

January 27, 2012

From: Lawrence Bartlett, Director, Office of Admissions
To: Resettlement Agencies
Subject: Information regarding Housing Placements for Refugees

The Department of State, Bureau of Population, Refugees and Migration (PRM), in consultation with the Department of Housing and Urban Development (HUD), Office of Fair Housing and Equal Opportunity, provides the following *Note to Resettlement Agencies* in light of questions raised during the December 2011 Admissions Workshop.

This *Note to Resettlement Agencies* includes basic background information on relevant sections of the Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Fair Housing Act or FHA), and other information, including suggested best practices, which may be helpful to resettlement agencies in the housing placement process.

As noted in the Cooperative Agreement (Agreement), resettlement agencies must provide the services specified therein “in a manner consistent with United States law.” Thus, in addition to compliance with the specific housing-related provisions in the Agreement, particularly those found in Section 8.C.4, resettlement agencies must also comply with generally applicable legal rules, such as those found in the Fair Housing Act.

This *Note* is provided by PRM in the spirit of cooperation, as a partner to resettlement agencies, in seeking the best possible outcomes for refugees resettled in the U.S. It may not be relied upon as legal guidance. Each resettlement agency is solely responsible for ensuring compliance with U.S. laws such as the Fair Housing Act, and should consult with counsel when questions arise regarding specific cases.

Relevant Fair Housing Act Provisions

The FHA prohibits discrimination in the sale, rental, and financing of housing, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability. The FHA prohibits types of action, regardless of actor, thereby covering a broad range of persons and entities that provide housing or engage in housing-related transactions. Resettlement agencies are covered insofar as they assist people in identifying and obtaining housing. (Note: The term “housing provider” does not appear in the FHA, and the provisions found below are not limited in that manner).

Certain relevant FHA provisions are as follows:

Section 804(a) – It is unlawful to make unavailable or deny a dwelling to any person because of race, religion, national origin or other protected class.

Section 804(b) – It is unlawful to discriminate against any person in the provision of housing-related services because of race, religion, national origin or other protected class.

Section 804(c) – It is unlawful to make, print, or publish any notice, statement, or advertisement, with respect to the rental of a dwelling that indicates a preference or limitation based on race, religion, national origin or other protected class.

Section 804(d) – It is unlawful to represent to any person because of race, religion, national origin, or other protected class that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

There are very limited exemptions with regard to the aforementioned Fair Housing Act provisions, and to our knowledge, none of them would be generally applicable to the provision of housing services within the U.S. Refugee Admissions Program.

Religious Organization Exemption (42 U.S.C. 3607(a)) – There is an exemption for religious organizations that permits such organizations to limit housing to or give preferences to persons of the same religion. It only applies if the housing at issue is owned by the religious organization and operated for a non-commercial purpose.

HIV/AIDS – There is no exemption in the FHA for persons with HIV/AIDS. However, under the HUD-funded HOPWA (Housing Opportunities for Persons with AIDS/HIV) program, which is authorized by separate legislation, persons with HIV/AIDS can be housed together in certain circumstances.

Steering

Sections 804(a), 804(b), 804(c) and 804(d) of the Fair Housing Act have been read to generally prohibit the practice of steering.

Steering is the practice by which real estate agents, other persons or entities providing housing services preserve or encourage patterns of segregation in available housing by channeling or assigning members of certain groups (based on race, national origin, etc.) to particular buildings or neighborhoods (24 C.F.R. Sec. 100.70(a) and (c)(4)).

Best Practices

The suggested best practices found below do not constitute additional, formal requirements under the Cooperative Agreement.

Use the Fair Housing Act Affirmatively

- Partner with local fair housing organizations to ensure that landlords do not discriminate against refugees in the provision of housing.
- Document instances in which landlords refuse to rent homes to refugees, either explicitly because of refugee status, or under other pretext.

- File fair housing complaints if landlords refuse to rent to refugees because of race, religion, national origin or other protected class.

Pursue Diverse Housing Options

- To the extent required by law, refrain from placing refugees of the same race, religion, national origin or other protected class in the same neighborhood, building, or apartment complex.
- Continuously develop relationships with landlords in the local area, particularly those who provide affordable housing.
- Develop and maintain local records regarding the existence of affordable housing in particular neighborhoods.

Promote Choice

- To the extent practicable, allow refugees to view multiple housing options and to make decisions with regard to their initial housing placement.
- To the extent practicable, facilitate multiple lease options for refugees, such that refugees can decide whether they prefer a long-term or short-term arrangement.

Other

- Consult with counsel and/or the HUD Office of Fair Housing and Equal Opportunity at the Housing Discrimination Hotline by email, fheo_webmanager@hud.gov, or phone, 1-800-669-9777, if questions arise relating to the lawfulness of particular housing placements.
- Include a training component relating to compliance with the Fair Housing Act in the staff training plan for existing and new employees.
- Keep records in which the rationale for particular housing placements is recorded.
- During orientation, discuss with refugees their housing-related rights relating to disabilities, reasonable accommodations, and other forms of discrimination such that refugees can seek recourse when/if landlords refuse to make required changes.

Reminders

The reminders found below may be helpful in circumstances in which resettlement agencies discuss housing options with resettled refugees:

- Do not ask refugees whether they would like to be housed near persons from their country of origin.
- Do not ask refugees whether they would like to be housed near persons of their same religion.
- Do not ask refugees whether they would like to be housed near a mosque, synagogue or other place of worship.
- Do not ask refugees whether they would like to be housed near restaurants, grocery stores, etc. that serve/provide types of food generally associated with a particular protected class.
- Do not ask refugees whether they would like to be housed near persons that speak the same language.