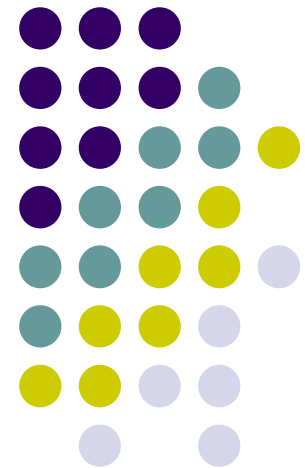


Don't Zone Out Your Neighbors

Ann Bishop
Executive Director
Seneca Regional Planning
Commission





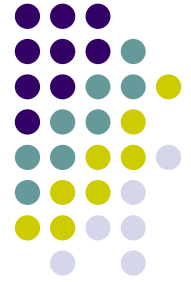
What is Fair Housing?

- Title VII of the Civil Rights Act of 1968, as amended, is known as the Fair Housing Act.
- The Fair Housing Act makes it illegal to discriminate in the sale, related transaction on the basis of race, sex, religion, national origin, color, disability, military status, or familial status (the presence of children under the age of 18 in the household)
- Multi Family Dwellings constructed after 1991 are required to be accessible to persons with disabilities.



What is a Disability?

- The Fair Housing Act defines a disability as an individual with mental or physical impairments that substantially limit one or more major life activities.
- This may include conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. The term major life activity may include seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking or working.
- The act also protects persons who have a record of such an impairment, or are regarded as having such an impairment.



However.....

- The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others.
- Determining whether someone poses such a direct threat must be made on an individualized basis.
- It cannot be based on a general assumption or speculation about the nature of a disability.

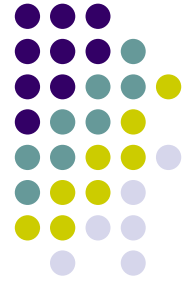
How Does the Fair Housing Act Relate to Zoning and Land Use?



- The Fair Housing Act defines a dwelling as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, AND any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof”.



- The decisions related to the development or use of the vacant land can not be based upon the race, sex, religion, national origin, color, disability, or familial status of the residents or potential residents who may live in the dwelling.



In addition.....

- A municipality may not make zoning or land use decisions based on neighbors' fears that a dwelling would be occupied by members of these protected classes.
- Zoning regulations may not contain provisions that treat uses such as affordable housing, supportive housing, or group homes for people with disabilities differently than other similar uses, and municipalities may not enforce ordinances more strictly against housing occupied by members of the protected classes.



Another example

- A seemingly neutral ordinance or resolution has a disparate impact, or causes disproportional harm to a protected group
 - Policies limiting density or design requirements that puts an undue financial burden on the development of multi-family housing.
 - Or a ceiling of four or fewer unrelated adults in a household

These policies may be considered discriminatory if they have a disproportionate impact on minorities, families with children, or people with disabilities.



- Zoning and Land Use are generally where municipalities have primary power. However, courts have consistently held that the Fair Housing Act prohibits local governments from exercising their zoning and land use powers in a discriminatory way.

What is a Reasonable Accommodation?



- The Fair Housing also makes it unlawful to refuse to make “reasonable accommodations”.
- Under the Fair Housing Act, an accommodation is considered “reasonable” if it does not impose an undue financial or administrative burden and if it does not fundamentally alter the zoning ordinance.
- Unless a municipality can prove that an accommodation request is unreasonable according to the above criteria, the municipality must grant the accommodation.

Exemptions to the Fair Housing Act



- Housing for older persons, or housing where 80% of the units are occupied by at least one person over the age of 55, is exempt from the portion of the Fair Housing Act that prohibits discrimination against families with children.

Examples of Prohibited Activities Under the Fair Housing Act



- A municipality may not reject a proposed affordable housing development in response to neighbor's fears that such housing will be occupied by racial minorities.
- A municipality may not require neighbor notification or a public hearing only for the development of affordable housing or group homes, but not other types of residential development.
- A municipality may not refuse to allow an exception to a setback requirement as a reasonable accommodation for a disabled resident who must build a wheelchair ramp in order to access his or her home.
- A municipality may not impose spacing requirements on group homes for persons with disabilities.
- A municipality may not require additional studies or procedural steps or unnecessarily delay decision making when considering a development that may be occupied by members of the protected classes.

Why do I care about Fair Housing?



- If an entity is found to inhibit the furthering of Fair Housing they may
 - Lose Federal Funds for necessary projects
 - CDBG, Water and Sewer Funding, Economic Development funds, and others

Although currently there may not be projects in your township, village or city that would require financial assistance, creating a zoning barrier may slow down the process when applying for Federal Funds; zoning would have to be changed by going through the amendment process.



- Credits:

- The Fair Housing Council of Suburban Philadelphia
- The Fair Housing Act
 - Housing and Civil Enforcement Section

Thank you!

Any questions??