



U.S. Department of Housing and Urban Development
Philadelphia Office
The Wanamaker Building
100 Penn Square East, 10th Floor
Philadelphia, Pennsylvania 19107-3380

FEB -9 2016

Romona Fullman, Director
Delaware Division on Human Relations
820 N. French Street, 4th floor
Wilmington, DE 19801

RECEIVED
Delaware Division of Human Relations

FEB 16 2016

By: 

Dear Ms. Fullman:

Subject: Performance Assessment Report 2015
Delaware Division on Human Relations

The U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, (FHEO) conducted a Performance Assessment of the Delaware Division on Human Relations (DDHR) Fair Housing Assistance Program (FHAP). The Performance Assessment determines whether an agency, in operation, provides substantive rights and remedies, procedures, and the availability of judicial review that are substantially equivalent to the Federal Fair Housing Act (The Act). The Performance Assessment provides the basis for determining whether the Department will offer DDHR continued certification as substantially equivalent under the Act.

The on-site assessment was conducted at the Wilmington office on September 23-24, 2015. The assessment consisted of a review and analysis of FHAP cases; conciliation agreements; evaluation of DDHR's complaint process; final determinations; and budgetary documents. FHEO HUD staff met with Romona Fullman, Executive Director; Vincent Petroff, Supervisor and the following Investigators; Inez Hungaria, Nicole Jackson, and Claudia Sousa-Ducote.

If you have any questions or would like to discuss t, please contact Ronaldlyn Latham, Branch Chief, Program Compliance at (215) 861-7629 or Ronaldlyn.E.Latham@hud.gov

Sincerely,



Barbara Delaney,
Acting Director,
Philadelphia Region III
Office of Fair Housing and Equal
Opportunity

Attachments

cc: Calvin H. Christopher, Commission Chair

**United States Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity
Region III**

Performance Assessment Report

FHAP Agency: Delaware Division of Human Relations
Address: 820 N. French Street, Wilmington, DE 19801
Director: Romona Fullman
Director's phone number: (302) 577-5291

Assessment Purpose: To determine whether **Delaware Division of Human Relations** engages in timely, comprehensive, and thorough fair housing complaint investigation, conciliation and enforcement activities, and therefore warrants continued certification as a participant in the Fair Housing Assistance Program. This determination is based on Delaware Division of Human Relations' compliance with the performance standards and requirements set forth in regulations implementing the Fair Housing Assistance Program, at 24 CFR part 115 and the Criteria for Processing.

Performance Period: July 1, 2013 – June 30, 2014
Performance Period: July 1, 2014 – June 30, 2015

Date of Assessment: September 23-24, 2015

On-Site X Remote

HUD Reviewer(s): Laura McAllister, Government Technical Monitor
Lindsay Huusko, Equal Opportunity Specialist

Recommended for certification or recertification: Yes X No

Table of Contents

Page Number

I. Organizational Structure and Staffing	3
II. Performance Standards	4
A. Performance Standard #1	4
B. Performance Standard #2	6
C. Performance Standard #3	7
D. Performance Standard #4	8
E. Performance Standard #5	8
F. Performance Standard #6	10
G. Performance Standard #7	12
H. Performance Standard #8	12
I. Performance Standard #9	13
III. Budget and Finance Requirements	13
IV. Reporting and Record Keeping Requirements	15
V. Testing Requirements	15
VI. Training Requirement	15
VII. Data Support Systems Requirement	15
VIII. Changes Limiting Effectiveness of Agency's Law	16
IX. Civil Rights Requirements	16
X. Subcontracting	16
XI. FHAP and the First Amendment	16
XII. Summary of Performance / Corrective Actions	17
XIII. Conclusion and Recommendation	17
XIV. Exhibits	19
XV. Signature Page	20

I. Organizational Structure and Staffing

The Delaware Division of Human Relations (DDHR or Commission) is located within the Delaware Department of State. The Secretary of State is Jeffery W. Bullock. A twenty-three-member commission, appointed by the Governor, governs the DDHR. Ten (10) members appointed from New Castle County, eight (8) members appointed from Sussex County, and five (5) members appointed from Kent County. The Commissioners represent a cross-section of professional and non-professional citizens of various racial and cultural groups of Delaware. The Commissioners' are charged with ensuring that laws and procedures are effectively implemented to achieve the law's mandate of eliminating discrimination based on housing, public accommodations, and employment.

The Commission was created in December 1961 and was designed to promote a climate of understanding among racial, cultural and ethnic groups within the State of Delaware. The Commission's diverse make-up was aimed at promoting dialogue and understanding among the state's population. In 1970, the Division of Human Relations was established to support the work of the commission, particularly with investigations; mediations; conciliations; administration; outreach education; and training.

The DDHR has been operating under the Memorandum of Understanding (MOU) with the Department since May 6, 2009.

The DDHR is currently staffed with three Human Relations Representatives/Investigators (HRR); two Administrative Specialists, a Human Relations Supervisor, and a Director. The Director additionally serves in the capacity of Director of the Delaware Commission for Women, which is located in the Wilmington Office, the Supervisor of Human Relations Representatives (SHRR) and one HRR are located in the Dover office and one HRR is in the Georgetown office. Below is a list of staff and commissioners:

STAFF

NAME	TITLE	RACE/SEX	Date of Hire
Romona Fullman, Director		Female/African-American	10/19/2009
Vincent Petroff, Supervisor		Male/Caucasian	09/28/2008
Ines Hungria, Investigator		Female/Hispanic	05/03/2004
Nicole Jackson, Investigator		Female/African-American	06/16/2013
Kelly Fox, Admin. Assistant III		Female/Caucasian	07/14/2013
Annette Fletcher, Admin. Assistant II		Female/African American	04/07/2014
Claudia Sosa-Ducote, Investigator		Female/Hispanic	07/14/2014

COMMISSION MEMBERS

Name/Position	Race/Gender	County
Mashoor Awad/Commissioner	Other/Male	New Castle
Diaz Bonville/Commissioner	African American/Male	Sussex
Whittona Burrell/Commissioner	African American/Female	New Castle
Erika Caesar/Commissioner	Black/Female	New Castle

Calvin Christopher/Chairperson	African American/Male	New Castle
Chok-Fun Chui/Commissioner	Asian/ Female	New Castle
Wallace Dixon/Commissioner	Black/Male	Kent
Bernice Edwards/Commissioner	Afro-American/Female	Sussex
Stephen Elkins/Commissioner	Caucasian/Male	Sussex
Earnest Gulab/Commissioner	Asian/Male	Sussex
J. Michael Harpe/Commissioner	Black/Male	New Castle
Rose Mary Hendrix/Commissioner	Caucasian/Female	Sussex
Douglas James/Commissioner	White/N. American/Male	Sussex
Prameela Kaza/Commissioner	Asian/Female	Kent
Gail Launay-Tarlecki/Vice Chairperson	Caucasian/Female	Sussex
Nancy Maihoff/Commissioner	Caucasian/Female	Kent
Lorenzo Murdaugh/Commissioner	African-American	New Castle
Olga Rameriz/Commissioner	Hispanic/Female	New Castle
Misty Seemans/Commissioner	White/Female	New Castle
Walter Smith, Jr. /Commissioner	African American/Male	Sussex
Roy Sudler, Jr. /Commissioner		Kent
Robert Watson, Jr. /Commissioner	Black/Afro American/Male	New Castle
Rosemarie Williams/Commissioner	African American/Female	Kent

II. Performance Standards

A. Performance Standard #1: Commence complaint proceedings, carry forward such proceedings, complete investigations, issue determinations, and make final administrative dispositions in a timely manner. [24 C.F.R. § 115.206(e)(1)]

The DDHR investigated a total of eighteen (18) cases during the complaint processing period July 1, 2013 – June 30, 2014, of which six (6) cases were no probable cause, five (5) cases were withdrawn after resolution, and eight (8) cases were successfully conciliated. The average days open was 120.4. A total of seven (7) or 39% of the total cases were not closed within 100 days.

The DDHR investigated a total of twenty-five (25) cases during the complaint processing period July 1, 2014 – June 30, 2015, of which fourteen (14) cases were successful conciliations, three (3) no probable cause, one (1) probable cause, one (1) withdrawal without resolution, and six (6) withdrawn after resolution. The average days open was 195.1. A total of sixteen (16) cases or 64% were not closed within 100 days.

The number of cases not closed according to the statute is more than 50%. DDHR is reminded that unless the cases are complex and that information has been documented in TEAPOTS, it is recommended they devise a strategy to complete investigations and make final disposition in a timely manner in accordance with 24 CFR 115.206 (e) (1) (ii). When DDHR cannot complete investigative activities within 100 days the agency must provide written notification to the parties, indicating the reason for the delay. Additionally, a review of DDHR's quarterly reports shows they report on the status of cases closed and open. For cases that are closed DDHR includes the closure type. For

addressed the issue of disparate impact that was concluded in the findings and conclusion.

Williams v. Windhurst HOA board of Directors, Excel Prop #03-14-250-8

A review of TEAPOTS indicates the investigator issued a No Probable Cause determination. No Findings and Conclusions or final determination were documented in TEAPOTS. Without this information being in TEAPOTS the GTM who reviews the case for closure and payment cannot determine how the DDHR investigator concluded the case was NPC.

Jeanette Northington v. HA of the County of Beaver #03-14-0205-8

A review of TEAPOTS confirms that under the section titled Findings and Conclusion, the investigator cut and paste the entire Final Investigative Report and Determination, instead of providing a summary of the findings. Further review of TEAPOTS shows the DDHR investigator conducted a telephone interview with the complainant; however there are no documented interviews with the respondent. The investigator received thirteen (13) comparison documents for other tenants; no interviews were documented of any of the comparators.

Vera Hunter v. Persimmon Park Place Condo, et al #03-14-0274-8

A review of TEAPOTS indicates the DDHR investigator issued a NPC determination. No findings and conclusion were documented in TEAPOTS. No interview is documented with the complainant who alleged the discrimination.

During the on-site visit DDHR was asked whether legal counsel reviewed the final determination prior to the investigator closing the cases and issuing closure letters. DDHR stated legal counsel does not review final determinations prior to issuing closure letters to the parties. The Department recommends that DDHR seek the support of legal counsel when issuing final determinations. *

Conclusion

DDHR has not met Performance Standard #1

B. Performance Standard #2: Administrative closures are utilized only in limited and appropriate circumstances. [24 CFR § 115.206(e)(2)]

During the 2013-2014 case processing period the DDHR investigated and closed eighteen (18) complaints, out of those eighteen cases investigated no cases were closed administratively.

During the 2014-2015 case processing period the DDHR investigated and closed twenty-five (25) complaints, out of those twenty-five cases investigated, one (1) case was closed administratively. HUD case #03-12-0098-8, Vester, Jakara v. Premier Property Management was closed as a Withdrawal without Resolution. During the course of the investigation of this case, the complainant's attorney attempted to remove the case from Chancery Court and file in Federal District Court. Even though the filing in Federal

District Court was accepted, respondent's attorney filed a motion to remand the case back to Chancery Court. The Respondent's attorney received an order from Chancery Court stating, they will be proceeding to mandatory mediation within 60 days to include all issues raised by the parties. The case was closed as Withdrawal without a Resolution because the complainants wanted to continue in Chancery Court. The administrative closing of this case was justified based on the circumstances involved.

Conclusion

DDHR has met Performance Standard #2

- C. Performance Standard #3: During the period beginning with the filing of a complaint and ending with filing a charge or dismissal, the agency, to the extent feasible, attempts to conciliate the complaint. After the charge has been issued, the agency, to the extent feasible, continues to attempt settlement until a hearing or a judicial proceeding has begun. [24 CFR § 115.206(e)(3)]**

A review of the DDHR's open and closed complaints during the performance assessment review indicates the agency initiated discussions of conciliation at the beginning of the complaint process. The agency was successful in conciliating twenty-one (21) of its cases. The relief for complainants and documented in conciliation agreements shows relief being, reasonable accommodations, housing, structural modifications, and financial. The agreements contained provisions for respondents to receive fair housing training and reporting requirements imposed on respondents where appropriate for assurance of monitoring the agreements. However, the agreements did not always contain language that addressed the interest of the public. In some agreements DDHR provided copies of the HUD/DOJ joint statement on reasonable accommodations/modifications and affirmative advertising (including the equal housing opportunity language and logo on letterhead and advertisements).

A review of TEAPOTS confirmed that final conciliation agreements were not always included in TEAPOTS. Additionally, a sampling of conciliation agreements shows DDHR includes language stating the agreement is confidential. Please be advised, Section 810 (b) (4) of the Act specifically states, each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purpose of this title. DDHR is deemed substantially equivalent and must operate in accordance with Departmental standards. Conciliation agreements are public documents that should not include confidentiality language.

During the program year 2013-2014, the agency completed investigations of eighteen (18) cases, of those eighteen, eight were successful conciliations.

During program year 2014-2015, the agency completed investigations of twenty-five (25) cases; of those twenty-five, fourteen (14) were successful conciliations.

A review of TEAPOTS revealed that DDHR does not always document attempted conciliation in the correct section of TEAPOTS. In reviewing some of the FHAP case files, it was documented that during the fact-finding conferences there were attempts to conciliate cases, but those attempts were not documented in TEAPOTS.

Conclusion

DDHR has met Performance Standard #3

D. Performance Standard #4: The agency conducts compliance reviews for settlements, conciliation agreements, and orders resolving discriminatory housing practices. [24 CFR § 115.206(e)(4)]

The DDHR has a procedure in place for conducting compliance reviews of conciliation agreements. They developed a system that identifies the case name, number, date filed, date closed and resolution, which is monitored by the investigator for the agency.

The investigator is required to monitor the agreements which include maintaining records and tracking compliance with the agreements. A review of DDHR's standard operating procedure shows the agency routinely includes monitoring requirements in its agreements. Respondents are required to provide proof of attendance at agency approved fair housing training and are required to send updated reports to DDHR regarding issues that were alleged in the conciliated complaint.

Conclusion

DDHR has met Performance Standard #4

E. Performance Standard #5: The agency must consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of discriminatory practices. [24 CFR § 115.206(e)(5)]

During program year 2013-2014, there were a total of eighteen (18) cases closed during the reporting period. Eight (8) cases were closed successful settlement/conciliation with relief to the complainant. During program year 2014-2015, there were a total of twenty-five (25) cases closed during the reporting period. Fourteen (14) cases were closed successful settlement/conciliation with relief to the complainant.

A review of the 2013-2014 DDHR cases successfully settled/conciliated revealed the following:

Wright, Juanita v. Rockwood Apartments, et al

#03-14-0011-8

The complainant alleged a denial of a reasonable accommodation. Both parties agreed to conciliate the complaint. The resolution for the complainant included \$481 monetary relief and a favorable reference letter when the Complainant seeks future housing. DDHR included language in the conciliation agreement stating the agreement is confidential. Conciliation agreements are public documents and therefore, DDHR cannot include confidentiality clauses in the agreement.

Rascoe/Walker v. New Castle County, DE Dept. Comm. Services #03-14-0069-8

The complainant alleges denial of a reasonable accommodation. The Respondent agreed to allow the complainant to receive the difference in voucher amount vs. the difference in voucher size. The resolution for the complainant included a letter of notification stating the changes made to complainant's current voucher, DDHR provided a copy of the HUD/DOJ joint statement to the respondent and respondent is required to attend fair housing training.

As previously stated, the Department is concerned about the conciliation agreements containing confidentiality clauses. Section 810 (b) (4) of the Fair Housing Act states each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purpose of this title.

A review of 2014-2015 DDHR cases successfully settled/conciliated revealed the following:

CLASI v. Bowdle and Slack, LLC, Elms Management Association, LLC #03-14-0368-8

The Complainant who is a FHIP organization conducted paired testing based on disability and the need for an emotional support animal at Elms Luxury Apartments. The Respondent has a "no pet's policy", and does not allow service or support animals in their units. Both parties agreed to conciliate the complaint. The resolution for the complainant was monetary relief in the amount of \$523 and affirmative advertising was required for the respondent.

A review of the conciliation agreement indicates the investigator did not include public interest relief. The investigator should have drafted an agreement that required the respondent to change the "no pets policy and create a policy that included residents with disabilities needing a service or support animal.

A review of TEAPOTS indicates that the investigator did not include a copy of the conciliation agreement in the conciliation section.

Johnson, Brian v. Interstate Realty Management Co. et al #03-14-0207-8

The complainant alleged denial of a reasonable accommodation and discriminatory refusal to rent due to his disability. The parties agreed to conciliate the complaint. The Complainant received monetary relief in the amount of \$2,500. *A copy of the conciliation agreement was not in TEAPOTS, therefore the GTM could not see the full terms of the agreement.*

Motley, Beulah v. Mill Creek Village et al #03-14-0308-8

The complainant alleged discriminatory refusal to rent due to her having a Section 8 Voucher and her race, Black. The parties agreed to conciliate the complaint. The complainant received monetary relief in the amount of \$2,000 and the respondent agreed to training. *No conciliation attempts were documented in TEAPOTS and the final*

conciliation agreement was not in TEAPOTS, therefore the GTM was not able to see the full terms of the agreement.

Stephanie Zouari and Maher v. Harbor Club Apartments, et al #03-14-0114-8

The complainant alleges that the respondent discriminated against them by refusing to rent or negotiate for rental based on national origin and religion. The resolution for the complainant included \$2,000 in monetary relief, f and training for the respondent. *DDHR included in the agreement that the respondent had eight (8) months from the execution of the agreement to participate in fair housing training. The Department does not understand why so much time was allotted for the respondent to complete fair housing training.*

Again, the Department remains concerned that DDHR is not documenting the conciliation attempts in TEAPOTS, and the final conciliation agreement is not reflected in TEAPOTS to allow the GTM to review the terms of the agreement and determine whether public interest was addressed.

An analysis of the complaints filed during the case processing year (2013-2014 and 2014-2015) shows that DDHR utilized its statutory authority to obtain damages for complainants. In non-monetary settlements the housing providers were required to change their policies and practices, provide accommodations, make facilities accessible, provide the housing sought by complainant, and provide damages to individuals who were affected by the alleged discriminatory acts. During this performance assessment period, no cases proceeded to administrative hearings or judicial proceedings.

Types of Relief

Training
Affirmative Advertising
Other Affirmative Relief
Reasonable Accommodation
Affirmative Action or Accommodation
Housing
Policy Revisions
Structural Modifications

During the program period 2013-2014

DDHR negotiated eight (8) Successful Settlements/Conciliations
Total Monetary relief: \$ 2,041.00

During program period 2014-2015

DDHR negotiated fourteen (14) Successful Settlements/Conciliations
Total Monetary relief: \$ 12,738.00

Conclusion

DDHR has met Performance Standard #5

F. Performance Standard #6: The agency must consistently and affirmatively seek to eliminate all prohibited practices under its fair housing law. [24 CFR § 115.206(e)(6)]

The DDHR conducted fair housing education and training for the following agencies:

- 2013 Metropolitan Wilmington Urban League (MWUL), October 3, 2014
- Veterans Stand Down Day, October 4, 2013
- Comcast Newsmakers, October 23, 2013
- Fair Housing AJPC Management Company, October 24, 2013
- Fair Housing, October 30, 2013 (conciliation agreement)
- Fair Housing 101 Governors Place Townhomes Leasing Office, November 7, 2013
- Sovereign Property Management, LLC, February 18, 2014
- Sovereign Property Management, LLC, February 20, 2014
- Sussex Printing Company, February 20, 2014
- Villa Belmont Condominium, February 27, 2014
- Sussex Printing Company, March 6, 2014
- Arbor Point Apartments, March 27, 2014
- First-Time Homebuyers Fair, April 5, 2014
- DDHR's 20th Annual Fair Housing Conference, April 16, 2014 (Sussex County)
- HOND's Annual Fair Housing Law Forum, April 18, 2014
- DDHR's 20th Annual Fair Housing Conference, April 23, 2014 (Kent County)
- YWCA's Annual Stand Against Racism Campaign, April 25, 2014
- DDHR's 20th Annual Fair Housing Conference, April 30, 2014 (New Castle)
- Fair Housing Training Pathways To Success, May 8, 2014
- Fair Housing Basics at NCALL May 19, 2014
- DDHR, DSHRC and Pathways to Success, May 20, 2014
- Fair Housing 101 River Club Apartments, May 21, 2014
- MWUL Urban League 7th Annual Lions & Legends, May 22, 2014
- Fair Housing 101 River Club Apartments, May 27, 2014
- Fair Housing for New Castle County Government, May 29, 2014
- Fair Housing for Reasonable Accommodation/Modification, July 18, 2014
- Commissioners Maihoff and Chui, August 2, 2014
- Fair Housing YWCA in Wilmington, August 4, 2014
- Hispanic Festival in Millsboro, August 10, 2014
- Fair Housing Pathway to Success, August 13, 2014
- Telamon Corporation in Georgetown, August 25, 2014
- Fair Housing, August 27, 2014
- Fair Housing Greater Wilmington Housing Association, September 17, 2014
- Fair Housing Harrington Realty, September 18, 2014
- Kent County Economic Summit, September 23, 2014

The Delaware Division of Human Relations trained a total of 2,291 people.

Performance period October 1, 2014 through September 30, 2015 outreach activities:

- Fair Housing Training at Telamon Milford, December 1, 2014
- Fair Housing Training at Bnai Brith Apartments Complex, December 15, 2014
- Fair Housing Training 101, December 11, 2014
- Fair Housing Education with Pathway to Success, December 16, 2014
- Fair Housing Training Strong Communities Meeting at FSCAA Georgetown, December 18, 2014
- Fair Housing Training 101 at Long Neck Cheer Center, January 13, 2015
- Fair Housing Training 101 for Hidden Creek/Autumn Run Apts., January 13, 2015
- Fair Housing Training at Pyle Center Cheer Center, January 20, 2015
- Fair Housing Training 101 at the Sussex County Strong Communities, January 22, 2015
- Community Engagement: (Selma) Voting Rights, February 5, 2015
- Fair Housing Training at Lenape Properties/Sunnyside Apartments, February 11, 2015
- Fair Housing Training 101 for Parson Thorne Apartments, February 19, 2015
- SHRC Module 2 Training, February 21, 2015
- Fair Housing Training for City of Wilmington Officials, Real Estate & Housing, March 4, 2015
- Fair Housing Training for Elms Apartments/Investors Realty, March 19, 2015
- Fair Housing Awareness and Education forum, April 8, 2015 (Kent County)
- Fair Housing Training for Harrington Realty, April 14, 2015
- Fair Housing Awareness and Education forum, April 15, 2015 (Sussex County)
- Fair Housing Awareness and Education forum, April 8, 2015 (New Castle)
- Sussex Unity Call to Action, May 5, 2015
- Fair Housing Training for a landlord class for Department of Justice, May 9, 2015
- Fair Housing Training 101 for mediators at People Place, May 14, 2015

The Delaware Division of Human Relations trained a total of 494 people.

DDHR when conducting fair housing training conducts evaluations and surveys. The surveys request participants to rate whether they: Strongly Agree, Agree, Disagree, or Strongly Disagree on:

- The instructor(s) was well informed and easy to follow.
- The Hand outs were easy to read and understand.
- I have a better understanding of what actions are illegal under the fair housing laws
- I have a better understanding of the fair housing complaint process and what to expect during the investigation and resolution process.
- I would recommend this training to others.
- The training met my expectations.
- I can use what I learned to help protect myself and others against housing discrimination.

- I would benefit from additional fair housing training.

DHHR collected over 250 surveys based on 494 people that were in attendance at the trainings. An estimated 97% of the 250 surveys completed, indicates participants answered strongly agree or agree to all the questions.

The DDHR works cooperatively with CLASI, who is a partner of the Department and a recipient of Fair Housing Initiative Program (FHIP) funds on such matters as fair housing complaint referrals, testing, and education and outreach. This collaboration allows DDHR to work towards affirmatively furthering fair housing in Delaware. CLASI continues to file housing discrimination complaints with DDHR for meritorious claims.

DDHR was awarded Partnership funding from the Department. DDHR collaborated with Pathways to Success, a local non-profit organization, to provide fair housing education, outreach and training focused in Sussex County Delaware. Results from the partnership included: conducting thirty-one (31) fair housing workshops, and fair housing information and resources shared through participation at civic association meetings and community engagement events. It is estimated that 728 additional residents in Sussex County received fair housing information and resources as a result of the grant award.

Conclusion

DDHR has met Performance Standard #6

- G. Performance Standard #7: The agency must demonstrate that it receives and processes a reasonable number of complaints cognizable under both the Fair Housing Act and the agency's fair housing statute or ordinance. [24 CFR § 115.206(e)(7)]**

As a participant of the Fair Housing Assistance Program, DDHR is required to receive and process a reasonable number of complaints during the period of performance. Delaware is a very small state with a population 897,934. During the period of performance DDHR is required as a small state to process fifteen (15) complaints. DDHR exceeded that requirement by receiving and processing a total of eighteen (18) complaints during 2013-2014 and twenty-five (25) complaints during 2014-2015.

DDHR has met Performance Standard #7

- H. Performance Standard #8: The agency must report to HUD on the final status of all dual-filed complaints where a determination of reasonable cause was made. [24 CFR § 115.206(e)(8)]**

The Delaware Division of Human Relations had one reasonable cause case during the case processing period 2014-2015, that is currently pending.

Margarita Lopez vs. Wilson's Lane Mobile Home Park, et al. al. #03-14-0422-8

The complainant alleged discrimination based on familial status (the presence and the number of children.) DDHR's investigation included conducting on-site visitation of the Mobile Home Park and conducting interviews with current residents. The investigation found reasonable cause to believe that the respondent discriminated in the refusal to rent, sell or deal with the complainant and making a discriminatory statement based on familial status when the applicants has more than two kids. The reasonable cause finding is based on direct statements from witnesses and facts collected during the investigation. The reasonable cause finding was submitted to the DAG January 2015, as of the date of the performance assessment the DAG had not issued the charge.

DDHR has met Performance Standard #8

- I. Performance Standard #9: The agency must conform its performance to the provisions of any written agreements executed by the agency and HUD related to substantial equivalence certification, including but not limited to the interim agreement or MOU. [24 CFR § 115.206(e)(9)]**

The DDHR has been operating under the Memorandum of Understanding (MOU) with the Department since they were recertified in d May 6, 2009. The current MOU that is between the Department and DDHR contains no special provisions.

DDHR has met Performance Standard #9

III. Budget and Finance Requirements [24 CFR § 115.307]

DDHR operates on a calendar fiscal year (January to December). The Director of DDHR stated that all its federal funds are entered into the State's non-general fund, administered by the State of Delaware fiscal administrative office. At the time of the performance assessment, the DDHR submitted its latest budget report.

The DDHR enforces only fair housing laws for the State of Delaware. During its bi-annual performance assessment, the agency confirmed that it spends at least 20% of its total operating budget on fair housing activities. The following information regarding the budget was provided:

DDHR July 2014 - June 2015

Personnel	\$508,400
Travel	\$6,600
Contractual	\$54,700
Supplies	\$8,800
Capital	\$2,000
Total	\$580,500

20% total operating budget spending = \$116,100

Fair Housing activities that amount to 20% or more:

Personnel	DDHR 6.5 FTE	\$119,938.49
Contractual	Rent, FH conference & workshops	\$13,000
Supplies	FH promotional items	\$2,000
Total		\$134,938.49

DDHR submitted supporting documentation that shows the 2015 State General Fund is \$580,500. This amount included personnel, travel, contractual, supplies and capital. DDHR is required to spend at least 20% of its total operating budget on fair housing activities, 20% represents \$116,100. DDHR actually spend more than the 20% on fair housing activities. The 2014-2015 fair housing activities expenses totaled \$134,938.49.

DDHR utilizes the FHAP funds for its intended purposes, which is to process dual-filed complaints, attend trainings, maintain data and information systems, and conduct education and outreach. The agency did not unilaterally reduce the level of financial resources committed to fair housing. DDHR had expenditures for the following activities:

- DDHR attended the HUD Policy Conference August 31- September 3, 2015 in Washington, D.C. and the IAOPA conference in Birmingham, Alabama on September 27-30, 2015. Additionally, DDHR staff completed NFHTA in accordance with the FHAP guidance during the assessment period.
- DDHR updated its electronic equipment, data and information systems, and enhanced its fair housing education and outreach through the development of Facebook, Twitter and a website.
- DDHR immediately draws down the case processing fund upon approval from the Department. It is understood by the agency that written request have to be submitted for administrative cost and training funds. Drawdowns are requested upon approval from the GTM/GTR.

DDHR did not conduct an independent agency audit for program years 2013-2014 and 2014-2015. Based on the amount of federal funding DDHR receives (FY13 \$270,983; FY14 \$71,470; and FY15 \$99,550) they are not required to conduct an independent audit.

Conclusion: DDHR has met the Budget and Finance Requirements.

IV. Reporting and Record Keeping Requirements [24 CFR § 115.308]

DDHR maintains records demonstrating its financial administration of FHAP funds. This information is maintained by the accounting officer within the agency.

DDHR's relevant records are the cooperative agreements; performance assessments; quarterly reports; education and outreach activities; complaint files and training scheduled/completed. All are available during normal working hours (8:00 – 4:30) for

review by the Department, other government representatives, or members of the public. The agency retains its files in a manner as to permit the audits under the Office of Management and Budget circulars, procurement regulations and guidelines and the Single Audit requirements for state and local agencies. Access is provided to the Secretary of HUD, Inspector General of HUD, and Comptroller General of the United States, and any of their authorized representatives have access to books, accounts, reports, files, excerpts and transcripts as they relate to DDHR's participation in the FHAP.

Conclusion: DDHR has met the Reporting and Record Keeping Requirements

V. Testing Requirements [24 CFR § 115.311]

Conclusion: Testing Requirements are not applicable to DDHR.

VI. Training Requirement [24 CFR § 115.306(b)]

DDHR staff attended all regional FHAP training during the performance assessment period. The Executive Director completed all five weeks of the National Fair Housing Training Academy (NFHTA) and received her fair housing certification upon completion.

Staff completed the following weeks of training:

- | | |
|------------------------|-----------------------------------|
| 1. Ines Hungria | Week 1-5(Certification Received) |
| 2. Romona Fullman | Week 1-5 (Certification Received) |
| 3. Nicole Jackson | Week 5 |
| 4. Claudia Sosa-Ducote | Week 3 |
| 5. Vincent Petroff | Week 1-5(Certification Received) |

Conclusion: DDHR has met the Training Requirements

VII. Data Support Systems Requirement [24 CFR § 115.307(a) (3)]

During program year 2013-2014 and 2014-2015 the FHAP agency did not input all the relevant data in TEAPOTS. DDHR cases that were sent to the Department for dual filing lack the sufficient information required in TEAPOTS for purposes of assigning a HUD case number.

A review of some cases revealed that when attempting to conciliate a complaint; the attempts were not always included in TEAPOTS under the Conciliation Section. Interviews with complainant, respondent or witness were not always documented in TEAPOTS; under the Interview Section. A review of some cases showed the finding and conclusions were not always entered into TEAPOTS. Additionally, when cases were successfully settled/conciliated or withdrawn with a resolution the relief was not always reflected in TEAPOTS.

During the DDHR on-site, Laura McAllister and Lindsay Huusko evaluated cases in TEAPOTS in tandem with the DDHR investigators, Ines Hungria, Nicole Jackson and Claudia Sosa-Ducote. While evaluating DDHR cases in TEAPOTS, HUD staff discovered that the investigators did not include in TEAPOTS the complainant and respondent interviews, respondent's defenses, witness interviews, findings and conclusion, and final determinations. HUD staff reviewed a sampling of the FHAP cases to demonstrate to DDHR that information was unaccounted for in TEAPOTS.

In accordance with 24 CFR 115.307 (3) -The agency must use the Department's official complaint data information system and must input all relevant data and information into the system in a timely manner. DDHR is reminded that all relevant information pertaining to the investigation must be entered into TEAPOTS.

Conclusion: DDHR has not met Data Support Systems Requirement

VIII. Changes Limiting Effectiveness of Agency's Law: [24 CFR § 115.211]

There have been no changes during this reporting period that affect the Agency's Law. However in 2013 DDHR created House Bill No. 196, an Act to amend Title VI and XXV of the Delaware Code relating to fair housing. The following sections of the code were amended to add a new subsection for source of income: 4601 (a), 4603 (b), 4605, 4607 (c), 4607, 4619, and 5116. This Bill prohibits housing discrimination based on source of income by adding "source of income" as a protected class under the Delaware Fair Housing Act and the Landlord Tenant Code. A person may still take into account sufficiency of income and credit worthiness of a tenant or buyer, so long as any standards are applied neutrally without regard to the source of income. There is also an exception for landlords who are employees of a housing authority and are prohibited by their employer's conflict of interest policy from renting to persons receiving housing assistance payments. This measure will prevent and address discrimination against those who receive part or all of their income from child support, government or private assistance programs, or any lawful occupation.

IX. Civil Rights Requirement

Conclusion: There have been no complaints filed against the Delaware Division of Human Relations alleging violations of relevant federal civil rights laws including, but not limited to, Title VI of the Civil Rights Act of 1964, the American with Disabilities Act, and Section 504 of the Rehabilitations Act of 1973.

X. Subcontracting Requirement [24 CFR § 115.309]

Conclusion: DDHR does not subcontract with public or private organizations any activity for which the agency will receive FHAP funds.

XI. FHAP and the First Amendment [24 CFR § 115.310]

Conclusion: The agency does not use funding made available under FHAP to investigate or prosecute any activity that may be protected by the First Amendment of the United States Constitution as prohibited at 24 CFR § 115.310.

XII. Summary of Performance / Corrective Actions

The Delaware Division of Human Relations (DDHR) has met eight (8) of the nine performance standards of the 2015 Performance Assessment. In addition to meeting the eight standards, DDHR has met the program requirements for Budget and Finance, Reporting and Record Keeping, Training, Changes Limiting Effectiveness of the Agency's Law, and the Civil Rights Requirements. *While the agency has shown that it is substantial equivalent to the Department and meets the requirements of the program, DDHR continues to have major challenges closing cases within the 100-day statute. More than 50% of DDHR's total cases were closed beyond the statute. DDHR continues to be challenged with the utilization of TEAPOTS. DDHR does not always conduct thorough and comprehensive investigations. Additionally, their conciliation agreements do not provide substantive relief to the complainant or the public. DDHR could benefit from additional training on planning investigations and preparing conciliation agreements.*

XIII. Conclusion and Recommendation

Although DDHR met eight of the nine performance standards, the Department remains concerned with the quality of DDHR's investigations and not entering investigative information into the required data system.

Many of DDHR's final investigations and determinations lacked justification to support the findings.

Corrective Action: DDHR is required to conduct thorough and comprehensive investigations that include conducting interviews with the complainant, respondent, and witnesses. DDHR is required to obtain comparative data to support or refute the allegations of discrimination. DDHR is required to conduct investigations based on factual evidence and not matters of opinion. The Department recommends that all DDHR investigators including the Housing Supervisor participate in additional fair housing training. DDHR would benefit from the following fair housing resources which include the National Fair Housing Training Academy the HUD Title VIII Investigation Handbook – Chapter 7: Planning and Conducting an Investigation, please note this list is not exhaustive.

Corrective Action: In accordance with 24 CFR 115.307 (3) the agency must use the Department's official complaint data information system and must input all relevant data and information into the system in a timely manner. DDHR is required to include all relevant interviews in TEAPOTS.

cc:

3AEE: Chron file

3AEHPP: Latham 2/8/2016

3AEHPP: Delaney 2/8/2016

3AEHPP

3AEHPP

R. Latham

R. Latham

B. Delaney

2/5/2016

Conclusion: DDHR does not always close cases that are not complex within the 100-day statute.

Corrective Action: DDHR is reminded that in accordance with 24 CFR 115.206 (e) (1)(ii), (iii), and (iv); whether the agency completes the investigative activities with respect to a complaint within 100 days from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay; whether the agency makes a determination of reasonable cause or no reasonable cause with respect to a complaint within 100 days from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay; and whether the agency makes a final administrative disposition of a complaint within one year from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay;

Conclusion: DDHR included confidentiality clauses in their conciliation agreements

Corrective Action: Section 810 (b) (4) of the Act specifically states, each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purpose of this title. DDHR is deemed substantially equivalent to the Department therefore DDHR is required to operate in accordance with the regulations of the Department, this means the conciliation agreements are public documents that should not include language about confidentiality.

Conclusion: A review of FHAP cases that were successfully settled/conciliated revealed that DDHR does not always include substantial relief in the conciliation agreements. The agreements lack sufficient relief to address the public interest. An example of this is the CLASI v. Bowdle and Slack, LLC, ELMS Management Association, LLC where the relief was \$523, affirmative advertising, and training for the complainant. The complainant conducted testing that showed that Respondent had a “no pet’s” policy and denied an accommodation for a service animal. The conciliation agreement should have clearly required the respondent to change their policy to include accommodations for persons in need of a service or support animal. A change in policy would have addressed the public interest.

Conclusion: DDHR is required to submit quarterly reports to HUD outlining the performance of the agency with regard to financial administration, case processing, education and outreach and training activities. Currently, DDHR is submitting the quarterly reports untimely.

Corrective Action: The regulations at 24 CFR 115.308(a) (1) (2) (b) the agency shall establish and maintain records demonstrating: Its financial administration of the FHAP funds; and performance under the FHAP. The agency will provide reports to the FHEO Regional Director in accordance with the frequency and content requirements identified in the cooperative agreement. In addition, the agency will provide reports on the final

status of complaints following reasonable cause findings, in accordance with Performance Standard #8 identified in § 115.206.

DDHR in accordance with the regulations shall submit timely quarterly reports to the GTM/GTR each quarter commencing with program year time frame October 1 through concluding September 30. DDHR shall submit a total of four (4) quarterly reports covering the program year.

XIV. Exhibits

1. Commission for Women/Division of Human Relations Organizational Chart
2. List of Commissioners
3. Sample Notification of complaint
4. 100-Day Letter
5. Open FHAP complaints over 100 days
6. Final Investigative Report
7. Conciliation Agreements
8. Reasonable Cause Form
9. Reasonable Cause Notification Letter - Complainant
10. Reasonable Cause Notification Letter – Respondent
11. Reasonable Cause – Election Form
12. Reasonable Cause Referral Letter
13. Request for Withdrawal
14. Complainant/Respondent Withdrawal
15. DDHR Caused Case
16. DDHR Completed Cases with Payment 07/01/13 to 06/29/14
17. DDHR Completed Cases with Payment 07/01/14 to 06/29/15
18. Budget and Finance Requirement
19. House Bill No. 196
20. Quarterly Reports for 10/01/14 to 06/30/15
21. Quarterly Reports for 10/01/13 to 06/30/14
22. Certifications for the DDHR Investigators

XV. Signature Page

FHAP AGENCY NAME

Performance Assessment Review DATE

Signature Page

Laura McAllister 1/28/2016

FHEO Government Technical Monitor **Date**

Ronald Lynn Latham 2/2/2016

FHEO Government Technical Representative **Date**

Barbara Peloney 2/8/2016

FHEO Region Director **Date**

cases that are open DDHR includes the projected closure date. While this information is helpful to the GTM, it is recommended that DDHR also include the status of investigations for their aged case inventory. DDHR should inform the GTM of cases that are being investigated beyond the 100-day statute and provide the status of the investigation.

Within thirty (30) days after a complaint is filed, DDHR prepares questionnaires to be completed by the parties and submitted in writing to the DDHR within ten (10) days. Each party receives a copy of the other party's response to the questionnaire.

The DDHR schedules an informal fact-finding conference (FFC) with the complainant and respondent within thirty (30) days of the filing unless it is impractical to do so. The FFC presents the first opportunity for conciliation. The opportunity to conciliate or settle a case is available at any stage of the complaint process. The time for conciliation ends with the filing of a charge or dismissal.

DDHR provides final investigative reports for No Probable Cause cases (NPC). All Probable Cause cases are reviewed by Vincent Petroff, Housing Supervisor. The cause case file is duplicated, a copy of the file, determination and final investigator report is sent to the Deputy Attorney General's Office for concurrence. If the Deputy Attorney General concurs with the determination, election letters are sent to the parties. The parties may elect a civil action or an administrative hearing. When a case is charged the Deputy Attorney General (DAG) represents the complainant.

Final administrative dispositions of complaints are usually made within one year from the date of receipt in accordance with 24 CFR 115.206 (e) (1) (iv).

The DDHR uses a Tracking Enforcement Automated Management System (TEAMS) developed with the Delaware Department of Technology and Information (DTI). DDHR utilized the new and improved system over their previous Human Relations Investigation System (HRIS) which allows for better management, tracking and recording of complaints. The DDHR implemented the new tracking system to meet their performance plan for staff to close cases within 100 days.

The resignation of one of three investigators (effective January 2013) required reassignment of cases, rescheduling activities and other case processing challenges. The hiring of a new Human Relations Representative (HRR) effective July 14, 2014 is expected to restore and improve performance under this standard.

The Delaware Division of Human Relations in accordance with 24 CFR 115.206 (e) (1) processes complaints within thirty (30) days of receipt. However, based on a review of the TEAPOTS report there were seven (7) complaints that exceeded the 100-day statute. During the case processing period, the DDHR did not issue any determinations of reasonable cause within 100-days. They actually issued four No Cause determinations on average of 234.75 days.

Based on a review of the TEAPOTS report for the complaint processing year 2014-2015, there were sixteen (16) complaints that exceeded the 100-day statute. During this complaint processing period, the DDHR issued one determination of reasonable cause within 100-days, Margarita Lopez vs. Wilson's Lane Mobile Home Park, et al HUD case number #03-14-0422-8.

A review of the TEAPOTS case report for cases investigated and closed during the 2014-2015 processing year indicates the complainant, respondent and witnesses were interviewed and the interviews were documented in TEAPOTS. A review of the Respondent's defenses indicates that in some instances the respondent's defenses were obtained during the telephone interview. However the investigator did not include this information in TEAPOTS. In accordance with 24 CFR 115.307 (3) the agency must use the Department's official complaint data information system and must input all relevant data and information into the system in a timely manner. DDHR is required to include all relevant interviews in TEAPOTS.

A review of DDHR's Final Investigative Report (FIR) includes the names and dates of contact with parties; witnesses; summary of correspondence and other contacts with complainant and respondent; description of other pertinent records examined; statements by witnesses; and interrogatories answered. However in most instances, the information was not documented in TEAPOTS. As a reminder DDHR should refer to 24 CFR 115.307 (3).

DDHR sends final determinations to both parties. The Department is concerned that some of the determinations lacked justification to support the findings. Some determinations did not include the complainant's allegations or the respondent's defenses. Additionally, some cases were riddled with the investigator's opinion instead of utilizing a prima facie analysis, comparative data or supporting information from witness interviews was not obtained.

Examples of cases that the Department reviewed in TEAPOTS include the following:

Cheryl King v. Investors Realty, et al

#03-14-0115-8

The complainant alleged the respondent discriminated against her based on race (Black) and disability (physical) regarding terms and conditions of service. A review of the summary of allegations and the complainant interview documented in TEAPOTS confirms the complainant by her own admission stated the racial slurs and treatment was from the residents in her current neighborhood not the respondent. The Complainant's physical disability was aggravated by the steps at her current residence. The allegations of race and disability have nothing to do with the complaint filed against the respondent. The investigator should have determined the appropriate issues and basis of the complaint from the onset. A review of the Findings and Conclusion in TEAPOTS listed marital status as one of the allegations. There was no mention of marital status in the summary of allegations. There is no evidence to support marital status being included in the findings and conclusion. Based on a review of the comprehensiveness and thoroughness of the investigation, the investigator did not conduct an investigation that would have