U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY
WASHINGTON, DC 20410-2000

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MEMORANDUM FOR: Office of Fair Housing and Equal Opportunity
Headquarters Staff, Office of Enforcement Staff,
Regional Directors, Field Supervisors

Robert Doles

FROM: Robert A. Doles, Acting Deputy Assistant Secretary for
Enforcement and Programs, ED

SUBJECT: Guidance on Scope of Complaint-Based Investigations

This memorandum serves to provide guidance to FHEO staff on the appropriate scope of an investigation under the statutory and regulatory requirements of the Fair Housing Act ("Act") and the enforcement priorities of Assistant Secretary for Fair Housing and Equal Opportunity Craig W. Trainor.

I. Statutory Language

Under the Act, "an aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice" (42 U.S.C. § 3610(a)(1)(A)(i)). The Act defines an "aggrieved person" as "any person who claims to have been injured by a discriminatory housing practice; or believes [they] will be injured by a discriminatory housing practice that is about to occur" (42 U.S.C. § 3602(i)). Generally, the aggrieved person will be the Complainant or "the person who files a complaint under section 3610" of the Act (42 U.S.C. § 3602(j)), while a Respondent will be "the person or other entity accused in a complaint of an unfair housing practice" (42 U.S.C. § 3602(n)).

A "discriminatory housing practice" is "an act that is unlawful under section 3604, 3605, 3606, or 3617" of the Act (42 U.S.C. § 3602(f)). The acts that are unlawful under section 3604 involve a "dwelling," which, under the Act, is "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" (42 U.S.C. § 3602(b)). The acts that are unlawful under section 3605 involve a "residential real estate-related transaction." (42 U.S.C. § 3605(b)).

After the filing of a complaint, "the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint…, unless it is impracticable to do so" (42 U.S.C. § 3610(a)(1)(B)(iv)). Conducting investigations as a broad audit of respondents' general compliance with the Fair Housing Act makes

it impracticable to complete investigations in the time period required by statute. That does not serve the American people.

II. Scope of Investigations

FHEO's investigations are driven by the complaint filed. Each complaint must contain substantially the following information:

1. the name and address of the aggrieved person;
2. the name and address of the Respondent;
3. A description and the address of the dwelling involved; and
4. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.

As outlined in the Act's regulations, "the purposes of an investigation are: (1) to obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice *identified in the complaint*; (2) to document policies or practices of the respondent involved in the alleged discriminatory housing practice *raised in the complaint*; and (3) to develop factual data necessary for the General Counsel to make a determination under § 103.400 whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and for the Assistant Secretary to make a determination under § 103.400 that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided under this part" (24 C.F.R. § 103.200(a)).

Based on the statutory and regulatory language outlined above, FHEO's complaint investigations are limited to the discriminatory housing practice involving the dwelling or real estate-related transaction alleged in the complaint against the respondent accused of the unfair housing practice. The role of the investigator is to conduct a fair, impartial, and thorough investigation into the facts and circumstances of each complaint. An investigator shall not go beyond the four corners of the complaint becausedoing so invites partiality and turns the role of neutral fact finder into advocate. Therefore, investigators should neither seek other aggrieved parties nor expand investigations into additional dwellings during the investigation of a filed complaint. By ensuring complaints are investigated according to the requirements of the Act, FHEO investigations will be more timely and efficiently utilize departmental resources in alignment with the priorities that the American people sent President Trump to the White House to address.

III. Conclusion

Under Assistant Secretary Trainor's leadership, FHEO is back in the business of obtaining justice for real people who are suffering from real instances of unlawful discrimination. FHEO will no longer expend finite resources on ideological projects divorced from the Fair Housing Act's textual obligations. With this complaint-focused guidance, FHEO will complete thorough investigations in a timely manner to the benefit of complainants, respondents, and the American people. Consequently, where conciliation is infeasible, an

exhaustive, complaint-driven investigative file will facilitate a prompt resolution of each complaint—whether toward relief or dismissal—based upon the facts and the law.