

2011 Analysis of Impediments : Fair Housing Report
DRAFT Executive Summary – 3/22/11: OPEN FOR PUBLIC COMMENT

SECTION I: INTRODUCTION AND EXECUTIVE SUMMARY OF THE ANALYSIS

A. Introduction

The U.S. Department of Housing and Urban Development's (24 CFR 91) requires each state and local government to submit a certification that it is Affirmatively Furthering Fair Housing ("AFFH"). Each jurisdiction is required to:

1. Conduct an analysis of impediments to fair housing choice;
2. Make recommendations and then take appropriate actions to overcome the effects of impediments identified through that analysis; and,
3. Maintain records reflecting the analysis and actions.

The purpose of this report is to identify "impediments" to the achievement of the goals of fair housing. These impediments include:

Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status or national origin which restrict housing choices or the availability of housing choices; or

Any actions, omissions, or decisions which have the effect of restricting housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.¹

Race, color, religion, sex, disability, familial status, and national origin are Protected Classes under federal law²; the Analysis of Impediments to Fair Housing focuses on barriers these classes face in accessing housing. In addition to the federal Protected Classes, the State of Oregon and the City of Portland have additional Protected Classes: marital status, sexual orientation, source of income, military status, gender identity, and domestic violence victims; this report will focus on these classes as well.

The analysis of impediments is a comprehensive review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices affecting the location, availability, and accessibility of housing, as well as an assessment of conditions, both public and private, affecting fair housing choice.

The analysis is not limited to the identification of actions purposefully meant or designed to disadvantage members of a protected class. Impediments also include:

Policies, practices, or procedures that appear neutral on their face, but which operate to deny or adversely affect the availability

¹ HUD; Fair Housing Planning Guide (Washington, D.C.: HUD) p. 2-8.

² Fair Housing Act, Title VIII of the Civil Rights Act of 1968.

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of housing to persons because of [their protected class].³

The class of impediments includes actions or policies which have a disparate or disproportionate impact on the housing choices of protected classes, even though the actions or policies are neutral on their face and were adopted without any intent to produce a discriminatory impact. The impacts test is, in this way, *result-oriented* and not *intent-oriented*.

The task of this study is to evaluate the current situation in Multnomah County to determine: (1) whether impediments to fair housing confront protected classes; (2) if such impediments do exist, understand why they exist; (3) to set forth what is being done to eliminate these impediments; and (4) to make recommendations to address those impediments.

B. Methodology

The Portland Housing Bureau took the lead on the Analysis of Impediments to Fair Housing Report on behalf of the consortium including Multnomah County, the City of Portland, and the City of Gresham.

We formed two stakeholder committees⁴ for conducting and processing the analysis of impediments. A “Stakeholder Advisory Committee” of twenty-three members including fair housing advocates, private market citizens, advocates for people with disabilities, people representing different cultural, racial, and ethnic groups, health care advocates, mental health advocates, and other interested citizens reviewed the scope of the analysis, discussed initial findings, identified impediments, and suggested recommendations.

A “Technical Advisory Committee” of twelve members including fair housing technical practitioners, housing program staff, and other jurisdictional partners secured data sources, discussed accuracy of findings, and reviewed identified impediments and recommendations.

With the aid of the Technical Advisory Committee, we collected census and other data to augment Fair Housing data including audit testing from the Fair Housing Council of Oregon, discrimination complaints from the U.S. Department of Housing and Urban Development, the Fair Housing Council of Oregon, Legal Aide, Disability Rights Oregon, the Bureau of Labor and Industry, and the Oregon Department of Justice. The data was also compared to the housing market analysis conducted for the *2011-2016 Consolidated Plan*. This quantitative data was compared to qualitative data gathered by

³ HUD, Fair Housing Planning Guide (Washington, D.C.: HUD) p. 2-17.

⁴ A list of committee participants can be found on the front inside cover of this Report.

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a series of over fifty interviews with local and regional planners, housing advocates, housing industry representatives, legal experts, and county experts.⁵

We also reviewed various materials on fair-housing related topics. This included information on fair housing programs and advocates, and local planning efforts including the Portland Plan, Sustainable Communities planning, and transportation planning. We consulted various federal, state, and local statutes and ordinances.

The Portland Housing Advisory Commission (PHAC) and the Multnomah County Federal Fund Oversight Committee provided input and opportunities for public review and comments on preliminary drafts of the analysis. Individual members of the PHAC and staff from Multnomah County also served on the two Analysis of Impediments advisory committees.

The budget for conducting the 2011 Analysis of Impediments to Fair Housing Report was approximately \$10,000 plus Portland Housing Bureau staff time. These funds were from the City of Portland's Community Development Block Grant funds for FY2010-2011, from the Administration/Planning cap.

C. DRAFT Impediments & Recommendations – March 22, 2011

Note: Impediments, Significant Issues, and Recommendations are *not* in any priority order.

Impediments: violation of federal, state, or local fair housing laws

1. Discrimination on the basis of any federal, state, or local protected class: these recommendations address discrimination for all protected classes.

Recommendations

- a) County-wide funding and support to continue and enhance fair housing services, including but not limited to enforcement and education of fair housing laws.
- b) Create a Fair Housing Advocacy Committee that meets on an at least quarterly basis to focus on fair housing issues and to be a strong advocate voice for Multnomah County.
- c) Conduct audit testing to determine discrimination levels for Protected Classes seeking homeownership.
- d) Devote funds for a public information campaign about Fair Housing Rights and current issues.
- e) Review data and recommendations on a regular basis to respond quickly to changing Fair Housing needs.

⁵ A list of interviewees and their raw data responses are included in Appendix B.

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2. Discrimination on the basis of race, color, and national origin. Discrimination includes refusal to rent, harassment, quoting different terms or conditions including rent levels, different documentatation requirements, steering, refusal to improve sub-standard conditions and less opportunity to achieve homeownership. Discrimination is also apparent in the housing crisis since 2008, with a disproportionate number of high-cost loans, and therefore foreclosures, affecting people of color and national origin

Recommendations

- a) Fund homeownership education for communities of color and immigrant and refugee communities by partnering with organizations that provide homebuyer education, encouraging use of materials in multiple languages.
 - b) Fund organizations to assist households without proper immigration documentation to obtain correct documentation so households can access housing services more easily.
 - c) Support national efforts to change the loan modification process, which will help homeowners prevent foreclosure.
 - d) Continue funding homeownership programs, including but not limited to Down Payment Assistance, to continue efforts to close the minority homeownership gap.
 - e) Continue, and consider increasing funding for, Rent Assistance for low-income residents.
3. Discrimination on the basis of physical or mental disability. Discrimination includes failure to make reasonable accommodations or reasonable modifications, as well as “end of tenancy” evictions to tenants with these disabilities.

Recommendations

- a) Work with partners to reduce “end of tenancy” notices.
 - b) Increase outreach and education to property managers and owners to understand Fair Housing law and reasonable accommodations and modifications.
4. Discrimination on the basis of familial status. Discrimination includes refusal to rent, steering families to different units or properties not of their choice, as well as quoting different terms or conditions including rent levels.

Recommendations

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- a) Remove negative housing information from records of persons who report domestic violence.
 - b) Work with partners to prevent property managers or landlords from using 911 call records and other law enforcement contacts related to domestic violence as a basis of eviction or refusal to rent.
 - c) Increase the number of affordable/accessible family-sized housing choices.
5. While many organizations put effort toward fair housing issues and ending discrimination, Multnomah County lacks a clear, focused champion for fair housing.

Recommendations

- a) Create a Fair Housing Advocacy Committee that meets on an at least quarterly basis to focus on fair housing issues and to be a strong advocate voice for Multnomah County.
- b) Sponsor a public information campaign about fair housing.

Significant Issues: barrier beyond fair housing law, but restricts housing choice of protected classes and low-income people

1. Unreliable and/or unavailable data on discrimination of other protected classes such as age, gender, sexual orientation, marital status, religion, and/or source of income. Fair Housing Planning is impeded by this lack of data.

Recommendations

- a) Conduct audit testing to determine discrimination of other Protected Classes in the rental market: sexual orientation, familial status, and religion.
 - b) Partner with organizations serving people vulnerable to discrimination to offer low-barrier ways to document discrimination, such as surveys.
2. There is a lack of Fair Housing complaint data available for East County/Gresham, which leads to imperfect analysis of fair housing impediments.

Recommendations

- a) Fund audit testing for all areas of the County to determine levels of discrimination.
3. Location of affordable/accessible or subsidized rental units limits the opportunities of lower-income households to exercise housing choice, and creates more blighted areas of low opportunity and low income, and also leads

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to increased segregation of people with disabilities, communities of color, and immigrant and refugee populations. Local zoning constraint and NIMBYism restrict inclusive housing production policies; existence of such policies may not be in the spirit of affirmatively furthering fair housing.

Recommendations

- a) Develop opportunity mapping as a foundation of housing policy development to illustrate areas of Multnomah County that are currently considered areas of “low opportunity.” Commit resources to these areas to increase opportunity and equity.
 - b) Focus on resource development to acquire funding outside of Urban Renewal Areas to develop and preserve affordable/accessible housing in all areas of the County.
 - c) Where housing is already affordable/accessible focus on creating quality jobs and linking residents to quality jobs through education and other supports.
 - d) Make public investments that do not cause displacement.
4. Lack of available accessible units and/or a lack of an accurate inventory of available affordable/accessible units restrict the housing choice of people with disabilities.

Recommendations

- a) Develop strong building guidelines to ensure consistent standards of what features an “accessible” unit includes.
- b) Research feasibility of a county-wide ordinance that requires newly constructed housing units to be built in a way that would make them easily accessible or “visitable” by people with disabilities, as well as easily modified for future accessibility needs..
- c) Increase housing choice for people with disabilities by creating an inventory of available accessible units, and partnering with property owners and managers to better market accessible units to people with disabilities.
- d) Continue to fund home repair and modification programs.
- e) Partner with Tri-Met and other local agencies to encourage development and rehabilitation of affordable/accessible housing close to Transportation, Groceries, Schools, and other amenities.

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5. There is a lack of affordable/accessible housing units with supportive services for those with mental health disabilities; this leads to more people becoming unnecessarily institutionalized or discharged into homelessness.

Recommendations

- a) Research additional resources such as linking people to SSI benefits, or grants, to increase funding for Permanent Supportive Housing units appropriate to the population being served.
 - b) Improve coordination of the Housing Authority of Portland, Multnomah County, City of Gresham, City of Portland, non-profits, the State and other partners to improve services and programs.
 - c) Work with neighborhoods to increase understanding of the need for affordable/accessible units for people with high-needs to address feelings of NIMBYism.
 - d) Develop a range of housing and supportive services to better match the needs of different populations living with mental illness; one size does not fit all.
6. Using the concept of “Healthy Connected Neighborhoods,” low-opportunity neighborhoods in the county lack good access to public transit, schools, grocery, even sidewalks. This can disproportionately affect those with disabilities, low-income, communities of color, and immigrant and refugee communities.

Recommendations

- a) Partner with regional housing organizations and City and County partners to emphasize the development of Healthy Connected Neighborhoods, using special focus on East Multnomah County and areas of low-income households.
7. Female heads of households experience poverty at a higher rate of other familial statuses, disproportionately affecting housing choice for this protected class.

Recommendations

- a) Adopt new household income measurements regarding housing cost burden to take into account, transportation, childcare, food, energy, and other household costs.
 - b) Increase outreach to low-income families with Female Heads of Households to educate them on available services.
8. There is a shortage of quality housing units affordable/accessible to 30%MFI and below; this shortage is expected to continue. This can disproportionately affect

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protected classes who are low-income, including some communities of color, immigrant and refugee communities and people with disabilities.

Recommendations

- a) Continue funding subsidized housing units for individuals and families below 30%MFI, working to increase the number of units available to meet the demand. Develop subsidies to encourage private landlords to rent to low-income individuals at little to no risk to them.
- b) Improve the quality of existing affordable/accessible housing through home repair loans, landlord certification, and rental housing inspections.
- c) Research feasibility to include Section 8 vouchers in the Protected Class of "Source of Income"; Section 8 voucher holders should be permitted to use their voucher at any rental property where they meet all other admission criteria.

9. Lack of understanding of Fair Housing Laws by rental property managers, agents and renters, and common screening criteria can lead to disparate treatment of renters.

Recommendations

- a) Partner with Metro Multi-Family and other organizations to ensure frequent and accurate trainings for property managers.
- b) Include Fair Housing information in regular newsletters, social media outlets, and websites to encourage up-to-date information sharing.
- c) Modify screening criteria that has inadvertently higher impact on protected classes.
- d) Provide assistance to people seeking to clear their record of low level contacts with the police.
- e) Provide culturally and linguistically appropriate information regarding rights and resources.

10. Employment and income issues of all kinds including layoffs, wage levels, location of employment, training, access to benefits and discrimination have the largest impact on housing choices.

Recommendations

- a) Link employment data to housing issues to discover trends that will help develop recommendations for addressing this barrier.
- b) Continue programs that improve employment outcomes, including development and availability of affordable/accessible housing close to transportation and other services.

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- c) Partner with agencies that can assist low income households to access the benefits for which they are eligible.

11. The aging population, which is expected to increase as Baby Boomers age, has a unique set of needs that restrict housing choice, including elders with disabilities, elders with limited English proficiency, and elders from the LGBTQI community.

Recommendations

- a) Increase the availability of affordable/accessible units near transportation and services.
- b) Fund education services for workers in assisted living and nursing facilities to better understand the varying needs of the aging population.
- c) Increase efforts to prevent predatory reverse mortgages targeted to seniors.