaders and organizations will help ensure that multiple perspectives are heard and the fair housing process serves those who actually live in the community. In addition, collaboration with community groups helps promote continuity and

accountability throughout the fair housing process and sets up the residents, organizations, and government for success.

An example of this collaboration can be seen through the creation of the Chelsea HUB in Chelsea, MA.⁷³ “The Hub is a police-led initiative made up of designated staff from the community and government agencies that meet weekly to address specific situations regarding clients facing elevated levels of risk, and develop immediate, coordinated, and integrated responses through the mobilization of resources.”⁷⁴ The HUB model derives from a city in the Canadian province of Saskatchewan, and while the Chelsea HUB was the first HUB in the United States, there are also now HUBs in Springfield, Worcester, Jamaica Plain, East Boston, Lawrence, and Medford.⁷⁵ Some of the risk factors the HUB address are mental health, housing, poverty, public health and safety, family violence, substance abuse, and basic needs.⁷⁶ It is no secret that housing instability is usually only one of the issues individuals are navigating, and the HUB model recognizes that, and works together to give community members the holistic support necessary to succeed

Best Practices for Local Ordinances to Address Housing Discrimination and Inequity

1. Encourage effective housing policies, promote inclusionary zoning programs, offer density bonuses to developers, utilize linkage fees, and advocate for compliance with the MBTA Communities Act.

- a. Comply with MBTA Communities Act

Complying with the MBTA Communities Act is an important step for towns to promote fair housing and expand housing opportunities for all residents. The Act requires “177 communities served by or located near the Massachusetts Bay Transportation Authority (MBTA) to zone for more multifamily housing.”⁷⁷ In communities with MBTA service, the multifamily homes must be located less than half a mile from either a subway or commuter rail station, a ferry station, or a bus station.⁷⁸ To comply, each town’s zoning plan must allow for a minimum number of multi-family housing units which is based on the community’s current housing stock. This number can range from less than 100 for smaller towns to over 10,000 for larger municipalities.⁷⁹

Some towns, such as Lexington, have proactively complied, already receiving numerous applications for new developments which would generate 960 housing units.⁸⁰ However, other towns, like Milton and Holden, have stated they have no intention to comply with the Act.⁸¹ Both towns are currently facing penalties due to their noncompliance as their deadlines to comply have passed.⁸² While the deadline for compliance for other cities is not until the end of 2025, some cities have yet to pass zoning laws intended to comply with the program.⁸³ Currently, there are 31 cities who are considered non-compliant with the Act.⁸⁴

On January 8, 2025, the Massachusetts Supreme Judicial Court released a ruling on the MBTA Communities Act stating “the Attorney General has the power to bring a suit for declaratory and injunctive relief to enforce § 3A” but that they are not “presently enforceable” because the “guidelines were not promulgated in accordance with the APA”

also known at the Administrative Procedures Act.⁸⁵ Six days after the ruling was released, the Executive Office of Housing and Livable Communities (EOHLC), previously known as DHCD, published emergency regulations that were effective for 90 days.⁸⁶ While the emergency regulations do not substantively change the laws zoning requirements, it does provide communities with additional time to comply with the law. Communities that are not currently in compliance will have until February 13 to submit an action plan outlining how they will meet the legal requirements of the law, and will then have until July 14 to achieve compliance.

On January 25, 2025, the Consortium community of Needham submitted an action plan for interim compliance to the EOHLC, which consists of advancing the MBTA base compliance plan.⁸⁷ Proposed zoning amendments include amending the zoning bylaws to advance the MBTA base compliance plan with a public hearing on the matter scheduled for February 13, 2025.⁸⁸ The final town meeting is anticipated for early May of 2025, with a compliant MBTA Communities Act zoning submittal to immediately be sent to the EOHLC.⁸⁹

b. Inclusionary Zoning

Inclusionary zoning policies attempt to ameliorate the negative consequences of years of discriminatory housing policies (including exclusionary zoning) that have led to a wealth and opportunity gap between white people and people of color.⁹⁰ For example, such policies create dedicated affordable housing units by requiring or encouraging developers to include a specified percentage of below-market-rate units in a larger development.⁹¹ Typically these policies require 10-30% of the units be reserved for lower income residents.⁹² A 2019 report, *Inclusionary Housing in the United States*, authored by Ruoniu Wang and Sowmya Balachandran, found that over 100,000 affordable units are produced by the creation of 258 inclusionary housing programs and that communities with inclusionary housing programs have a lower poverty rate than neighborhoods without inclusionary housing.⁹³ On average, each inclusionary housing program created 426 below-market rate units, with 23 programs creating more than 1,000 below-market units.⁹⁴

Other studies have also documented the number of affordable housing units produced by inclusionary housing programs across the country. Montgomery County, Maryland has been considered one of “the most productive – and long-standing – program[s]” in the country with more than 13,000 affordable housing units produced between 1974 and 2011.⁹⁵ Other examples include an inclusionary housing program in Chicago which produced more than 200 affordable units per year between 2003 and 2009 as well at Burlington, Vermont where “half of all new residential construction was attributed to the city’s inclusionary housing program.”⁹⁶

There are many elements necessary to consider when looking to create an effective inclusionary housing program. The report *Advancing Racial Equity in Inclusionary Housing Programs: A Guide for Policy and Practice* discusses a handful of factors to take into consideration when developing an inclusionary housing program including:

1. Choose income targets for affordable units that match those of renter households of color,
2. Require or encourage the constructions of unit sizes that match the household sizes of renter households of color,
3. Adopt building design standards to avoid stigmatizing residents of affordable units,
4. Consider the use of city subsidies to advance racial equity goals,
5. Base the decisions about compliance alternatives on the needs and preferences of households of color,
6. Establish high-bar marketing requirements to ensure renters of color have access,
7. Support preference policies that advance racial equity,
8. Use a lottery for application selection,
9. Set limits on resident screening criteria,
10. Require rental property owners to accept Section 8 Housing Choice Vouchers,
11. Collect and analyze data on the race and ethnicity of those served by affordable units,
12. Base the decisions about which resale formula to use on feedback from people of color and equity-oriented organizations,
13. Require lasting affordability for affordable units, and
14. Partner with a Community Land Trust for stewardship of affordable units.⁹⁷

The Lincoln Institute of Land and Policy also released a report in 2015 that analyzed methods that built support for inclusionary housing while also developing an effective program.⁹⁸ The report highlights ways to garner support for an inclusionary housing program such as “(1) studying and understanding the housing need and the full spectrum of available tools; (2) educating and engaging the public; (3) researching the market economics; and (4) engaging with the real estate community.”⁹⁹ In addition, the report identified other factors to take into consideration when designing an inclusionary housing program including:

1. Program structure,
2. Program beneficiaries,
3. Targeted geographical areas,
4. Set-aside requirements,
5. In-Lieu fees,
6. Offsite development options,
7. Developer incentives,
8. Design standards, and
9. Affordability preservation.¹⁰⁰

Every community is different when it comes to their political, economic, and rental climates, so no two inclusionary housing programs will be alike; however, the above-mentioned factors can help jurisdictions develop a program that will be most beneficial in their area.¹⁰¹

c. Density Bonus

Density bonuses incentivize developers to build more affordable housing by allowing additional units, floor area, or building height beyond standard zoning limits in exchange for including affordable units. These bonuses typically offer 10-20% increase over baseline density.¹⁰² Density bonus programs are most effective in areas with strong housing markets that wish to create more affordable housing options.¹⁰³ Housing markets with high rents and land values tend to benefit the most from a program that offers different levels of bonus programs.¹⁰⁴

For example, in Montgomery County, Maryland, 12.5% of all new residential units must be affordable, but if the developer chooses to take advantage of the County's density bonus program, that percentage rises to 15%.¹⁰⁵

Local jurisdictions can adopt different approaches to density bonus programs. Examples include:

- Austin, Texas uses a two-tiered system offering greater bonuses near transit corridors.¹⁰⁶
- Miami, Florida uses a sliding scale that adjusts incentives based on the share and affordability level of units provided.¹⁰⁷
- San Diego, California provides a notable success story. Its 2018 amendments to the density bonus program, coupled with the 2016 Affordable Homes Bonus Program, significantly boosted housing production. By 2022, 44% of eligible projects utilized the density bonus program, creating over 6,000 new homes, including 463 deed-restricted affordable units in mixed-income projects, primarily without public subsidies.¹⁰⁸

The Housing Innovations Program (HIP), based in Seattle, Washington, created a density bonus tool profile to help jurisdictions develop effective density bonus programs.¹⁰⁹ The tool profile discusses the following elements communities should analyze when looking to design a program.¹¹⁰

1. Identifying program area boundaries
2. Defining program targets and goals
3. Determining the bonuses to be granted (ex. density, height, floor area ratio)
4. As-of-right vs. Discretionary bonuses
5. Off-site alternatives
6. Retention of affordability
7. Stakeholder input including developers, housing organizations, economist, etc.
8. Implementation
9. Monitoring¹¹¹

d. Linkage Fees

Linkage fees link market-rate development with affordable housing production.

- Residential Linkage Fees: Charged per unit or based on square footage of new homes
- Commercial Linkage Fees: Charged to office or retail developers, with funds allocated to affordable housing.¹¹²

For example:

- The City of Boston has one of the oldest commercial linkage fee programs, charging \$8 per square foot of commercial development, generating \$45 million from 1986 to 2000 to support approximately 5,000 affordable units.¹¹³
- Mountain View, California charges new residential development \$10 a square foot.
- Santa Monica, California charges approximately \$28 a square foot.
- Berkeley, California charges \$28,000 for each new market-rate home.¹¹⁴

These programs provide critical funding for affordable housing while balancing market-rate development needs. Currently, the following communities in Massachusetts have sought linkage fees through special legislation: Boston, Cambridge, Chelsea, Concord, Everett, Gloucester, Somerville, and Watertown.¹¹⁵

2. Add AFFH language to zoning codes and require Accessibility Checklists

Communities can strengthen fair housing practices by including language in their zoning codes to affirmatively further fair housing (AFFH). AFFH “refers to taking intentional steps, using federal housing funding, to ensure that people in protected groups have housing that meet the goals of the Fair Housing Act.”¹¹⁶ During his first term, President Trump paused, and eventually eliminated, the AFFH rule, so it is fair to assume the Administration will focus on rolling back protections again in his second term.¹¹⁷ Cities, towns, and states may want to consider codifying AFFH requirements themselves so this important framework is not lost.

The City of Boston has sought to protect the AFFH rule by strengthening their fair housing laws and adding requirements in their zoning codes to affirmatively further fair housing.¹¹⁸ The City of Boston was the first major city in the United States to include this type of language in their zoning code, which “require proposed development projects and/or Planned Development Areas (PDAs) undergoing Article 80 review to consider impacts on area residents historically discriminated against so that steps can be taken to reduce those impacts, provide new housing opportunities, and address past histories of exclusion.”¹¹⁹

Boston’s approach also requires the use of an Accessibility Checklist, ensuring that projects account for the needs of people with disabilities through displacement analysis and historical exclusion data.¹²⁰ The goal is to plan for accessibility before the project, rather than at the completion of the project.¹²¹

The Accessibility Checklist requires developers to disclose information such as:

- Basic project information,
- Building Classification and Description,
- Accessibility of Existing Infrastructure,
- Existing and Proposed Surrounding Site Conditions,

- Building Entrances, Vertical Connections, Accessible Routes, and Common Areas,
- Affordable Housing Units (if applicable),
- Accessible Parking,
- Community Impact,
- And a list of any and all documents, drawings, photos, and diagrams being submitted with the checklist.¹²²

3. Eliminate restrictive land use to allow for multifamily homes

One of the most effective ways to promote fair housing and increase affordability, thus decreasing levels of discrimination and segregation, is through eliminating restrictive zoning. “Zoning and land-use regulations, intentionally or unintentionally, help wealthier Americans “protect” the value of their homes by preventing new housing development and pricing out minority—usually black—and low-income families.”¹²³ Restrictive zoning covenants contribute “to socioeconomic divisions, worsen the housing affordability crisis, and artificially inflate housing prices” while also having a detrimental effect on the environment and public health.¹²⁴ Roughly 75 percent of land in American cities is limited in use because zoning laws in the area only permit the construction of single-family residences.¹²⁵ This type of restrictive land use suppresses housing supply, thus driving up housing costs and widening the racial and economic disparities within communities.¹²⁶

In addition to simply eliminating single family zoning, communities can implement “bundle zoning reforms” which involves reforming height restrictions, lot size requirements, minimum floor area requirements, and office site parking requirements.¹²⁷ These types of reforms helped Minneapolis double its housing stock between 2015 and 2020 “with over 90% of new units being in large buildings with at least 10 units.”¹²⁸

4. Support the construction and use of Accessory Dwelling Units (ADUs)

Massachusetts recently passed legislation, The Affordable Homes Act, scheduled to go into effect on February 2, 2025, to help battle the Commonwealth’s growing housing crisis.¹²⁹ Overall, Governor Maura Healey and advocates have stated they hope this Act will create more than 65,000 new homes statewide over the next five years.¹³⁰ With that effort in mind, this legislation includes an amendment of the current zoning act to allow ADUs of up to 900 square feet to be built in districts with single family zoning.¹³¹ ADUs are a “secondary residential living space located on the same lot of a single-family home.”¹³² To qualify as an ADU, the property must “Maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; Be either no larger than half the gross floor area of the principal dwelling or 900 square feet, whichever is smaller; and Meet local municipal restrictions, including, but not limited to, additional size restrictions and restrictions or prohibitions on short-term rental.”¹³³

ADUs offer a variety of benefits for property owners, renters, and the Commonwealth of Massachusetts including:

- Providing rental income for property owners,

- Providing long-term housing options for seniors by allowing them to downsize while staying close to family,
- Adding more affordable rental units to the housing market,
- Making it more affordable to residents to stay in communities they love,
- Increasing overall housing supply throughout the Commonwealth, and
- Making use of existing land and structures, thus being more sustainable and economical.¹³⁴

The use of ADUs has gained popularity throughout the country, with California leading the way. The City of Los Angeles offers an ADU program where homeowners and developers can select an ADU from 20 preapproved models that range from studios less than 400 feet to three-bedroom homes of up to 1200 feet.¹³⁵ In addition, a research center part of UCLA called CityLAB created a guidebook for homeowners looking to build an ADU.¹³⁶ The guidebook provides step-by-step instructions on how to build, how to submit an application, and how to find designers, lenders, and contractors.¹³⁷ These initiatives have been largely successful with the construction of ADUs jumping from “9,000 in 2018 to 12,392 in 2020.”¹³⁸ Seattle, Washington also highlights the success of ADUs with the City now building more ADUs than single family homes.¹³⁹ In 2022, Seattle permitted 988 ADUs to be built (437 attached accessory dwelling units and 551 detached units) with 650 of those being constructed.¹⁴⁰ This was an increase from 2021 where 771 units were permitted and 2020 where 490 were permitted.¹⁴¹ A member of the Seattle Planning Commission stated this increase in ADU construction is “just indicative of how much demand there is.”¹⁴² Overall, the construction of these units allows people access to some of the most exclusive neighborhoods in Seattle, while also opening up suburban areas to housing growth.¹⁴³

5. Support eliminating renter-paid broker fees

At the beginning of 2025, Governor Healey stated that she will be proposing eliminating renter-paid broker fees as part of her 2026 budget proposal.¹⁴⁴ Broker fees are fees paid to the real estate professional for listing and showing the property to prospective renters and are usually equal to one month’s rent.¹⁴⁵ With the median rent of a one-bedroom apartment at \$2,500 a month, tenants are expected to pay nearly \$10,000 in start-up costs.¹⁴⁶ These start-up costs include first and last months rent, security deposit, and a broker fee.¹⁴⁷ When asked about this proposal, Governor Healey stated, “We’re proud to be proposing this change that will save renters thousands of dollars – making it possible for more young people, seniors and families to stay in Massachusetts, help businesses attract the best talent, and put more money back in people’s pockets for groceries, health care, and other needs.”¹⁴⁸

6. Offer down payment assistance programs

Municipalities can also promote fair housing and opportunity through providing municipal down payment assistance programs, particularly for first time home buyers. The gap between Black home ownership, and those of other race and ethnicities, is larger now than it was in 2011 with a gap of 29%.¹⁴⁹ In 2021, “the homeownership rate for White Americans in 2021 was 72.7%, but the rate for Black Americans was 44%.”¹⁵⁰ In addition, “the homeownership rate for Asian Americans was 62.8% and for Hispanic Americans it was 50.6%.”¹⁵¹ Over the last decade, Black homeownership rates have only gone up roughly 0.4%.¹⁵²

Through creating and offering more down payment assistance programs, particularly in high cost metro areas, municipalities can help increase rates of Black homeownership.¹⁵³ “Studies show down payment assistance has an important role in closing the racial wealth gap, particularly in high-cost areas, where racial wealth gaps put many Black potential homebuyers at a

disadvantage.”¹⁵⁴ When developing a down payment assistance program, the National Fair Housing Association recommends:

- Targeting eligibility towards first-generation homebuyers,
- Analyzing and screening potential administrators in order to assure they are capable of dispersing funds to social and economically disadvantaged individuals and,
- Providing a minimum of \$20,000 be provided to in assistance to eligible families.¹⁵⁵

To further explore the possibilities and benefits of offering a down payment assistance program, the Joint Center for Housing Studies of Harvard University analyzed the effect \$25,000 in down payment assistance could have on homeownership rates for Black and Hispanic renters.¹⁵⁶ The article refers to a variety of factors that contribute to the homeownership gap, including lower incomes, impaired credit, lower wealth, and lack of knowledge surrounding the homebuying process, and highlights how down payment assistance might play an essential role in helping millions of families achieve home ownership.¹⁵⁷ The study found “that in every state but Hawaii as of September 2022, \$25,000 in down payment assistance would be enough to cover a 3.5 percent down payment on a moderately priced home, which [they] define as one priced at 80 percent of the typical home price in the state.”¹⁵⁸ In turn, this “assistance could potentially help up to 1.1 million Black and Hispanic renters aged 25-54 who have incomes high enough to afford a moderately priced home in their state under a standard qualifying debt-to-income ratio of 31 percent.”¹⁵⁹

Currently, the Commonwealth of Massachusetts offers six statewide and regional down payment assistance programs.¹⁶⁰ Moreover, only 29 of 351 cities in the Commonwealth offer additional municipal down payment assistance programs.¹⁶¹ At the moment, according to Massachusetts Housing Partnership, the only Consortium city to offer a down payment assistance program is the City of Newton.¹⁶²

7. Support the creation of and provide resources for a Community Land Trust

A community land trust (CLT) is a nonprofit corporation “that holds land on behalf of a place based community, while serving as the long-term steward for affordable housing, community gardens, civil buildings, commercial spaces and other community assets on behalf of a community.”¹⁶³ In a CLT, the land is owned by the trust and is governed by a non-profit board and its members, both of which are comprised of people who live and/or work in the defined geographic area.¹⁶⁴ With residents playing an active role in the governance and decision-making process, this allows them to have influence over land and address local challenges with local solutions.¹⁶⁵ Because of this, CLTs have become a pivotal part of keeping home prices affordable and allowing low-income residents to build equity as homeowners.¹⁶⁶ This model creates sustainable levels of affordability “because the CLT retains ownership of the underlying land” and the “housing remains permanently affordable, even as the original beneficiaries sell and move on.”¹⁶⁷ The housing is also kept outside of the general housing market, allowing the CLT resale formula to keep the resale price of homes in the community low.¹⁶⁸ Overall, this allows CLTs to minimize racial wealth gaps, enhance stability, prevent gentrification, and offer affordable housing.¹⁶⁹

An example of CLT in Massachusetts is the Boston Neighbor Community Land Trust (BNCLT).¹⁷⁰ This Boston Land Trust predominantly focuses on the neighborhoods of Mattapan, Dorchester, and Roxbury and “works to combat displacement and racial injustice by creating permanently affordable, community-controlled housing.”¹⁷¹ As part of its model, BNCLT will either keep properties for active tenants or will sell the property to a buyer at an affordable rate, allowing people the chance to gain wealth and equity through homeownership.¹⁷² In addition, BNCLT works to “protect affordability; prevent foreclosure; and take properties off the speculative market” while also working with outside community partners and realtors to set members up for success.¹⁷³

While municipal governments themselves do not start CLTs, they do, however, play a vital role in getting the trusts set up and on a path towards success.¹⁷⁴ Municipalities can help its residents by:

- Introducing them to the idea of starting a CLT,
- Convening with stakeholders to support the formation of a CLT,
- Participate in the planning process by including elected officials and municipal staff,
- Hire consultants and other experts to assist in the technical aspects,
- Provide start up funding and staff, and
- Ensure a project timeline to help achieve success.¹⁷⁵

The impact a municipal government can have on CLT doesn’t end there. To sustain a CLT, a municipality should consider adopting the following policies:

- “Establish a publicly accessible inventory of surplus properties,
- Prioritize lasting affordability in the disposition of publicly-owned land, and
- Discount land prices when selling to entities that ensure that housing on the land remains affordable in perpetuity.”¹⁷⁶

8. Encourage eligible property owners and households to participate in the SNO Mass program

EOHLC recently developed a program aimed at offering families with vouchers more choice over where they decide to live in hopes of helping families gain access to more “high opportunity” areas.¹⁷⁷ The Program is called Supporting Neighborhood Opportunity in Massachusetts (SNO Mass).¹⁷⁸ Before its inception, 52% of the households in EOHLC’s voucher program lived in just 21 of the 251 municipalities across Massachusetts.¹⁷⁹ Moreover, only 8 percent of EOHLC HCV households with children were living in neighborhoods indexed as “High Opportunity” or “Very High Opportunity” by the Child Opportunity Index.¹⁸⁰ Under this program, eligible families have the ability to move to these designated “Opportunity Areas” as a benefit not only to themselves, but also to property owners.

To be eligible to participate in the SNO Mass program households must have an EOHLC Housing Choice Voucher, have at least one child under the age of 18 in the household, not currently live in a SNO Mass Opportunity Area, and be in good standing with the Regional Administering Agency.¹⁸¹ This program is beneficial for tenants as it provided a dedicated Mobility Specialist who can help find an apartment, negotiate with property owners, and connect families with local resources.¹⁸² In addition, the program provides households with access to an online tool to help search for apartments as well as financial assistance with security deposits

moving costs, and other associated feed.¹⁸³ Property owners who participate in the SNO Mass program also receive benefits for participating such as:

- Having access to a ready pool of prospective tenants, to help fill units efficiently,
- Benefiting from a reliable rental revenue stream, as the Housing Choice Voucher will absorb any loss in renters' incomes due to job loss or hourly work reduction.
- Monthly subsidy payments made through direct deposit,
- Receiving \$500 when renting to a SNO Mass participant and an additional \$500 when renewing the lease or renting the unit to another SNO Mass tenant;
- Potentially receiving a higher rent subsidy than what other local housing authorities offer (depending on the area);
- Maintaining control over property management decisions, as well as applicant screenings and suitability, as long as the same criteria is used for all applicants and is in accordance with Fair Housing laws;
- Having a single point of contact at the agency to help ensure a smooth, expedited lease-up process and to handle any inquiries after the tenant moves in.¹⁸⁴

As of last year, the SNO Mass program had helped 125 families, including 270 children, move into higher-opportunity neighborhoods creating a healthier and stable environment.¹⁸⁵

9. Incentivize landlords to rent to low income and Section 8 tenants

Out of the 49.5 million rental housing units in the United States, roughly 46% of those properties are between 1- 4 units.¹⁸⁶ Moreover, more than 70% of those 1- 4 rental properties are owned by mom-and-pop landlords.¹⁸⁷ Mom-and-pop landlords are “defined as individual landlords owning 10 or fewer properties” who’s housing stock is also typically more affordable for renters.¹⁸⁸ The Rental Housing Finance Survey highlights the importance of working with mom-and-pop landlords as they make up a huge percentage of the rental market. There are multiple ways to incentive landlords to rent to low-income and Section 8 tenants including financial incentives and rewards.¹⁸⁹

Marin Housing Authority in California created a “Landlord Partnership Program” aimed at expanding “rental opportunities for families holding housing choice vouchers by making landlord participation in the program more attractive and feasible, and by making the entire program more streamlined.”¹⁹⁰ Throughout the first two years of this program, from 2016-2018, Marin Housing Authority was able to increase tenants voucher success by 22%.¹⁹¹ The program was approved for another 2-year extension in 2018.¹⁹² Some benefits include:

- Security deposit assistance: up to \$2,500 per family to be paid to the owner and then returned to the housing authority once the family moves out if there are no damages.
- Loss mitigation: up to \$3,500 per family to be paid to the owner once family vacates and it is determined the family caused damages beyond normal wear and tear.
- Vacancy loss: provides up to one months rent to the landlord or property owner while repairing excessive damage done to the unit.
- Building and Planning Permit Fees: Owners with properties in the County Unincorporated areas that participate in rental assistance programs with 50% of

their units would be allowed to have building permit fees waived on a prorated basis for work done at the rental site for repairs or improvements.

- Landlord Liaison Project: access to a 24-hour landlord hotline to assist with immediate issues, Rapid response to landlord concerns through collaborative partnerships with County Departments and other community based non-profit providers, establish a landlord advisory committee, and offer landlord workshops and trainings.¹⁹³

San Diego Housing Commission in California also created a program which provides financial incentive to landlords who rent to community members experiencing homelessness.¹⁹⁴ The Landlord Engagement and Assistance Program (LEAP), which is part of San Diego's Housing First action plan, has created more than 9,300 housing solutions since its inception five and a half years ago.¹⁹⁵ The program offers the following incentives to eligible landlords:

- \$500 for the first unit landlords rent to a homeless household and \$250 for each additional unit,
- Up to two times the contract rent in security deposits and an average of \$100 in utility assistance per household,
- A contingency fund to help landlords cover expenses, such as repairs that exceed security deposits,
- Dedicated San Diego Housing Commission (SDHC) housing specialists to answer landlords' questions.¹⁹⁶

The City of Tulsa, Oklahoma created a rewards program called the Gold Star Landlord Program which "provides incentives and rewards for landlords and property owners who engage in the best rental practices."¹⁹⁷ Some of the rewards available to landlords through this program include:

- Advertising and promotional benefits,
- Prioritized processing of applications to the City of Tulsa's Emergency Rental Assistance Program,
- Support of Tulsa Authority for Economic Opportunity staff,
- Landlord incentives funded by their Affordable Housing Trust,
- Referral of tenants with the Housing Stability Certification from the Housing Solutions' Landlord Tenant Resource Center.¹⁹⁸

CONCLUSION

Housing discrimination remains a pervasive issue in cities and towns throughout the United States, with deep historical roots that continue to negatively impact our communities. The effects of housing discrimination extend well beyond the real estate market and impacts all areas of a person's life. Where one lives either creates a gateway or a barrier to opportunities in education, employment, health care, and social mobility. Restricting where a person can live often limits their opportunities and personal advancement. This project highlights that, despite the Fair Housing Act and the Commonwealth of Massachusetts' Anti-Discrimination statute, discrimination is still occurring in the consortium communities. This project challenges the idea that housing discrimination only occurs in large cities and metropolitan areas, and not in suburban areas. Overall, 35% of the source of income tests and 22% of the race tests revealed evidence of discrimination. At the time of publication, fifteen of the tests have been forwarded to an enforcement agency where action was either taken or is awaiting resolution. To combat housing discrimination, comprehensive initiatives must be taken at local, state, and federal levels and involve reform in both policy and practice. The path toward housing equality will require a collaborative approach from lawmakers, politicians, developers, and community organizations and members. By working together and implementing policies to ensure equal housing access for all, we will move closer towards a future where everybody has access to safe and affordable housing.

REFERENCES

- ¹ *A Brief History of Housing Discrimination Based on Race and Color*, HOME FOR ALL OF US (2023), <https://www.homeforallofus.org/race-and-color/a-brief-history-of-housing-discrimination-based-on-race-and-color/>.
- ² *Pre-20th Century: Land and Housing Policies from Colonialism through Reconstruction*, ENTERPRISE COMMUNITY PARTNERS, <https://www.enterprisecommunity.org/housing-policy-timeline/pre-20th-century> (last visited Jan. 10, 2025).
- ³ *Id.*
- ⁴ *Pre-20th Century: Land and Housing Policies from Colonialism through Reconstruction*, *supra* note 2.
- ⁵ Rachel Bogardus Drew, *A Very Brief History of Housing Policy and Racial Discrimination*, ENTERPRISE CMTY. PARTNERS (DEC. 17, 2020), <https://www.enterprisecommunity.org/connect/blog/very-brief-history-housing-policy-and-racial-discrimination>.
- ⁶ *Id.*
- ⁷ RICHARD ROTHSTEIN, *THE COLOR OF LAW*, 45-47 (2018); *Corrigan v. Buckley*, 271 U.S. 323 (1926); *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).
- ⁸ Elliott Anne Rigsby, *Understanding Exclusionary Zoning and Its Impact on Concentrated Poverty*, THE CENTURY FOUND. (Jun. 23, 2016), <https://tcf.org/content/facts/understanding-exclusionary-zoning-impact-concentrated-poverty/>.
- ⁹ *Understanding Discriminatory Restrictive Covenants*, FREDDIE MAC (Dec. 13, 2024), <https://myhome.freddiemac.com/blog/homebuying/understanding-discriminatory-restrictive-covenants>.
- ¹⁰ ROTHSTEIN, *supra* note 7.
- ¹¹ Terry Gross, *A ‘Forgotten History’ Of How The U.S. Government Segregated America*, NPR (May 3, 2017, 12:47 PM), <https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america>.
- ¹² *Id.*
- ¹³ La-Brina Almeida, *A History of Racist Federal Housing Policies*, MASSACHUSETTS BUDGET & POLICY CTR. (Aug. 6, 2021), <https://massbudget.org/2021/08/06/a-history-of-racist-federal-housing-policies/>.
- ¹⁴ *The role of housing policy in causing our nation’s racial disparities – and the role it must play in solving them*, HABITAT FOR HUMANITY, 5 (Aug. 2020), <https://www.habitat.org/sites/default/files/documents/Racial-Disparities-and-Housing-Policy-.pdf>.
- ¹⁵ History of Fair Housing, U.S. DEPT. OF HOUS. AND URBAN DEV., https://www.hud.gov/program_offices/fair_housing_equal_opp/aboutfheo/history (last visited Feb. 14, 2025).
- ¹⁶ A “protected class” refers to an individual who is “shielded against discrimination under federal, state, or local laws.” Anti-Discrimination laws in the United States, including but not limited to, the Civil Rights Act of 1964 and the American with Disabilities Act, “enumerate certain characteristics that constitute protected classes.” Protected Classes under Anti-Discrimination Laws, LEGALMATCH, <https://www.legalmatch.com/law-library/article/protected-classes-under-anti-discrimination-laws.html> (last visited Jan. 30, 2025).
- ¹⁷ *Id.*
- ¹⁸ The Fair Housing Act, U.S. DEPT. OF JUSTICE CIVIL RIGHTS DIV., <https://www.justice.gov/crt/fair-housing-act-1> (last visited Dec. 4, 2024).
- ¹⁹ BLACK’S LAW DICTIONARY (12th ed. 2024).
- ²⁰ *What is a Protected Class under the Fair Housing Act?*, HOUS. EQUALITY CTR. OF PENNSYLVANIA, <https://www.equalhousing.org/fair-housing-topics/what-is-a-protected-class-under-the-fair-housing-act/> (last visited Feb. 14, 2025).
- ²¹ MASS. GEN. LAWS ch. 151B § 4 (2025).
- ²² *Know Your Rights Source of Income Discrimination Frequently Asked Questions*, <https://www.mass.gov/doc/source-of-income-discrimination-faqs/download> (last visited Dec. 4, 2024).
- ²³ *Housing Discrimination Testing Program*, <https://www.suffolk.edu/law/academics-clinics/clinics-experiential-opportunities/housing-discrimination-testing-program> (last visited Dec. 4, 2024).
- ²⁴ *Testing*, FAIR HOUS. P’SHP (Aug. 15, 2019), <https://fhp.org/take-action/testing/>.
- ²⁵ Jamie Langowski et al., *Qualified Renter Need Not Apply*, THE BOSTON FOUND. (Jul. 2020), *available at* <https://www.tbtf.org/-/media/tbtf/reports-and-covers/2020/housing-voucher-report-20200701.pdf>.

-
- ²⁶ Marianne Bertrand & Sendhil Mullainathan, *Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination*, NAT'L BUREAU OF ECON. RESEARCH, Appendix Table 1 (Jul. 2003), available at <https://www.nber.org/papers/w9873.pdf>.
- ²⁷ Marianne Bertrand & Sendhil Mullainathan, *Are Emily and Greg More Employable Than Lakisha and Jamal? A Field Experiment on Labor Market Discrimination*, THE AMERICAN ECON. REVIEW (Sept. 2004), https://cos.gatech.edu/facultyres/Diversity_Studies/Bertrand_LakishaJamal.pdf.
- ²⁸ *Increased voucher payment standards in high-cost areas*, LOCAL HOUS. SOLUTIONS (May 13, 2021), <https://localhousingsolutions.org/housing-policy-library/increased-voucher-payment-standards-in-high-cost-areas/>.
- ²⁹ *Id.*
- ³⁰ Executive Office of Housing and Livable Communities, *EOHLC HCV Voucher Holders by ZIP-City-Town* (2024) (on file with author).
- ³¹ *New NFHA Report Reveals Highest Number of Housing Discrimination Complaints to Date*, NAT'L FAIR HOUS. ALLIANCE (Aug. 8, 2023), <https://nationalfairhousing.org/new-nfha-report-reveals-highest-number-of-housing-discrimination-complaints-to-date/#:~:text=Washington%2C%20D.C.%20%E2%80%94The%20National%20Fair,year%2C%20the%20highest%20on%20record.>
- ³² *2021 Fair Housing Testing Report*, CITY OF ALEXANDRIA, OFFICE OF HOUS. (Aug. 2021), <https://media.alexandriava.gov/docs-archives/housing/info/2021fairhousingtestingreport.pdf>.
- ³³ *Id.*
- ³⁴ Tanisha Salmon, *DEI initiatives elevate the Greater Boston Association of Realtors*, BOSTON AGENT (Nov. 6, 2023), <https://bostonagentmagazine.com/2023/11/06/dei-initiatives-elevate-the-greater-boston-association-of-realtors/>.
- ³⁵ *Id.*
- ³⁶ *Diversity, Equity, Inclusions and Fair Housing*, HUDSON GATEWAY ASSOC. OF REALTORS, <https://www.hgar.com/who-we-are/dei/diversity-equity-inclusion-and-fair-housing> (last visited Dec. 5, 2024).
- ³⁷ Episode 26 of Fair Housing Insiders, FAIR HOUS. INSTITUTE, <https://fairhousinginstitute.com/fair-housing-diversity-equity-inclusion/#h-fair-housing-diversity-equity-and-inclusion-statistics> (last visited Dec. 6, 2024).
- ³⁸ *Id.*
- ³⁹ Langowski et al., *supra* note 25.
- ⁴⁰ Cat Cloud et al., *Fair Housing Solutions: Overcoming Real Estate Sales Discrimination*, NAT'L FAIR HOUS. ALLIANCE (Dec. 2019), available at <https://nationalfairhousing.org/wp-content/uploads/2019/12/Fair-Housing-Solutions-Overcoming-Real-Estate-Sales-Discrimination-2.pdf>.
- ⁴¹ *Long Island Residents Reach Settlement with Five Suffolk County Apartment Complexes in Wide Ranging Housing Discrimination Case*, COHEN MILSTEIN (Apr. 2, 2024), <https://www.cohenmilstein.com/long-island-residents-reach-settlement-with-five-suffolk-county-apartment-complexes-in-wide-ranging-housing-discrimination-case/>.
- ⁴² *Id.*
- ⁴³ Jonathan LaMantia, *Suffolk landlord agrees to pay more than \$105G to settle racial, disability discrimination lawsuit*, NEWSDAY (Apr. 3, 2024), https://www.newsday.com/business/suffolk-landlord-settlement-hkh3yddx#utm_source=newsletter&utm_medium=email&utm_campaign=Morning-Update&lctg=b0a38f8152a08d032cd53d50de4730d702b6864c9497b81519eb0180fb89e0ff&utm_term=sub.
- ⁴⁴ *Press Release, Attorney General James and Governor Hochul Tackle Discriminatory Practices at Long Island Real Estate Brokerages*, NEW YORK STATE ATTORNEY GEN. (Aug. 30, 2022), <https://ag.ny.gov/press-release/2022/attorney-general-james-and-governor-hochul-tackle-discriminatory-practices-long>.
- ⁴⁵ *Id.*
- ⁴⁶ *Id.*
- ⁴⁷ *An Act to End Housing Discrimination in the Commonwealth*, House Bill No. 2049, 194th Sess. (Jan. 15, 2025).
- ⁴⁸ *Id.*
- ⁴⁹ *Id.*
- ⁵⁰ *Fair housing education for real estate professionals and consumers*, LOCAL HOUS. SOLUTIONS (May 11, 2021), <https://localhousingsolutions.org/housing-policy-library/fair-housing-education-for-real-estate-professionals-and-consumers/>.
- ⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Fair Housing University*, LOUISIANA FAIR HOUS. ACTION CENTER, <https://lafairhousing.org/fair-housing-university/> (last visited Dec. 6, 2024).

⁵⁵ *Id.*

⁵⁶ *Fair housing education for real estate professionals and consumers*, *supra* note 50.

⁵⁷ *Fair Housing*, MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS, <https://www.montgomerycountymd.gov/humanrights/fairhousing.html> (last visited Dec. 6, 2024).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Fair housing education for real estate professionals and consumers*, *supra* note 50.

⁶¹ Kit Un, *Civic Engagement for Fair Housing*, METRO. AREA PLANNING COUNCIL (Feb. 1, 2018, 4:57 PM), <https://www.mapc.org/resource-library/civic-engagement-for-fair-housing/#:~:text=What%20can%20our%20town%20do%20to%20promote%20diversity,month.%20...%204%20Reach%20out%20with%20media.%20>

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Lessons from the Ground: Best Practices in Fair Housing Planning*, HUD EXCH., <https://www.hudexchange.info/programs/fair-housing/best-practices-in-fair-housing-planning/collaborating-among-hud-program-participants/> (last visited Feb. 14, 2024). As of Feb. 14, 2025, this information was no longer available on the HUD website. It can be accessed at <https://www.prrac.org/wp-content/uploads/2023/07/PRRAC-HUDtoolkit2.2025smllr.pdf> (last visited Feb. 14, 2025).

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Community Assistance*, WINSTON-SALEM, <https://www.cityofws.org/646/Community-Assistance> (last visited Dec. 6, 2024).

⁷⁰ *Id.*

⁷¹ *Lessons from the Ground: Best Practices in Fair Housing Planning*, *supra* note 65.

⁷² *Lessons from the Ground: Best Practices in Fair Housing Planning*, *supra* note 65.

⁷³ *HUB*, CHELSEA POLICE DEPARTMENT, https://chelseapolice.com/community_services/hub.php (last visited Dec. 6, 2024).

⁷⁴ *Id.*

⁷⁵ Amanda Abrams, *Connecting the City's Social Services to Help At-Risk Populations*, SHELTER FORCE (Jul. 17, 2019), <https://shelterforce.org/2019/07/17/connecting-the-citys-social-services-to-help-at-risk-populations/>; and *HUB*, CHELSEA POLICE DEPARTMENT, https://chelseapolice.com/community_services/hub.php (last visited Dec. 6, 2024).

⁷⁶ *HUB*, CHELSEA POLICE DEPARTMENT, https://chelseapolice.com/community_services/hub.php (last visited Dec. 6, 2024).

⁷⁷ MASS. GEN. LAWS ch. 161A § 1; and Abby Patkin, *These towns are seeing results from the MBTA Communities Act*, BOSTON.COM (Oct. 15, 2024), <https://www.boston.com/news/real-estate/2024/10/15/these-towns-are-seeing-results-from-the-mbta-communities-act/>.

⁷⁸ MASS. GEN. LAWS ch. 40A § 1 3A.

⁷⁹ Sydney Ko, *Map: Who is – and isn't – complying with the MBTA Communities Act?*, WBUR (Nov. 21, 2024), <https://www.wbur.org/news/2024/05/09/mbta-communities-act-zoning-map>.

⁸⁰ Abby Patkin, *These towns are seeing results from the MBTA Communities Act*, BOSTON.COM (Oct. 15, 2024), <https://www.boston.com/news/real-estate/2024/10/15/these-towns-are-seeing-results-from-the-mbta-communities-act/>.

⁸¹ Ko, *supra* note 79.

⁸² Ko, *supra* note 79.

⁸³ Ko, *supra* note 79.

⁸⁴ Ko, *supra* note 79.

⁸⁵ *Attorney Gen. v. Town of Milton*, No. 13580 (Mass. Jan. 8, 2025).

⁸⁶ *Press Release: Implementation of MBTA Communities Law Continued with Filing of Emergency Regulations*, EXEC. OFFICE OF HOUS. AND LIVABLE COMMUNITIES, (Jan. 14, 2025), <https://www.mass.gov/news/implementation-of-mbta-communities-law-continues-with-filing-of-emergency-regulations>.

⁸⁷ Email from the Town of Needham (Feb. 6, 2025, 11:08 AM EST) (on file with author).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ Ana Patricia Muñoz, et al., *The Color of Wealth in Boston*, FED. RESERVE BANK OF BOSTON (Mar. 25, 2015), <https://www.bostonfed.org/publications/one-time-pubs/color-of-wealth.aspx>.

⁹¹ *Inclusionary zoning*, LOCAL HOUS. SOLUTIONS (May 13, 2021), <https://localhousingsolutions.org/housing-policy-library/inclusionary-zoning/>.

⁹² *How Does Inclusionary Housing Work?*, INCLUSIONARY HOUS. (2019), <https://inclusionaryhousing.org/inclusionary-housing-explained/what-is-inclusionary-housing/inclusionary-housing-work/>.

⁹³ Ruoniu Wang & Sowmya Balachandran, *Inclusionary Housing in the United States*, GROUNDED SOLUTIONS NETWORK (2021), available at https://groundedsolutions.org/wp-content/uploads/2021-01/Inclusionary_Housing_US_v1_0.pdf.

⁹⁴ *Id.*

⁹⁵ *Expanding Housing Opportunities Through Inclusionary Zoning: Lessons from Two Counties*, U.S. DEPT. OF HOUS. AND URBAN DEV. (2012), <https://www.huduser.gov/Publications/pdf/HUD-496.pdf>. As of Feb. 14, 2025, this information was no longer available on the HUD website. It can be accessed at <https://docslib.org/doc/10384817/expanding-housing-opportunities-through-inclusionary-zoning-lessons-from-two-counties> (last visited Feb. 14, 2025).

⁹⁶ Lisa A. Sturtevant, *Separating Fact from Fiction to Design Effective Inclusionary Housing Programs*, CTR. FOR HOUS. POLICY (May 2016), <https://nhc.org/wp-content/uploads/2017/10/Separating-Fact-from-Fiction-to-Design.pdf>.

⁹⁷ Stephanie Reyes & Amy T. Khare, *Advancing Racial Equity in Inclusionary Housing Programs*, GROUNDED SOLUTIONS NETWORK (Feb. 2021), available at https://groundedsolutions.org/wp-content/uploads/2024/06/Advancing-Racial-Equity-in-Inclusionary-Housing-Programs_Technical-Guide.pdf.

⁹⁸ Rick Jacobus, *Inclusionary Housing: Creating and Maintaining Equitable Communities*, LINCOLN INST. OF LAND POLICY (2015), available at https://www.lincolnst.edu/app/uploads/legacy-files/pubfiles/inclusionary-housing-full_0.pdf.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Density Bonus*, INCLUSIONARY HOUS. (2019), <https://inclusionaryhousing.org/designing-a-policy/land-dedication-incentives/density-bonus/>.

¹⁰³ *Density Bonuses*, HOUS. INNOVATIONS PROGRAM, PUGET SOUND REG'L COUNCIL (Aug. 2020), <https://www.psrc.org/media/2027>.

¹⁰⁴ *Id.*

¹⁰⁵ *Density Bonus*, *supra* note 102.

¹⁰⁶ *Density Bonus*, *supra* note 102.

¹⁰⁷ *Density Bonus*, *supra* note 102.

¹⁰⁸ *Density Bonus*, *supra* note 102.

¹⁰⁹ *Density Bonuses*, *supra* note 103.

¹¹⁰ *Density Bonuses*, *supra* note 103.

¹¹¹ *Density Bonuses*, *supra* note 103.

¹¹² *Linkage Fee Programs*, INCLUSIONARY HOUS. (2019), <https://inclusionaryhousing.org/designing-a-policy/program-structure/linkage-fee-programs/>.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Ask DLS: Linkage Fees*, MA DEPT. OF REVENUE DIV. OF LOCAL SERVICES (May 4, 2023), <https://www.mass.gov/info-details/ask-dls-linkage-fees>.

-
- ¹¹⁶ Steve Berg, *Why the Affirmatively Furthering Fair Housing Rule Matter*, NAT'L ALLIANCE TO END HOMELESSNESS (Jan. 17, 2024), <https://endhomelessness.org/blog/why-the-affirmatively-furthering-fair-housing-rule-matters/>.
- ¹¹⁷ Lara Heard & Lillian M. Ortiz, *How Fast Could the Trump Administration Make HUD, Fair Housing Changes?*, SHELTER FORCE (Dec. 23, 2024), <https://shelterforce.org/2024/12/23/how-fast-could-the-trump-administration-make-hud-fair-housing-changes/>.
- ¹¹⁸ BOSTON, MASS., ZONING CODE ART. 80 (1996); and *Boston to Become First Major City in the Nation to Include Fair Housing Requirements in Zoning Code*, CITY OF BOSTON (Dec. 9, 2020), <https://www.boston.gov/news/boston-become-first-major-city-nation-include-fair-housing-requirements-zoning-code>.
- ¹¹⁹ *Boston to Become First Major City in the Nation to Include Fair Housing Requirements in Zoning Code*, *supra* note 118.
- ¹²⁰ *Boston to Become First Major City in the Nation to Include Fair Housing Requirements in Zoning Code*, *supra* note 118.
- ¹²¹ Article 8 - Accessibility Checklist (Oct. 2019), <https://www.bostonplans.org/getattachment/2b173503-a553-4880-974f-a25270e8ff34>.
- ¹²² *Id.*
- ¹²³ Gretchen Blankinship & Andy Winkler, *Eliminating Land-Use Barriers to Build More Affordable Homes*, BIPARTISAN POLICY CTR. (Sept. 26, 2019), <https://bipartisanpolicy.org/blog/eliminating-land-use-barriers-to-build-more-affordable-homes/>.
- ¹²⁴ Allison Hanley, *Rethinking Zoning to Increase Affordable Housing*, J. OF HOUS. AND CMTY. DEV. (Dec. 22, 2023), https://www.nahro.org/journal_article/rethinking-zoning-to-increase-affordable-housing/.
- ¹²⁵ *Id.*
- ¹²⁶ *Id.*
- ¹²⁷ *Id.*
- ¹²⁸ *Id.*
- ¹²⁹ Affordable Homes Act, ch. 150 of the Acts of 2024.
- ¹³⁰ *Press Release: Governor Maura Healey Signs Most Ambitious Legislation to Address Housing Costs in State History*, EXEC. OFFICE OF HOUS. AND LIVABLE COMMUNITIES (Aug. 6, 2024), <https://www.mass.gov/news/governor-maura-healey-signs-most-ambitious-legislation-to-address-housing-costs-in-state-history#:~:text=The%20Healey-Driscoll%20Administration%20estimates%20that%20between%208%2C000%20and,is%20the%20creation%20of%20a%20Seasonal%20Communities%20designation>.
- ¹³¹ Mass. Gen. Law. C.40A § 1A (2024).
- ¹³² *Accessory Dwelling Units*, EXEC. OFFICE OF HOUS. AND LIVABLE COMMUNITIES, <https://www.mass.gov/info-details/accessory-dwelling-units#what-is-the-law?> (last visited Jan. 10, 2025).
- ¹³³ *Id.*
- ¹³⁴ *Id.*
- ¹³⁵ Jeff Kruth & Muralo Paranandi, *Accessory dwelling units: a zoning solution to the US housing crisis*, WORLD ECON. FORUM (Jun. 8, 2023), <https://www.weforum.org/stories/2023/06/adu-accessory-dwelling-units-us-housing-crisis/>.
- ¹³⁶ *Id.*
- ¹³⁷ *Id.*
- ¹³⁸ *Id.*
- ¹³⁹ Daniel Beekman, *Seattle is now building more ADUs than single houses*, THE SEATTLE TIMES (Mar. 8, 2023, 6:00 AM), <https://www.seattletimes.com/seattle-news/politics/seattle-is-now-building-more-adus-than-single-houses/>.
- ¹⁴⁰ *Id.*
- ¹⁴¹ *Id.*
- ¹⁴² *Id.*
- ¹⁴³ *Id.*
- ¹⁴⁴ *Press Release, Governor Healey Announces Proposal to Eliminate Renter-Paid Broker Fees*, EXEC. OFFICE OF HOUS. AND LIVABLE COMMUNITIES (Jan. 13, 2025), <https://www.mass.gov/news/governor-healey-announces-proposal-to-eliminate-renter-paid-broker-fees>.

¹⁴⁵ Nik DeCosta-Klipa, *Could Mass. Make landlords pay most broker's fees? Here's what to know*, WBUR (Jul. 16, 2024), <https://www.wbur.org/news/2024/07/16/massachusetts-brokers-fees-landlord-renter-bill-newsletter>.

¹⁴⁶ Press Release, Governor Healey Announces Proposal to Eliminate Renter-Paid Broker Fees, *supra* note 144.

¹⁴⁷ Press Release, Governor Healey Announces Proposal to Eliminate Renter-Paid Broker Fees, *supra* note 144.

¹⁴⁸ Press Release, Governor Healey Announces Proposal to Eliminate Renter-Paid Broker Fees, *supra* note 144.

¹⁴⁹ Ann Bahney, *The gulf between Black homeowners and White is actually getting bigger, not smaller*, CNN BUS. (Mar. 2, 2023, 12:05 PM), <https://www.cnn.com/2023/03/02/homes/race-and-home-buying-nar/index.html>.

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Housing for Black-Led Households*, NAT'L LEAGUE OF CITIES (Feb. 4, 2024), <https://www.nlc.org/article/2024/02/06/housing-for-black-led-households/>.

¹⁵⁴ *How Cities and States Can Increase Black Home Ownership*, URBAN INST. (Feb. 22, 2024), <https://housingmatters.urban.org/articles/how-cities-and-states-can-increase-black-homeownership>.

¹⁵⁵ Nikitra Bailey et al., *First Generation: Criteria for a Targeted Down Payment Assistance Program*, NAT'L FAIR HOUS. ALLIANCE (May 21, 2021), available at <https://nationalfairhousing.org/wp-content/uploads/2021/12/crl-nfha-first-generation-jun21.pdf>.

¹⁵⁶ Daniel Mccue et al., *How Much Can Downpayment Assistance Close Homeownership Gaps for Black and Hispanic Households?*, JOINT CTR. FOR HOUS. STUDIES (Mar. 2023), available at https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_downpayment_assistance_mccue_2023.pdf.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Massachusetts Homepage*, U.S. DEP'T OF HOUS. AND URBAN DEV., <https://www.hud.gov/ma> (last visited Jan. 10, 2025).

¹⁶¹ *Id.*

¹⁶² *Get Down Payment Help*, MASSACHUSETTS HOUS. P'SHIP, <https://www.mhp.net/one-mortgage/homebuyer-resources/get-down-payment-help> (last visited Dec. 5, 2024).

¹⁶³ *What Is a Community Land Trust?*, INTERNATIONAL CTR. FOR CMTY. LAND TRUSTS, <https://www.cltweb.org/resources/what-is-a-community-land-trust/> (last visited Jan. 13, 2025).

¹⁶⁴ *Community Land Trust Pros and Cons: Weighing the Opportunities*, CMTY. WEALTH, <https://www.community-wealth.com/community-land-trust-pros-and-cons-weighing-the-opportunities/> (last visited Jan. 13, 2025).

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Our Mission*, BOSTON NEIGHBORHOOD CLT, <https://www.bnclt.org/our-mission> (last visited Jan. 14, 2025).

¹⁷¹ *Id.*

¹⁷² *How It Works*, BOSTON NEIGHBORHOOD CLT, <https://www.bnclt.org/how-it-works> (last visited Jan. 14, 2025).

¹⁷³ *Id.*

¹⁷⁴ Lauren Lowery et. al., *Community Land Trusts: A Guide for Local Municipalities*, NAT'L LEAGUE OF CITIES (2021), available at https://www.nlc.org/wp-content/uploads/2021/08/Community-Land-Trusts_A-Guide-for-Local-Governments_Report-1.pdf.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Supporting Neighborhood Opportunity in Massachusetts (SNO Mass) Program*, MASS.GOV, <https://www.mass.gov/info-details/supporting-neighborhood-opportunity-in-massachusetts-sno-mass-program#more-information-for-property-owners-> (last visited Dec. 5, 2024).

¹⁷⁸ *Id.*

¹⁷⁹ Gretchen Weismann & Alexandra Curley, *Supporting Neighborhood Opportunity in Massachusetts, A study of housing mobility program outcomes*, MOBILITY WORKS (Jun. 2023), <https://www.mass.gov/doc/sno-mass-report-june-2023/download>.

¹⁸⁰ *Id.*

¹⁸¹ *Supporting Neighborhood Opportunity in Massachusetts*, *supra* note 177.

¹⁸² *Supporting Neighborhood Opportunity in Massachusetts*, *supra* note 177.

¹⁸³ *Supporting Neighborhood Opportunity in Massachusetts*, *supra* note 177.

¹⁸⁴ *Supporting Neighborhood Opportunity in Massachusetts*, *supra* note 177.

¹⁸⁵ Weismann & Curley, *supra* note 179.

¹⁸⁶ Nadia Evangelou, *Mom and Pop Business Owners' Day: Landlords of Small Rental Properties*, NAT'L ASS'N OF REALTORS (Mar. 29, 2023), <https://www.nar.realtor/blogs/economists-outlook/mom-and-pop-business-owners-day-landlords-of-small-rental-properties>.

¹⁸⁷ *Id.*

¹⁸⁸ *Exploring Mom-and-Pop Landlord Rentals*, URBAN INST., <https://www.urban.org/projects/exploring-mom-and-pop-landlord-rentals> (last visited Feb. 11, 2025).

¹⁸⁹ *Incentivizing Landlords to Advance Eviction Prevention*, NAT'L LEAGUE OF CITIES, <https://www.nlc.org/wp-content/uploads/2023/01/INCENTIVIZING-LANDLORDS-TO-ADVANCE-EVICTION-PREVENTION.pdf#:~:text=By%20participating%20in%20the%20program%2C%20landlords%20are%20promoted,completed%20the%20Housing%20Solutions%E2%80%99%20Housing%20Stability%20Certificate%20program> (last visited Dec. 5, 2024).

¹⁹⁰ *Landlord Partnership Program*, MARIN HOUS., <https://www.marinhousing.org/landlord-partnership-program> (last visited Dec. 5, 2024).

¹⁹¹ *Incentivizing Landlords to Advance Eviction Prevention*, *supra* note 189.

¹⁹² *Landlords: Critical Participants in the Housing Choice Voucher Program HUD-Sponsored Research Sheds New Light on HCV Landlords PHAs Encourage Landlord Participation With Incentives*, OFFICE OF POLICY DEV. AND RESEARCH (Winter 2019), available at <https://docs.huduser.gov/archives/portal/sites/default/files/pdf/EM-Newsletter-Winter2019.pdf>. As of Feb. 14, 2025, this information was no longer available on the HUD website, but is on file with the author.

¹⁹³ *Landlord Partnership Program*, *supra* note 190.

¹⁹⁴ *Landlord Engagement and Assistance Program*, SAN DIEGO HOUS. COMM'N, <https://sdhc.org/doing-business-with-us/landlords/landlord-engagement-and-assistance-program-leap/> (last visited Dec. 5, 2024).

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Incentivizing Landlords to Advance Eviction Prevention*, *supra* note 189.

¹⁹⁸ *Gold Star Landlord Program*, TULA AUTHORITY FOR ECONOMIC OPPORTUNITY (2022), available at <https://www.cityoftulsa.org/media/18263/gold-star-landlord-program-policy-march-2022.pdf>.