

§ 180.705

that a respondent has engaged or is about to engage in a discriminatory housing practice in the course of a business that is subject to licensing or regulation by a Federal, State or local governmental agency, the Assistant Secretary will notify the governmental agency of the decision by:

(i) Sending copies of the findings of fact, conclusions of law and final decision to the governmental agency by certified mail; and

(ii) Recommending appropriate disciplinary action to the governmental agency, including, where appropriate, the suspension or revocation of the respondent's license.

(2) The Assistant Secretary will notify the appropriate governmental agencies within 30 days after the date of issuance of the final decision, unless a petition for judicial review of the final decision as described in § 180.710 of this part has been filed before the issuance of the notification of the agency. If such a petition has been filed, the Assistant Secretary will provide the notification to the governmental agency within 30 days after the date that the final decision is affirmed upon review. If a petition for judicial review is timely filed following the notification of the governmental agency, the Assistant Secretary will promptly notify the governmental agency of the petition and withdraw his or her recommendation.

(b) *Notification to the Attorney General.* If a final decision includes a finding that a respondent has engaged or is about to engage in a discriminatory housing practice and another final decision including such a finding was issued under this part within the five years preceding the date of issuance of the final decision, the General Counsel will notify the Attorney General of the decisions by sending a copy of each final decision.

§ 180.705 Attorney's fees and costs.

Following the issuance of the final decision, any prevailing party, except HUD, may apply for attorney's fees and costs. The ALJ will issue an initial decision awarding or denying such fees and costs. The initial decision will become HUD's final decision unless the Secretary reviews the initial decision

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and issues a final decision on fees and costs within 30 days. The recovery of reasonable attorney's fees and costs will be permitted as follows:

(a) If the respondent is the prevailing party, HUD will be liable for reasonable attorney's fees and costs to the extent provided under the Equal Access to Justice Act (5 U.S.C. 504) and HUD's regulations at 24 CFR part 14, and an intervenor will be liable for reasonable attorney's fees and costs only to the extent that the intervenor's participation in the administrative proceeding was frivolous or vexatious, or was for the purpose of harassment.

(b) To the extent that an intervenor is a prevailing party, the respondent will be liable for reasonable attorney's fees unless special circumstances make the recovery of such fees and costs unjust.

§ 180.710 Judicial review of final decision.

(a) Any party adversely affected by a final decision may file a petition in the appropriate United States Court of Appeals for review of the decision under 42 U.S.C. 3612(i). The petition must be filed within 30 days after the date of issuance of the final decision.

(b) If no petition for review is filed under paragraph (a) of this section within 45 days after the date of issuance of the final decision, the findings of facts and final decision shall be conclusive in connection with any petition for enforcement.

§ 180.715 Enforcement of final decision.

(a) *Enforcement by HUD.* Following the issuance of a final decision, the General Counsel may petition the appropriate United States Court of Appeals for the enforcement of the final decision and for appropriate temporary relief or restraining order in accordance with 42 U.S.C. 3612(j).

(b) *Enforcement by others.* If no petition for review has been filed within 60 days after the date of issuance, and the General Counsel has not sought enforcement of the final decision as described in paragraph (a) of this section, any person entitled to relief under the final decision may petition the appropriate United States Court of Appeals

for the enforcement of the final decision in accordance with 42 U.S.C. 3612(m).

Subpart H—Post-Final Decision in Non-Fair Housing Act Matters

§ 180.800 Post-termination proceedings.

(a) A respondent adversely affected by the order terminating, discontinuing, or refusing Federal financial assistance in consequence of proceedings pursuant to this title may request the Secretary for an order authorizing payment, or permitting resumption, of Federal financial assistance. Such request shall:

- (1) Be in writing;
- (2) Affirmatively show that, since entry of the order, the respondent has brought its program or activity into compliance with statutory and regulatory requirements; and

(3) Set forth specifically, and in detail, the steps taken to achieve such compliance.

(b) If the Secretary denies such request, the respondent may request an expeditious hearing. The request for such a hearing shall be addressed to the Secretary within 30 days after the respondent is informed that the Secretary has refused to authorize payment or permit resumption of Federal financial assistance and shall specify why the Secretary erred in denying the request.

(c) The procedures established by this part shall be applicable to any hearing.

§ 180.805 Judicial review of final decision.

A termination of or refusal to grant or to continue Federal financial assistance is subject to judicial review as provided in the applicable statute.