



*Manufactured
Housing Institute*

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Fair Housing Update

HUD/DOJ Issue Guidance on Zoning and Discrimination

The Departments of Justice (DOJ) and Housing and Urban Development (HUD) have released an updated guidance on the application of the federal Fair Housing Act (FHA) to state and local land use planning laws. The Guidance is attached to the email delivering this Update.

According to a DOJ/HUD joint press release (a portion of which is on page two), “The guidance is designed to help state and local governments better understand how to comply with the FHA when making zoning and land use decisions as well as to help members of the public understand their rights under the FHA.”

The FHA prohibits discrimination in housing based on disability, race, color, religion, national origin, sex and familial status. While often used against housing providers, it also bars local governments from enacting or enforcing land use and zoning laws that discriminate against persons because of their protected status.

MHI General Counsel Rick Robinson said, “While a good portion of the

Guidance deals with land use planning as it applies to group homes, there is much our state associations can use when they are dealing with cities attempting to eliminate our homes from the supply of affordable housing stock via zoning.”



DOJ and HUD cite several examples where local planning ordinances may violate the Fair Housing Act including “... minimum floor space or lot size requirements that increase the size and cost of housing if such an increase has the effect of excluding persons from a locality or neighborhood because of their membership in a protected

class ...”

Earlier this year, MHI met with HUD’s Fair Housing Office suggesting the need for such guidance and offered several examples where local ordinances appeared to violate FHA. MHI VP Tom Heinemann who attended the meeting said, “We hope HUD will view this guidance through the lens of how to protect manufactured homeowners who face challenges within their communities due to discriminatory land use planning.”

The Justice Department and the Department of Housing and Urban Development (HUD) released updated guidance today on the application of the federal Fair Housing Act (FHA) to state and local land use and zoning laws. The guidance is designed to help state and local governments better understand how to comply with the FHA when making zoning and land use decisions as well as to help members of the public understand their rights under the FHA.

“The Fair Housing Act helps protect open, free and integrated communities,” said Principal Deputy Assistant Attorney General Vanita Gupta, head of the Justice Department’s Civil Rights Division. “Government officials, housing providers and the general public need to understand how land use and zoning decisions can create barriers to equal housing opportunity. We hope this guidance will help communities make these decisions free from discrimination.”

“Zoning and land use are inherently local decisions,” said Gustavo Velasquez, Assistant Secretary for Fair Housing and Equal Opportunity for the Department of Housing and Urban Development. “This updated guidance will help give localities and the American people a clearer line of what could constitute housing discrimination under the federal Fair Housing Act. Cities will also have more resources to understand their fair housing rights and responsibilities in the course of making decisions related to various types of housing, including group homes for residents with disabilities.”

The FHA prohibits discrimination in housing based on disability, race, color, religion, national origin, sex and familial status (residing with children under 18). The statute bars state and local governments from enacting or enforcing land use and zoning laws, policies, practices and decisions that discriminate against persons because of a protected characteristic, such as race, national origin or disability. The guidance is an update of previous guidance issued in the Joint Statement of the Department of Housing and Urban Development and the Department of Justice on Group Homes, Local Land Use and the Fair Housing Act on Aug. 18, 1999.

The updated guidance, issued in the form of questions and answers, covers:

How does the Fair Housing Act apply to state and local land use and zoning?

When does a land use or zoning practice constitute intentional discrimination in violation of the Fair Housing Act?

Can state and local land use and zoning laws or practices violate the Fair Housing Act if the state or locality did not intend to discriminate against persons on a prohibited basis?

Does a state or local government violate the Fair Housing Act if it considers the fears or prejudices of community members when enacting or applying its land use laws respecting housing?

The Justice Department and HUD share responsibility for enforcing the FHA. HUD is the agency with the primary responsibility to investigate individual complaints of discrimination. The Secretary of HUD, on his own initiative, may file complaints alleging discrimination. In addition, the Attorney General may commence a civil action in federal court when she has reasonable cause to believe that person(s) are engaged in a pattern or practice of discrimination or that a group of persons has been denied rights protected by the FHA.



For more information, questions, or to get copies of past Updates, contact MHI’s General Counsel, Rick Robin-

