



SITE AND NEIGHBORHOOD STANDARDS FOR FAIR HOUSING

In general, states and any local subgrantees must administer their NHTF program in a way that provides housing that furthers full compliance with the Fair Housing Act, complies with regulations issued pertaining to the Fair Housing Act, and that promotes greater choice of housing opportunities.

§93.150(a)

HUD's interim regulations require new construction of NHTF-assisted rental housing to follow the site and neighborhood standards of the Project-Based Voucher program at 24 CFR 983.57(e)(2).

§93.150(b)

In general, these regulations prohibit locating new construction of a NHTF-assisted rental project in:

- An area of minority concentration*.
- A racially-mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents.

983.57(e)(2)

When may NHTF rental projects be constructed in areas that have minority concentrations?

There are two possible exceptions for allowing projects to be located in an area of minority concentration. *See next page.*

983.57(e)(3)

* The Consolidated Plan regulations require a state or any local subgrantee to have their own definition of "area of minority concentration". Because the NHTF Allocation Plan is integrated into the Consolidated Plan, that might mean that for NHTF the definition is up to the state or subgrantee. HUD generally defines an area of minority concentration as a census tract or neighborhood with a racial or ethnic population of more than 50% in metro areas, or more than 20% in non-metro areas.

When may NHTF rental projects be constructed in areas that have minority concentrations?

There are two possible exceptions for allowing projects to be located in an area of minority concentration:

983.57(e)(3)

1. The project is necessary to meet an “overriding” housing need that cannot be met.

983.57(e)(3)(ii)

For example:

- a. The site is key to an overall strategy for preservation or restoration in the immediate neighborhood.
- b. The site is in a neighborhood experiencing significant private investment resulting in improved economic conditions.

983.57(e)(3)(vi)

However, a project may not use the “overriding” need exception if:

- a. The only reason the need cannot be met is that discrimination prevents housing development in areas that do not have concentrations of minority populations.
- b. In recent years the use of the “overriding” need exception has had the effect of evading the obligation to provide housing choice.

983.57(e)(3)(vi)

2. There is “sufficient” and “comparable” extremely low income and very low income housing for minority households in areas that do not have minority concentrations.

- a. “Sufficient” does not require an equal number of assisted units within and outside of areas of minority concentration. Instead, the regulations suggest a reasonable distribution of assisted units each year, so that over several years an appropriate balance of housing choice is approached within and outside of areas of minority concentration. “Appropriate balance” must be determined in light of local conditions and in relation to the locality’s racial mix.

983.57(e)(3)(iii)

- b. “Comparable” means housing in standard condition with the same:
 - o Tenure (renter/homeowner)
 - o Type (elderly, disabled, small family, and large family)
 - o Income group
 - o Approximate tenant rent payment
 - o Housing market

983.57(e)(3)(iv)

“sufficient” and “comparable” *continues next page*

“sufficient” and “comparable” *continued*

- c. There must be an assessment of the impact of HUD-assisted housing on the availability of housing choices for low income minority households in and outside of areas of minority concentration. The analysis must consider whether:
 1. There are a significant number of assisted housing units available outside of areas of minority concentration.
 2. There is significant integration of assisted housing built or rehabilitated during the past ten years, relative to racial mix.
 3. There are racially integrated neighborhoods.
 4. The locality operates programs to help minority households find housing outside areas of minority concentration.
 5. Minority households have benefitted from local activities to expand housing choice.
 6. A significant proportion of minority households have been able to use tenant-based assistance to find housing in non-minority areas.
 7. Other programs have made comparable housing opportunities available in non-minority areas.

983.57(e)(3)(v)