

## ATTACHMENT B-1 TENANT SELECTION PLAN BEST PRACTICES

### City of Madison Affordable Housing Initiative

Updated 6/1/2022

The Affordable Housing Fund (AHF) Loan Agreement requires a tenant or resident selection plan and adherence to all state, local and federal fair housing requirements. In addition to requirements, the City is deeply committed to removing barriers to housing stability for residents and potential residents. The City encourages developers and property managers to embrace that affordable housing programs are intended to and often alleviate conditions that may have previously led to adverse tenant credit histories, rental histories, and/or criminal backgrounds for some households. Access to and stability in affordable housing creates conditions where prior “deficiencies” in rental housing applications are not a primary predictor of future tenancy outcomes, though only when these issues do not raise insurmountable barriers to accessing affordable housing opportunities in the first place.

Below is a set of best practices that may assist housing developers and property managers in drafting a Tenant Selection Plan (TSP). These best practices serve to align the City's AHF goals with those of the project and to ensure Madison residents have reduced barriers to fair housing choice. They are not intended to be a complete or exhaustive list. In creating your project's Tenant Selection Plan, housing developers and property managers should consult with your attorney to ensure that your plan complies with all applicable laws and regulations, program requirements and the Fair Housing Act.

The TSP should clearly identify the project's criteria regarding the following categories:

- **Income criteria**, including providing clear information on minimum and maximum income requirements of applicants and the processes and criteria used to evaluate applications. Identify the **unit mix**, i.e., the quantity of housing units that are available for rent at each level of income-restriction (e.g. 30% of the Area Median Income, 50% of the Area Median Income, 60% of the Area Median Income). The TSP should also indicate the rent structure that identifies the rental rates of units by bedroom size and income distribution. Applicants should not be denied for not meeting minimum income requirements if applicant can demonstrate paying an approximately equivalent rent to income ratio for 2 years.
- **Occupancy criteria**, including defining the minimum number of persons allowed to occupy each unit in the project, subject to local state, and federal laws. Each unit should be occupied by a minimum of one person per bedroom at the time of occupancy.
- **Credit score and/or report**. The TSP, marketing and application materials should include a section noting whether or not a credit report will be ordered. The housing provider must provide a notice to applicants if adverse action is taken based on information obtained from the credit report, and direct applicants where to receive a copy of the report.
- Landlord or **housing history**, including prior eviction judgments.
- **Waitlist process** and waitlist preference criteria, if applicable. The TSP should note that apartments are rented on a first come, first served basis.
- **Notice of denial**, which includes a written explanation of the TSP criteria the applicant failed to meet. The notice of denial should inform applicants how to seek an appeal of the housing provider's decision.
- **Compliance with the Violence Against Women Act (VAWA)**, which provides that an applicant may not be denied admission on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission.
- Tenant selection and application **criteria for supportive housing units**.
- **Criminal and felony convictions**, including defining the number of years that will be considered in a criminal background search. A housing provider's TSP should clearly define what information will be collected for the use of screening an applicant's criminal history:
  - It is unlawful for a housing provider to reject applicants solely based on arrest records (without conviction).

- Housing providers should distinguish between convictions for **criminal conduct that indicates a demonstrable risk to resident safety and/or property** and criminal conduct that does not.
  - Screening policies should take into account the nature and severity of a conviction and the amount of time that has passed since the criminal conduct occurred
  - Housing providers should take into account evidence that the individual has maintained a good tenant history before and/or after the criminal conduct occurred.
  
- **Preferences:**

The project should establish preferences that conform to preferences identified in the development's approved LIHTC application submitted to WHEDA, and in the signed Supportive Services Agreement, as applicable. The TSP should identify the **age-restriction**, or lack thereof, of tenancy for the project. Acceptable age-restrictions may include "family" housing for units without an age-restriction; "active-adult" or "senior" housing for units restricted to households with at least one member aged 55 and above; and "elderly" housing for units restricted to households aged 62 and above.

The TSP should establish resident preferences that do not diminish or obstruct the Project's fair housing obligations. Both existing tenant preferences and new tenant preferences should be outlined in the TSP. The TSP should identify the populations targeted to lease supportive services units in the Project, if applicable. The Project's waitlist must indicate if certain tenant populations will be given a higher priority for units than others.

The TSP should explicitly state that applicants would not be denied solely due to:

- A lack of housing history;
- A low credit score, provided that the applicant has a cosigner and/or is enrolled in a credit repair program;
- Information on a credit report that is or has been formally disputed, in repayment, or unrelated to a past housing or housing utility obligation;
- The applicant owing money to a prior landlord for rent or damages, or to a utility company, provided the applicant has entered into a payment arrangement with the creditor and is current on the repayment arrangement

### **Security Deposits**

The project should not implement a security deposit that puts an undue financial burden on applicants or creates a financial impediment to accessing housing. Housing providers should consider whether existing security deposit policies create a barrier to entry for low-income households and those requiring supportive services. Security deposits for prospective residents should be reasonable, and the City has a preference for security deposit policies that incorporate some or all of the following:

- A maximum security deposit equal to one-half month's rent, as a standard;
- For tenants with conditional credit, limited rental histories, or other limiting factors: a security deposit equal to one-half month's rent with a cosigner, or a deposit equal to one month's rent;
- A set amount applied equally to all applicants that approximate one-half month's rent and one month's rent for standard and conditionally approved applicants, respectively (e.g. a \$500 standard security deposit and a \$1,000 security deposit for conditionally-approved applications);
- For units and/or tenants with rental payments guaranteed through an operating subsidy (e.g. Housing Choice Vouchers, VASH Vouchers, or Project-Based Vouchers): the lower or standard security deposit amount should be imposed, regardless of credit history

The City of Madison and the U.S. Department of Housing and Urban Development (HUD) stress the importance of applying TSP standards consistently to all applicants.

## ATTACHMENT B-2 AFFIRMATIVE MARKETING PLAN BEST PRACTICES

### City of Madison Affordable Housing Initiative

The Affordable Housing Fund (AHF), HOME Investment Partnerships Program (HOME) and Community Development Block Grant (CDBG) Loan Agreements require an Affirmative Marketing Plan and adherence to all state, local and federal fair housing requirements.

Below is a set of best practices that may assist housing developers and property managers in drafting an Affirmative Marketing Plan (AMP). These best practices serve to align the City's goals with those of the project and to ensure Madison residents have reduced barriers to fair housing choice. They are not intended to be a complete or exhaustive list. In creating your project's Affirmative Marketing Plan, housing developers and property managers should consult with your attorney to ensure that your plan complies with all applicable laws and regulations, program requirements and the Fair Housing Act.

The AMP should clearly identify the project's criteria regarding the following categories:

- **Applicant and Project Identification**, the plan should specify the approximate start date of marketing activities to groups targeted for special outreach and the expected date of initial occupancy.
- **Targeted Outreach**, the plan should identify the demographic groups that are "least likely to apply" for this housing without special outreach. In determining which groups should be identified, housing providers should consider the rental rate of the housing, the racial/ethnic composition of the neighborhood in which the property is located and the population of the broader housing market area.
  - The plan should describe the marketing efforts anticipated to be used to attract the demographics identified as least likely to apply, as well as all segments of the eligible population. These efforts could include the type of media used to advertise the development (including the names of publications and websites to be used); the duration that the marketing effort will be published in the newspaper or run on the radio; and the identity of the intended audience of each marketing effort.
  - Specific community organizations and contacts should also be identified when describing targeted outreach, with a special emphasis placed on those agencies able to influence populations identified as least likely to apply. City staff can assist housing providers in identifying points of contact and relevant listservs, if necessary. Examples of listservs that should receive housing vacancy listing notifications include: Homeless Services Consortium and the City's Neighborhood Resource Teams.
  - Pursuant to the Loan Agreement, marketing materials will be reviewed by the City of Madison Community Development Division. Any marketing materials that depict graphics or renderings of people should be inclusive, diverse, culturally-sensitive and representative of the demographics of target populations identified in the AMP as well as the supportive service population(s) described in the tenant selection plan, if applicable.
- **Future and Continued Marketing Efforts**, the plan should include a statement or description of how the housing provider will continue affirmative marketing efforts after initial lease-up is complete to maintain occupancy goals. The property must use the Equal Housing Opportunity logo on all notices, lease documents and marketing materials, and the Fair Housing poster must be

prominently displayed in the leasing office, including any temporary spaces that may be used during lease up.

- **Staff Experience**, the plan should indicate the experience, training and certification(s), if any, held by staff that will be involved in marketing and lease-up of the property. The AMP should mention that a hard copy of the plan, and any other written materials regarding fair housing laws, should be available on request in the leasing office.

The project should make note of efforts that conform to preferences identified in the development's approved LIHTC application submitted to WHEDA, as applicable. The AMP should identify the **age-restriction**, or lack thereof, of tenancy for the project. Acceptable age-restrictions may include "family" housing for units without an age-restriction; "active-adult" or "senior" housing for units restricted to households with at least one member aged 55 and above; and "elderly" housing for units restricted to households aged 62 and above.

The AMP should describe demographics least likely to apply in a manner that does not diminish or obstruct the Project's fair housing obligations. The AMP should identify the populations targeted to lease supportive services units in the Project, if applicable. The Project's waitlist must indicate if certain tenant populations will be given a higher priority for units than others.

While not explicitly required, the City of Madison will also accept a HUD template Affirmative Fair Housing Marketing Plan (HUD Form 92243-PRA) that incorporates the above best practices. The City of Madison and the U.S. Department of Housing and Urban Development (HUD) stress the importance of implementing the AMP consistently during leasing and throughout the lease-up process.