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May 13, 2013

ELECTRONIC TRANSMISSION
AND FEDERAL EXPRESS OVERNIGHT

Christopher J. Fregiato, Esq.
(Christopher.Fregiato@usdoj.gov)
Chief
Attn: DJ #175-15-46
Housing and Civil Enforcement Section
Civil Rights Division
United States Department of Justice
1800 G Street NW
Washington, DC 20006

Re: Sussex County Affordable and Fair Housing Marketing Plan - Revised

Dear Mr. Fregiato:

The County attaches hereto the Sussex County Affordable and Fair Housing Marketing Plan ("Plan") revised to address the concerns in your correspondence dated April 29, 2013. We would like to draw your attention to one particular issue, however. One of your comments directed to the County seemed to imply that you would like for the County to prepare and electronically post a list of all multi-family housing units located within the County, updated regularly, including information on the specific units available. The County respectfully requests that you reconsider this request if, in fact, we have understood your implication correctly.

Unlike the City of Janesville and New Berlin, the area encompassing the County is vast and such a requirement is not feasible for the County to implement. You will note in the revised Plan, however, that the County will be providing links to the County's Existing and Future Land Use maps where the reader can locate land that is currently utilized or appropriate for future multi-family housing. The County will also list the individual dwelling units constructed in developments that have proceeded through the MPHU and SCRP programs on the Delaware Housing Search website.

After consultation with the Delaware State Housing Authority, the County has also provided additional clarification on the phrase "proof of affordability" in Section IV.A.1.e. Also, please note that the County has provided new information regarding the County's specific accomplishments in Section III.A.2.g, and an additional outreach activity not required by your office or HUD in Section IV.A.1.i.

Lastly, please be informed that the County's Fair Housing Compliance Officer ("FHCO"), Brandy Nauman, will be on maternity leave the upcoming months of August and September, and the first two weeks in October. In her absence, Brad Whaley, the Director of the Sussex County Community Development and Housing Office will serve as the FHCO.

We hope this revised Plan meets with your approval. Please contact me with any questions or comments.

Sincerely yours,

Stephanie L. Hansen

SLH:slh
cc: Ms. Alice Hung, USDOJ (via email only)
Ms. Melody Taylor-Blancher (via email only)
Ms. Barbara Delaney (via email only)
Mr. Todd Lawson (via email only)
Mrs. Brandy Nauman (via email only)

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Sussex County
DELAWARE
sussexcountyde.gov

Sussex County Affordable and Fair Housing Marketing Plan

I. Mission Statement

It is Sussex County's mission to promote non-discrimination and ensure fair and equal housing opportunities for all. Further, to inform housing developers and the general public that the County supports the development of affordable housing opportunities in Sussex County.

II. The Fair Housing Act Summary

A. The Fair Housing Act prohibits discrimination in housing because of:
   1. Race or color;
   2. National origin;
   3. Religion;
   4. Sex;
   5. Familial status (families with children under the age of 18, or who are expecting a child); or
   6. Handicap (If you or someone close to you has a disability).

   The Delaware Code enlarges this list to include creed, marital status, and age.

B. The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker and housing operated by organizations and private clubs that limit occupancy to members.

C. What is Prohibited. In the Sale and Rental of Housing: no one may take any of the following actions based on race, color, national origin, religions, sex, familial status or handicap (disability);
   1. Refuse to rent or sell housing;
   2. Refuse to negotiate for housing;
   3. Make housing unavailable;
   4. Deny a dwelling;
   5. Set different terms, conditions or privileges for sale or rental of a dwelling;

EQUAL HOUSING OPPORTUNITY

6. Provide different housing services of facilities;
7. Falsely deny that housing is available for inspection, sale or rental;
8. For profit, persuade owners to sell or rent (blockbusting); or
9. Deny anyone access to membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

D. In Mortgage Lending: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):
    1. Refuse to make a mortgage loan;
    2. Refuse to provide information regarding loans;
    3. Impose different terms or conditions on a loan, such as different interest rate, points, or fees;
    4. Discriminate in appraising property;
    5. Refuse to purchase a loan; or
    6. Set different terms or conditions of purchasing a loan.

E. In addition: It's illegal for anyone to:
    1. Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right; and
    2. Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familiar status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

F. Additional Protection If You Have a Disability: If you or someone associated with you:
    1. Have a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities;
    2. Have a record of such a disability; or
    3. Are regarded as having such a disability, your landlord may not:
        a. Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
        b. Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

    However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

G. Requirements of New Buildings: In buildings that are ready for first occupancy after March 13, 1991, and have an elevator or four or more units:

1. Public and common areas must be accessible to persons with disabilities.
2. Doors and hallways must be wide enough for wheelchairs.
3. All units must have:
    a. An accessible route into and through the unit;
    b. Accessible switches, electrical outlets, thermostats and other environmental controls;
    c. Reinforced bathroom walls to allow later installation of grab bars; and
    d. Kitchen and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or Local law.

H. Housing Opportunities for Families: Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

1. A parent;
2. A person who has legal custody of the child or children, or
3. The Designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

1. The U.S. Department of Housing and Urban Development (HUD) Secretary had determined that it is specifically designed for and occupied by elderly persons under a Federal, State or Local government program;
2. It is occupied solely by persons who are 62 years or older;
3. It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

A transition period permits resident on or before September 13, 1988 to continue living in the housing, regardless of their age, without interfering with the exemption.

I. If you think your rights have been violated: Please visit HUD's website at www.hud.gov for the most accurate and up-to-date information. HUD is ready to help with any problem of housing discrimination. If you think your rights have been violated, the

Housing Discrimination Complaint Form is available for you to download, complete and return, or complete online and submit, or you may write a letter or telephone the HUD office nearest you. You have one year after the alleged violation to file a complaint with HUD, but you should file it as soon as possible.

1. What to tell HUD
    a. Your name and address;
    b. The name and address of the person your complaint is against (the respondent);
    c. The address or other identification of the housing involved;
    d. A short description of the alleged violation (the event that caused you to believe your rights were violated); and
    e. The date(s) of the alleged violation.

2. Where to write or call: Send a letter to the fair housing office nearest you, or if you wish, you may call that office directly.
    a. For Delaware:
    Wilmington Field Office
    U.S. Dept. of Housing and Urban Development
    920 North King Street, Suite 404
    Wilmington, DE 19801-3016
    Telephone: (302) 573-6300
    Fax: (302) 573-6259
    Email: DE_Webmanager@hud.gov

3. If you are disabled: HUD also provides:
    a. TTY phone for the deaf/hard of hearing users
    b. Interpreters
    c. Tapes and Braille materials
    d. Assistance in reading and completing forms

To learn more on what happens after you file a complaint, please visit HUD's website at www.hud.gov for the most accurate and up-to-date information.

J. If you think your rights have been violated, you may also file a complaint with the Delaware Office of Human Relations. Contact information for the Delaware Office of Human Relations is:

Office of Human Relations
Carvel State Office Building
820 North French Street, 4th Floor
Wilmington, Delaware 19801
Telephone: (302) 577-5287
Website: http://statehumanrelations.delaware.gov/

K. In addition, under the Fair Housing Act (42 U.S.C.A. § 3613) you may also commence a civil action in an appropriate U.S. District Court or State court not later than 2 years after the occurrence or termination of an alleged discriminatory housing practice whether or not you have filed a complaint with HUD or the Delaware Office of Human Relations.

III. Historical Housing Information

A. What Sussex County has Done to Affirmatively Further Fair Housing

1. How Long CD&H has Been in Existence
   Sussex County's Department of Community Development & Housing was created 24 years ago when the Delaware State Housing Authority (DSHA) made the Community Development Block Grant (CDBG) program available to local government jurisdictions.

2. Specific County Accomplishments
   a. Discussion of the Moderately Priced Housing Unit (MPHU) Program and the Sussex County Rental Program (SCRP)
      i. In 2006, the County created the Moderately Priced Housing Unit Program (MPHU), which focuses on integrating affordable housing units within a market-rate development. The program focuses on providing housing to households with incomes between **50%** and 120% of AMI. In 2006, County Council approved the first project for participation in the program, The Villages of Elizabethtown, located in Milton. In 2008, the Council approved five additional projects for the program in Dagsboro, Georgetown (x2), and Ellendale (x2). In total, _547_dwelling units have been approved for development under the MPHU program although, to date, none have been constructed due to the economic downturn in the housing market in Sussex County.
      ii. In 2008, the County created the Sussex County Rental Program (SCRP), which integrates affordable rental housing within a market-rate rental project. The program focuses on providing housing to households with incomes between 30% and 80% of the AMI. In July 2009, County Council approved the first project for participation in the program, The Arbors of Cottagedale. The project was proposed just outside of Lewes and would provide twenty-six (26) affordable rental units. To date, no units have been constructed due to the economic downturn in the housing market in Sussex County.

iii. The MPHU and SCRP program applications/Request for Proposal processes were amended to include point incentives for Universal Design and Good Neighborhood Design features.

b. Discussion of the Neighborhood Stabilization Program I (NSP 1) and the Neighborhood Stabilization Program II (NSP 2)

i. In 2008, the County was awarded $2 million in Neighborhood Stabilization Program I (NSP 1) funding through the Housing and Economic Recovery Act of 2008 stimulus package. NSP 1 funding was designed to stabilize distressed neighborhoods by assisting low- and moderate-income homebuyers purchase foreclosed homes. HUD designated five targeted zip codes in Sussex County for NSP 1: 19956 (Laurel), 19973 (Seaford), 19947 (Georgetown), 19950 (Greenwood), and 19963 (Milford). The County assisted thirty-one (31) households with the funding. Sussex County also exceeded the HUD requirement to spend 25% of funds ($500,000) on those households at or below 50% of Area Median Income (AMI), by directing $1.1 million on those households. The County partnered with three non-profit affordable housing providers, as well as administered their own NSP homebuyer assistance model.

ii. In 2009, the County was awarded $939,204 in Neighborhood Stabilization Program II (NSP 2) through the American Recovery and Reinvestment Act (ARRA) of 2009. Like NSP 1, NSP 2 was created to continue the work of stabilizing neighborhoods by incentivizing the purchase of foreclosed homes in communities that have been negatively affected by foreclosure. HUD targeted five census tracts in Sussex County for NSP 2 funding: 509 (Milton/Lewes area), 510.01 (Lewes/Rehoboth), 511 (Rehoboth/Dewey Beach), 507.02 (Millsboro/Long Neck area), and 501.02 (Lincoln/Milford area). To-date, the County has assisted nine (9) households with the funding. The County partnered with two local non-profit housing developers to help spread the funding efficiently to those most in need, as well as utilizing their own NSP homebuyer assistance model.

c. Discussion of use of Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), and Housing Preservation Grant (HPG)

i. For over 20 years, the Community Development & Housing Department has administered the Community Development Block Grant Program (CDBG). The office uses the funds to protect and

support the most vulnerable residents of the County. The funds are primarily used for the rehabilitation of income-eligible owner-occupied properties, home modifications for persons with disabilities, water/sewer hookups, demolitions, and small infrastructure projects. The County applies for CDBG funds on behalf of municipalities and rural communities across the County. In addition to the County Council, all participating towns are required to sign an affirmatively furthering fair housing resolution.

ii. The County also uses Housing Preservation Grant (HPG) funds from the U.S. Department of Agriculture Rural Development and HOME Investment Partnerships Program (HOME) funds from HUD for the rehabilitation of income-eligible owner-occupied properties.

iii. Annually, CD&H assists approximately 130 households with CDBG, HOME, and HPG funds.

d. Use of County Council Grant Funding and General Funding for Infrastructure in Impacted Communities.

i. Through Sussex County's Human Service Grant program, the County Council provides numerous grants to various agencies annually that promote and advocate for affordable, fair housing, and other humanitarian efforts. Some of these organizations include, Delaware Housing Coalition, La Esperanza, Habitat for Humanity, NCALL Research, First State Community Action, Sussex Housing Group, and DCRAC. The Human Service Grant funding also allows rural communities to seek small infrastructure improvement grants like, funding for streetlights, road improvements, handicap accessibility, and community clean-ups.

ii. Sussex County Council also provides funding for CD&H to assist with emergency housing rehabilitations, typically an average of $60,000 annually. This funding goes primarily towards assisting low- and moderate-income owner-occupied properties with rehabilitations, but has also assisted rural communities with improvements to their community centers.

e. Discussion of County Vacant Properties.

Sussex County owns two (2) vacant properties that were purchased in preparation for future County Airport Runway expansion. Since the expansion was not expected to take place for several years, the County created a RFP process that encouraged local non-profit housing providers

to submit plans for the use of the vacant homes. The County elected to award Sussex County Habitat for Humanity the vacant homes to lease. One of the homes would provide housing to future Habitat families that were currently in substandard housing and needed safe housing until their Habitat home was completed. The second home would house AmeriCorps volunteers that work with Habitat for Humanity in the construction of homes.

f. Discussion of Foreclosure Prevention Efforts.
CD&H collaborates with the Attorney General and Office of State Bank Commissioner to provide consumer education events pertaining to foreclosure prevention. These events take place nearly every month in areas of the County most hard hit by the foreclosure crisis. The Department also records and monitors monthly foreclosure filing and Sheriff Sale data.

g. Discussion of Fair Housing Efforts.
On April 16, 2013, Sussex County Council amended the County's Fair Housing Policy to adopt language that would be read by legal counsel prior to public hearings related to land use and zoning. The language reads as follows:

> "Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations."

IV. Outreach Activities

A. Description of Specific Outreach Activities

1. Sussex County's Efforts.

a. The County will encourage developers to affirmatively market their units to diverse populations by making it clear in the County's comments during the PLUS process on the development proposal that this is the County's policy. (Timetable: By July 1, 2013)

b. The County will develop standard language that will be incorporated into every residential development plan review subject to the PLUS process which sets forth the County's policy to affirmatively further fair housing by emphasizing the desire for the creation of racially/ethnically diverse,

mixed income communities and encouraging developers to affirmatively market their units to diverse populations. (Timetable: By July 1, 2013)

c. The County recently passed an ordinance to modify its Moderately Priced Housing Unit ("MPHU") Program to apply to homebuyers earning 50% to 120% of the County's median income. (Introduced on March 26, 2013 and passed on April 23, 2013)

d. The County will continue discussions with Diamond State Community Land Trust ("DSCLT") and other providers of low to moderate income housing to create additional incentives within the MPHU Program to entice developers to price some homes to be affordable to lower area median income families. (Timetable: Dec. 31, 2013)

e. The County will formulate a policy regarding affordable housing projects seeking support. As part of this policy, conditional support letters may be provided upon proof of affordability. Proof of affordability may be shown by establishing a link between the housing project seeking approval and funding of some element of that housing project through a non-profit, local, state, or federal housing program. The support letter would not only commend affordable housing construction, but also perhaps provide waivers of certain fees upon satisfaction of the planning approval process. (Timetable: September 30, 2013)

f. Sussex County held a Fair Housing training session on March 8th, 2013 to educate staff on Fair Housing requirements. Elected and appointed representatives of the County participated in the training, including members of County Council and the Planning and Zoning Commission. (Timetable: Currently in-place)

g. Partner with www.DelawareHousingSearch.org, a website that provides a comprehensive listing of publicly-assisted properties for sale, as well as publicly-assisted and market-rate rental units. The website is fully supported by a toll-free bilingual call center. Listings are monitored daily for accuracy and fair housing compliance. The advanced search feature allows individuals to search using a wide variety of criteria, including income, accessibility features, proximity to services, and more. A link from to the website will be available from the County's homepage and the Fair Housing webpage. (Timetable: Currently in place).
    i. As MPHU and SCRP units are constructed, the County will list the units through the www.DelawareHousingSearch.org website.

h. Work with the Sussex County Association of Realtors to expand their listing form to include accessibility features of available units. The accessibility features should also be searchable on the Association's MLS database. (Timetable: Dec. 31, 2013)

i. Work with the Delaware State Housing Authority to provide an annual free Sussex County Homebuyer Fair, that would include the following stakeholders at a minimum:
   i. Sussex County Association of Realtors
   ii. First State Community Action Agency
   iii. NCALL Research, Inc.
   iv. Milford Housing Development Corporation
   v. Sussex County Habitat for Humanity
   vi. Diamond State Community Land Trust
   vii. U.S. Department of Agriculture Rural Development Agency

   Marketing materials would be posted and/or distributed to at least ten (10) major Sussex County employers employing a substantial low- and moderate-income workforce, as well as the rural Impacted Communities identified through the County's Strong Communities Initiative.

2. Community Involvement
   a. Public participation in updates to Comprehensive Plan. (Timetable: Currently in-place)

   b. Notices of meetings published in accordance with State law and on the County's Fair Housing webpage. (Timetable: Currently in-place)
      i. Notice of the County's Department of Community Development and Housing meetings and public hearings will be published in at least one Hispanic newspaper or website. (Timetable: Dec. 31, 2013)

   c. Amendments to the Zoning and Subdivision sections of the County Code will not be more restrictive on affordable housing. (Timetable: Currently in-place)

3. Neighborhood Meetings
   a. The County will encourage affordable housing developers to have neighborhood meetings with residents early in the plan approval process. (Timetable: July 1, 2013)

b. The County's Community Development & Housing Department will spearhead the Sussex County Strong Communities Initiative to improve the quality of life for residents in historically low-income rural areas. (Timetable: Currently in-place)

4. Coordination
    a. The County will coordinate housing strategies with the DSHA and the Office of State Planning Coordination as part of the updates to the Sussex County Comprehensive Plan. (Timetable: Currently in-place)

    b. Because credit history is a major reason for denial of home mortgage applications in Sussex County, the County will coordinate with housing counseling and financial literacy agencies to target credit repair education through existing advocacy organizations that work with minority populations on a regular basis. (Timetable: Currently in-place)

5. Fair Housing Materials
    a. The County will maintain brochures and other written material in English and Spanish on services, education and information offered by other agencies related to discrimination in housing and the development of affordable housing. The material will be available at the Community Development and Housing Department of Sussex County and on the County's website. (Timetable: Currently in-place)

6. Fair Housing Webpage (Timetable: June 19th, 2013)
    a. The County will develop a Fair Housing webpage that will be publicly accessible and which will have links to the following information and documents:
        i. Sussex County's Housing Discrimination Complaint Form;
        ii. A link to the Delaware Human Relations Commission complaint page;
        iii. A link to HUD's complaint page;
        iv. HUD Complaint, Form 903;
        v. HUD pamphlet, Form 903.1;
        vi. Sussex County's Fair Housing Policy;
        vii. Compliance reports due to the federal government;
        viii. Copies of any letters of support issued by the County in support of New Horizons;
        ix. A summary of each zoning or land use request or application related to Affordable Housing or housing being processed under the MPHU or SCRP programs;

x. Copies of the redacted Certificates of Training;
xi. A link to any proposed change to the County's zoning or land use laws, regulations, policies or procedures addressing the construction of or approval process for Affordable Housing (housing intended to serve households earning less than 80% of the area median income) or housing being processed under the MPHU or SCRP programs;
xii. A link to the County's Affordable and Fair Housing Marketing Plan once available;
xiii. Information on the plan filed by Diamond State Community Land Trust once an application has been acted upon by the Planning and Zoning Commission; and
xiv. Listing of certain information about the New Horizons development as required under Paragraph 11(e) of the Consent Decree once the development has final plan approval.
xv. A link to DelawareHousingSearch.org.
xvi. All affordable and fair housing outreach and marketing material to be developed under this Plan.
xvii. A link to the County's Existing and Future Land Use maps as identified in the Sussex County Comprehensive Plan. Land currently utilized or appropriate for future multi-family residential development is shown on the Existing Land Use map as "Multi-Family Dwellings" and on the Future Land Use map as "Mixed Residential Areas."

V. Marketing

A. The County will develop materials in English and Spanish describing the County's outreach work and post or make those materials available at the County Administration Building, the West Complex, and on the County's website. (Timetable: Early 2014)
    1. Specifically, flyers and/or posters outlining the County's housing outreach efforts and activities will be:
        a. Mailed, emailed, and/or distributed to Sussex County Town Managers.

        b. Posted and/or distributed to all Sussex County libraries.

        c. Posted on the County's various social network sites including Facebook, Twitter, and Google+.

        d. Mailed, emailed, and/or distributed to non-profit organizations providing housing counseling, regional and local housing development groups, and

other social service organizations through Sussex County. Some organizations might include:

i. First State Community Action Agency
ii. NCALL Research, Inc.
iii. La Esperanza
iv. Delaware Housing Coalition
v. Delaware State Housing Authority
vi. Sussex County Habitat for Humanity
vii. Milford Housing Development Corporation
viii. Diamond State Community Land Trust
ix. West Rehoboth Community Land Trust
x. Delaware Office of Human Relations

e. Mailed and/or distributed to the following ten (10) employers situated in Sussex County:

i. Mountaire Farms, Inc.
ii. Allen Harim Foods, LLC
iii. BJ's Wholesale Club, Inc.
iv. Eastern Shore Poultry Company, Inc.
v. Perdue Farms, Inc.
vi. Kent-Sussex Industries
vii. WAL-MART Stores, Inc.
viii. Intervet, Inc.
ix. Lowe's Home Centers, Inc.
x. Seawatch International, Ltd.

VI. Timetable for Implementation

The timetable for each action item listed above is listed within the discussion of the item.

VI. Contact Information

Sussex County
Brandy Nauman, Fair Housing Compliance Officer
22215 DuPont Boulevard
P.O. Box 589
Georgetown, DE 19947
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