

THE FAIR HOUSING ACT AND INTERNET ADVERTISEMENT VIOLATIONS

Far too frequently, people across the nation witness advertisements for housing that violate the Fair Housing Act by discriminating against the classes protected therein. While legislation and litigation have clearly held newspapers to be liable for publishing discriminatory housing advertisements, the same legal standards have not been applied to those allowing the publication of comparable advertisements on the internet. The National Fair Housing Alliance (NFHA) argues for Congress to address this disparity via an amendment to the Communications Decency Act. Although the making, printing, or publishing and/or to cause the making, printing or publishing of housing advertisements that discriminate against, limit or deny any member of a protected class equal access to housing are illegal according to the federal Fair Housing Act, interactive internet providers have not been subject to the law in the same manner that newspaper publishers have been. This is due to an interpretation of the Communications Decency Act (CDA) that determines such internet providers not to be publishers and, consequently, not to be liable for Fair Housing Act violations on their websites. Conversely, the current reading of the law does hold that newspapers are publishers and, as a result, responsible as third parties for content in violation. Due to an understanding of their liability, newspaper publishers currently employ screening systems to remove discriminatory content prior to its appearance in print or online. Internet providers, if held accountable, could just as easily implement filtering systems to prevent the publication of discriminatory advertisements on their websites; yet, neither incentive nor deterrent exists to compel internet providers to apply such anticipatory measures.

Craigslist and other websites have become the hosts of the majority of housing advertisements, and, still, they remain expedient media for housing discrimination. Repeated court decisions that have based rulings on the Communications Decency Act have allowed these circumstances to persist. Internet services gain their immunity from legislation and court rulings that do not consider them to be “publishers,” except in certain cases concerning federal criminal statutes and intellectual property law. Corresponding exceptions can and should be stipulated regarding civil rights and fair housing legislation. Nevertheless, the CDA currently includes sections that specifically “aim to protect interactive computer service providers ‘who take (steps to screen indecent) and offensive material for their customers.’”⁵² Unfortunately, this provision actually results in a situation in which providers, who generate the distribution of just such “offensive” material, become legally immune from the enforcement of civil rights and fair housing laws. Ironically, the NFHA’s publication questions whether or not this simply takes away the rights of consumers and, instead, grants internet providers the “freedom to discriminate.”⁵³

The Court in the United States v. Hunter offered one of the arguments that made possible the strict regulation of newspaper publishers by determining that Congress was justified in its application of the Fair Housing Act advertising regulations to newspapers “because publication

⁵² Joseph J. Opron III, “License to Kill (the Dream of Fair Housing): How the Seventh Circuit in Craigslist Gave Websites a Free Pass to Publish Discriminatory Housing Advertisements,” 4 SEVENTH CIRCUIT REV. 152 (2008), at <http://www.kentlaw.edu/7cr/v4-1/opron.pdf>. citing 141 CONG. REC. H8469-H8470 (daily ed. Aug. 4, 1995).

⁵³ NFHA *For Rent*

in newspapers and other mass media would magnify the ‘already mentioned deleterious effect’ of such ads, as it offers ‘far more widespread coverage than privately circulated advertisements.’”⁵⁴⁵⁵ Considering the extent to which the internet has become the primary means of advertising and searching for housing, applying the same contention of “widespread coverage” to internet advertisements would seem to be exceedingly suitable. Nevertheless, courts have not utilized equivalent criterion to address the profuse amount of discrimination occurring online.

Landlords, real estate agents, and other individuals who compose and place discriminatory ads are in violation of the Fair Housing Act; no one questions their accountability. Of course, the intent motivating the passage of 42 U.S.C. § 3604(c) was also to ensure that those who facilitate the widespread publication and dissemination of such discriminatory advertisements are held legally responsible. As the law states,

It shall be unlawful to make, print, or publish or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

Thus, although newspaper publishers are technically third parties, the necessity of holding them accountable in order to achieve the greatest efficiency in the elimination of discrimination was recognized and codified on the federal level. Moreover, the decision of the Court in the National Fair Housing Alliance’s lawsuit against American Classifieds, LLC logically held the publisher liable for both the discriminatory advertisements published in print as well as those appearing online, whether or not they were directly posted by a landlord, real estate agent, or other individual.

The situation regarding internet providers, once again, is not consistent with these observations. Over the course of a single year, the National Fair Housing Alliance and its members identified the presence of over 7,500 discriminatory advertisements on internet websites. Such advertisements existed in every state and the District of Columbia; furthermore, they occurred in geographies ranging from rural areas to small towns to major metropolitan areas. Due to the vast demands on staff, time and resources that the filing and enforcement of complaints place on HUD and other public and private fair housing organizations, only 1,000 of these allegations were ever filed.⁵⁶ Part of this is due to the fact that, unlike in other complaints, the identification of the individual responsible for placing the advertisement may be impossible and/or pose significant challenges. Of course, the sheer frequency of the violations also was insurmountable.

⁵⁴ *United States v. Hunter*, 459 F.2d at 215. (4th Cir. 1972) cert denied, 409 U.S. 934 (1972)

⁵⁵ *For Rent: NO KIDS! How internet housing advertisements perpetuate discrimination* August 2009 Report by National Fair Housing Alliance, accessible at <<http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=zgbukJP2rMM%3D&tabid=2510&mid=8347>>.

⁵⁶ NFHA *For Rent*

This situation is especially troubling because a concurrent rise in foreclosures has transpired alongside the ascendancy of the internet as the major means by which to advertise or search for housing. The foreclosure crisis has resulted in the entrance of millions into the rental market⁵⁷ as well as the homelessness of over two million children.⁵⁸ Obviously, families are a major group experiencing the detrimental effects of foreclosure. Considering the simultaneous observation by fair housing organizations nationwide of substantial increases in the overall number of fair housing complaints, 80% or more of which occur in the rental market,⁵⁹ the necessity of changing the regulatory practices regarding online advertising has never been so pronounced.

Section 230(c)(1) of the 1996 Communications Decency Act is the portion of the law that grants immunity to websites for third party content. 47 U.S.C. § 230(c)(1) states, “TREATMENT OF PUBLISHER OR SPEAKER- No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

The NFHA advocates for the amendment of this section of the CDA to satisfy the stipulations of the Fair Housing Act, suggesting that “An exemption could be made specifically for Fair Housing Act claims and [Congress could] amend 47 U.S.C. §230(c)(1) as follows:

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider, except for notices, statements, or advertisements with respect to the sale, rental, financing or insuring, or any other service of a dwelling that violate the Fair Housing Act, 42 U.S.C. § 3601 et seq.” (NFHA 11).

Instead of the more efficient regulatory activity of holding the internet service providers liable as third parties in housing discrimination cases, though, courts have recommended that fair housing agencies pursue allegations against the entities who originally post the advertisements. Such individual investigations are ineffective and inefficient in many ways. The costs that such an enormous amount of cases would impose on fair housing organizations in terms of time, resources, and staff efforts would be unrealistically excessive. What courts have suggested is, to say the least, impractical, as it wastes resources, frustrates the missions of fair housing organizations around the country, and ignores the very intention of passing a federal law to protect the rights of citizens in their pursuit of housing. An “ad-by-ad” enforcement approach would entail the following steps:

- Monitoring every housing search website for discriminatory advertisements;
- Flagging each ad that violates the Fair Housing Act;
- Investigating each violation to discover the actual poster of the ad;
- Filing a written complaint with the appropriate government agency;

⁵⁷ Out of Reach 2009, National Low Income Housing Coalition report, April 14, 2009.

⁵⁸ Barbara Duffield and Phillip Lovell, “The Economic Crisis Hits Home, The Unfolding Increase in Child and Youth Homelessness,” December 2008, available at <http://www.naehcy.org/dl/TheEconomicCrisisHitsHome.pdf>

⁵⁹ National Fair Housing Alliance, “Fair Housing Enforcement: Time for a Change – 2009 Fair Housing Trends Report,” May 2009, available at www.nationalfairhousing.org.

- Conducting an investigation, which either results in conciliation or the issuance of a charge;
- Negotiating a settlement with and educating the landlord, among other necessary procedures.

Obviously, time is especially influential in the enforcement process concerning discrimination that occurs online. A multitude of typically anonymous individuals and companies places large quantities of advertisements 24 hours a day, 7 days a week. The chances of even identifying each and every discriminatory ad, let alone successfully taking all of the aforementioned steps, prior to the housing unit becoming occupied and the ad's removal, are incredibly slim. Furthermore, whenever a discriminatory ad is flagged or a complaint filed, the challenge of obtaining the name and contact information of the party responsible for the posting remains; most internet sites mask users' identities and even email addresses. As the NFHA report notes,

HUD is statutorily required to investigate cases of housing discrimination within 100 days and must undergo many cumbersome steps in order to identify the landlord posting the advertisement and meet this obligation. First, HUD must subpoena the website in order to obtain the advertiser's contact information. Once HUD has the landlord's email address, HUD may or may not be able to obtain a name and address to correspond with that address. HUD must either obtain a response from an email it sends to the landlord and/or conduct a search of the Internet and social networking sites to find a name or address to associate with the email address that has been provided in response to the subpoena. Again, by the time this process is completed, the apartment or home is often gone (8).

Only after the successful completion of this task may HUD begin the complaint process and carry on with its normal enforcement procedures. Obviously, this burdensome, ineffectual practice is a significant and unnecessary drain on tax dollars as well. This method of addressing discrimination is especially senseless because it does nothing to proactively disallow the posting. Instead, discriminatory ads may stay online for the duration of the housing unit's availability, causing harm to and misinforming those who witness them. Only if someone is already aware of his or her housing rights, may a complaint actually be filed; otherwise, those who see such ads repeatedly may actually think such discrimination is legal.

Of course, a major aim of housing rights advocates and government agencies across the country is to educate citizens about their right to equal access to the housing of their choice. As then-D.C. circuit court Judge Ruth Bader Ginsburg stated in relation to the occurrence of discriminatory advertisements in the 1990 Spann v. Colonial Village, Inc. case, "organizations could show that the ads created a public impression that [discrimination] in housing is legal, thus facilitating discrimination by defendants or other property owners and requiring a consequent increase in . . . educational programs on the illegality of housing discrimination." Housing rights organizations have increasingly devoted widespread efforts to educate the public and housing providers on the protection afforded by the Fair Housing Act; despite this, familial status complaints have consistently increased over the years, which is a testament to the power and persistence of such discriminatory practices. Surveys have also demonstrated the lack of public awareness that familial status is a protected class.

In 2002, HUD released a report that found, based on such surveys, that “[t]here is minimal awareness of the law as it pertains to treatment of families with children.” The report stated that only 38% of those surveyed knew that it is illegal to discriminate against families with children differently from households without children -- a misunderstanding routinely reinforced by housing ad discrimination on the internet.⁶⁰

There was a follow up study in 2006 – “Do We Know More Now? Trends in Public Knowledge, Support and Use of Fair Housing Law.”⁶¹ It found a marginal increase (to 39.3%) in knowledge of the illegality of discrimination based on familial status. This, however, is not all that promising since people often misidentified which classes are even protected under federal law. Many identified “the elderly” (67.6%) and “LGBT people” (26.2%) as protected under the FHA. While many states add additional protected classes, this shows how much more public education is needed regarding the FHA, as people do not know what is and is not protected.

The study also noted greater public support for federal housing laws in general. Nevertheless, those conducting the survey only observed “somewhat smaller increases in support for the law ...for differential treatment of families with children.”

Discrimination against families with children was the most frequent violation among the advertisements that NFHA and its partners found in their monitoring activities. The study also identified violations based on a stated preference for/against a particular race, national origin, religion, or sex. Another means by which advertisements have managed to discriminate is through occupancy standards. By claiming that only one person per room is permitted in apartments and other housing units, individuals and companies not only discriminate against families, but they also disregard HUD’s recommendation that 2 people per bedroom is a reasonable occupancy standard. Unfortunately, properties with multiple bedrooms, which are generally most suitable for families with children also comprise many of those advertised using discriminatory language.

The simple fact that these advertisements discriminate against particular groups of people and, consequently, impede their right to equal access to housing of their choice should be enough to warrant their effective oversight and regulation. However, numerous other reasons also exist to support placing legal liability on internet providers. Such advertisements discourage entire portions of the population that seek housing from even attempting to contact the poster in relation to the housing offered in his or her ad. Additionally, these advertisements illegitimately substantiate the notion that refusing to rent, or practicing any other kind of housing discrimination on the basis of a person’s membership in a protected class, is appropriate or legal.

⁶⁰ Source: HUD, “How Much Do We Know? Public Awareness of the Nation’s Fair Housing Laws.” <http://www.huduser.org/portal/publications/fairhsg/hmwk.html>

⁶¹ Source: <http://www.huduser.org/portal/publications/hsgfin/FairHsngSurvey.html>

As the National Fair Housing Alliance makes evident in its August 2009 publication, *For Rent: NO KIDS! How internet housing advertisements perpetuate discrimination*,

In order to stop this, once and for all, there is one simple solution: hold websites that advertise housing to the same standard to which newspapers are held. Since the Internet has replaced print media as the preferred way to advertise available apartments and homes, the Internet must also fall under the jurisdiction of the Fair Housing Act. To accomplish this, the Communications Decency Act must be amended so websites are held responsible for screening out the discriminatory advertisements that currently appear on them every day.

ADVERTISING AND MONITORING

Over the last seven years, the Toledo Fair Housing Center has reached settlements with three major publishers of newspapers in the Toledo metropolitan area and one advertiser of rental property. Since August of 2008, the Center has opened and investigated twenty-three other cases involving advertisements. One of these cases was on the basis of disability, twelve were familial status cases, and ten were on the basis of race. All of these twenty-three cases involved the rental of housing.

The Center regularly screens Toledo metropolitan area housing advertisements in print and online for discriminatory language. In all of the settlements, the Center was the complainant, and the violations contained discrimination on the basis of familial status. As newspaper publishers are liable as third parties for violations of the Fair Housing Act, the Center was able to successfully pursue charges against the newspapers as well as against the individuals who posted the ads.

In a 2007 case, the Center filed a charge against a respondent who advertised a condominium using discriminatory language; the ad specifically stated, “No children.” Through a settlement agreement facilitated by the Ohio Civil Rights Commission via its mediation process, the Center received free advertising for a year and a \$1,000.00 donation to the Friends of Fair Housing. The resolution amounted to an estimated \$7,500.00.

In a case settled in February of 2009, the Center identified advertising that allegedly discriminated against persons with children in an area newspaper. This case was settled through an agreement also facilitated by the Ohio Civil Rights Commission. The settlement included free advertising to promote fair housing as well as payment for the training of its classified ad staff by the Toledo Fair Housing Center. The settlement with the publisher amounted to an estimated cost of \$4,285.00. The Center also filed a charge against the individual responsible for posting the advertisement. The respondent agreed to attend fair housing training within 180 days of the settlement and to donate \$100.00 to the Friends of Fair Housing.

Similarly, the Center filed a charge with the OCRC in November of 2008 after identifying an advertisement that discriminated against persons with children and, therefore, was in violation of the Fair Housing Act. The Center pursued both the publisher and the individual responsible for posting the advertisement. After undergoing the process of mediation, the publisher respondent agreed to provide advertising space one day per month for 17 consecutive months, one day of advertising space in April of 2010, and an 18-month subscription to the newspaper for 7 days per week to the Center. The approximate cost of the free advertisement amounts to \$5,755.00. The publisher of the newspaper also agreed to designate a company representative to serve as a contact person specifically for the Toledo Fair Housing Center to communicate with regarding compliance with Ohio’s fair housing laws. Furthermore, the publisher will consult with the Toledo Fair Housing Center concerning documents they use for training and education.

In 2009, the Center also filed a charge against the person responsible for the posting of the ad. The mediation with the OCRC resulted in the respondent agreeing to pay \$2,000.00 in damages

to the Toledo Fair Housing Center and to watch an educational film regarding discrimination in housing within 30 days of the signed conciliation.

In June of 2010, the Center successfully closed its case against an advertiser that was discriminating on the basis of familial status in the rental of housing. The Center utilized a tip to investigate the housing provider and then filed an administrative complaint in April of 2010. In early June, the Center obtained relief in the amount of \$4,000.

The Center's staff also routinely monitors housing advertisements on Craigslist.org. The National Fair Housing Alliance (NFHA) employed a methodology that entails the utilization of Craigslist's search mechanisms to identify the most common, typically used words and phrases in overtly or implicitly discriminatory housing advertisements (as recognized by HUD). NFHA and its partners in this research took this approach due to the massive volume of advertisements appearing daily on the more active Craigslist sites, usually those serving the larger metropolitan areas. The procedure also allows the observer to identify advertisements that were posted previously, but still remain visible and/or represent currently available units. Otherwise, the postings are usually displayed in a list format, categorized by time of posting, with the most recent ads appearing at the top of the list (in the default format).

Nevertheless, as Toledo's Craigslist site tends to have a more manageable daily posting volume, the Toledo Fair Housing Center's methodology also involves the perusal of each housing ad posted, where staff time allows. The advantage of this method lies in the ability of the person monitoring to discover discriminatory ads that a query may have overlooked. For instance, if one searches for a specific term, the search mechanism may not return other versions of the word or phrase (e.g. plural forms, misspellings, synonymous words and phrases, etc.) in the results, depending on the sensitivity of the search mechanism and the user's accuracy. Through these monitoring activities, which the Center began in the Toledo area approximately seven years ago, the staff has encountered and pursued a number of instances of discriminatory language. Considering the NFHA's national study occurred over a year-long period between 2008 and 2009, the Center's decision to begin its own monitoring activities in 2008 demonstrates its dedication to remaining at the forefront of fair housing issues.

Through observation of the Toledo Craigslist website, the Center's staff previously filed complaints both against Craigslist itself and against individual posters. Among the 8 violations the Center pursued, 4 occurrences of discrimination on the basis of sex/gender, 4 instances of familial status discrimination, 2 based on national origin, and 2 discriminating against disabled prospective tenants were present. As these data show, advertisements often contain multiple forms of discrimination. Apparently, the Craigslist caveat at the top of each housing advertisement that states, "Stating a discriminatory preference in a housing post is illegal - please flag discriminatory posts as prohibited," and links to a page entitled "Fair Housing is Everyone's Right! – Stating a discriminatory preference in a housing post is illegal,"⁶² has little impact on the actual posting practices of users.

⁶² For further information, see <http://www.craigslist.org/about/FHA>.

Basis of Discrimination	Number of Ads
Sex/Gender	4
Familial Status/Families with Children	4
National Origin	2
Disability	2

The aforementioned complaints that the Center filed all occurred several years ago. Nevertheless, the Center continues to monitor Craigslist regularly, but often uses this monitoring to drive other forms of investigation due to the unfavorable caselaw regarding Craigslist postings. For example, the Center uses Craigslist ad content that is facially or potentially discriminatory as a “tip” to open up cases concerning the unit and/or housing provider in question. The Center also might conduct testing and/or further substantiate the discriminatory statements in the ads in order to build a case based upon evidence in addition to the language in the ads. Additionally, the Center has used language that excludes home-seekers based upon source of income to map messaging effects and send housing provider and unit information to LMHA to assist LMHA staff in improving their affirmative marketing of voucher programs to landlords, especially those in higher opportunity areas.

The specific language that users employ in order to state their “preferences” is also revealing. While all discrimination negatively affects the users who encounter the advertisements as well as the society at large, the less severe usage of objectionable words and phrases suggests that many people remain genuinely ignorant of fair housing laws. For instance, a recent complaint received by the Center featured a posting that stated, “Please no large families,” indicating the small size of the housing unit as the reason for this request. This is an example of a less blatant form of discrimination, as compared with another advertisement in a complaint which states, “...not some freak coming from overseas looking for a room...no I am not gay.” While fair housing agencies must address this issue through any means at their disposal, a significant portion of the problem lies, just as in all instances of discrimination, in a lack of awareness and education regarding fair housing laws and the truly deleterious effects that impediments to equal access to housing impose on members of protected classes.

One can observe the persistence of this lack of awareness and education regarding fair housing laws or the disregard of fair housing rights altogether in the recent case that Miami Valley Fair Housing Center (MVFHC) brought against the Connor Group. Although the case began in the Southern District of Ohio, the United States Sixth Circuit Court of Appeals recently came to a unanimous decision to overturn the lower court’s decision in which the Miami Valley Fair Housing Center sued the Connor Group for posting advertisements on Craigslist that discriminated against families with children and women.⁶³

The Connor Group, a real estate investment firm that has been operating since 1991, owns and operates approximately 16,000 luxury apartment units in the following eight large markets: Atlanta, Georgia; Austin, Texas; Charlotte, North Carolina; Cincinnati, Ohio; Columbus, Ohio;

⁶³ Source: <http://nationalfairhousing.org/Portals/33/News%20Release%20MVFHC%20Connor%20Group%20Final%20Draft.pdf>

Dallas, Texas; Dayton, Ohio; and Raleigh-Durham, North Carolina. As Shanna Smith, President and Chief Executive Officer of the National Fair Housing Alliance remarked, “Real estate firms like the Connor Group are obligated by the Fair Housing Act to ensure that its advertisements do not show a preference for or limitation against people because of race, color, national origin, religion, sex, disability, or familial status.”

The advertisement from the Connor Group at the center of this issue marketed the company’s Dayton, OH-area apartments using language stating, “Our one bedroom apartments are a great bachelor pad for any single man looking to hook up.”

As Smith noted, “By saying the apartment is for a single man, the advertisement excludes women, couples, and single parents with children.” Internet housing advertisements that contain such language can discourage people protected under federal, state, and local fair housing laws from even looking at a particular property. The enforcement of fair housing law through cases such as this will help ensure that people seeking housing can and do consider all of their options.

NEW IMMIGRANT ISSUES

Approximately 24.4 million immigrants entered America between 1990 and 2008, according to the 2000 Census and the 2008 American Community Survey One-Year Estimates. This figure represented over half of the total foreign-born immigrant population in the United States at the time. The entry of foreign-born immigrants has been increasing and at an increasingly rapid rate, representing the continuation of a trend that was also observed in a previous Analysis, which utilized data dating back to the 1990 Census for its comparison.

This trend continues, as “[n]early 41 million immigrants lived in the United States in 2012—a historical numeric high for a country that has been a major destination for international migrants throughout its history. About 20 percent of all international migrants reside in the United States, which accounts for less than 5 percent of the world’s population.”⁶⁴

According to estimates from the 2012 ACS, the U.S. immigrant population stood at almost 40.8 million, or 13 percent of the total U.S. population of 313.9 million. Between 2011 and 2012, the foreign-born population increased by about 447,000, or 1.1 percent.

According to the 2008 American Community Survey One-Year Estimates, 10,475 foreign-born individuals were estimated to reside in Toledo, with 4,374 of these individuals entering since 2000. According to the 2009-2012 Five-Year ACS Estimates, however, this population has decreased to 9,140. The Estimates also reveal that 955 of these foreign-born individuals entered the U.S. in 2010 or later. Therefore, over ten percent of the foreign-born population is estimated to have resided in the U.S. for less than five years as of this report.

Estimates place the foreign-born population at 15,051 (down from 17,601 as of the last AI) persons in Lucas County. Of the total population of foreign-born residents in Lucas County, 1,056 have immigrated in 2010 or later, with 4,156 having entered between 2000 and 2009. For Toledo, the 2009-2013 Five-Year ACS Estimates show 45.9% of the foreign-born population to be naturalized U.S. citizens and 54.1% to be non-U.S. citizens. The 2009-2013 ACS Five-Year Estimates provide the following categorization of Toledo’s foreign-born population:

WORLD REGION OF BIRTH OF FOREIGN BORN	Percent	Number
Foreign-born population excluding population born at sea	100%	9140
Europe	14.5%	1325
Asia	38.4%	3510
Africa	10.5%	960
Oceania	0.2%	18
Latin America	31.6%	2888
Northern America	4.8%	439

⁶⁴ Source: <http://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states>

Surrounding the Toledo metropolitan area, much of northwest Ohio is composed of farming communities. A significant population of migrant workers who have emigrated from other countries also exists throughout northwest Ohio. According to the Farm Labor Research Project (FLRP), approximately 6,000 migrant workers pass through northwest Ohio annually, most of whom are of Hispanic descent; some of these migrants decide to stay in the area. The 2013 Ohio Migrant Census estimated that agricultural migrant workers amounted to a total of 9,138 individuals, 7,012 of which were age 14 or older. Each year, a small percentage of these migrant workers chooses to immigrate and become United States citizens.⁶⁵

According to the 2013 American Community Survey Three-Year Estimates, 28,045 people in Lucas County and 6,347 in Wood County identify as Hispanic or Latino; in Toledo, the estimated Hispanic or Latino population was 22,043. The Estimates also reveal that while only 2,718 Lucas County Latinos are foreign-born, 25,327 Latinos are U.S. citizens. This data shows, once again, that the assumption that the Hispanic/Latino community is one formed and growing by immigration is often a misconception. At the national level, too, the Hispanic/Latino population is growing largely due to live births in the U.S., and the other fastest-growing segment of the population, Asians, is growing largely through immigration into the U.S.

As the table below makes clear, a significant percentage of population growth across Ohio is due to the concurrent rise in the Latino population. Nearly 20% of Ohio’s overall growth from 1990 to 2006 was directly attributable to the increase in the Latino population. This trend still continues as of 2014. “In all but one of Ohio’s 88 counties, population growth is being driven by people who identify as Hispanic. In fact, in 67 of the counties — though not booming in Franklin or Delaware — the Hispanic population has grown since 2010 while the number of non-Hispanic residents has declined.”⁶⁶ Furthermore, the United States Hispanic Leadership Institute has estimated that the Hispanic population in Ohio will increase by 85% between 2005 and 2025. As the American Community Survey data indicates, the Hispanic or Latino population appears to be following this trend.

Area	Latino Population 2013	Percent Latino in 2013	Percent Change 2006-2013	Latino Population 2006	Percent Latino in 2006	Latino Population 1990	Percent Change 1990-2006
Lucas	28045	6.4%	23.86%	22642	5.10%	15658	44.60%
Wood	6347	4.9%	33.03%	4771	3.80%	2882	65.50%
Ohio	378265	3.3%	170.78%	139696	2.32%	265,762	90.24%

Of course, for Lucas County and Toledo, jurisdictions that both have been experiencing population decline, this sector of the population represents one of the few, and thus valuable, groups that is actually growing in number. Since 2000, however, the greatest addition of foreign-born individuals to the Toledo population has actually occurred via the entrance of Asian immigrants. Data from the 2009-2013 American Community Survey Five-Year Estimates reveal that 638 foreign-born persons from Asia living in Toledo entered since 2010 (66.8% of the total

⁶⁵ Source: <http://jfs.ohio.gov/Agriculture/2013MigrantCensus.stm>

⁶⁶ Source: <http://www.dispatch.com/content/stories/local/2014/06/26/hispanics-lead-state-population-increases.html>

955), in comparison with only 120 immigrants (12.1 % of 955) who have entered from Latin America over the same duration.

The previous and current City of Toledo Consolidated Plans and Analyses of Impediments demonstrate that a gap in services and a lack of housing opportunities for migrant-worker families continues to be a barrier to the city's ability to achieve its housing and economic goals. Several years ago, the Center staff met with local Hispanic serving organizations to help identify barriers to equal housing opportunities. As the public forums for the current AI revealed, these barriers persist.

Center staff was surprised by the overall lack of knowledge among those who serve the Hispanic community with regard to fair housing laws and equal housing opportunities. Some persons did not even know why the Center exists. Others, recognizing that discrimination occurs, cautioned Center staff that new immigrants:

- Do not know their rights;
- Do not recognize discrimination;
- Do not think they can do anything about discrimination;
- Do not know where to get help;
- Mistrust persons who may be able to offer help;
- Fear animosity or retaliation if they complain; and
- Are victims of a lack of sensitivity on the part of the majority culture.

These issues are not exclusive to the Hispanic population in northwest Ohio, but rather, they apply to other immigrant groups as well. Many immigrants are treated as outsiders and discriminated against by members of the majority culture in this country. Immigrants are forced to give up much of their identity when they become American citizens. Immigrants who look different (i.e. Hispanic, Arabic, African, Asian, etc.) fall victim to the NIMBYISM that is prevalent in American society today. As a result of the tragic events of September 11, 2001 and ongoing conflict in the Middle East, the Center has received an increase in discrimination complaints and inquiries from the Islamic and Muslim communities. The Center began working with these communities to ensure that their rights are protected under the Act. Activities have included investigation and referral of complaints to other agencies as appropriate, collaboration with other agencies, conducting investigations and handling cases, and education and outreach efforts.

While relatively few fair housing cases have involved immigrant fair housing issues, the Center previously reached a settlement with a condominium association that required the association to pay damages amounting to \$5,000 each to an immigrant couple and the owner of a condominium. The case aimed to resolve a matter allegedly based on cooking smells. Immigrants from Egypt, the respective couple rented a condominium, and shortly after moving in, other condo residents began to confront them over the stated issue of cooking smells. In one instance, a neighbor across the hall even pounded on the door, telling the couple, "Your cooking stinks." A lawyer for the condominium association suggested several alternatives to the couple:

they could stop cooking, spend thousands of dollars to restructure the ventilation system, or undergo eviction.

The tenants actually reduced their cooking, discontinuing their use of spices other than salt and pepper. Additionally, the couple requested that the condominium association consider the installment of a new ventilation system, but before any action was taken, the condominium association ceased discussions regarding the ventilation system.

The Toledo Fair Housing Center conducted an investigation and interviewed residents of the building. Investigators were unable to corroborate the existence of the smells. However, other residents of the building indicated in interviews that they had encountered an odor unpleasant to them. Thus, the Center determined that the occurrence of discrimination based on national origin was probable. The association's unwillingness to modify the ventilation system was a major factor in the case. Furthermore, though, the Center argued that since meal preparation is closely associated with national origin in this case and perception of the enjoyment of cooking smells is a subjective factor, probable cause of discrimination existed. Hopefully, this settlement will serve to dissuade others from perpetrating similar discriminatory actions against immigrants.

HOUSING FOR PERSONS WITH DISABILITIES

People with physical or mental disabilities remain one of the most disenfranchised groups. The 2000 Census reported 63,413 people with a disability (22.7% of the population 5 years and older) to be living in Toledo. While these figures increased between 1990 and 2000, According to the 2008-2012 American Community Survey, 48,382 people or 17% of the civilian non-institutionalized Toledo population has a disability. This is a 1% decrease since the last AI. Nonetheless, as those with disabilities still comprise a sizeable proportion of Toledo's population and continue to encounter numerous difficulties in obtaining equal access to the housing of their choice, citizens and their advocates should remain as committed as ever to the elimination of such impediments.

Owing to the existing economic structure (local employment and wage structure), the shortage of housing options available, and the inability and/or unwillingness to dedicate the time, resources, and effort necessary to be considered in compliance with the requirements established by the Fair Housing Act, those with disabilities comprise over one-third of the homeless population in Toledo. According to the January 2014 *Point-In-Time* survey that the Toledo-Lucas County Homelessness Board and its partners conduct annually, approximately 21.76% of homeless persons are experiencing mental illness. Only 13.35% of those counted were chronically homeless, down from the figure exceeding 50% in the previous AI. The chronically homeless are single and unaccompanied homeless adults with a disabling condition identified most often as either mental illness, substance abuse, or a combination of both. Nevertheless, of the 809 homeless persons that comprised the count, 176 were severely mentally ill, 187 suffered from chronic substance abuse, and 8 were persons with HIV/AIDS. The count does not separate out those who fit more than one of these categories, but if these were each individuals, over 45% of those counted likely have a disability. Thus, a substantial portion of the homeless population reports to have some form of disability.⁶⁷

As mentioned above, aggregate data categories employed in the analysis of data from current information systems make it difficult to accurately calculate the total proportion of the homeless population that is disabled. Nevertheless, the housing facilities for the homeless population are often not accessible for people with physical disabilities because of the architectural structure and style of the dwellings. For example, individuals who have physical disabilities do not have access to many second floor bedrooms. Preferred Properties, LMHA, and subsidized housing complexes provide some housing opportunities. Preferred Properties, in particular, "specializes in the development of affordable and accessible housing opportunities" and creates "integrated housing options for persons living with disabilities."⁶⁸

Even so, providing solutions to requests and/or repairing impediments remains a frustrating process. Individuals may contact area agencies for assistance, only to find they do not qualify for admission for various reasons, usually resulting from the specificity of a program's mission.

⁶⁷ **"Chronically Homeless"**: An unaccompanied homeless individual with a disabling condition who has either been homeless for a year or more, or has had at least four episodes of being homeless in the past three years (as defined in the July 2008 *CASE Plan to Prevent, Reduce and End Homelessness in Toledo and Lucas County Ohio*).

⁶⁸ <http://www.preferred-properties.org/>

Anecdotal evidence of such situations has been shared by those experiencing these vexing circumstances. For instance, an individual working in a local shelter related, “Once, we turned away a ‘wheelchair bound’ person although our facility is wheelchair accessible. That person was turned away because he had no history of mental illness, and to qualify for our service, an individual must be mentally ill. If that person was admitted, it would be a fraudulent admission, and our service could get into trouble.”

Programmatic requirements, however, should not always be bar to participation, but must be addressed on a case-by-case basis. For instance, through the fair housing reporting mechanism that the City and its third party partners that it funds, the Center became aware of a client whom an agency did not place with a provider of shelter/housing because the gentleman suffered from severe social anxiety and the program required those who received assistance to attend regular group meetings. This man was unable to be located in a reasonable amount of time, but, perhaps, could have still been housed with a request for a reasonable accommodation to allow him to attend the meetings with a trusted friend, relative, or emotional support animal or to forgo the meetings altogether, but still participate in some type of counseling that did not trigger his social anxiety. This situation demonstrates the need for improved communication among area agencies and fair housing awareness.

Experiences such as these reveal a number of issues that should be addressed. First, they demonstrate the difficulty of ensuring that those in need of services receive accurate information about agencies that can and cannot assist them. Moreover, they also show the need for greater collaboration and referral activities among those agencies that serve similar populations, but may have slightly divergent missions. This, in turn, obviously requires that the agencies themselves possess knowledge of the purposes and operations of the other organizations that concurrently serve the area. Certainly, by tackling the aforementioned problems, which are evidently common among nearly every type of service, the community could attend to both those concerns relevant to persons with disabilities as well as those posing impediments to other protected classes. For this reason, improvements in communication, cooperation, and information-sharing are integral to any sincere attempt to eliminate barriers to fair housing.

Barriers for persons with disabilities are further compounded because the housing industry and housing providers have been slow and even resistant to assume their responsibilities regarding their service to persons with disabilities. Such denial of obligation manifests itself in several ways, including, but not limited to the following: an unwillingness to offer accessible units via modification and/or new construction; the failure to allow for reasonable accommodations; the discriminatory refusal to rent and/or lend to persons with disabilities; and the act of either prohibiting outright that the person keep a service animal or charging a pet deposit/additional rent for the animal. As HUD notes in its most recent Annual Report on Fair Housing,

In FY 2011, disability was the most common basis of complaints filed with HUD and FHAP agencies. ... This large number of complaints is due, in part, to the additional protections afforded persons with disabilities under the Fair Housing Act, i.e., reasonable accommodation, reasonable modification, and accessible design and construction.

[The] data reflect a notable trend in the share of disability and race complaints. Whereas disability and race used to account for nearly the same share of complaints, the gap between these bases has grown over the years. In FY 2011, disability complaints accounted for 48 percent of complaints, while race complaints made up 32 percent of complaints, a difference of 16 percentage points. In FY 2008, this difference was much smaller. At that time, disability complaints accounted for 44 percent of complaints, while race complaints made up 35 percent of complaints, a difference of 9 percentage points.⁶⁹

Although the local experience for Toledo has been slightly different, disability complaints remain the second largest basis for complaints that the Center receives (for allegations excluding lending). This is hardly surprising, as a substantial percentage of housing units constructed continue to be in violation of the Fair Housing Act, and many of the newly-built and existing multi-family complexes fail to offer accessible units. In fact, many complexes that are subsidized with federal, state and local dollars (and are thus mandated to comply with accessibility standards) do not even provide accessible units.

According to the most recent MFH (multi-family housing) Inventory Survey of Units for the Elderly and Disabled, provided by HUD, 47 HUD insured and/or HUD subsidized multi-family properties that serve the elderly and/or persons with disabilities exist in Toledo. Of these, 4 developments limit eligibility solely to the disabled, designating all of their 76 units to these persons. Thirteen of the developments, comprising a total of 1365 units (of which 1317 units are assisted), require residents to qualify as either elderly or disabled; however, only 4 of these developments have units particularly set aside for disabled tenants, amounting to 69 units. The remaining developments include 3 that limit tenancy to the Elderly and 27 open to all families. None of the units in the former category and only 6 units in the latter are designated for the disabled. Nevertheless, some developments have units with accessible features available that are not limited to disabled occupants. The table following summarizes the data from the Inventory for Toledo, Ohio.

MFH Units for the Elderly and Disabled

Total Units	4374
Total Assisted Units	4062
Total Units Designated For Elderly	828
Total Units With Accessible Features	204*
Total Units Designated For The Disabled	151

*This figure is, most likely, 248 units in reality. A total of 44 of the units reported as “designated for the disabled” were reported by four of the developments, which simultaneously reported having zero “units with accessible features.” That units designated for the disabled do not contain accessible features is rather illogical.

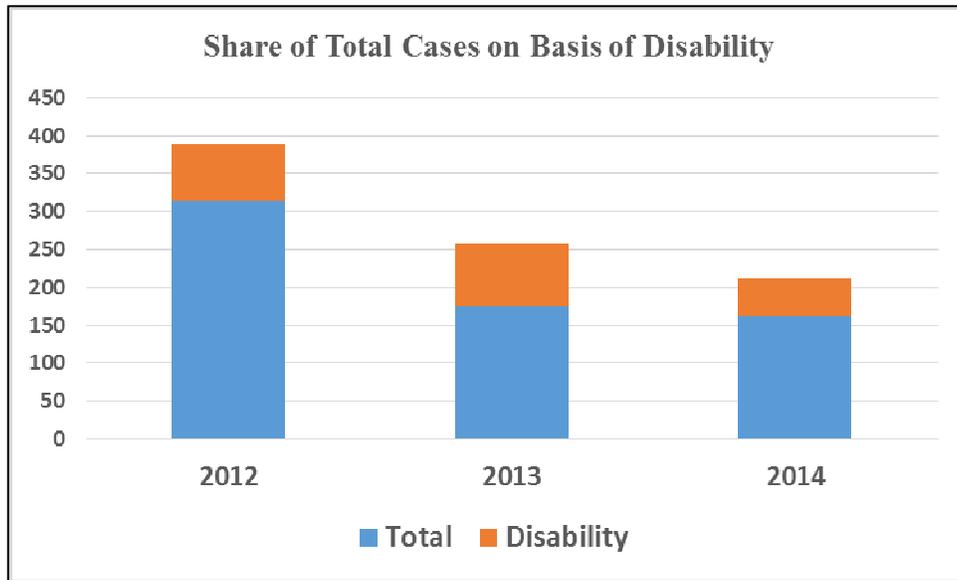
As these data demonstrate, extending services to persons with disabilities on an equitable basis is the first hurdle. Providing accessible units and buildings is the second.

⁶⁹ *Source:* HUD’s FY2011 Annual Report on Fair Housing, p. 19, available at http://portal.hud.gov/hudportal/documents/huddoc?id=FY2011_annual_rpt_final.pdf

The Toledo Fair Housing Center, Advocates for Basic Legal Equality (a local legal organization which regularly represents persons with disabilities) and the Ability Center (a non-profit organization serving the disabled community) continue to partner to assess the extent and nature of disability discrimination and to develop effective strategies to eliminate barriers. The impediments that these organizations identified previously are listed below. As part of its preparation of the 2015 Analysis, the Center hosted both of the aforementioned agencies at the public forums. Upon review, the formerly recognized impediments remain relevant and significant barriers to persons with disabilities who seek equal access to housing of their choice.

These enduring issues include:

- Landlords and condominium associations regularly violate the reasonable accommodations and modifications provisions of the Fair Housing Act.
- Landlords and condominium associations do not understand the right of persons with disabilities to have support animals.
- Landlords and condominium associations improperly impose “pet” restrictions on persons with disabilities.
- Local municipalities are granting permits for work that violate the design and adaptability provisions of the Fair Housing Act.
- Architects, contractors, inspectors and developers are still ill-informed about provisions of the Act.
- Builders and developers are constructing units that violate the statute. In addition, some units renovated with government dollars are not done so in accordance with accessibility guidelines.
- Contractors decline to adopt the accessible design specifications that architects propose, which results in statute violations.
- Housing providers and professionals erroneously believe that building accessible housing is too expensive and vastly increases building or rehab budgets.
- Housing professionals, government employees, and the general public are not informed about disability issues and do not understand the principles of the Fair Housing Act.
- A general misunderstanding of persons with disabilities exists that engenders inappropriate apprehensions and biases.
- In order to use products from their favorite suppliers, contractors circumvent original specifications which include accessible features. Ignorance of the law also contributes to this.



A significant amount of the Center’s total cases are on the basis of disability, as the chart above makes evident. One of the major disability-related cases on which the Center worked for several years involved Alpha Towers. Complaints that prior management mistreated residents and violated their fair housing rights were common at the building, which provides housing predominantly to low- and moderate-income seniors. Located at 525 E. Woodruff Ave. in central Toledo, the nine-story, 165-unit building is a project-based Section 8 complex, meaning it is privately owned but receives subsidies for low-income housing from the U.S. Department of Housing and Urban Development (HUD).

After the Center assisted a resident with her claims of fair-housing violations and following a federal investigation by HUD, the client received a settlement from the previous owner, and the disability-related concerns that she and other residents brought to the attention of the Center have been or are in the process of being addressed. These issues included abusive comments by a prior employee about the client’s disability, inoperative elevators, resistance to installation of a flashing smoke alarm, and the potential for retaliation against tenants who asserted their rights, among other problems. Residents complained of mismanagement and poor living conditions, including bedbug infestations and elevators that were frequently out of order, stranding elderly and disabled residents. A sprinkler head flooded much of the building in December of 2013 and forced residents to evacuate, displacing many.

In August, NHP Foundation-Urban Atlantic Fund I, a partnership of the National Housing Preservation Foundation, developer Urban Atlantic in Maryland, and PNC Real Estate, purchased Alpha Towers. The fund aims to preserve affordable housing developments, and this is the fifth property the fund has acquired. National Church Residences will manage the property.

As of late fall, 2014, the elevators have been repaired, and management is in the process of eliminating bedbugs from the building. “Our goal is to return Alpha Towers to a clean and safe,

affordable place to live,” said Fred Mitchell, senior vice president of asset management for the NHP Foundation. “I can assure you the best is yet to come.”⁷⁰

In fiscal year 2008-2009, the Center experienced another successful outcome. The Center contributed to the settlement of a case that involved a family with a mobility-impaired young man who came home from school every day to a rental home with an inaccessible entrance (four-five stairs). This was a rather egregious example of the negative effects that discrimination on the basis of disability can have on an aggrieved person. The neighbors coordinated their energy and resources to build a portable ramp that would allow the young man to enter the home easily in his wheelchair. The landlord, however, determined the ramp to be an eyesore and decided to “improve” it by dismantling it. In the conveniently-located, functional ramp’s place, the landlord erected a ramp in the rear of the house, which rose at an angle that was impossible to maneuver in a wheelchair. Consequently, when the complainant got off the bus each day, he would be forced to climb out of his wheelchair, sit on the bottom stair and lift himself up step-by-step, pulling the wheelchair up as he went. The situation was even worse in inclement weather, of course, as the young man would have to sit in snow, rain, etc. just to get into his own home. The Center’s staff documented the process on video and included it in evidence forwarded to the attorney, who successfully obtained a monetary settlement (\$65,000) for the family.

While the resultant award to the family from the settlement was significant in the ramp case and the complaint against Alpha Towers was ultimately resolved, the mere occurrence of such cases exposes the extent of discrimination, ignorance, negligence, and outright indifference with which housing builders and providers (as well as the general public) still regard issues of fair housing and, particularly, those of the disabled. In discussions with the Ability Center, complaints ensuing from landlords’ misconception that tax-credit housing need not comply with accessibility stipulations were said to be quite common. Furthermore, situations in which a landlord refuses to allow a resident to keep a service animal due to a municipal ordinance and/or an insurer’s threat to deny coverage (e.g. pit bulls, exotic animals, animals considered “vicious”) continue to be complex and, thus are still usually decided on a case-by-case basis.

Requesting an emotional support or service animal as a reasonable accommodation is a controversial issue because confusion exists regarding the definition of an “assistance animal” under the Fair Housing Act (FHA), which is often viewed as parallel with the American’s with Disabilities Act (ADA). The ADA’s definition of “service animal,” however, states that only dogs can be service animals and excludes emotional support animals. This is not the case under the FHA. Under the FHA, an emotional support animal can be any animal. Most often, it is a dog or a cat, but is by no means limited in that respect; nor is it limited by breed, size, or weight of the animal. Moreover, the animal only needs to be personally or individually trained to alleviate at least one symptom of a person’s disability. The FHA describes a disability as being either a physical or mental impairment, which includes but is not limited to conditions such as depression or anxiety. Such disabilities might necessitate the use of an emotional support animal in order to allow the person equal use and enjoyment of his or her dwelling.

⁷⁰ Source: <http://www.toledoblade.com/local/2014/11/07/Alpha-Towers-residents-rejoice-over-new-owners.html#8huOOWoQJf8CO6tG.99>

Another issue that arises concerning assistance animals is that of “vicious dogs” and insurance liability. On May 22, 2012, the Ohio General Assembly amended its vicious dog statutes to repeal the provision that included the pit-bull dog breed in its definition of a vicious animal. Ohio Revised Code sections 955.11 (6)(a)-(b) now state the following:

- (a) "Vicious dog" means a dog that, without provocation and subject to division (A)(6)(b) of this section, has killed or caused serious injury to any person.
- (b) "Vicious dog" does not include either of the following:
 - (i) A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
 - (ii) A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper, or harbinger of the dog.

Many landlords, however, have breed restrictions in their lease agreements or housing policies based on speculative fear that certain breeds are more aggressive and dangerous than others. They cannot, however, deny a reasonable accommodation request for an assistance animal because it is of a particular breed. On the other hand, landlords might attempt to impose such limitations due to the provisions of an insurance policy that does not allow them to rent to tenants who have certain breeds of dogs on the premises. Some insurance companies have exceptions in their policies for assistance or service animals even if they are of a restricted breed. However, according to a HUD memorandum published June 12, 2006,

If a housing provider’s insurance carrier would cancel, substantially increase the costs of the insurance policy, or adversely change the policy terms because of the presence of a certain breed of dog or certain animal, HUD will find that this imposes an undue financial and administrative burden on the housing provider.

U.S. Department of Housing and Urban Development, *Insurance Policy Restrictions as a Defense for Refusals to Make a Reasonable Accommodation*, (June 12, 2006).

Thus, in the event that the presence of a particular breed of dog or animal creates an undue administrative or financial burden for insurance reasons, HUD will find that a housing provider lawfully denied a reasonable accommodation request.

On April 25, 2013, HUD also distributed a memorandum addressing the subject of *Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs* directed toward housing providers whom are covered by the Fair Housing Act (FHA), the Americans with Disabilities Act (ADA), and/or Section 504 of the Rehabilitation Act of 1973 (Section 504). There are three sections discussed in detail:

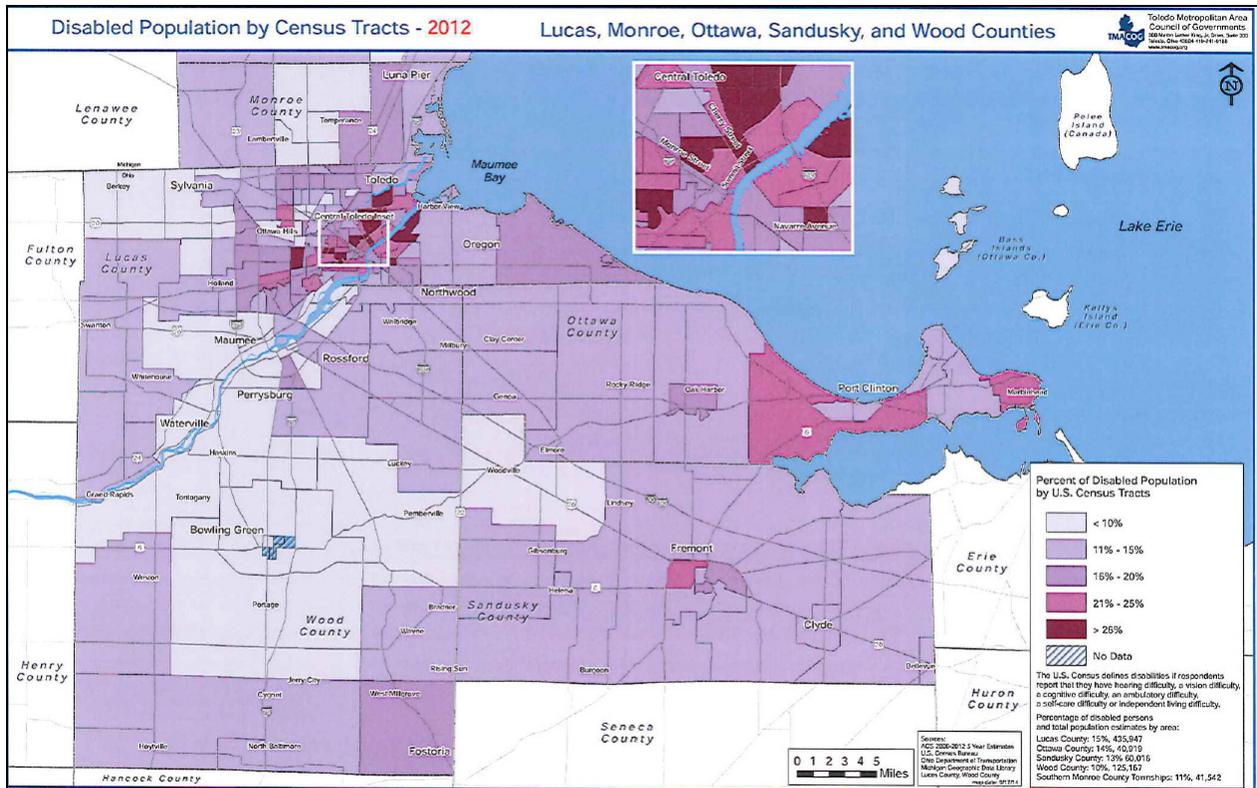
- Reasonable Accommodations for Assistance Animals under the FHA and Section 504 (Section I)
- The ADA Definition of “Service Animal” (Section II)
- Applying Multiple Laws (Section III)

This notice serves to notify housing providers that the definition of a “service animal” defined by the ADA or Section 504 has no bearing on the definition of an assistance/service animal under the FHA. Additionally, where multiple laws apply, they do so simultaneously, and obligations under both laws must be met.

The U.S. Department of Justice, Civil Rights Division and the U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity issued a joint statement dated March 5, 2008 on *Reasonable Modifications under the Fair Housing Act*. This joint statement discusses the rights and obligations of persons with disabilities and of housing providers under the Act in a question-and-answer format. These questions address what a reasonable modification is, when it must be allowed, who can receive a modification, and who bears financial responsibility in varying circumstances. This is an especially important document, as a large and growing portion of violations under the Fair Housing Act are on the basis of disability.

On April 30, 2013, the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice (DOJ) issued another Joint Statement on *Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings under the Fair Housing Act (FHA)*. The purpose of this statement is to educate housing providers on their rights and obligations concerning the design and construction of covered multi-family dwellings. In detail, these topics are addressed:

- Accessibility Requirements of the Fair Housing Act
- Types of Dwellings Covered by the Act
- Ground Floor Dwelling Units
- Single-Story and Multistory Dwelling Units
- Additions
- Alterations/Renovations
- Building Separations
- Dwelling Units Custom-Designed or Pre-Sold Prior to Completion
- Subsequent Changes to Accessible Features
- Buildings with One or More Elevators
- Accessible Routes
- Accessible Entrances
- Safe Harbors for Compliance with the Act
- Reviews to Compliance
- Buildings Covered by the Act and Other Accessibility Laws or Codes
- Accessible Public Commons Use Areas
- Enforcement
- Reasonable Accommodations and Reasonable Modifications Under the Act
- Location of Documents



In addition to the developments at the national level, Toledo has made progress over the years in the area of housing for persons with disabilities. As one can see in the map above (prepared by TMACOG), this is especially important due to the location of census tracts with higher concentrations of persons with disabilities in the City. For example, the City passed provisions relating to Visitability, which are contained in Chapter 1347 of the Toledo Municipal Code. The ordinances therein were passed by City Council on September 20, 2005 and stipulate that all one, two, and three-family homes constructed using any public subsidy incorporate such accessible features as follows:

- **No step entrance:** Provide at least one no step entrance. The required no step entrance shall be accessed via a visitable route.
- **Doors/openings:** All doors and openings shall have a minimum net clear width of 32 inches.
- **Hallways/corridors:** All hallways and corridors on the main floor shall be at least 36 inches in width.
- **Bathroom/half-bath:** Provide a bathroom or half-bath on the main floor with clear floor space of 30 inches x 48 inches.
- **Bathroom/half-bath walls:** All walls in the required bathroom/half-bath shall have reinforcing/backing in the walls to allow for future installation of grab bars.
- **Wall electrical outlets:** Wall electrical outlets on the main floor shall be mounted at least 15 inches above the finished floor.

- **Light switches, thermostats and other controls:** Light switches, thermostats and other control devices on the main floor shall be mounted no higher than 48 inches above finished floor.⁷¹

Commenting on the ordinances' passage, Tim Harrington, Executive Director of the Ability Center, said "The ordinance eliminates architectural barriers that isolate persons with disabilities, seniors and others with mobility impairments. It will promote inclusion throughout the community by allowing those individuals to freely visit and socialize with family and friends. It also gives Toledo recognition as a prominent, proactive leader in Ohio regarding accessibility."⁷² Certainly, this is the direction in which Toledo hopes to continue advancing, as it aims to eliminate all impediments to fair housing.

Olmstead v. L.C., Implementation, and Fair Housing Implications

As the 2013 Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of *Olmstead* explains,

The landmark 1999 *Olmstead v. L.C.* Supreme Court [of the United States] decision concerned discrimination claims by two Georgia women with developmental disabilities and mental illness who were in a state psychiatric hospital, able to live in the community, but nonetheless remained hospitalized against their wishes and against the recommendations of their treating physicians. The Court's decision acknowledged that segregating individuals with disabilities in institutional settings deprives them of the opportunity to participate in their communities, interact with individuals who do not have disabilities, and make their own day-to-day choices; it also recognized that unnecessary institutionalization stigmatizes individuals with disabilities, reinforcing misperceptions about their capacities and negative stereotypes. Thus, the promise of *Olmstead* is that individuals with disabilities be given meaningful opportunities to live, work, and receive services in integrated settings.

The Supreme Court ruled that the ADA prohibits the unjustified segregation of individuals with disabilities, which means that states and localities cannot require that individuals with disabilities reside in nursing homes, state psychiatric hospitals, or other institutional settings in order to receive necessary services if those services could reasonably be provided in integrated, community-based settings. Specifically, the Court held that public entities must provide services to individuals with disabilities in community settings rather than institutions when: 1) such services are appropriate to the needs of the individual; 2) the affected persons do not oppose community-based treatment; and 3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability-related services from the entity.⁷³

⁷¹ Source: Toledo Municipal Code Section 1347.02 1. (a)-(g)

⁷² Source: <http://www.raggededgemagazine.com/departments/news/000570.html>

⁷³ Source: <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>

In an effort to further its mission of removing barriers to equal opportunity and community inclusion and to demonstrate its continued commitment to change systems, public policies, and attitudes that prevent people with disabilities from living, working, and socializing in their communities, the Ability Center of Greater Toledo prepared a document entitled *Olmstead Barriers in Ohio: A White Paper on the Problems faced by People with Disabilities in Ohio in Achieving Community Integration*. The paper provides an overview of the public policy and legal bases for community inclusion and some of the barriers to community inclusion that the Ability Center of Greater Toledo has identified among its consumers. The paper also offers recommendations and next steps to better achieve inclusion.

As the paper concludes,

The Supreme Court decided *Olmstead v. L.C.* sixteen years ago, but the federal government, and Ohio, have been slow to change the model of placing people with disabilities in segregated, congregate care where they have few opportunities to make decisions or direct the path of their lives. As noted by the Supreme Court in *Olmstead*, institutional care only serves to encourage the myth that people with disabilities have little to offer, that they are unable to survive without being shut away, and that they must be completely dependent on others throughout their entire lives. Additionally, a system dependent on congregate care deprives people with disabilities of the opportunity to live full and meaningful lives. *Olmstead v. L.C.* created a promise that people with disabilities would no longer have to live in such a system, Ohio must re-direct its system of providing care in order to the fulfill that promise.

To that end, the paper puts forth the following vision, goals, and recommendations:

Our vision of an inclusive Ohio is one where community based care is standard practice and institutional care the exception. Our goal is to advance community based care to the greatest extent possible. To do this, Ohio needs to remove the current barriers that keep people with disabilities in institutions or living at risk of institutionalization. Based on the experience and research done by the Ability Center, it makes the following recommendations on a federal, state, and local level.

A. Direct at least 60% of Medicaid funds to (Home and Community Based Services (HCBS) and health care in people's homes.

As noted earlier, several states have devoted at least 60% of Medicaid funding to HCBS and health care in the home. Ohio continues to treat home and community based care as an exception, or part of a continuum, and that funding structure needs to be reversed. The current model views HCBS as a solution only for those with few needs and as a cost cutting measure. Transferring more funds into HCBS would open home and community based care to more people and assist in ending the long waiting lists and delays in receiving services.

B. Direct additional funding towards creating more inclusive, accessible affordable housing.

Recent years have brought deep cuts in federal funding for the U.S. Department of Housing and Urban Development, leaving it severely underfunded.⁷⁴ Yet, to implement the *Olmstead* mandate, federal and state budgets need to focus on creating more inclusive, accessible, affordable housing and vouchers for all people with disabilities that is scattered throughout differing communities. Many people with disabilities rely on affordable housing to live in the community and maintain their own homes. To support this need there should be an increase in vouchers for inclusive, affordable housing throughout the community.

C. Adopt a system that provides HCBS and increase access to home nursing services directly through Medicaid rather than through waivers.

Currently, people must apply for a waiver to receive HCBS and struggle to survive in the community with the limited home health services provided under the state plan. HCBS should be available under Ohio's state plan through Section 1915(i) of the Social Security Act.⁷⁵ State plan HCBS should be designed so that anyone eligible for Medicaid would be able to receive HCBS based on an individualized needs assessment. That assessment should be completed prior to entering into an institutional setting. State plan services should be designed so that people do not have to meet an institutional level of care in order to receive HCBS. Additionally, the number of hours of nursing services available under state plan services should be increased to match the hours of services available under the Ohio Home Care Waiver.

D. Adopt one common assessment tool HCBS based on individual needs, including non-medical needs.

Ohio needs to streamline its assessment process to be sure that people who wish to transition out of institutions into the community are receiving consistent assessments that result in them receiving all HCBS services necessary to meet their needs. Assessors should be trained and incentivized to conduct thorough, prompt, and consistent assessments.

E. Create policies that increase the number and reliability of in-home providers.

The federal and state government should encourage workers to enter into the home health care field by reducing training requirements, increasing provider compensation in a way that doesn't affect the amount of services received by the recipient of HCBS. Also,

⁷⁴ Douglas Rice, Center on Budget and Policy Priorities, *House HUD Bill Would Cut Assistance to Low-Income Renters: Would Stall Recent Progress in Reducing Homelessness* (May 22, 2014), available at <http://www.cbpp.org/cms/?fa=view&id=4148>(accessed January 26, 2015).

⁷⁵ Currently, California, Colorado, Connecticut, D.C., Florida, Idaho, Indiana, Iowa, Louisiana, Maryland, Michigan, Mississippi, Montana, Nevada, Oregon, and Wisconsin offer some form of a 1915(i) state plan HCBS.

where HBSC is not provided family and friends of those with disabilities should be allowed to act as their home health care aide.

F. Appoint local administrators of disability agencies that have a background in *Olmstead* issues or provide extensive training in *Olmstead* issues.

One of the main issues facing *Olmstead* implementation is a lack of understanding among administrators of local disability agencies. Where administrators are appointed to direct agencies that provide services for those with disabilities, they should have a background in, or extensive training in, *Olmstead* issues in order to advance the implementation of the mandate.

G. Create specific benchmarks and models for community living for state and local disability agencies.

Local agencies should be given specific numeric benchmarks to move those receiving services in institutional settings into their own homes on a specific time line. For example, a certain percentage of people living in institutional settings should be served in their own homes at 1 year, 2 years, 5 years, and 10 years. Additionally, state and local disability agencies should be given models of best practices for transitioning people into their own homes and providing services in that environment.

Similar benchmarks should be implemented for moving people into supported employment, and models of best practices for supported employment and inclusive day services should be provided to state and local disability agencies. Where a person has skills, or can develop skills, that would allow them to work in a job in the community, they should not be permitted to be paid sub-minimum wage for utilizing those skills.

Solid Waste Accommodation Program (SWAP)

Another area in which local government has very recently made meaningful progress is assisting persons with disabilities, so that they can fully benefit from the provision of refuse collection services. In late January 2015, the Solid Waste Accommodation Program launched for City of Toledo residents. This formalized program provides waste collection cart assistance for people with disabilities to help them get their trash and recycling to the curb.

To request assistance, people with disabilities can call Republic Services at 419-936-2511. Republic will then send them a request form, and a supervisor from Republic will visit their home to determine a customized solution to ensure trash and recyclables get to the curb.

The Solid Waste Accommodation Program (SWAP) is a collaborative effort of Lucas County, the Lucas County Commission on Disabilities, Republic Services and the Department of Justice. The program meets all requirements established by the Americans with Disabilities Act, and the Department of Justice has verified the program.

The formulation of the program is in response to a community need that the Lucas County Commission on Disabilities identified. Previously, people with disabilities in the City of Toledo

were serviced through an informal program initiated by the City of Toledo with Triad. That relationship was sustained when Republic began providing waste collection in the City of Toledo, but neither the contracts between the City of Toledo and Lucas County nor Lucas County and Republic Services formally addressed the topic. This program ensures continued access to refuse collection services for persons with disabilities.

Continued needs

Hopefully, the SWAP is just the beginning of local efforts and partnerships committed to making the City of Toledo a more accessible and enjoyable place for persons with disabilities to call home. Potential exists for the City to better serve these individuals and their families. In particular, persons with disabilities would greatly benefit from and the City should undertake steps to do the following:

- Allow for and educate people about the ability to request reasonable accommodations to the zoning and building requirements and standards to permit structural modifications such as ramps and lifts that might, otherwise, result in code or zoning issues (e.g. temporary ramps that allow Hospice patients to reside in their homes as they approach the end of life but might not be grounded in strict compliance with code, ramps that protrude beyond setback lines);
- Ensure that bus stops and shelters and the sidewalks and streets surrounding them are adequately cleared of snow and/or debris, so that persons with disabilities can arrive and wait safely for public transit;
- Assist persons with disabilities with residential snow removal, including walkways, sidewalks, drives, and steps/ramps, so that they are better able to live in integrated, community settings and travel to and from their homes;
- Better enforce the Visitability ordinance; and
- Review all applications for new construction and major rehabilitation of residential structures for compliance with the Americans with Disabilities Act and the Fair Housing Act.

REAL ESTATE SALES

Real estate sales cases represent a relatively small percentage of the overall allegations of fair housing discrimination filed with the Toledo Fair Housing Center. This can be attributed, in part, to the fact that real estate agents in the state of Ohio must complete a three hour continuing education course in civil rights and fair housing every three years to maintain their license. While the Toledo Fair Housing Center has been able to form very productive partnerships with the Toledo Board of REALTORS® and members of the real estate community, barriers still remain in this field that impede fair housing goals. They include: 1) A relative absence in under-served communities; 2) Commission scales; 3) Steering practices; and 4) Inadequate or understated diversity goals.

While the Toledo Fair Housing Center, the Ohio Civil Rights Commission and HUD have worked diligently to encourage lenders and insurers to open offices and establish a presence in urban communities, real estate companies have been left out of the “office expansion” efforts.

Currently, only one or two residential real estate companies are located in the urban center. The remaining real estate companies are located away from the urban center. This, in fact, has contributed to the lack of marketing by real estate professionals in the urban core. Unfamiliarity with the urban center only worsens the already poor promotion of neighborhoods in and adjacent to the core. Since real estate companies do not locate offices in the central city and many agents do not live in central city neighborhoods, it stands to reason that they will be unfamiliar with urban districts. If an agent is unfamiliar with an area, he or she will not be likely to market that area.

The perception of companies that business and opportunities are lacking in urban centers is one of the principle factors that motivate them to locate elsewhere. For example, housing values tend to be lower in central city communities. Specializing in lower-income areas, many agents reason, is not economically viable based on the commission scale. Typically, an agent makes a 7% commission on the sale of a property (if there is more than one agent involved, the agents split the 7% commission). The state establishes a minimum commission amount; however, agents tend to want to focus on higher priced homes because their sale will result in a higher commission for the agent. As a result, few agents are available who are dedicated and willing to serve in central city areas. This, in turn, decreases competition, which further drives down property values.

In 2005, the real estate community came up with one way to address the lack of marketing in urban areas: the CARES Program (Certified Affordable Real Estate Specialist). Unfortunately, this program is no longer offered, and only six REALTORS ® of the over 1,500 members of the Toledo Board of REALTORS® obtained the certification during its lifetime. The Affordable Housing and Cultural Diversity Committee of the Toledo Board of Realtors® administered the program, which was designed to increase the level of interest in selling affordable homes. In order to qualify for this designation, real estate agents were required to complete the following:

- 15 hours of approved Community and/or REALTOR® Association involvement in the same three year period
- 10 hours of approved education related to Affordable Housing matters in the same three year period
- Have 10 units of qualified sales in the past three year period. A qualified sale is a home (for homeowner occupation) that is priced at and sold for less than \$90,000 (Transactions over \$90,000 may qualify if special lending programs were used).

After the CARES certification ended, some brief consideration was given to re-starting the program, but not enough interest existed on the part of realtors. The Toledo Board of Realtors members (and REALTORS nationally) are not interested in achieving a designation. Moreover, the Toledo Board of Realtors (TBR) no longer has the Affordable Housing and Cultural Diversity Committee. Instead, the TBR has moved away from a committee structure and toward a task force structure when specific issues need to be addressed.

The Toledo Board of REALTORS® reports that the three year average of affordable homes sales in the Lucas County area was only 2,615, despite the fact that on October 28, 2014, there were 1,422 active listings in the Multiple Listing Service for homes at or below \$90,000 in Lucas County. This fact demonstrates that there is an unmet need in the affordable housing market and presents strong support for the consideration of some incentive to promote the sale of affordable homes within the City of Toledo. Another fact that emphasizes this unmet need is highlighted in the Toledo Board of Realtors, 2013 Housing Report, which states, “Approximately 61 percent of Lucas County residents live in homes they own, and about 39 percent are renters.”⁷⁶ The same document also notes that the per capita income of Lucas County is less than the Ohio state average. The Toledo Board of REALTORS® provides the following three-year average (2011-2014) home sales from the Northwest Ohio Real Estate Information Systems:

Three Year Average	
Single Family Home Sales	
\$19,999 or less	766 Homes
\$20,000 - \$29,999	368 Homes
\$30,000 - \$39,999	283 Homes
\$40,000 - \$49,999	267 Homes
\$50,000 - \$59,999	231 Homes

⁷⁶ Source: <http://www.toledorealtors.com/img/pdf/housing-statistics/2013/LocalMktUpdate2013.pdf>

\$60,000 - \$69,999	283 Homes
\$70,000 - \$79,999	218 Homes
\$80,000 - \$89,999	199 Homes
Total	2,615 Homes

According to a January 13, 2010 article featured in the Toledo Blade, sales of single-family homes in Lucas County and across the northwest Ohio region have risen by 1 percent. Nevertheless, prices had decreased 9% region-wide and 11% in Lucas County. In fact, the average sales price in Lucas County as of 2010 represented the first time in years that this figure had fallen below the \$100,000 threshold. The Toledo real estate market reached an apex in 2005. By 2010, a decline of 24% in average prices, equivalent to \$31,000 from \$133,000, had occurred.

This trend, however, is no longer the case. According to the Toledo Board of Realtor’s 2013 Housing Report, “2013 sales of single-family homes in Lucas and Upper Wood County” have risen 8 percent, compared to 2012 sales.⁷⁷ Both median and average prices have increased.

Median Sales Price	
2012	\$77,500
2013	\$90,000
	16% increase
Average Sales Price	
2012	\$107,859
2012	\$117,394
	9% increase

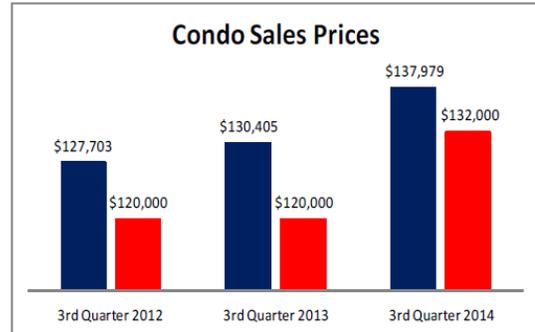
In summary, this is the reversal of the trend seen in 2010, as stated in the previous AI. Furthermore, Table 2 on page 5 of the 2013 Housing Report notes, “other than the lowest range, all price ranges saw an increase in sales.” The lowest range comprises houses that cost between \$0 and \$49,000. This portion of the housing market saw a 10% decrease in sales in 2013.

The data from the July and August 2014 Housing Reports show the same general trend is occurring, i.e. increasing median and average prices.⁷⁸

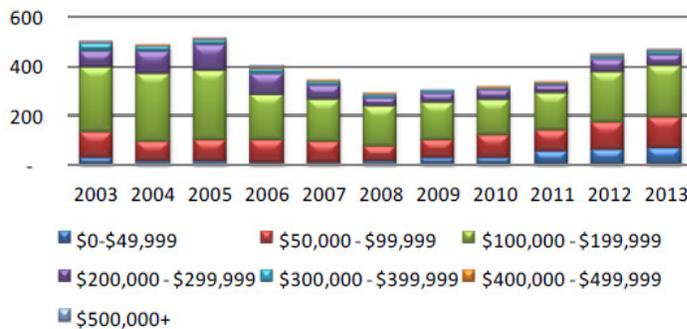
⁷⁷ Source: <http://www.toledorealtors.com/img/pdf/housing-statistics/2013/LocalMktUpdate2013.pdf>

⁷⁸ Sources: <http://www.toledorealtors.com/img/pdf/housing-statistics/2014/LocalMarketUpdateJuly2014.pdf>;
<http://www.toledorealtors.com/img/pdf/housing-statistics/2014/LocalMarketUpdateAugust2014.pdf>

Houses in the price range under \$50,000 have realized one of the greatest declines in sales recently and comprised approximately one-fourth of the houses sold in 2014.⁷⁹ This is essentially a complete reversal of the trend that the 2010 AI observed, in which houses in the price range under \$50,000 experienced the greatest increase in sales and comprised approximately one-third of the houses sold in 2009. Real estate professionals ascribed the situation that the prior AI discussed to the increased frequency of foreclosures and the distressed transactions that were occurring when the owner's debt was greater than the market value of the home (i.e. when the consumer was upside-



Condominium Sales in Lucas County, 2003—2013



Source: NORIS Multiple Listing Service

	3rd Quarter 2013	3rd Quarter 2014	% Change
Closed Sales	131	157	20%
Median Sales Price	\$120,000	\$132,000	10%
Average Sales Price	\$130,405	\$137,979	6%
Average Price Per Square Foot	\$77	\$80	4%
% of Original List Price Received	93%	94%	1%
Average Days on Market	121	110	-9%
New Listings	216	203	-6%
Volume (in 1000's)	\$17,083	\$21,663	27%

of condominiums occurred between 2012 and 2013, and between September 2013 and September 2014 closed sales of condominiums increased by 20%. The average sales price also increased during this period.

Furthermore, the Third Quarter 2014 Median Home Price for the Toledo MSA was \$112,000 (up from the 2009 figure of \$88,300).⁸⁰ This quarter's annual change demonstrated an increase in the median home price of 11%. The median is a statistical measure of center representing the price at

down/underwater). In the area, such properties made up nearly 50% of all sales listings. The larger proportion of buyers who desired to become first-time homeowners, as a result of the incentives offered via the federal tax credits, also contributed to these circumstances, as first-time buyers generally enter the housing market in the lower price ranges.

Overall, the figures revealed by the report from the Toledo Board of REALTORS® provide a cautiously optimistic outlook. A comparison of market data in the region between September 2013 and September 2014 demonstrates a 7% increase in average sales prices (to \$135,508 – up from \$106,215 in 2009) and an increase of 9% in the number of closed sales (1,534, up from 439 in 2009). Similarly, a slight rise in sales

⁷⁹ Source: <http://www.toledorealtors.com/img/pdf/housing-statistics/2014/3rdQuarter2014.pdf>; <http://www.toledorealtors.com/img/pdf/housing-statistics/2013/LocalMktUpdate2013.pdf>

⁸⁰ Source: <http://www.toledorealtors.com/img/pdf/housing-statistics/2014/3rdQuarter2014.pdf>

which half of homes sold for more, half for less. This was higher than first and second quarter 2014 median sales prices as well.

Additionally, the Toledo Board of REALTORS® released January 2014 figures for local home sales and average prices, which report a decline in home sales accompanied, conversely, by an increase in the average sales price. As the report notes, “January sales of single-family homes in Lucas and Upper Wood Counties ... totaled 275. This was a decrease of 23 percent compared to January of 2012, and decrease of twenty-nine per-cent compared to the previous month.” On the other hand, “the average sales price was \$102,555, an increase of one percent compared to last January.” Both patterns continue the trends observed in the previous AI. This tendency was common among outlying counties as well, as the 14-county area demonstrated a 14% decline in closed sales.

The table below demonstrates the way that local market data compares to that of various regions and the country as a whole.

Regional Sales by Price						
Existing Single Family Homes						
September 2014						
% Change in Sales from 1 Year Ago						
Region	\$0-100K	\$100-250K	\$250-500K	\$500-750K	\$750K-1M	\$1M+
Northeast	8.9%	3.6%	4.5%	0.5%	-1.4%	1.6%
Midwest	-8.1%	4.7%	8.5%	4.4%	7.8%	2.4%
South	-8.5%	9.0%	16.8%	10.6%	8.8%	4.1%
West	-24.4%	-8.2%	6.7%	7.8%	7.7%	14.1%
U.S.	-7.4%	4.1%	10.0%	6.3%	5.7%	8.1%
Sales Distribution						
Region	\$0-100K	\$100-250K	\$250-500K	\$500-750K	\$750-1M	\$1M+
U.S.	15.1%	45.1%	28.5%	7.0%	2.1%	2.1%

As a February article by the National Association of Realtors noted, “The five lowest-cost metro areas were Toledo, Ohio, with a median single-family price of \$80,500; Rockford, Ill., \$81,400; Cumberland, Md., at \$89,500; Elmira, N.Y., \$99,500; and South Bend, Ind., with a median price of \$101,100.”⁸¹ Thus, Toledo is viewed on a comparative level as a city with affordable housing; this, of course, is an oversimplified characterization of the data as the data regarding housing cost burdens reveals.

A practice that negatively impacts urban communities as well as African-American and Hispanic consumers is steering. Steering occurs when an agent guides a particular customer to a community or neighborhood based upon the demographics of the consumer and the

⁸¹ Source: <http://www.realtor.org/news-releases/2014/02/metro-areas-see-solid-home-price-growth-some-markets-facing-affordability-issues>

neighborhood. For example, when an agent only shows Caucasian clients homes in predominately Caucasian neighborhoods, the agent is steering that consumer.

Unfortunately, steering is alive and well in Lucas County. Testing conducted by the Toledo Fair Housing Center reveals that white testers are rarely shown housing in integrated or predominately African-American communities, even when they specifically ask to see houses in neighborhoods like Westmoreland and the Old West End. Steering is not only illegal under the Fair Housing Act, but it also has a devastating impact on urban communities that do not benefit from full access to the marketplace. There are a large number of buyers who could afford homes in central city neighborhoods, but are never shown those homes or are discouraged from seeing them because the agent assumes that the client would never want to live in those communities.

One way to combat some of the barriers mentioned above is for real estate companies to recruit a more diverse partnership of agents. Although the number of African-American agents was increasing prior to the market crash, the percentage of African-American agents remains far below the percentage of the population as a whole that is African-American. Moreover, there are only a small number of Hispanic, Asian, or Arabic real estate agents.

In addition to the aforementioned observations, a prominent representative of local realtors attended a community forum facilitated by the Center. She, along with other participants, commented on additional impediments to fair housing that are particularly relevant to the real estate community and its activities. The language barrier and other difficulties experienced by clients who require multi-lingual services, documents, etc. currently act as obstacles to the efficient, successful provision of services and execution of real estate transactions. The fact that few real estate agents in the county are able to speak languages other than English creates a situation in which persons who use English as a second language or do not speak English at all do not have equal access to the services often necessary to buy or sell a home.

Real estate agents in attendance at the roundtables held for the 2005 Analysis considered the troublingly poor maintenance and overall condition of the affordable housing stock to primarily be a result of the structure's age, general neglect, the denial of coverage for insurable loss, shoddy and/or incomplete repairs, and/or the limited ability of elderly and/or low-income residents to properly maintain the property. Although, certainly, such factors remain influential, agents attending the forums for the 2010 AI were far more concerned with the availability of financing, consumer credit scores, and the foreclosure crisis. At the same time that foreclosures have been driving down values, perhaps making homeownership more affordable, obtaining financing remains nearly impossible; thus, even properties previously well-maintained and occupied become vacant and are subject to rapid deterioration (further decreasing their value).

Moreover, in the 2005 roundtables, real estate professionals voiced concerns regarding the following: a lack of consumer education in terms of shopping for loans and how credit is scored; the shift in the role of the real estate agent, insofar as the agent is no longer the "gatekeeper" and "trusted advisor" of the consumer; and the increasingly aggressive marketing practices of lenders. Lending practices, once again, as well as the accessibility of capital for community lending products and lending to underserved areas were the primary issues noted in the 2010 and

2015 AI forums. While prior participants mainly highlighted predatory lending as a major issue, those who attended the 2015 AI forums were far more concerned with the tightened lending standards, lack of community products and presence in low-/mod-income neighborhoods, and near impossibility of accessing credit.

Similarly, the comments of participants in the 2010 forums also focused on the need for community/local lending, lending for underserved areas, stronger regulation of lending practices, the cooperation of banks in efforts to refinance and modify loans, and prompting the willingness of banks to lend and at reasonable interest rates. Thus, the inter-relatedness of financial institutions, economic conditions, and real estate, especially on the local level, remain exceedingly apparent; this only further signifies a need to achieve better collaboration among businesses, agencies, and organizations, which all play a role in determining local outcomes and experiencing the effects of one another's policies and practices.

ZONING REGULATIONS AND OCCUPANCY STANDARDS

One of the integral steps a community incorporates in its Analysis of Impediments is an evaluation of local planning, zoning and land use guidelines for evidence of limitations that inhibit fair housing choice. Owing to the recurrent incidence of language that induces fair housing barriers in the codes and ordinances of various jurisdictions, the assessment of regulations germane to housing within Toledo's boundaries is essential. The Fair Housing Act prohibits discrimination in housing decisions on the basis of a person's membership in a protected class and contains specific provisions relating to persons with disabilities. For example, the Fair Housing Act stipulates that persons with disabilities must be allowed reasonable modifications or reasonable accommodations, which enable that person to experience the enjoyment of his/her housing unit.

Furthermore, the Ohio Revised Code features a distinct provision to guarantee protections for families with children. The Code §5103.0318 states,

Any certified foster home shall be considered to be a residential use of property for purposes of municipal, county, and township zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. No municipal, county, or township zoning regulation shall require a conditional permit or any other special exception certification for any certified foster home.

Therefore, families who have foster children must be regarded legally just as any other family; no requirements or provisions particular to families with foster children may be instituted or implemented. In the Planning and Zoning Code of Toledo, adult foster homes and certified foster homes are not listed as forms of "Group Living" under the Residential Use Regulations and are, consequently, considered to be types of "Household Living". Nevertheless, each occupies an individual category of use having its respective regulations pertaining to permitting within the various zoning districts. The use of "Certified Foster Homes" is permitted in "all zoning districts in which residential uses are permitted;" however, "Adult Foster Homes" are only permitted in zoning districts of residential and neighborhood commercial designation. Finally, other categories under "Household Living" tend to be based on the structure type and/or number of dwellings contained within the structure, rather than on the characteristics of the occupants.

The Toledo Municipal Code also makes very clear distinctions between what it terms "Household Living" and "Group Living." As §1116.0222 denotes, "Household Living" corresponds to the "[r]esidential occupancy of a dwelling unit by a Household with tenancy arranged on a month-to-month or longer basis." The uses that comprise this classification are as follows: Detached House, Attached House/townhouse, Duplex, Cluster Housing, Manufactured Housing Park, Manufactured Home, Multi-Dwelling Structure (e.g. garden apartments, apartments, and condominiums), Adult Foster Home (uses involving the care of 1 or 2 adults and not requiring a State license), and Certified Foster Home. Similarly, section 1116.0220 defines "Group Living" as the "[r]esidential occupancy of a structure by other than a household, where units or quarters do not each have its own kitchen facilities. Does not include transient habitation uses."

This category, nonetheless, does contain the uses following: **Adult Family Home** (provides state-licensed supervision and personal care services to at least three unrelated adults), **Small Residential Facility** (provides state-licensed or state-regulated room and board, personal care, habilitation services, and supervision for as many as eight persons who require such care because of any of the following: mental retardation or a developmental disability; physical disability; age; long-term illness, including HIV; domestic violence; or being a runaway minor), **Large Residential Facility** (same as above, but for more than nine but not more than 16 persons), **Drug and Alcohol Residential Facility-Halfway House** (provides state-licensed care and treatment of adult offenders), **Nursing Home** (provides state-licensed care to individuals who by reason of illness or physical or mental impairment require skilled nursing care and/or personal care services), **Rest Home** (provides personal care services, but not skilled nursing services to adults), **Home for the Aging** (provides state-licensed services, but only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment), **Group Rental** (unrelated persons who do not constitute a family or a functional family living as a single housekeeping unit in which individual sleeping quarters may be occupied by the residents of the dwelling thereof, and in which the relationship among the members of the group rests primarily upon a cost-sharing arrangement), **Homeless Shelter** (temporary housing for indigent, homeless, or transient persons), and **Other Group Living** (fraternity and sorority houses and other community-based housing not provided for elsewhere in the code).

In discussions with a representative from the Toledo-Lucas County Plan Commissions, the uses addressed in the standards above, especially those regarding foster homes, were characterized as generally unencumbered within municipal boundaries. The two major issues identified as posing possible obstacles to multi-family, foster, and/or other group housing were as follows:

1. The exclusionary zoning practices of the outlying suburbs; and
2. The occurrence of particular circumstances, which call for the involvement of the Health Department, Building Inspection and Code Enforcement, or other enforcement bodies (in issues regarding safety, sanitation, and/or nuisance abatement).

Even so, the standards put forth in the Planning and Zoning code have implications for multi-family housing and group homes. The additional spacing, landscaping, architectural design, and parking requirements that are applied to non-single-family residences can sometimes act as impediments to the provision of affordable, accessible housing units both inside and outside of municipal boundaries. The purpose of such criterion is to ensure that residential uses which are “more commercial” in nature do not have a

...negative impact such as traffic congestion, off and on street parking congestion, noise and litter which are inimical to the health and safety of residents, particularly children. Such regulation is also needed to preserve property values and the characteristics of family values, quiet seclusion and clean air of such neighborhoods.⁸²

⁸² Source: Toledo Municipal Code Section 1104.1101

While this appears to be a rather reasonable policy, several challenges have been posed by facilities that have felt they have experienced an undue burden due to the regulations. Group homes that house elderly and/or disabled residents, who often do not have the means or the ability to drive a vehicle, still must comply with parking requirements that seem irrelevant to the services they provide. Additionally, the case of Harding v. City of Toledo brought the question of whether the City's enforcement of its 500-foot spacing requirement for group homes was inherently discriminatory before the U.S. District Court for the Northern District of Ohio, Western Division. The case was decided in 2006, with the court denying a motion to bar the City's enforcement, as it did not view the 500-foot spacing to be fundamentally discriminatory. Thus, the Court resolved that the City was not in violation of anti-discriminatory state and federal laws protecting persons with disabilities. In their effort to fight the City's provisions, the plaintiffs cited two cases, which set precedent for the invalidation of spacing requirements applied to adult care facilities for disabled people. The first, Larkin v. State of Michigan, Department of Social Services was a 1996 case nullifying a 1,500-foot spacing requirement for group homes for mentally retarded adults. The second was Oconomowoc Residential Programs v. City of Milwaukee, a 2002 case whose decision concluded that a 2,500-foot spacing requirement for adult care facilities for disabled people was illegitimate. Evidently, the Court held the opinion that the buffer zones stipulated by the ordinances in the referenced cases were invalidated due to their significantly larger extent, not merely due to their existence and enforcement.

The Toledo Fair Housing Center had its own complaint concerning the 500-foot spacing regulation. A client was attempting to open a group home for non-violent, mentally ill residents in West Toledo. The city of Toledo's zoning ordinance, which likely came into existence to prevent the saturation of group homes that had been happening in the Old West End, posed an issue for this client. She already had a group home on the same block in West Toledo and was hoping to open the second one approximately one block away. The residents on the street took up a campaign to not only stop the new home from opening, but also to cause her current landlord to evict her current group home from the residence that she was renting. By the time the Center got involved, the eviction had already been granted, so the Center was unable to assist the client.

The City passed the group living facility spacing ordinance in March of 2004. Nevertheless, participants in the community forums that the Center held for this AI believe that this ordinance still acts as an impediment because group homes allow a certain amount of independent living for disabled people who may not otherwise be able to live outside of a facility setting. This is especially important in light of the recent *Olmstead* guidance that HUD released in June of 2013, emphasizing the agency's commitment to ensuring that people transitioning out of institutionalized settings do not meet discriminatory barriers.

Although occurring in an area peripheral to Toledo, the Center's case against the Village of Holland also illustrates well issues that arise with the zoning of group and family homes, including adequate provision of accessible housing and reasonable accommodation. Specifically, the owners of two group homes, which are currently located in Toledo and house adults with mental disabilities, applied for a reasonable accommodation request. This was for a home they wished to purchase that would allow them to combine the facilities previously housed in two

homes into a single residence. The Village denied the request that would have waived the need to apply for a zoning modification for more parking spaces. The owners pursued this waiver because none of their residents drove and the existing parking spaces were more than enough to accommodate the staffing needs of the home. Despite repeated attempts by the Toledo Fair Housing Center, including sending an attorney with extensive fair housing experience to educate the Mayor, Council and legal representation of the municipality, the Village still refused to grant the request.

The settlement of the case resulted in the Village having to pay the Center a \$7,500 sum as well as an annual fee of \$600.00 for the next five years for the training sessions the Center will conduct to educate Village personnel involved in zoning and reasonable accommodation requests. In addition, the OCRC received \$1,500 and the two complainants received \$65,000 and \$47,500 respectively. The settlement agreement also states that “as an inducement to locate in the Village of Holland” the Village will provide a ten-year property tax abatement to any licensed Group or Family home operating in the Village of Holland. This inducement will be in effect for the next 99 years.

Finally, in an effort to help facilitate monitoring of this agreement, for the next five years the Village will provide the Toledo Fair Housing Center with all information regarding zoning or reasonable accommodation requests the Village may receive from licensed group or family home providers. This information will be provided to the center at least 24 hours prior to any council hearings or other meetings which may be convened to determine reasonable accommodation or zoning issues. Hopefully, the settlement will serve as an example to other communities that may consider the denial of group residential uses within their boundaries.

Families and Households

The city of Toledo revised its zoning code in 2004, including the terms "family" and "household." The term "household" replaced the term "family" and includes families related by blood or marriage as well as unrelated persons whose relationship is functionally equivalent to a family. In order to be "functionally equivalent" to a family, one must meet several criteria that are listed in the code, Section 1115.0900. The definition and determination of a household is rather lengthy and complicated.

However, the code also indicates that living arrangements for persons with a handicap and/or a disability within the meaning of the Fair Housing Act and the Americans with Disabilities Act is presumed to be "functionally equivalent" to a family. Thus the definition of "Household," although complex, does not appear to be an impediment to equal housing opportunity for the disabled. There may be an implied impediment if someone does not read or understand the entire content of the code. Despite the acceptable definition of the term "Household," the City of Toledo code contains other specific references to "group living" which appear to be more restrictive than the definition of "household."

Occupancy Issues

The 2005 AOI identified the existence of discrepancies among occupancy provisions as a source of confusion and, possibly, impediments to fair housing. Insofar as the codes include different square footage provisions for total unit occupancy and individual occupancy, varying interpretations of living spaces, as well as disagreement regarding how an “occupant” is even defined, they generate a great degree of uncertainty. The inconsistency among the various codes has led to dissent concerning the interpretation of what constitutes compliance with the density code and, ultimately, with the Fair Housing Act, which makes reference to local density or occupancy ordinances in determining the number of occupants per unit. Housing providers who employ occupancy standards that are stricter than the local code may be identified as discriminating based on familial status if they deny a family housing based on the number of occupants in the unit.

Additionally, the Planning and Zoning Code supplies intensity and density parameters. For each of the respective zoning districts, overlay zones, and their respective uses, the maximum number of dwelling units, minimum setbacks, floor area ratios, and individual parcel characteristics determine the permissible density of development. How such standards affect fair housing may depend on the area in question as well as the participation of stakeholders in the planning process. For instance, many participants in the public forums acknowledged the common occurrence of the prohibition of multi-family and group housing in the townships surrounding Toledo; such denial of permission to construct and/or operate a facility of this kind is often, unfortunately, put forth without a legitimate legal basis due to the vocal intervention of local residents and/or future, potential neighbors who view the use as undesirable.

The 2005 report also recommends the adoption of a single, consistent standard in order to eliminate uncertainty and provide better guidance to fair housing practitioners, housing providers and consumers. Unfortunately, the advice of the 2005 AOI has yet to result in the settlement of disparities previously observed between the county and city level regulations as well as between the various codes within the Toledo Municipal Code (e.g. Health Code, Building Code, etc.). Ordinances exist within the codes that address some of the discrepancies by stating, “If the provisions of this...[c]ode are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control” (Toledo Municipal Code § 1101.0803). Nevertheless, the stipulation does little to identify which code may contain the most restrictive regulations or clarify that the standards present are not those which should be considered in the assessment of conformance. Therefore, the enactment of consistent standards of occupancy by local governments remains strongly advisable.

Finally, the Municipal Code features definitions in various sections for “occupant.” Although for certain purposes, an “occupant” may require a specific definition (e.g. lead-based paint regulations), the nature of the discrepancies simply increases confusion. Throughout the code, an occupant is defined in one section according to having attained a minimum age of two years, in another as being a minimum age of six months, and in a third instance as an individual holding a written or oral lease. Considering the occupancy and density regulations already diverge from one another, such disparities only further complicate the process of assessing the maximum

number of occupants permitted and the square-footage requirements applying to the housing unit(s) in question. This may pose a problem, specifically, in cases regarding familial status, and, therefore, should be addressed with consideration to the implications such stipulations can have on fair housing.

Inclusionary Zoning

One tool implemented by communities throughout the United States to create affordable housing is inclusionary zoning. These types of housing policies and the methods by which jurisdictions implement them are as varied as the communities that adopt such standards. Although the means to achieve inclusionary zoning differ from community to community, these policies, whether mandatory or voluntary, usually are in the form of economic incentives, legal regulations, or a combination of both.⁸³ Primarily, inclusionary zoning is a way for communities to finance the development of affordable housing in stronger housing markets that have higher land values. Jurisdictions typically do this by requiring private developers to include a percentage of affordable housing units in market-rate residential developments.⁸⁴ Although in practice since the 1970s, inclusionary zoning has continued to be a controversial topic since its inception and draws criticism for its theoretical drawbacks. Simultaneously, however, inclusionary zoning garners staunch support for its recognized benefits. Inclusionary zoning encompasses many methods by which communities can create affordable housing including, but not limited to density bonuses, expedited approval, and fee waivers. Density bonuses are a way to incentivize developers by relaxing zoning restrictions and limits on how much can be built when the private developer provides for the public benefit, in this case, by making available affordable housing. Oftentimes, local governments will relax certain fees and red-tape for developers that comply.⁸⁵ Although the inclusion of density bonuses in zoning ordinances has occasionally experienced legal challenges, courts have typically upheld inclusionary zoning programs if jurisdictions have applied them in a reasonable and nondiscriminatory manner.⁸⁶

Inclusionary zoning has received its fair share of criticism. Some argue that it unfairly shifts the societal burden of providing affordable housing to private developers.⁸⁷ A report funded by the National Association of Home Builders put it quite succinctly when it stated,

Inclusionary zoning acts like a tax on housing construction. And just like other taxes, the burdens of inclusionary zoning are passed on to housing consumers, housing producers, and landowners. More specifically, economic theory suggests that inclusionary zoning requirements act to decrease the supply of housing at every price, raise housing prices,

⁸³ *Inclusionary Housing Policies, Stigma Effects and Strategic Production Decisions* by W. Keener Hughen & Dustin C. Read, <http://link.springer.com/article/10.1007/s11146-013-9402-7>.

⁸⁴ *What drives the diffusion of inclusionary zoning?* By Rachel Meltzer & Jenny Schuetz, accessible at <http://onlinelibrary.wiley.com/doi/10.1002/pam.20510/full>

⁸⁵ *Incentive Strategies: Density Bonuses, Fee Waivers & Expedited Approvals*, Levin College of Law University of Florida, accessible at https://www.law.ufl.edu/_pdf/academics/centers-clinics/clinics/conservation/resources/incentive_strategies.pdf

⁸⁶ *Recent Developments in Inclusionary Zoning* by Talbert, Costa and Krumbein, accessible at <http://www.jstor.org/discover/10.2307/27895657?uid=2&uid=4&sid=21104700419083>

⁸⁷ *Id.*

and slow housing construction. As a result, inclusionary zoning policies could exacerbate the affordable housing problem that they are designed to address.⁸⁸

Furthermore, if developers choose to invest in other areas, communities that implement inclusionary zoning policies could find their tax base harmed.⁸⁹

Nevertheless, the criticisms of inclusionary zoning have largely been theoretical. Little empirical research has occurred that investigates the impact of inclusionary zoning on development. An examination of each community's housing market, economy, and political climate is needed.⁹⁰ Moreover, existing literature has shown that critics of inclusionary zoning overestimate the adverse effects on housing supply while underestimating affordable housing productivity of inclusionary zoning.⁹¹

Despite the fear that inclusionary zoning would slow housing development, the result has been quite the opposite. In fact, as recently as 2006, the number of affordable housing units produced under inclusionary zoning programs nationwide numbered over 100,000.⁹² In some communities, the rate of development under inclusionary zoning has accelerated so much that, in the interest of protecting open and rural spaces, jurisdictions have had to amend their inclusionary zoning programs to *slow* development, as was the case in Loudon County, Virginia.⁹³

Inclusionary zoning programs have been successful in communities all across the United States, regardless of differing political climates. For example, Massachusetts, a state that has a strong tradition of local self-governance, a high degree of land use regulations, and high housing costs, has put into place an effective infrastructure for the development of subsidized housing.⁹⁴ In fact, Massachusetts has the oldest inclusionary zoning program on record, the Low and Moderate Income Housing Act of 1975, which was enacted to address racial segregation as a result of exclusionary zoning practices.⁹⁵ More recently, in 2000, Boston enacted an inclusionary housing policy in response to gentrification of its central downtown and surrounding neighborhoods and the resulting displacement of moderate-income families. Two hundred affordable housing units were built in the first two years of Boston's inclusionary zoning program.⁹⁶

⁸⁸ *Housing Market Impacts of Inclusionary Zoning* by Gerrit-Jan Knaap, Antonio Bento, and Scott Lowe, accessible at http://www.ohiohome.org/housingresearch/hr_inclusionaryzoning.pdf

⁸⁹ Talbert, Costa and Krumbein, *supra* FN4.

⁹⁰ *The Impact of Inclusionary Zoning on Development* by Nicholas Brunick, accessible at http://www.bpichicago.org/documents/impact_iz_development.pdf; *The Effect of Inclusionary Zoning in Racial Integration, Economic Integration, and Access to Social Services: A Davis Case Study* by Alexandra Holmqvist, accessible at http://communitydevelopment.ucdavis.edu/docs/Theses/Holmqvist_Alexandra.pdf

⁹¹ *Can Inclusionary Zoning be an Effective and Efficient Housing Policy? Evidence from Los Angeles and Orange Counties* by Vinit Mukhija, Lare Regus, Sara Slovin, and Ashok Das, accessible at <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-9906.2010.00495.x/full>

⁹² *Recent Developments in Inclusionary Zoning* by Talbert, Costa and Krumbein, accessible at <http://www.jstor.org/discover/10.2307/27895657?uid=2&uid=4&sid=21104700419083>

⁹³ *The Impact of Inclusionary Zoning on Development* by Nicholas Brunick, accessible at http://www.bpichicago.org/documents/impact_iz_development.pdf

⁹⁴ *What drives the diffusion of inclusionary zoning?* By Rachel Meltzer & Jenny Schuetz, accessible at <http://onlinelibrary.wiley.com/doi/10.1002/pam.20510/full>

⁹⁵ Holmqvist, *supra* FN8.

⁹⁶ Brunick, *supra* FN8.

In contrast, the Greater Washington, DC area lies within the jurisdictions of two states of decidedly different approaches to planning and zoning: progressive Maryland and Virginia, where more power rests in the hands of the state, limiting local governance.⁹⁷ Montgomery County, Maryland has one of the oldest inclusionary zoning programs in the nation and alone has produced over 11,500 affordable housing units. Fairfax County, Virginia has produced nearly 2,000 units since it began its inclusionary zoning program in 1991.⁹⁸ As an added result, these two counties' inclusionary zoning programs have been successful in improving economic and racial integration throughout their jurisdictions.⁹⁹

Today, California is a leading illustration of inclusionary zoning programs, with more than 25% of its local governments having inclusionary policies in place.¹⁰⁰ Sixty-eight percent of jurisdictions in the San Francisco Bay Area have some form of inclusionary zoning in place, and around fourteen percent of incorporated areas in Los Angeles and Orange Counties have with adopted IZ inclusionary zoning policies.¹⁰¹ California is also regarded as having the most expensive and the highest regulated housing market in the nation. This has been very problematic for the labor market, as city workers, fire fighters, police, and teachers have had difficulty affording to live where they work.¹⁰² While neither California nor any other state imposes any mandates directly upon private developers, California does require local jurisdictions to plan for affordable housing. Within the state, inclusionary zoning is a set of uniquely customized policies that are flexible and able to fit the specific needs of each jurisdiction.¹⁰³ As of 2006, two years before the start of the housing crisis, California had produced over 34,000 affordable housing units as a result of inclusionary zoning.¹⁰⁴

Despite the various methods of inclusionary zoning employed throughout the country, it has shown itself to be effective in attaining the goals of increasing the production of affordable housing, attracting a diverse labor force, and achieving social and economic integration. These all work to create mixed-income communities and expand access to economic opportunities for those in high poverty neighborhoods. Furthermore, inclusionary zoning policies have mitigated NIMBY-ism by building affordable housing concurrently with market-rate housing.¹⁰⁵ Research has shown inclusionary zoning to be most effective in jurisdictions that are growing, i.e. when private developers are building and when new inclusionary zoning ordinances are phased-in to allay any adverse effects of uncertain future demand.¹⁰⁶ Additionally inclusionary zoning programs are more likely to be successful when they are designed to be mandatory, flexible, and structured as revenue-neutral to gain business support and avoid harming business interests.¹⁰⁷

⁹⁷ Meltzer & Schuetz, supra FN2.

⁹⁸ Brunick, supra FN8.

⁹⁹ Holmqvist, supra FN8.

¹⁰⁰ *The underpinnings of inclusionary housing in California: current practice and emerging market and legal challenges* by Wiener & Barton, accessible at <http://link.springer.com/article/10.1007/s10901-013-9355-4>

¹⁰¹ Meltzer & Schuetz, supra FN2; Mukhija et al., supra FN9.

¹⁰² Source: <http://www.brookings.edu/research/speeches/2003/05/29metropolitanpolicy-downs>

¹⁰³ Meltzer & Schuetz, supra FN2; Wiener & Barton, supra FN18.

¹⁰⁴ Talbert, Costa and Krumbein, supra FN4.

¹⁰⁵ Meltzer & Schuetz, supra FN2; Wiener & Barton, supra FN18.

¹⁰⁶ Hughen & Read, supra FN1.

¹⁰⁷ Mukhija et al., supra FN9.

Inclusionary zoning can be effective not only in larger cities, metropolitan areas, and their suburbs, but also in small towns and anywhere else with a shortage of affordable housing.¹⁰⁸

In Toledo, inclusionary zoning mechanisms would address issues such as shortages of affordable housing in certain communities and resistance to the siting of group living facilities and homes for those who are re-entering or who are recovering from substance abuse. The Center and the City set forth an action step in the Fair Housing Action Plan that accompanied the 2010 AI in which the City and the Center committed to actively monitor any applications for the aforementioned types of residential facilities. Since 2010, the Center has monitored this process with the Plan Commission and, even in the face of neighbor opposition, every application for such residences in the City of Toledo has received approval of both the Plan Commission and City Council.

¹⁰⁸ Wiener & Barton, *supra* FN18.

OTHER PUBLIC POLICIES OF LOCAL JURISDICTIONS THAT AFFECT HOUSING CHOICE

Public policies of local jurisdictions affect the cost of housing and the incentives to develop, maintain, or improve affordable housing. Such policies include tax policy affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment. In addition to the public policies that other sections of the AI more specifically address, the policies outlined below also have an effect on housing choice and community investment decisions of public and private actors.

Loan Options, Incentives, and Tax Policies and Programs

In addition to the land use, zoning, and building policies discussed above, Lucas County and the City of Toledo Department of Development offer a variety of loan options, incentives, and tax credit programs to help local businesses get the resources they need to get their business started and promote the acquisition and/or rehabilitation of properties. These policies also in turn or directly affect the cost of housing and the incentives to develop, maintain, or improve affordable housing.

The program that most directly affects housing is the Community Reinvestment Area Program (CRA). The CRA Program provides real property tax abatement for new construction or for the rehabilitation of residential, commercial or industrial structures within pre-designated areas. The City of Toledo's CRA program works to promote investment to properties located within neighborhoods that have experienced decline as a result of disinvestment.¹⁰⁹

In order to assist and encourage property owners undertaking improvement projects within designated areas of Toledo, the City will grant tax abatement on the increase in property valuation resulting from the improvements.

Any project receiving tax abatement is subject to Living Wage requirements. Additionally, projects involving multi-family (4+ units other than condominiums) or commercial/industrial improvements that generate new payroll of \$1,000,000 or more in any year of the abatement or which are located in the Southwest Toledo or Reynolds Corners designated areas will require payments to the local school district.

Approved projects receive tax abatement on the increase in their property's tax valuation for a specified time period. The tax abatement period begins the calendar year after:

- (1) Certification is forwarded to the County Auditor's Office, and
- (2) A change in the property's tax valuation has occurred due to the new improvements.

The table below describes the eligibility requirements for different types of structures and the benefits available.

¹⁰⁹ Source: <http://toledo.oh.gov/services/development/programs/community-reinvestment-area-%28cra%29/>

Type of Structure	Minimum Cost of Improvements	Period of Abatement
Existing 1 and 2 Family Dwellings	\$ 2,500.00	10 years
Existing Dwelling of more than 2 Units	\$ 5,000.00	12 years
Existing Commercial and Industrial Structures	\$ 5,000.00	12 years
New Residential, Commercial or Industrial Structures	All new construction	10-15 years

Major improvements or a combination of minor improvements and general maintenance items may increase the taxable value of the property and result in CRA eligibility. Below are examples of major improvements that may qualify for tax abatement:

- | | |
|---|---|
| <ul style="list-style-type: none"> ◆ build a new porch ◆ remodel an attic into living area ◆ new additions to existing structure ◆ install sun room | <ul style="list-style-type: none"> ◆ new construction ◆ structural improvements to existing interior/exterior ◆ several minor maintenance items in conjunction with each other (complete rehabilitation) |
|---|---|

Minor improvements and maintenance items required to preserve a structure do not generally increase the taxable value of a property. Below are examples of work that individually will not increase a property's tax valuation. However, a combination of several items listed below may increase a property's tax valuation and result in CRA eligibility.

<u>EXTERIOR WORK</u>	<u>INTERIOR WORK</u>
<ul style="list-style-type: none"> ◆ Scrape and paint ◆ Landscaping (lawns, shrubs, plants) ◆ Repair or replace porches and steps ◆ Repair siding ◆ Add or replace gutters or downspouts ◆ Install storm doors / replacement windows ◆ Install outdoor lighting ◆ Insulate and weatherstrip ◆ Install a new roof ◆ Repoint, repair, replace existing masonry ◆ Install, repair, replace driveway / sidewalk 	<ul style="list-style-type: none"> ◆ Add electrical circuits or outlets ◆ Complete rewiring ◆ Replace plumbing ◆ Install or replace light fixtures ◆ Resurface floors ◆ Replace furnace ◆ Replace hot water heater ◆ Paint, wallpaper or other redecorating ◆ Closets, built-in bookcases or cabinets ◆ Remodel kitchen or bathroom ◆ Replace or refinish woodwork

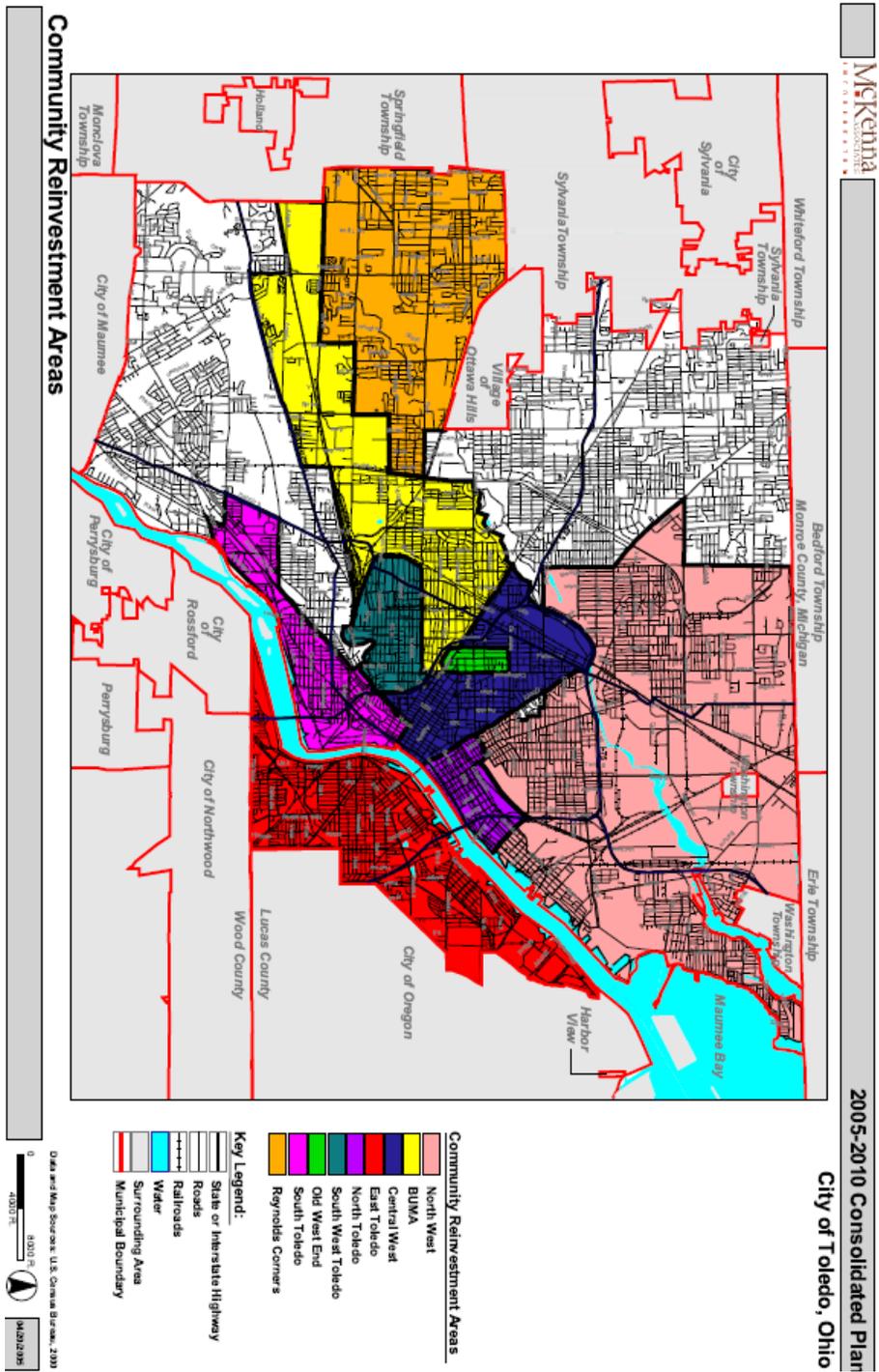
Residential projects receive abatement for 100% of the value of the new improvements as certified for eligibility by the city's housing officer. Commercial/ industrial projects are also eligible for 100% abatement, however, depending on the location and designated CRA area, commercial/industrial projects may be subject to negotiated payments to the designated school board and an Ohio Department of Development application fee. Such details are outlined in each beneficiary's CRA Real Property Tax Abatement Agreement.¹¹⁰

Finally, in order to ensure that the owners and managers of properties are acting as responsible beneficiaries of the program, the Housing Officer conducts annual inspections of properties receiving CRA tax abatement and reports to the CRA Housing Council/Committee of the Toledo Housing Advisory Commission (THAC). The Housing Officer may revoke the tax abatement if the property has not been well maintained. A property owner may appeal any decision of the CRA Housing Officer to the CRA Housing Council/Committee of the THAC.¹¹¹

¹¹⁰ Source: <http://www.co.lucas.oh.us/index.aspx?NID=1490>

¹¹¹ Source: <http://toledo.oh.gov/media/29851/Community-Reinvestment-Area-CRA-Guidelines-Purpose.pdf>

The map below illustrates Community Reinvestment Areas.



In addition to the CRA Program, the City of Toledo Department of Development has a variety of other programs to stimulate development in targeted areas and/or sectors. These programs include the following:

- Enterprise Development Loan Program – This program is intended to encourage private lenders to provide credit to firms which have difficulty securing reasonable financing that promotes growth, while preserving working capital. In addition, the EDL Program is intended to directly serve the needs of disadvantaged business enterprises that quite often lack the resources to obtain credit through conventional means. The EDL Program’s primary goal is to secure the retention and creation of jobs for low- and moderate-income residents of the City of Toledo by providing subordinated, long-term financing at attractive rates.
- Enterprise Zone Tax Abatement Program – The Enterprise Zone Tax Abatement Program was designed to create jobs and promote economic growth in a specified geographical area of the City of Toledo. Further, it holds the purpose of establishing, expanding, renovating, or occupying facilities and hiring new employees and preserving jobs within said zones in exchange for a tax credit.
- Toledo Expansion Incentive (TEI) Program – The purpose of this program is to provide incentives to attract and grow businesses in key Standard Industrial Classifications (SIC) Codes and site locations within the City of Toledo. This program may be used in conjunction with other financing and incentive programs available through the federal government, State of Ohio, Toledo-Lucas County Port Authority and/or any other City of Toledo Department of Development incentive programs.
- Municipal Jobs Creation Tax Credit (MJCTC) Program – This program was designed to create jobs and increase Toledo’s tax base. Through this program the Mayor and City Council authorize the City of Toledo to grant credits to businesses, by ordinance, against municipal income taxes (payroll taxes) on businesses’ net profits based upon new municipal income tax revenues generated from new jobs.¹¹²

A number of real estate tax reductions are also provided through the Lucas County Auditor’s Office and the State of Ohio. As the Auditor’s website describes, “In response to the protests of property owners, the legislature, over the last decade, has adopted several property tax relief measures.” These include the following:

- The Non-Business Credit (formerly known as the 10% Rollback): A 10% across-the-board rollback on all real property tax bill was enacted in 1971. This real property tax benefit was added to win legislative support for Ohio’s first enacted income tax. Over time, this benefit has undergone changes. In 2006, House Bill 66 removed this rollback on all commercial and industrial properties. The benefit was further diluted with the elimination of the credit for residential and agricultural parcels, beginning with “new money” levies passing in the November 2013 election. Levies categorized as “new money” levies include additional (new) levies, replacement levies (that increase the

¹¹² Source: <http://toledo.oh.gov/services/development/programs/>

effective tax rate), and the “increase” portion of levies classified as “renewal with an increase.” The benefit remains intact for any old/original levies passed prior to November 2013.

- Owner Occupancy Credit (formerly known as the 2 ½ % Rollback): In 1979, an additional 2 ½ percent rollback was applied to owner occupied homes. However, like the 10% rollback, this benefit was also diluted with the elimination of the credit for residential and agricultural parcels, beginning with “new money” levies passing in the November 2013 election. Again, covered under “new money” levies include additional (new) levies, replacement levies (that increase the effective tax rate), and the “increase” portion of levies classified as “renewal with an increase.” The benefit remains intact for any old/original levies passed prior to November 2013.
- Homestead Exemption: Authorized via a constitutional amendment in 1970 and beginning in 1971, Ohio granted property tax relief through a homestead exemption program. Originally designed for low-income homeowners aged 65 and older, the program included 3 tiers of possible amounts exempted from taxation, based upon income. The program was overhauled in 2007. The changes removed the income requirements, making the homestead benefit available to all homeowners age 65 and older, and those permanently and totally disabled. Moreover, the computation of the homeowner benefit changed substantially. The new benefit was fixed with a reduction of \$25,000 in the market value of the homestead property. Existing recipients at the time that the 2007 change was made received the greater of their original benefit, or new benefit available on the 2007 (\$25,000 market value reduction) program. Beginning in 2014, means testing (income requirements) again apply to new recipients. Therefore, the homestead benefit has become more restrictive, and new recipients are eligible only if their income is equal to or less than the amount prescribed by State law, adjusted to annually correspond to changes in consumer price index (CPI). At the time of legislative passage, that amount was \$30,000 of Ohio Adjusted Gross Income. The amount for the first year that the means test will be in effect, considering the CPI changes is \$30,500. The benefit for those homestead recipients previously qualifying remains intact in the most beneficial of the previously determined methodologies.

Although local taxing authorities do not lose funds as a result of the rollback and homestead exemptions, recent changes in the homestead and rollback laws shift the burden of property tax from the State of Ohio to local homeowners. Nevertheless, local taxing districts do not lose money as a result of the rollback or homestead exemptions. The state fully reimburses each taxing district using state tax money.

- CAUV (Current Agricultural Use Value): The CAUV reduction is a special tax treatment for agricultural land that was authorized by Constitutional amendments in 1973. Land used for agricultural purposes may be valued and taxed on the basis of its agricultural use rather than on its “highest and best” use. This gives farmers, especially in urban fringe areas, a tax break. It is authorized in the conservation section of the Constitution with special treatment for certain forest land.

- House Bill 920 (H.B. 920): The most controversial and complicated measure to limit property taxes is the use of tax credits to calculate real property taxes. An accepted tenet in Ohio is that voter approval of a specific number of mills on the ballot is not authorization for a set tax rate into the future, but rather is an approval for collecting the amount of money that the approved millage produces when voted. This view of taxation holds that property taxes should not increase through appreciation in property values due to inflation, but only through a vote of the people. Until 1976, the Ohio legislature subscribed to a policy of reducing outside millage whenever property increased in assessed value, so that only the same amount of revenue was collected as the previous year. In 1976, the legislature enacted H.B. 920, a new procedure to limit property tax growth. The new law authorized H.B. 920 credits that reduce millage rates to keep increased property valuations from producing “windfall” revenues for taxing districts.

The Department of Tax Equalization calculates the percentage reduction in voted levies necessary to provide the same number of dollars to each local government as it received the previous year from the same millage. That percentage, the tax reduction factor, is applied to each parcel of property in that taxing district. The 920 credits do not apply to revenue from the inside millage, increases from new construction, or to taxes levied to repay debt. These are the only areas of property tax revenue growth.

These credits offer relief to taxpayers by restricting much of the growth in property tax revenue from inflation. But this “freeze” causes serious problems for local governments, especially school districts, when costs continue to inflate rapidly. There is no state reimbursement for revenue not collected as a result of these credits.¹¹³

Housing and Building Codes

The City of Toledo enforces the Ohio Building Officials Association Code for 1, 2 and 3 unit structures, which is based on the International Residential Code. For multifamily dwellings, Toledo has adopted the Ohio Building Code, which is based on the International Code Council’s code.

The City’s housing code enforcement efforts increased in 2007 with the adoption of systematic inspections for land installment contracts. Residential land contract conveyances in the city require an inspection for compliance with Ohio Property Maintenance Code. This certification program should result in an increase in housing quality for a segment the housing market. However, it is not clear how many parties to land installment contracts are actually complying with the ordinance.

Policies Affecting Return on Residential Investment

The principal negative policy effects that will impact low-income households are high land development costs in underdeveloped areas of the city relative to the LMI households’ ability to

¹¹³ Source: <http://www.co.lucas.oh.us/index.aspx?NID=1404>

pay for new construction; rehabilitation cost to bring units up to code; and poor control of existing property maintenance, which results in eventual loss of viable housing stock through dilapidation. These conditions tend to restrict the opportunities for low-income individuals, impose higher cost of homeownership and maintenance when they can find housing, and reduce the range of housing types and choices in many neighborhoods. Suitable infrastructure (water, sewer, roads) is widely available in most sections of the city.

Continued code enforcement efforts are needed to keep the current affordable housing stock in usable condition and to stabilize neighborhoods.

Vacant and Abandoned Buildings

An inventory of all vacant and abandoned buildings is not maintained by the city. The Department of Neighborhoods estimates there are roughly 2000 vacant and abandoned homes in Toledo. The City implemented an Abandoned Residential Building Ordinance in 2008, Toledo Municipal Code §1767. The purpose of this legislation is to ensure responsible ownership of all vacant residential buildings in the City. For the past seven years the City has maintained an inventory of hundreds of structures as vacant and abandoned residential structures.

THE FAIR HOUSING IMPLICATIONS OF LEAD POISONING

To classify as having blood poisoning, an individual must have a confirmed blood lead level of 5 micrograms per deciliter ($\mu\text{g}/\text{dL}$) or greater. Before May 2012, the level of concern was $10\mu\text{g}/\text{dL}$. If the blood lead level reaches $45\mu\text{g}/\text{dL}$, chelation therapy, the process of removing heavy metals from the body (WebMD Medical Reference from Healthwise), is necessary. (Cole and Vij 2014). Older homes in the U.S have a high chance of containing lead paint, as the practice of applying lead paint was common between 1900 and 1950. (Cole and Vij). As the old paint corrodes and chips, families living within these homes are at risk of lead poisoning through dust or paint chips. Children are particularly at risk because they can swallow flakes of paint or paint dust. (Cole 2014).

According to the Ohio Health Department, Ohio contains up to 3.7 million housing units with lead-based paint on inside or outside surfaces. Although just one percent of children in Ohio had heightened blood-lead levels in 2012, in the city of Toledo, this figure was 2.06 percent.

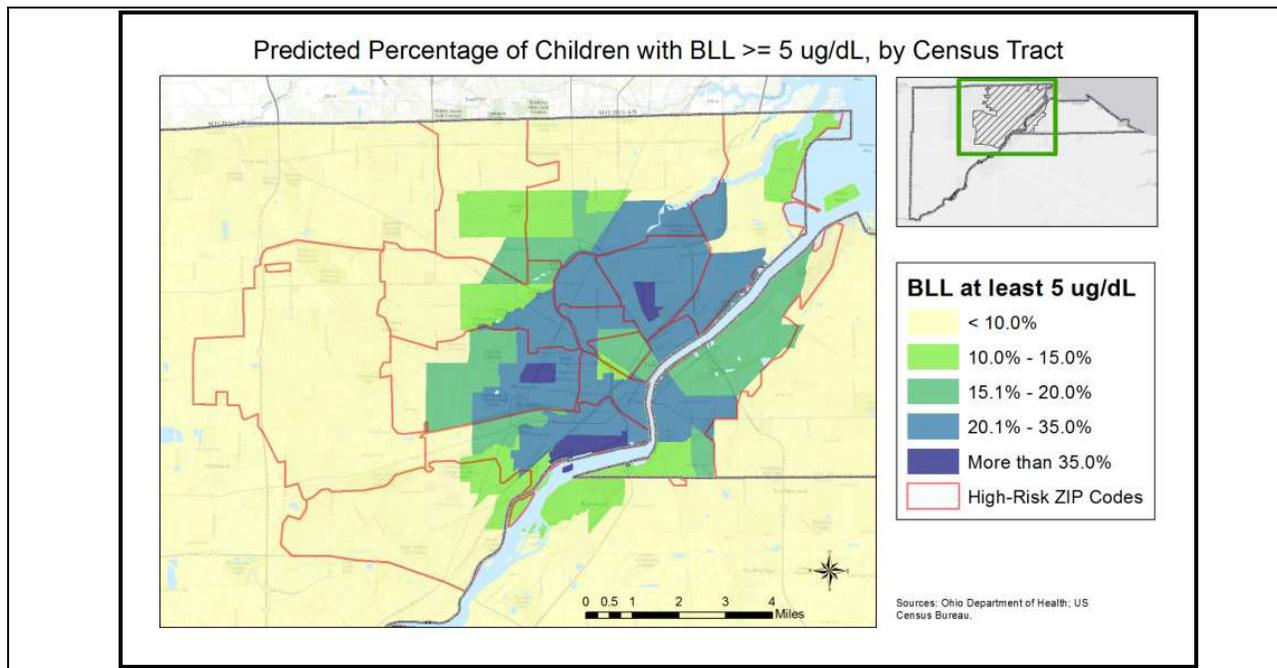
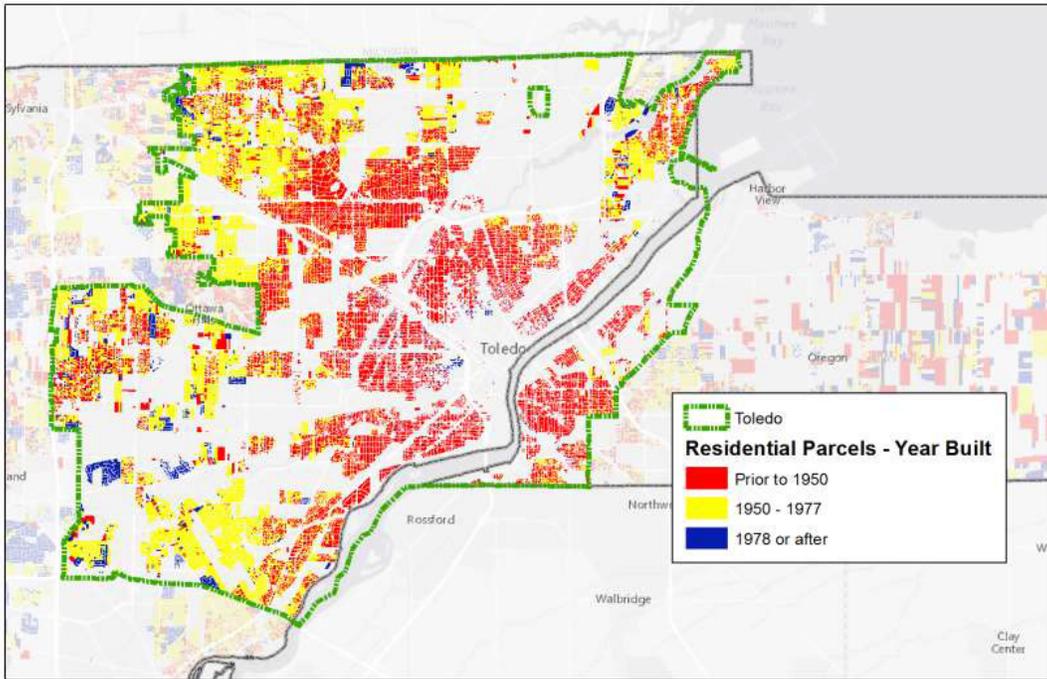


Image courtesy of lead summit presentation by David Norris of The Ohio State University's Kirwan Institute

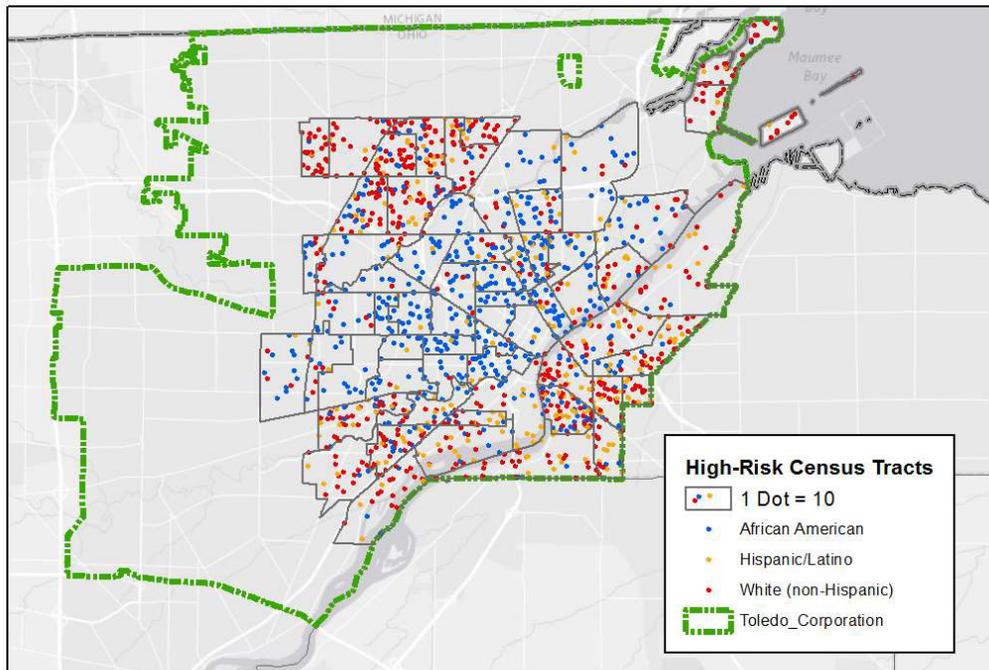
Statistical analysis observed by senior researcher David Norris points to five key variables that correlate with lead poisoning: percentage of homes built before 1950, percentage of population of African American race, percentage of population that did not complete high school, percentage of families at 200 percent poverty level or below, and percentage of population under the age of 6.

Consulting the map below, also courtesy of Mr. Norris, one can note the amount of homes in Toledo that were built before 1950:



Source: Lucas County Auditor, 2013

The following map shows the location of African American, Hispanic/Latino, and non-Hispanic white children under the age of six living in Toledo. (Norris).



Source: US Census, 2010

Simply viewing these two maps leads one to conclude that minority children are concentrated in the areas of Toledo with the oldest housing. Public health workers currently do not have the resources to test all children living in Toledo and recommend treatment to those with the highest blood lead levels. Even so, local officials currently emphasize testing and treating instead of prevention. For example, under Ohio Revised Codes 3742.37 and 3742.38, if a risk assessment determines that a lead hazard in a residential unit, child care facility or school has augmented a child's blood lead level, the owner must at that point act to control the lead hazard and then pass a clearance examination. In addition, no regulations currently exist that require inspection of homes at-risk for lead paint *unless* a child has already been tested for lead poisoning. (Cole and Vij 2014). The Toledo Fair Housing Center and Robert Cole, Attorney at Law for Advocates for Basic Legal Equality (ABLE), agree with David Norris that a superior approach exists to combat lead poisoning.

The city ordinance that a coalition of advocates (including the Center, Advocates for Basic Legal Equality, Inc. (ABLE), and Toledoans United for Social Action (TUSA)) proposed takes a preventative approach. This provision would obligate owners of rental properties to ensure a rented unit is safe from lead hazards. (Cole 2014). The ordinance would apply to any unit built before 1978 and constructed as a single family home or duplex. (Cole). Implementation requires that the owner of such a property do the following: 1. register their property with the Toledo Lucas County Health Department; 2. obtain a report from the entity performing the Lead Hazard Assessment that verifies the property passed a visual inspection for bare soil and chipping paint as well as a dust wipe,; 3. eliminate any problems if the property fails one or more of these tests and undertake a re-inspection; and 4. present a report upon passing inspection. (Cole). At this point, the Toledo Lucas County Health Department provides a Certificate of Registration of Lead Safe Residential Rental Property. (Cole).

The coalition of advocates who support this legislation expect that this ordinance, if passed, will greatly reduce the number of cases of lead poisoning in Toledo children as well as provide a means of transparency for renters in Toledo. Moreover, the existence of the ordinance would also increase awareness of lead risks for property owners. Considering the number of older homes in the city and the concentration of these homes in predominantly minority communities, this ordinance would help ease the disparate impact that lead poisoning is having on minority families and families with children, both of which are protected classes under the Fair Housing Act.

Even if Toledo City Council does not choose to enact this ordinance, the City can and should seek a way to address lead poisoning through effective, preventative regulation. The failure to address this problem in a more proactive fashion would constitute not only damage to the children of the community, but also a potential violation of the City's duty to affirmatively further fair housing.

FORECLOSURE ANALYSIS

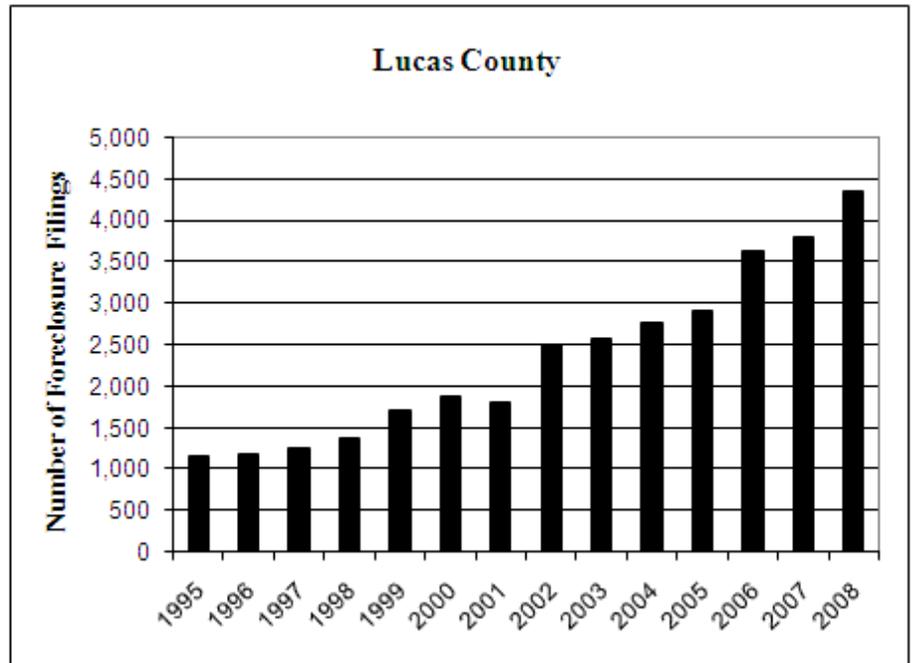
For the current AI, the Center obtained information concerning foreclosure filings in the area. The data originates from both the Neighborhood Stabilization Program data files from HUD and the Home Insecurity Reports for 2013 and 2014 by Policy Matters Ohio. A prior Analysis of Impediments (2005) utilized detailed information collected manually with the help of the Lucas County Clerk's Office. This data covered the time period ranging from 1998 to 2004 and contained elements such as the name and address of the plaintiff, the name and address of the defendant, and interest rate information. For the year 2003, when the information in the foreclosure file made it available, the Center also collected information regarding the terms and provisions of the loans, the loan origination date, and the foreclosure filing date, along with other data. This loan-level data has not been obtained in more recent years due to the sheer frequency of foreclosures that have occurred since 2008.

Lucas County, in a fashion similar to that observed throughout the state and the nation, has been experiencing consistently substantial numbers of foreclosures filed each year. Like other major urban counties throughout Ohio, a disproportionate majority of the foreclosures in Lucas County were being filed within the City of Toledo, with even more severe concentrations tending to occur in central city neighborhoods. Nevertheless, foreclosures and their attendant issues became far less narrowly confined. As the Save the Dream (Ohio's Foreclosure Prevention Effort) 2009 Report notes in its introductory remarks, "It could happen to anyone." The economic downturn and its consequences (e.g. loss of income, lack of employment opportunities, unemployment, inability to obtain financing, etc.) have generated an even more troubling situation over the past 10 years, in which the immense escalation in foreclosure filings had positioned Lucas County as among the top ten counties in the state in terms of per capita foreclosure filings for the consecutive years of 2006 (#5), 2007 (#4), 2008 (#2), 2009 (#2), 2010 (#4), 2011 (#5), and 2012 (#9).

In 2006, there were 3,618 filings recorded, and 3,796 new filings originated in 2007. The 4,359 new filings in 2008 moved Lucas County to the ranking of second in per capita foreclosure filings in the state, with only Cuyahoga County having a higher status. Considering the state of Ohio ranked nationally as having the 9th highest incidence of foreclosures, such statistics were quite distressing.

The 2008 and 2009 Policy Matters Ohio Reports recognize that the greatest increases in the rate of foreclosures occurred in the smaller, non-urban Ohio counties. Nevertheless, six of the ten largest urban counties still demonstrated higher growth rates than the state average, and seven of the largest urban counties had higher than state average foreclosure filing rates. Lucas County was among both of these groups, while also being positioned as the county possessing the highest growth rate of **all** of Ohio's largest urban counties, at 14.8%.

Year	Lucas Filings
1995	1,165
1996	1,170
1997	1,247
1998	1,377
1999	1,718
2000	1,883
2001	1,807
2002	2,509
2003	2,561
2004	2,766
2005	2,903
2006	3,618
2007	3,796
2008	4,359



Source: Policy Matters Ohio Foreclosure Growth in Ohio 2009 Report

County	1995 Filings	2008 Filings	2009 Filings	2010 Filings	2011 Filings	2012 Filings	2013 Filings	Change 2011-2012	Change 1995-2012	Rank in Growth, 1995-2012
Lucas	1165	4359	4491	4232	3237	3030	2153	-6%	160%	82
					Change 2012-2013	Change 1995-2013	Rank in Growth, 1995-2013			
					-29%	85%	83			

Source: Policy Matters Home Insecurity 2013 and 2014, available at <http://www.policymattersohio.org/wp-content/uploads/2013/05/Foreclosure-Tables34.pdf> and <http://www.policymattersohio.org/wp-content/uploads/2014/05/Table3-1.pdf>

The 2014 Policy Matters Ohio Report recognizes that from 2012 to 2013, foreclosure filings fell in 84 of Ohio’s counties and grew in only 4 counties. Foreclosures in Ohio dropped between 2012 and 2013 by 25 percent to 53,163, the lowest number since 2002. Filings in Lucas County fell by 29% during the same period, amounting to 2,153 filings, which is less than half the filings that occurred during the height of 4,491 filings in 2009. Filing numbers, nevertheless, remain close to double the figures that transpired in the 1990s. From its historic height of 89,053 filings in 2009, Ohio’s foreclosure filing rate has fallen for four consecutive years.

Although the lower filing rates are welcome in the state, the study emphasizes that the decrease is, most likely, due to several factors, some of which may merely conceal the severity of a continuing crisis. As the report acknowledges, many of the urban counties where foreclosures grew for more than 10 years have fewer homeowners to foreclose on. This is increasingly evident by the thousands of vacant and abandoned properties in the inner core of Ohio’s cities. Second, many homeowners are working with housing counseling agencies and court mediation programs that dramatically improve their chances of saving their homes. In the last three years,

groups have put substantial effort into preempting the foreclosure filing process by providing outreach and education before foreclosure. While many homes are ultimately not saved, the process slows while the homeowner works with servicers. Additionally, the sheer volume of the delinquent and foreclosed property inventory has overwhelmed mortgage servicers. Housing groups report that families have gone months or even over a year without a foreclosure filed against them despite major delinquency and repeated attempts to get a new loan.

In addition to the foreclosure issues that the community faces, the Ohio Development Services Agency (ODSA) Priority Investment Areas maps for the period from January through June 2014 identified Toledo’s inner-city as “Distressed.”

A Major Issue Today – Negative Equity

After the sub-prime and refinance-related waves of foreclosures, properties throughout both cities and suburbs have been experiencing a continuing decline in their property values due to both market conditions and the increasing prevalence of vacant and foreclosed properties in the surrounding neighborhood. According to the Lucas County Auditor’s most recent revaluation report, which the City Council received and discussed on July 26, 2012, residential property values in the city diminished by an average of 18.5%. Such severe decreases have left many homeowners “underwater,” i.e. with negative equity. The table below from the Lucas County Auditor’s Comprehensive Annual Financial Report demonstrates that the decrease in residential, agricultural, industrial, and commercial real property has been a county-wide trend since 2008/2009.

**TABLE 6
LUCAS COUNTY, OHIO
ASSESSED AND ACTUAL VALUE OF REAL PROPERTY
LAST TEN FISCAL YEARS
(Amounts in 000's)**

Tax/Levy Collection Year	Residential and Agricultural Property Assessed Value	Industrial and Real Commercial and Industrial Property Assessed Value	Public Utility Assessed Value	Total Real Assessed Value
2003/2004	5,640,311	1,790,334	7,444	7,438,089
2004/2005	5,745,949	1,840,983	7,485	7,594,417
2005/2006	5,853,133	1,865,396	7,472	7,726,001
2006/2007	6,551,449	2,156,662	7,048	8,715,159
2007/2008	6,583,148	2,065,431	8,180	8,656,759
2008/2009	6,562,532	2,123,771	8,555	8,694,858
2009/2010	5,739,765	2,095,040	10,994	7,845,799
2010/2011	5,726,573	2,046,868	11,472	7,784,913
2011/2012	5,705,432	1,989,810	12,548	7,707,790
2012/2013	4,896,533	1,876,834	12,720	6,786,086

Source: Page 30 of the CAFR available at

http://www.co.lucas.oh.us/documents/99/107/108/Lucas_County_13_CAFR_Final_ReducedSize_201406191107137579.pdf

As the Woodstock Institute notes,¹¹⁴ the likelihood of a home going into foreclosure is greater for homes with negative equity than homes that have equity. Negative equity can reinforce the aforementioned progression of diminishing property values and foreclosures in a cyclical and expanding fashion that can lead to additional foreclosures by worsening the financial situation of neighboring homeowners. In its article, the Woodstock Institute cites research that has found:

. . . while it is unlikely that slightly underwater homeowners will default if they can still afford the monthly payments, homeowners with a loan-to-value (LTV) ratio exceeding 110 percent (meaning that the outstanding mortgage debt is 10 percent more than the value of the property) are more likely to default on their loans. And the farther underwater a home is, the higher the likelihood of default. . . . Homeowners with Loan to Value ratios higher than 150 percent are seven times more likely to go into foreclosure than are homeowners with some equity in their homes.

Foreclosure is not the only problem that arises from and/or is exacerbated by negative equity. Negative equity also poses serious challenges to programs that seek to prevent foreclosures via the modification of mortgages since most servicers have been unwilling to prioritize principal forgiveness/reduction. Although the \$25 billion agreement with the nation's five largest mortgage servicers sets aside \$17 billion for principal reductions and the Home Affordable Modification Program (HAMP) has implemented incentives for principal reduction, these sources of relief only affect a minor segment of underwater homeowners. Furthermore, principal reduction is still not available on loans that Fannie Mae and Freddie Mac back, which represent approximately 60 percent of the market. This is especially concerning because, as the Woodstock Institute observed:

Loan modifications that do not include a principal reduction component are more likely to go into foreclosure, or re-default, than modifications that address negative equity. . . . Underwater homeowners with subprime mortgages who received loan modifications without principal reductions are four times more likely to re-default than homeowners whose modifications include principal write down.

Negative equity has other adverse implications for communities, beyond foreclosure. It limits the opportunity of homeowners who desire to finance retirement, education, or business endeavors; who wish to sell their homes; or who seek to refinance their loans. Underwater homeowners are also less likely to spend as much time, energy, and money on the maintenance of their properties, which leads to further deterioration and devaluation of neighborhoods. Finally, as Woodstock Institute's own research has revealed:

The destruction of assets caused by negative home equity may disproportionately threaten the economic security of people of color because home equity is a larger proportion of their net worth than it is for whites. More than half of the net worth

¹¹⁴ The Woodstock Institute is a nonprofit research and policy organization in the areas of fair lending, wealth creation, and financial systems reform; the organization recently examined the detrimental effects of negative equity on community stability.

of Latinos and African Americans in 2009 was attributable to home equity, compared to 38 percent for whites.

Vacant Properties - A Continuing Problem and Recent Developments

The numbers of foreclosures have also been detrimental to the city as a whole, as they contribute to a problem that Toledo already had struggled with prior to the crisis – long-term vacancy of many properties.¹¹⁵ As Toledo has been experiencing an exceedingly distressing and enduring foreclosure crisis, coupled with a weakening of the housing market, it is especially prone to worsening problems of vacancy and abandonment. For this reason, the foreclosure education and prevention programs of agencies throughout the area are invaluable. Not only do they address the primary issue of foreclosures in Toledo, but they also assist in combating the further aggravation of the problem of vacancy and abandonment, which the City may be unable to effectively address otherwise.

Since the market downturn, several important developments that are related to vacancies, foreclosures, and overall neighborhood stability have occurred. Lucas County became the second county in Ohio to create a Land Reutilization Corporation (LRC) in August of 2010. On May 17, 2011, the Lucas County LRC and the City of Toledo entered into a Memorandum of Understanding that expressed the parties' commitment to "collaborate and cooperate in furthering the goals of the Land Bank through the reclamation, rehabilitation and reutilization of vacant, abandoned, tax foreclosed or other real property located in the City of Toledo."

On March 12, 2012, the Ohio Attorney General settled with five of the nation's largest mortgage servicers over foreclosure abuses, fraud, and unfair and deceptive mortgage practices. The Attorney General apportioned \$75 million of the total \$93 million among the 88 counties in Ohio to demolish vacant, abandoned and blighted properties that detract from existing home values and create toxic breeding grounds for crime. Through the Moving Ohio Forward Grant Program, the Attorney General has allocated a total of \$3,674,822 to Lucas County. In the first week of August 2012, the City of Toledo and the Lucas County LRC announced their plan to collaborate on a demolition project that will eliminate about 860 nuisance properties by May of 2014. With its match, the LRC and the City will have over \$6.8 million in funds to pursue demolition activities. The LRC and the City have divided the municipality into six demolition zones and published lists of demolitions. The LRC offered neighbors and residents the opportunity to recommend additional properties for demolition and/or to purchase vacant/abandoned properties that the LRC acquired. This project and the associated funds gave the Lucas County LRC an opportunity to expand and improve the effectiveness of its efforts to remedy vacant, blighted properties.

After the time for grantees to use their initial allocations came to a close, the Ohio Attorney General re-allocated unused funds, and the LRC obtained additional funds that were less strictly purposed for demolition-only activities. The LRC and the Center are partnering to utilize these funds along with those obtained in a settlement with Wells Fargo to counteract the harm that

¹¹⁵ As evidenced in the August 2008 report by The National Vacant Properties Campaign Study Team, "Toledo at the Tipping Point: Strategies for Reclaiming Vacant Properties and Revitalizing Neighborhoods."

predatory lending, foreclosures, and poorly maintained, secured, and marketed Real-Estate Owned (REOs, bank-owned properties repurchased after foreclosure sales) properties have had on the community.

Toledo Fair Housing Center FY 2014 Projections for Programs to Assist Homeowners Facing Foreclosure

NFMC: The National Foreclosure Mitigation Counseling (NFMC) Program was launched in December 2007 with funds appropriated by Congress to address the nationwide foreclosure crisis by dramatically increasing the availability of housing counseling for families at risk of foreclosure. NeighborWorks® America distributes funds to competitively selected grantee organizations, which in turn provide the counseling services, either directly or through sub-grantee organizations.

The Center planned to reach 80-90 households at level one and 80-90 households at level two. Each level one household must go through the intake process, provide an oral budget, create an action plan, and sign a release. Level two households must also complete all of the level one requirements. Additionally, they must provide a written, verified budget, have their credit report pulled, and update their action plans. The Center must also supply documented contact with their lender/servicer and ensure that each level two case is closed with documentation. The Center applied for and was allocated funding for phase IX of NFMC.

Restoring Stability: A Save the Dream Ohio Initiative (RS): RS, administered by the Ohio Housing Finance Agency, aims to help an estimated 53,000 families who are at high risk of default or foreclosure. RS offers several programs to help homeowners dealing with financial hardship. The Center had planned to complete 20 Action Plans resulting in monetary assistance per month as part of this program for FY2014. However, with the program winding down, these numbers will likely be far lower. The RS program is nearing its end. In fact, the Center did not receive any new referrals or intakes after April 30, 2014, and OHFA would not process additional applications after July 31, 2014.

REAL ESTATE OWNED PROPERTIES IN THE TOLEDO REGION – INVESTIGATION REPORT

Introduction

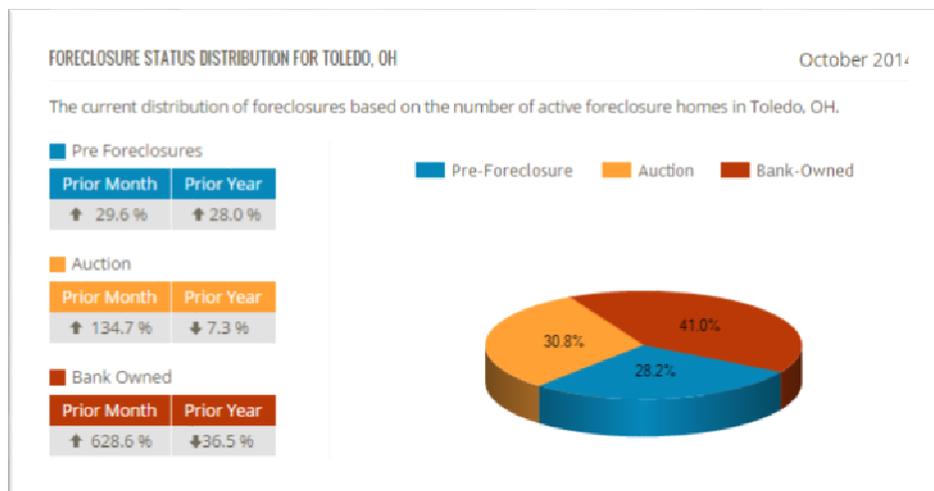
Many years ago, Toledo was a bustling place. However, like most communities, Toledo experienced a historic economic downturn. Banking institutions responded by preying upon African American and Latino borrowers to originate high-cost subprime loans, even when these same borrowers could have qualified for loans with far more favorable terms. These discriminatory, predatory lending practices played a significant role in Toledo's foreclosure crisis.

The Toledo region is not the only one to experience this crisis. A 2009 National Fair Housing Alliance (NFHA) study looked at neighborhoods across the United States and noticed a striking correlation between the existence of predatory lending practices in African American and Latino neighborhoods and the higher concentration of foreclosures in those same neighborhoods. The study states, "foreclosures are not evenly distributed throughout our country's neighborhoods, but rather are excessively concentrated in communities of color,"¹¹⁶ and, "African American borrowers and the communities in which they live have suffered devastating setbacks as foreclosures caused by unaffordable and unsustainable loans have stripped many residents of homeownership and depleted their other wealth as well." Unfortunately, this is Toledo's narrative.

The Toledo Fair Housing Center (TFHC) recognized and responded to predatory lending practices well before the 2008 housing collapse by offering a Predatory Lending Remediation program. Then, when foreclosures began to rise, TFHC started its foreclosure mitigation program and continued to work with institutions like the Northwest Ohio Development Agency (NODA) to help homeowners revive and build their wealth through housing counseling. TFHC has also simultaneously worked to eliminate the discriminatory impact caused by predatory lending practices.

Toledo is still suffering from the effects of the foreclosure crisis. Many of the banks that have purchased back the homes of those who were unable to remain in them have failed to properly maintain, secure, and market these properties. According to Realty Trac, these properties, which are also known as Real Estate Owned (REOs) properties, unfortunately comprise 41% of foreclosed properties. (<http://www.realtytrac.com/statsandrends/foreclosuretrends/oh/lucas-county/toledo>).

¹¹⁶ <http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=dsT4nlHikhO%3D>



The issue is not merely one involving a lack of maintenance. By working with NFHA, TFHC began a series of investigations and uncovered that many financial institutions maintain REOs much better in white neighborhoods than they do in predominately minority neighborhoods. Much in the same way that these neighborhoods disparately suffered predatory lending practices and foreclosures, they now disproportionately must deal with the neglect of REOs by financial institutions.

These types of investigations are not new to NFHA, as a “nationwide examination of REO maintenance and marketing practices of major lenders and Fannie Mae [has been occurring] over the last 5 years.”¹¹⁷ In April 2011, NFHA published the initial findings of its REO maintenance investigations in the report, “Here Comes the Bank, There Goes the Neighborhood,”¹¹⁸ which included data from 624 REO investigations in four cities and highlighted a troubling trend of apparent discriminatory practices with respect to REO properties. In April 2012, NFHA published an additional report after it entered into partnerships with four of its member organizations to investigate the maintenance and marketing of more than 1,000 REO properties in nine metropolitan areas. The reports detail the methodology and findings of the evaluations that NFHA and its partners conducted, which “took into account 39 different aspects of the maintenance and marketing of each property, including curb appeal, structure, signage, indications of water damage, and condition of paint, siding and gutters.”¹¹⁹ TFHC became a part of these investigations in November of 2012 and continues to partner with NFHA in such efforts.

The investigations are revealing that REOs in the African American and Latino communities generally are more likely to appear abandoned, blighted, and unappealing to potential homebuyers, whereas those in white neighborhoods are more appealing to homeseekers, realtors, and those who reside in and pass through the neighborhoods in which these REOs are located.

¹¹⁷ http://www.mvfairhousing.com/pdfs/2014-08-27_NFHA_REO_report.PDF, NFHA’s August 27, 2014 “Zip Code Equality”

¹¹⁸ Available at <http://nationalfairhousing.org/LinkClick.aspx?fileticket=UF6xIHF35r1%3d&tabid=3917&mid=9405>

¹¹⁹ NFHA’s April 2012 Report “The Banks Are Back – Our Neighborhoods Are Not,” page 2, available at <http://nationalfairhousing.org/LinkClick.aspx?fileticket=sNHLaQE4WSw%3d&tabid=3917&mid=9405>

Because of this discriminatory treatment, Toledo communities of color are being left behind in our nation's housing recovery. The probability is high that where one finds high concentrations of REO properties, he or she will also see blight in our Toledo communities. Banks, just like any other property owner must be accountable and responsible in their maintenance and marketing of REOs. In order for this to happen, banks, lenders, trustees, investors, federal regulators, fair housing and community development groups, and local government and law enforcement must work together. Neighborhoods need to ban together. Toledo's newly created Blight Authority,¹²⁰ on which TFHC has representation, is starting to assist Toledo's hardest hit neighborhoods, so that they might have a fair opportunity to recover and prosper. TFHC is also participating in and exploring other opportunities for partnerships to make positive change in these neighborhoods. By working with groups locally and learning from the experiences of other cities, TFHC hopes to help counteract the damage caused by decades of discriminatory practices.

The report that follows documents the methodology and findings of TFHC's investigations and outlines clear recommendations for policy makers, community stakeholders, banks, investors and servicers to eliminate the disparities in the treatment of REO homes. All residents deserve a chance to build wealth and stability through homeownership, neighborhoods deserve fair and equal treatment regardless of their racial and ethnic composition, and our cities deserve to have those who jeopardize their ability to properly function and provide services held accountable.

Methodology¹²¹

In conducting the investigations, TFHC and NFHA selected neighborhoods either with predominantly White residents or with residents who were predominantly Latino, African-American, or a combination of both. The partners also chose the neighborhoods in which TFHC evaluated properties because the recent foreclosure rates were high in them, as compared with other neighborhoods in the Toledo metropolitan area. Both the White neighborhoods and neighborhoods of color that NFHA and its partners investigated are middle and working class communities with high foreclosure rates and high owner-occupancy rates. Investigations avoided zip codes with high levels of renters or investor-ownership.

The data collection in the investigations does not occur by means of random sampling of the REO properties in each neighborhood. Conversely, TFHC visited and, when possible, evaluated all properties owned by the banks investigated within each selected area (i.e. 100 percent coverage). TFHC did not evaluate homes that were clearly occupied, vacant lots, or works in progress.

Once NFHA identified the neighborhoods for the investigation, NFHA and TFHC worked together to gather data that provided the addresses of REO homes and identified the banks that were the owners of the homes. Various data sources allowed for the compiling of REO property lists, including county property records, records maintained by the clerk of courts, the Toledo

¹²⁰ News article on Toledo's Blight Authority - <http://www.toledonewsnow.com/story/26146204/toledo-city-council-creates-blight-authority>

¹²¹ This section captures the methodology as discussed in NFHA's REO Investigation Reports. See, e.g., "The Banks Are Back – Our neighborhoods are not," pages 16-17, available at <http://nationalfairhousing.org/LinkClick.aspx?fileticket=sNHLaOE4WSw%3d&tabid=3917&mid=9405>

Vacant Residential Building Registry, RealtyTrac and other database sources. NFHA cross-referenced the data with other reliable records in order to confirm the status of the homes visited as bank-owned properties. NFHA identified several banks that were the primary owners of REO properties in the Toledo area neighborhoods to be investigated and, thus, focused the investigation on the REO properties that these entities owned.

Since TFHC began its investigations in partnership with NFHA in November of 2012, the agency's staff have visited nearly 500 single-family, bank-owned properties. Staff members evaluated each property that they visited using a pre-determined 100-point scale that included 39 factors such as curb appeal, structure, signage and occupancy, paint and siding, gutters, water damage, and utilities (see the table below). NFHA produced the scoring format, which all of the partners in the investigations utilize. By answering "yes" or "no," evaluators document whether or not each factor is present at a property. Evaluators also take pictures of the properties and the surrounding area. For example, if a visible amount of trash existed at the REO property, the evaluator will mark "yes" next to "Trash" on the score sheet, which results in a deduction of a certain number of points from the overall score. Some deductions occur via the lack of specific criteria, such as a missing "For Sale" sign. The table below demonstrates an overview of the scoring categories and corresponding point values.

To ensure consistency among the evaluations that partners in the investigation conduct, evaluators utilize a glossary of terminology that NFHA and its partners developed at the beginning of the investigations. The glossary offers pictures and descriptions that illustrate various examples of what features or omissions should result in a "yes" answer for each of the factors that evaluators use to score the properties. The glossary also demonstrates variations in severity for those scoring criteria for which the number of points deducted changes with increasing or decreasing severity of the deficiency. For example, an evaluator selects a lower level of severity for a property with a small amount of dead grass than he or she does for a property whose entire lawn is comprised of dead grass -- the lower the level of severity that the evaluator indicates, the fewer the points deducted are from the overall score. Other factors whose point deductions vary with the severity of the deficiency include invasive plants and mold.

TFHC staff uploads the property and scoring data, pictures, and, where applicable, notes into a central database that then calculates a score for each REO property. NFHA uses the ArcView mapping tool to assign each property a neighborhood designation based upon the racial/ethnic composition of the 2010 Census Block Group in which the address is located. Each REO property receives one of four neighborhood designations: (1) African-American, (2) Latino, (3) White, or (4) predominantly non-White. NFHA assigns a neighborhood designation of "White" if the REO property's surrounding block group is greater than 50% white, "African-American" if the surrounding block group is greater than 50% African-American, "Latino" if the block group contains 50% or more Hispanic residents, and "Predominantly Non-White" if the White population of the surrounding block group is less than 50% and no other race alone comprises more than 50% of the population. In analyzing the evaluations for evidence of discrimination, NFHA and its Partners cross-compare the overall scores of each property as well as the scores for each individual category and subcategory.

While visiting and evaluating properties, neighbors of the REO properties often approach TFHC staff members and give accounts of their experiences, concerns, and activities regarding the REO property. Evaluators take notes when this occurs and enter the notes documenting the interactions into the central database. Additionally, NFHA developed a short survey that asks a few key questions about the care, maintenance, and marketing of the REO property in an attempt to capture this neighbor experience data. TFHC mails these surveys to the neighbors on either side of the REO and the neighbor directly across the street from the REO. NFHA receives the surveys that neighbors complete and return; TFHC does not maintain or analyze the survey responses. Consequently, the findings section does not discuss the feedback that NFHA has received via the surveys.

In spite of the property data sources listing the properties as bank-owned, investigators sometimes find properties occupied when they visit the site. This might occur due to the sale of the REO property, an eviction being in process, a family just beginning to move out following the foreclosure, unauthorized occupancy, or for other reasons. In these situations, evaluators document the visit, but do not score or evaluate the property. TFHC staff members also refrain from evaluating properties where the homes are undergoing some type of repair or renovation. Since staff does not evaluate these properties, they are not included in the analysis and findings of the investigation.

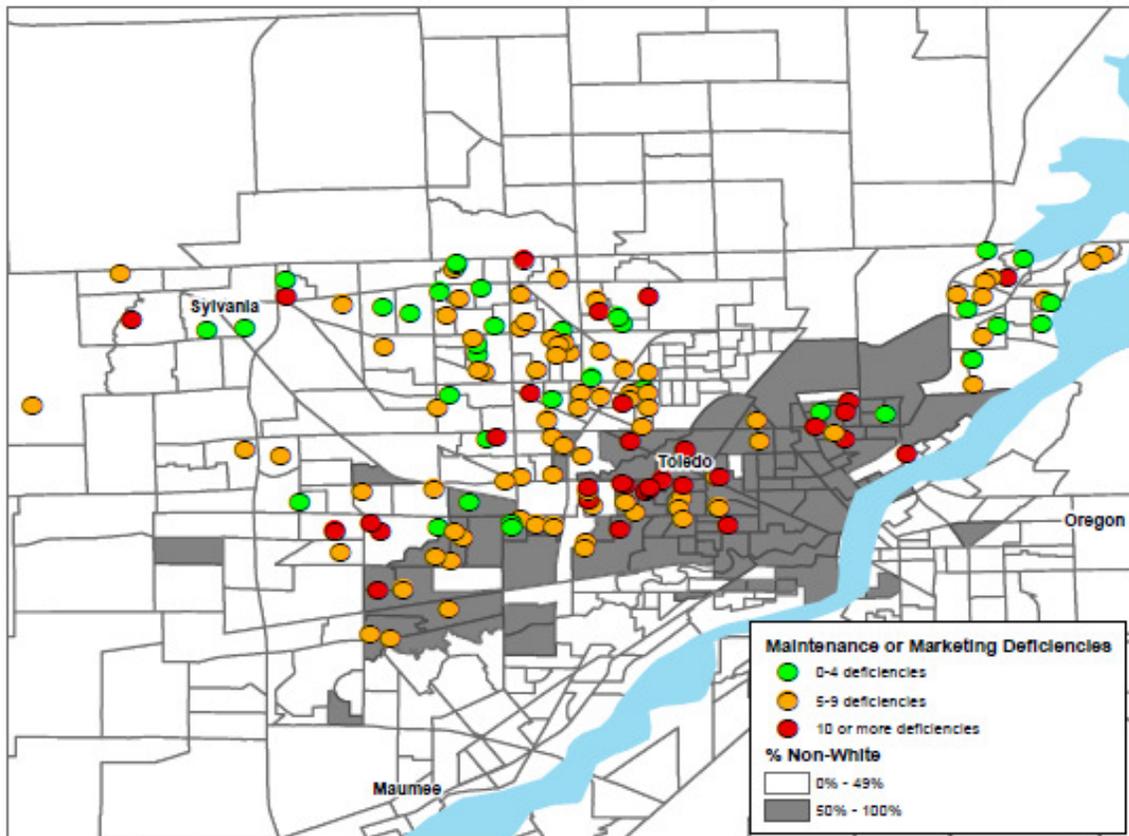
Investigators evaluate the condition of the REO property at the time of the visit. Accordingly, this investigation could not and did not take into account the state of the property at the time of transfer to the bank. From the time that the home becomes vacant following foreclosure, the bank, as owner of the property, is responsible for securing the property, preserving and selling the asset, and maintaining the lawn and exterior in a manner that meets local standards. Thus, the condition of the home at any point during which the property is vacant and bank-owned should be consistent between neighborhoods regardless of the race or ethnicity of the residents.

Category	Deficiencies	Point Value
Curb Appeal	Trash	20 Points
	Mail Accumulated	
	Overgrown Grass and Leaves	
	Overgrown or Dead Shrubbery	
	Dead Grass (by percentage)	
	Invasive Plants (by percentage)	
	Broken Mailbox	
	Miscellaneous	
Structure	Unsecured/Broken Doors and Locks	25 Points
	Damaged Steps and Handrails	
	Damaged Windows (Broken, Boarded)	
	Damaged Roof	
	Damaged Fence	
	Holes	
	Wood Rot	
	Miscellaneous	
Signage and Occupancy	Trespassing or Warning Signs	13 points
	Marketed as Distressed Property	
	"For Sale" Sign Missing	
	Broken and Discarded Signage	
	Unauthorized Occupancy	
	Miscellaneous	
Paint/Siding	Graffiti	12 Points
	Peeling/Chipped Paint	
	Damaged Siding	
	Missing Shutters (not attached/secure)	
	Miscellaneous	
Gutters	Missing/Out of Place	16 Points
	Broken/Hanging	
	Obstructed	
	Miscellaneous	
Water Damage	Water Damage	13 Points
	Mold (By Severity)	
	Miscellaneous	
Utilities	Exposed or Tampered With	1 Points
	Gas turned off	
	Meter turned off	
Total		100 Points

Findings

On August 27, 2014, NFHA and 17 of its local member organizations released a report detailing the results of the investigation of more than 2,400 REO properties located in and around 30 major U.S. cities. The report was the third released by NFHA, but the first to feature the work of TFHC, as NFHA released the 2011 and 2012 reports prior to TFHC beginning its investigations. The 2014 report, “Zip Code Inequality: Discrimination by Banks in the Maintenance of Foreclosed Homes in Neighborhoods of Color,” demonstrates the findings of the partners’ investigation into the failure of banks and property preservation companies to maintain, secure, and market foreclosed homes in African-American and Latino neighborhoods.¹²² The investigation of REO homes in the metropolitan areas that the report features reveals unsettling incidents of discrimination in the ways that banks and Fannie Mae’s preservation management companies fail to secure the doors and windows, mow lawns, fix gutters and downspouts, remove trash and provide other maintenance for REOs in African American and Latino neighborhoods, while providing these services for their REOs located in White neighborhoods. The map and basic list below show the findings for the Toledo region as of the end of 2013.

Toledo, OH



¹²² Available at http://www.mvfairhousing.com/pdfs/2014-08-27_NFHA_REO_report.PDF

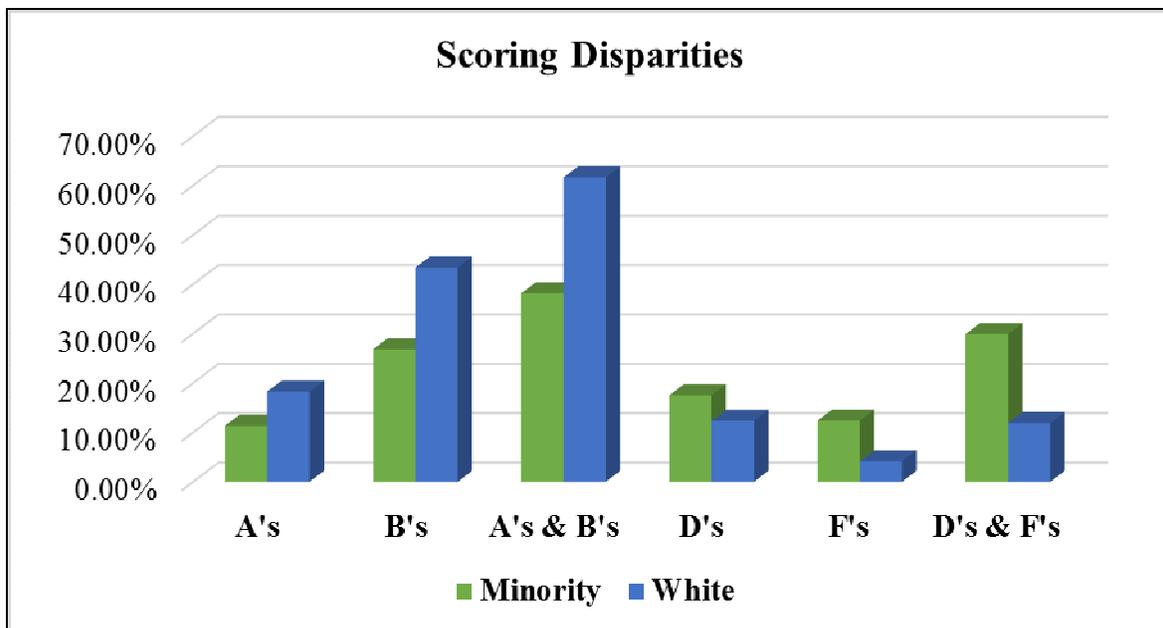
In the Toledo, OH area a total of 148 REOs were investigated from April 1, 2012 to December 31, 2013

Some of the most egregious disparities included:

- REOs in communities of color were 2.6 times more likely to have an unsecured, broken, or boarded door verses REOs in White communities
- REOs in communities of color were 2.3 times more likely to have broken or hanging gutters compared to REOs in White communities
- REOs in communities of color were 1.9 times more likely to have trash or debris on the premises verses REOs in White communities

In addition to the results that the 2014 NFHA report discusses, TFHC has gathered and analyzed the data for the period extending from the beginning of its investigations in November 2012 to December of 2014. Of the nearly 500 properties that TFHC visited, its investigators were able to evaluate over 300. Approximately one-third of the properties that TFHC evaluated were in predominantly minority zip codes, while about two-thirds were located in white neighborhoods. TFHC also separated out the data in order to compare the scoring of properties in suburban zip codes with that of properties in City of Toledo zip codes. While significant differences did not appear along suburban-versus-urban lines, the table below reveals the stark disparity in the scoring that REO homes in white communities received as compared with that which REO homes in neighborhoods of color received.

Zip Code Composition	A's	B's	A's & B's	D's	F's	D's & F's
Minority	11.34%	26.80%	38.14%	17.53%	12.37%	29.90%
White	18.26%	43.38%	61.64%	12.33%	4.11%	11.87%
All	16.14%	38.29%	54.43%	13.92%	6.65%	20.57%



As the table and chart above show, white neighborhoods had the highest average score (80.9); the highest proportion of properties receiving A's and A's and B's combined; and the lowest proportion of D's, F's, and D's and F's combined.¹²³ Conversely and disconcertingly, REO homes in zip codes of color had the lowest average score (75.44); the lowest proportion of A's, B's, and A's and B's combined; and the highest proportion of D's, F's, and D's and F's combined. These results communicate that the factor that truly demonstrates scoring disparity is the racial composition of the neighborhood in which the REO properties are located. Even when one examines scores in City versus suburban zip codes, such differences in scores are not present. Thus, the overall score data for the REO homes that TFHC has investigated over the course of the last two years shows that banks and property management companies are not maintaining, marketing, and securing REO properties in neighborhoods of color in the same way that they are in white neighborhoods. Recommendations for addressing this differential treatment of neighborhoods based upon their racial composition follow.

Recommendations¹²⁴

Since the findings continue to demonstrate a disturbing pattern and practice of poor maintenance and marketing of REO properties in neighborhoods of color; banks, Fannie Mae, FHA, investors, federal regulators, local governments, community groups, and fair housing agencies must keep working to address these issues and seek a fair recovery for all neighborhoods harmed by foreclosures. In order to begin to accomplish this and to ensure that positive change is lasting, banks and others responsible for REOs must possess a comprehensive understanding of the Civil Rights Act of 1866 and the Fair Housing Act. This requires that they appreciate the dual purpose of the Fair Housing Act – the elimination of discrimination as well as the promotion of residential integration – in order to fulfill the intent, goals, and spirit of the law. Those responsible for REOs, regulators, and advocates should apply a fair housing lens to all policies and practices related to REOs to make certain that properties in neighborhoods of color are maintained, marketed, and secured to the same extent and in accordance with the same quality standards as those in white neighborhoods.

Addressing the problems that the investigations of REO properties have revealed will likely require coordination among the leading lenders and servicers in the industry due to the significant degree to which institutions engage in interrelated business dealings, e.g. one bank might operate as an owner of REOs in one context and as a servicer of REOs in another. Owing to the variety of roles that banks play in the REO industry, lenders, trustees, and preservation management companies often work for each other and with each other in different communities and in different capacities.

A number of actions that all parties involved in the management and disposition of foreclosures can take to mitigate discriminatory practices and harmful outcomes for African American and Latino communities exist, and several specific recommendations for these entities follow.

¹²³ Only suburban zip codes had a higher proportion of A's with 19.15% of REO homes in non-City of Toledo zip codes scoring 90 or higher. Approximately one-sixth of the properties that TFHC evaluated were in suburban zip codes.

¹²⁴ The recommendations in this section echo those that NFHA and its member-partners put forth in the August 27, 2014 REO Report, which incorporated investigation data and other information from TFHC.

Duty to Neighborhoods and Fiduciary Duty to Trusts Holding Mortgage in Default

Banks and other owners of foreclosures must not allow the homes to sell at auction for prices significantly below the market value of homes in the neighborhood in which it is located. They must bid competitively on their property and, when the bid is not sufficient, allow the home to transition through the REO channel. This gives owner-occupants and local non-profits the opportunity to purchase the property, and it places professional real estate agents in charge of listing and selling the home.

The elimination of bulk sales is advisable, except in very special circumstances in which a non-profit or public agency needs the home or property for specific developments. Bulk sales to investors prevent owner-occupants from having the opportunity to compete, which, in turn can lead to neighborhoods formerly largely owner-occupied becoming investor communities.

Careful Selection and Management of REO Vendors

The process of REO disposition features many key actors and many points at which housing discrimination can occur. Banks and other owners are responsible for ensuring that all parties involved in the foreclosure and REO processes have received training regarding the Fair Housing Act and for maintaining strict adherence to the law. The vendors that owners select to assist with the disposition of REOs should receive high-quality fair housing training, should not be the subject of pending complaints of discrimination, and should have successfully resolved any past complaints of discrimination.

Owners of REO properties are liable for the actions of their contractors and subcontractors. Banks and other owners, thus, have an obligation to implement sound quality control practices to guarantee that REOs are maintained, marketed, and secured in a quality fashion regardless of the racial or ethnic composition of the neighborhoods in which REOs are located.

With the dramatic increase in foreclosures that transpired around 2006, the role of large preservation management companies in the real estate industry changed and grew. Nevertheless, these companies have always had the duty to ensure that they are aware and observant of their obligations under the Fair Housing Act. These large regional and national companies, who often contract with subcontractors at the local level, should implement robust fair housing training for all of their employees, including CEOs and the subcontractors responsible for weekly maintenance.

Implement Marketing and Disposition Practices that Better Serve Communities

Brokers are an essential part of the disposition of REO properties. An REO listing broker's local expertise is vital to the proper treatment of REOs, and banks and other owners must enact policies to ensure that the broker assigned to an REO property:

- a) Has an office that is located in close proximity to the home;
- b) Has the capacity to closely manage and oversee the treatment of the REO;
- c) Has a working relationship with local government and non-profits serving the neighborhoods where the REOs are located;

- d) Has a reputation for and successful experience in working in diverse neighborhoods; and
- e) Does not have discrimination actions pending or any past complaints that were not satisfactorily resolved.

Such selection criteria will better ensure that REO brokers are familiar with the community and committed to its recovery.

Banks and other owners should also maintain and routinely train a network of diverse multilingual agents who can work to provide equal access for non-English speaking buyers and promote residential integration.

Banks and other owners should implement better incentives for their brokers to sell to owner-occupants rather than to investors and should severely restrict bulk sales in their disposition practices. The potential for rebuilding neighborhoods affected by the foreclosure crisis rests at the local level and with the agencies and institutions whose mission it is to create healthy, vibrant, and inclusive communities of opportunity. Investors who pursue bulk purchases of REOs are far less likely to share or invest themselves in that vision. By making it more possible for some of these foreclosed homes to be in the possession of non-profit community development organizations, community land trusts, and other community-based and community-minded institutions, banks and other owners can facilitate and advance the goals of recovery and inclusivity. As always, owners at every step should adhere to the duties and spirit of the Fair Housing Act.

One way to address this issue is to expand the opportunities that prospective owner-occupants and nonprofit community organizations have to purchase foreclosed homes. Some policies offer only a 15-day period for such buyers before opening up sales to investors. NFHA and TFHC recommends that these homes be available exclusively to owner-occupants and non-profit organizations for at least 30 days before becoming available to the entire market. After reaching a settlement with NFHA and its partners, Wells Fargo has taken the lead in implementing sales practices that promote homeownership by implementing an additional period every time the price of the REO is reduced during which owner-occupants and non-profits have priority. All banks and other owners should implement this practice. Moreover, banks should avoid giving preference to cash offers over offers by owner-occupant that require financing.

Communities that have been hit hard by foreclosures are struggling to devise ways to help neighborhoods recover from the damage that they have suffered. Many have developed revitalization plans, using federal funds under the Neighborhood Stabilization, Community Development Block Grant, HOME and other programs, as well as other sources. The disposition of REO properties, both at the point of sale to investors and at the point at which investors resell these homes, should be coordinated with these local plans to leverage a positive impact.

Implement Better Quality Control Measures

Banks and other owners must implement better quality control measures across the board. Swift and severe penalties must exist for vendors who fail to do their work in a professional manner. Special attention must be directed to neighborhoods that have been determined to be most

vulnerable to poor work by vendors. This should include neighborhoods that are predominantly African-American, Latino or Asian American, as well as neighborhoods that are low or moderate income.

A system of quality control does not function effectively if the entity in question fails to properly utilize information that the quality control teams collect and provide. A recent report from the Office of the Inspector General for the GSEs reviewed the work of property preservation companies working in the pre-foreclosure space, many of whom also work in the post-foreclosure REO market. The report revealed that vendors had manipulated photos to alter timestamps, used the same pictures month after month to show the condition of the property, and did not conduct the validation of inspection reports properly even when quality control was in place. This utter lack of accountability and quality control is entirely unacceptable. Banks and other owners should suspend or terminate vendors who fail to adhere to good quality maintenance standards and/or who are suspected of such manipulation. Freddie Mac, for example, has a system in place to monitor and terminate vendors as is appropriate.

Make REO Ownership Information Transparent, Accurate, and Accessible

Every bank or other owner of REO property should maintain a public database containing all of its REO listings, including the name and contact information of the preservation management company, broker, and any other vendors responsible for the maintenance or sale of the property. Neighbors, jurisdictions, and local advocates must have access to clear ownership records that are updated in an accurate and timely manner. Banks and other owners should ensure that vendors are posting accurate signage with valid contact information and should also provide detailed information about the REOs for which they provide services on their websites.

Local governments should continue to implement Vacant Property Registries (VPR) that require banks, other owners, and servicers to register their vacant properties and provide up-to-date contact information for parties responsible for any maintenance or other issues that may arise on their properties. Jurisdictions and owners must monitor these VPRs and address violations on a routine basis to mitigate the harmful effects of poorly maintained vacant properties on surrounding neighborhoods. Cities like Oakland and Riverside in California have had success in enforcing VPRs and have collected millions of dollars in violation fines from the banks. Others, however, like the City of Los Angeles, are still struggling to obtain cooperation from banks. They have blighted bank-owned foreclosures littered throughout the city, with thousands of dollars in violation fines uncollected. The City of Toledo originally passed Municipal Code Chapter 1767 in 2008 to "assist city government in protecting the public health, safety and welfare, to monitor the number of vacant residential structures in the city, to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to promote substantial efforts to rehabilitate such vacant buildings." The City of Toledo utilizes the vacant residential building registration as an aid in keeping track of vacant properties, to promote the sale of the properties, and to encourage the proper securing and maintenance of the properties. On January 8th, 2013 Ordinance 2-13 was passed to amend Chapter 1767 to ensure that persons who seek a foreclosure against real property, which may cause a building to become vacant or abandoned, inspect the property for vacancy and register its status with the City. The City of Toledo has, thus, mandated

cooperation by making inspection and registration, where appropriate, a necessary step in the foreclosure process.

NFHA and its partners have observed that some management companies brag that they are able to negotiate down the fines that banks and management companies owe because of their violations of local ordinances. This behavior is unacceptable, and local governments must remain vigilant in holding banks and others responsible for REO properties accountable for their neglect.

Better Oversight from Federal Regulators and Congress

Many of the institutions that have been engaging in discriminatory practices in the REO market are federally regulated. Federal regulators, including the Consumer Financial Protection Bureau, Federal Housing Finance Agency, and the Federal Reserve, must continue to be attentive and thorough and conduct. These regulators should conduct industry reviews to ensure proper conduct and that the banks and the GSEs are not implementing practices that differentially treat or have a disparate impact on homeowners from protected classes or neighborhoods of color.

Regulators should conduct audits such as the one reported in March 2014 by the Federal Housing Finance Agency's Office of the Inspector General, which uncovered numerous examples of poor quality work and ineffective quality control measures, in the post-foreclosure, or REO space. In addition to the issues that the reports of TFHC and NFHA specifically address, a larger investigation should examine whether and to what extent vendor contracts are made available to minority and women-owned enterprises.

Congress must hold hearings to investigate discrimination in the REO arena, so that neighborhoods of color and the businesses that support these neighborhoods are not left behind in the housing and economic recovery. While Congress has held extensive hearings on the housing crisis, it has not sufficiently addressed this particular issue and its implications for our nation's economic and social health.

Create a Path Back to Homeownership

Over four million families have lost their homes to foreclosure in the last five years. Evidence from a variety of federal enforcement actions tells us that in many cases, lenders, brokers, and real estate professionals steered families into loans that were more risky and more expensive than their financial qualifications could reasonably sustain. In other cases, homeowners have been caught between record-high levels of sustained unemployment and falling home prices that have made it impossible for them to sell or refinance their homes. Offering these families a path back to homeownership is, thus, an important component of rebuilding stable, vibrant communities.

When a purchaser acquires an REO at a price below the previous mortgage balance, the new owner can set its sales price based on the property's market value, eliminating the burden of excess debt that was fueled by unsustainable mortgage products. Homeowners who have lost their homes, however, had few, if any, opportunities for principal reduction to assist with underwater mortgages and might still face default judgments for outstanding balances following foreclosure sales.

Many REO properties are expected to be put back into use as rentals, and some might remain rental properties for the foreseeable future. Others, however, are likely to be resold within a few years. The properties that become and remain rentals have the potential to help address the country's growing need for rental units with more than 2 bedrooms. Those that are likely experience sale again within a few years might offer a path to homeownership for families who have been through foreclosure and others who have difficulty qualifying for a mortgage in the current mortgage market. The manner in which these properties actually do or do not serve to promote the recovery of communities will, of course, depend upon the policies and practices of those involved in the maintenance, marketing, disposition, and regulation of REOs.

Non-profit, community-based development organizations and community development financial institutions are exploring the use of lease-purchase programs for these REO properties. Under such programs, a portion of each month's rent is set aside to build a down payment, and the rental period gives the tenant (who may be the previous owner) time to repair his/her credit, with the goal of ultimately purchasing the home. With the proper protections built in for the tenant/potential purchaser, this might be a promising path to rebuilding financial security for families harmed by foreclosure. TFHC and NFHA recommends that banks and other investors who hold REO portfolios work with appropriate non-profit and/or local government agencies to make some REO properties available to tenant/potential purchasers through such lease-purchase programs. Working with such entities is essential, however, as cities like Toledo are witnessing and have seen abusive land contracting practices by investors and owners who prey on those unable to access credit or homeownership through more traditional channels.

Community Relief Initiative

TFHC continues to partner with NFHA and other Fair Housing groups across the country to hold lenders and other preservation management companies responsible for maintaining their REO inventory in communities of color by filing HUD administrative complaints. Banks are starting to respond, and Wells Fargo is leading the way with a positive impact.

In June 2013, Wells Fargo entered into a conciliation agreement between NFHA, TFHC, and 12 other complainants to provide \$27 million for community relief and agreed to implement improvements to current policies and practices that will have a positive impact on communities of color. NFHA's August 27, 2014 "Zip Code Inequality" report outlined the benefits of this agreement, stating,

Wells Fargo agreed to implement best practices for maintenance and marketing of its REO properties, and the quality of its property management will be monitored by a third party. Wells Fargo extended its First-Look Homebuyer program to prioritize homeowner-over investor-purchasers of its REO properties, facilitated easy access to information about its REO properties, and improved its web site and toll free numbers to provide more information to prospective purchases and those who want to report a problem. (page 44).

Over nineteen communities of color are benefiting from Wells Fargo's community relief funds. NFHA reported that a number of community initiatives have begun, which include: "providing down payment and closing cost assistance, rehabilitating vacant or rental housing stock,

beautifying neighborhoods and quality of life improvements, empowering communities with good data on foreclosures, creating accessible housing and neighborhoods, increasing affordable housing opportunities.” (page 45).

TFHC received \$1.4 million of the \$27 million and has since entered into partnership agreements with the Ability Center of Greater Toledo (ACT) and the Lucas County Land Reutilization Corporation (Land Bank) to maximize the potential benefits for residents in neighborhoods of color. The intent of those involved is to have the greatest positive impact on neighborhood stabilization and revitalization, while also addressing and counteracting the discrimination that neighborhoods of color have suffered. The following is a description of these partnerships in greater detail.

TFHC Partnership with ACT

ACT’s mission statement is “[t]o assist people with disabilities to live, work and socialize within a fully accessible community.”

Grant Details: ACT received a \$100,000 grant from TFHC. Whenever possible, ACT intends to use matching funds to expand services to a greater number of residents in targeted neighborhoods. These funds allow for the expansion of ACT’s home modification programs. This includes improvements and upgrades made to homes for homeowners who would otherwise be forced to give up their independence and reside in a nursing facility or other non-residential housing option.

Status: ACT has completed 28 projects and has used \$63,928.01 of the total grant dollars. ACT is currently processing 10 projects. All projects have been either in the MLK Designated Census Tracts or Census tracts with over 50% communities of color. ACT is making contact with each participant after project completion to write a story. All projects are completed, to the maximum extent feasible, with the Americans with Disabilities Act Accessibilities Guidelines and the Ohio Residential Building Code.

Success Stories:

- 2315 Fulton Street, 43620: The homeowner is a 65 year old African American female, living alone with a physical disability. Grab bars were installed in the bathroom to help her maintain her independent living.



- 928 Buffalo Street, 43604: The homeowner is a physically disabled 77 year old female who wanted to transition from the nursing home to her own home. Homeowner received an aluminum ramp and a new wider front door. The entry was modified to accommodate her wheelchair.



- 902 Blum Street, 43607: The homeowner is a physically disabled, 52 year old male, who needs a cane when walking. The homeowner requested that the front steps to his home be repaired and sturdy handrails be installed. Work was completed April 8th, allowing the homeowner to maintain his independence and safety.

ACT's Plan of Action: ACT will work with their Marketing and Public Relations Departments to create and share success stories, when permissible. ACT will place these narratives and pictures on the ACT website and facebook page.

Additionally, ACT has created a flyer to increase public awareness of the additional services available due to the grant from TFHC and the MLK Inclusive Communities Program. The target groups for this flyer are the senior and community centers located within the predominantly minority, low-to-moderate income census tracts.

TFHC Partnership: The Land Bank

The Land Bank's mission statement is "[t]o collaborate with neighborhood partners, developers, and localities to improve the quality of neighborhoods, increase land values, create diverse housing opportunities, and return properties to the tax rolls by promoting real estate redevelopment and blight elimination of vacant, abandoned, and underutilized properties through an open and equitable process."

Grant Details: The Land Bank received two (2) grants from TFHC.

1. The Land Bank received a \$700,000 grant from TFHC and will provide an additional \$700,000 in matching dollars over the next two years to fund a roof replacement program, which caps individual roofing grants at \$10,000 maximum per approved household



The flyer is titled "Neighborhood Roofing Replacement Program" and is sponsored by the Lucas County Land Bank & the Toledo Fair Housing Center. It features three images: a new roof, a damaged roof, and a roof repair. The text asks "Does your old roof need to be replaced?" and explains that the program could help. It states that the Lucas County Land Bank and the Toledo Fair Housing Center have partnered to make \$10,000 roof replacement grants available to eligible homeowners in target neighborhoods. If interested, applicants should complete the application. The "Application Packet" includes: Program Eligibility Guidelines, Program Area Maps, Area Median Income (AMI) Chart, Frequently Asked Questions, Roof Replacement Application, Income and Residency Affidavit, Application Consent & Authorization, Application Checklist, and Application Instruction Sheet. The "Applications Due" date is MAY 9, 2014. The flyer also lists contact information for three program areas: Program Area I (United North, ONE Village Financial Opportunity Center, 2860 Lagrange Street, Toledo, Ohio 43608, 419-724-5640), Program Area II (Lutheran Social Services of NWO Crossroads Family Resource Center, 4543 Douglas Road, Toledo, Ohio 43613, 419-475-3258), and Program Area III (Northwest Ohio Development Agency, 432 N. Superior Street, Toledo, Ohio 43604, 419-243-3734, Ext. 42). The Lucas County Land Bank logo is at the bottom.

Status – Roof Replacement Program The Land Bank has received 132 applications, 64 have been approved, 68 have been denied, 5 are pending and 59 have been complete for approval. A total of 57 contracts have been paid to date and 77% are those total contracts are from Minority Owned Businesses.

2. A \$250,000 grant was provided to fund the “Neighborhood Vacant-to-Occupied Rehab Program”. The MLK Committee who oversees this grant decided to do away with this program and reallocate the money toward Roof Replacement grant.

Homeowners who are not recommended for a total roof replacement, but rather a roof repair or other maintenance issue(s), are referred to Northwest Ohio Development Agency (NODA).

Through NODA, the applicant can enroll in the Individual Development Account (IDA) Program. In this program, the applicant can learn

the benefits of financial planning and, with qualified deposits, begin to save the money needed for home repairs and other unexpected expenses, with NODA matching the funds.

The MLK Inclusive Communities Committee will not recommend homes that are inspected and found to have structural issues or major repair or replacement problems for a grant. These homeowners will be referred to NODA to discuss housing options.

Additionally, NODA and Financial Opportunities Center (FOC) have entered into contracts with the Land Bank to provide qualified applicants with financial education and counseling, which is a requirement of the grant program.

Outreach: The Land Bank created an application packet and cover flyer for applicants with step-by-step instructions, including frequently asked questions and the specific qualifications required for program participation.

Funds that TFHC is Utilizing

TFHC’s mission statement is: “The Fair Housing Center is a non-profit civil rights agency dedicated to the elimination of housing discrimination, the promotion of housing choice, and the creation of inclusive communities of opportunity. To achieve our mission, the Center engages in education and outreach, housing counseling, advocacy for anti-discriminatory housing policies, research and investigation, and enforcement actions.”

Grant Details: TFHC will utilize the remaining \$460,000 to fund its emergency mortgage assistance program, the MLK Inclusive Communities Program, over the next two years. This program will provide approved homeowners a grant to bring their mortgage payments or property taxes current (\$5,000 maximum) or to qualify for the lien elimination program (\$10,000 maximum). Homeowners must prove residency in a targeted census tract, compliance with income guidelines (120% AMI), and successful completion of the financial education program, “Back on Track.”

Status: The MLK Inclusive Communities Program is going strong, with referrals from other agencies, the Auditor’s Office, the court magistrate, and unemployment office, to name a few. TFHC receives approximately 7 – 10 potential applications per week. The vast majority of applicants have learned of the program through word of mouth and TFHC’s outreach activities. To date, TFHC has awarded over forty homeowners grants through this program.

"MLK-Inclusive Community Program" as of 11.30.14	
<i>Program Type</i>	<i>Amount</i>
Mortgage Payment Assistance	\$ 50,608
Lien Cancellation Program	\$ 50,512
Property Tax Delinquency Resolutions	\$ 44,185
Homeowner Insurance Premium Payments	\$ 12,591
Total Program Dollars Awarded	\$ 157,896

Success Stories

- 3421 Polk Place, 43608: The homeowner is a single, African American mother, who



experienced an involuntary reduction in income, and as a result, her mortgage became delinquent. The principal balance was almost \$53,000. TFHC's Foreclosure Prevention Specialist contacted the mortgage servicer, and it agreed to accept the \$10,000 grant and provide

the homeowner with lien elimination. This homeowner has realized a monetary benefit of over \$111,600 as a result of this program (see press conference summary below).

- 532 Winfield Road, 43610: The homeowner is a single, African American female who experienced an involuntary reduction in income and, as a result, became three months delinquent on her mortgage. The homeowner was able to gain additional income, but could not cover the three month mortgage arrearage. After successful completion of the requirements of the MLK Program, including a positive cash flow and financial counseling, TFHC sent \$1,396 to the mortgage servicer to bring the mortgage current.
- 826 Evesham Avenue, 43607: The homeowner is a divorced, African American female whose mortgage became delinquent due to medical bills. The principal balance was \$72,845. TFHC contacted the mortgage servicer, which agreed to accept \$15,000 to provide the homeowner with lien elimination. The MLK Program provided a \$10,000 grant, and the homeowner provided the remaining \$5,000. As a result of the lien cancellation, the homeowner has realized a monetary benefit of \$60,087.

Advertising, Outreach, and Press Coverage: The TFHC's MLK Inclusive Communities Program was the subject of several news articles, newsletters, and one press conference.

- News Conference: The press conference took place in front of the home of the first MLK Program grant recipient on April 9, 2014. Michael Marsh, President and CEO of the Toledo Fair Housing Center, opened the conference with the background of the housing complaint filed by the National Fair Housing Alliance and 13 other fair housing organizations, the settlement agreement negotiated with Wells Fargo, and TFHC's plans for the awarded funds. Other speakers included Wade Kapszukiewicz, Lucas County Treasurer and Chairman of the Lucas County Land Bank, and Ash Lemons, Director of Housing and Advocacy of the Housing Resource Center at the Ability Center of Greater Toledo. Renea' Wilson, Director of Foreclosure Prevention at TFHC, spoke about the emergency mortgage assistance programs available as a result of the Wells Fargo settlement. The high-point of the conference was the presentation of the cleared title to the homeowner and the gratitude that she expressed, both to TFHC and to her Foreclosure Prevention Specialist, Susan Jester. Below is the homeowner's narrative of her experience while working with the Toledo Fair Housing Center:

My name is Cheryl Riley and I am so grateful and blessed to have been chosen for this program. After being rejected from other programs and not knowing what to do or where to turn the Toledo Ohio Fair Housing Program introduced me to the Wells Fargo Plan. It was with their guidance and knowledge of the Ohio housing laws that not only allowed me to remain in my home but to also have my home paid off. To those who are still facing difficulties and don't know where to turn to contact your local housing assistance program right away. There are different programs to help resolve your housing issues but you must continue looking for the right program for you.

Please, don't stop until you get results. Realize that NO can sometimes mean YES in a different program. So please continue until you find the right one for you because the devil is a LIE, he has no victory.

Remember there is hope just keep praying and believing that there is a breakthrough for you. It may not come when you want it but God is always on time.

GOD Bless,
Cheryl Riley

News Article: Press coverage included the Toledo Journal, whose circulation is estimated at 44,000 households per week. Below is the article that appeared on the front page of the April 16, 2014 issue:

Over one million dollars available to minorities affected by mortgage crisis

By Journal Staff Writer

Although the predatory lending that caused the recent great recession of the mid 2000s is over in main stream media outlets, the residual economic effects are still being felt by minority homeowners throughout the country and in Toledo.

Michael Marsh, president and CEO of the Toledo Fair Housing Center, along with the Lucas County Land Bank and the Ability Center of Greater Toledo announced a \$1.4 million dollar community relief program geared towards minority residential areas of Toledo. This press conference took place on Wednesday, April 9, in front of the home of Cheryl Riley. Ms. Riley's home was just recently saved due to the recent initiative, and she's the first recipient of the program which started January 1, 2014.

Through a grant from the U.S. Department of Housing and Urban Development, he Toledo Fair Housing Center, with the National Fair Housing Alliance, NFHA, and other fair housing organizations, launched an investigation of Wells Fargo's Real Estate Owned foreclosed properties. The investigation found that the



Michael Marsh explains to the various housing agencies and media outlets gathered how the money will benefit those discriminated against by Wells Fargo. Standing next to him is Cheryl Riley, the first recipient of a program geared toward helping minorities with their mortgages or paying back taxes.

giant property banking owner, not only did a better job of maintaining and marketing their properties in predominantly white neighborhoods, but it allowed it's properties in urban areas to be neglected.

"Urban neighborhoods were the first to be targeted by predatory lenders in the late 1990's,

neither many government agencies nor the media outlets wanted to believe what we were explaining," Mr. Marsh said.

He continued by saying, "Mostly, people of color were being hit with high interest's rates, hidden fees and costs within their home loans. It wasn't until predatory lending

practices started moving into the suburbs, where predominantly white people lived, when majority communities started receiving and reading news media coverage," Mr. Marsh said.

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Housing

Continued from page 1

The \$27 million dollar settlement to the NFHA will benefit 19 cities around the country in communities of color to promote home ownership, neighborhood stabilization, and property rehabilitation.

In addition to the \$1.4 million dollars available locally through the class action law suit, Wells

Fargo will pay an additional \$3 million to NFHA and 13 fair housing organizations throughout the country. They're committing \$300,000 for the two national housing conferences, and \$250,000 to NFHA and local fair housing centers to hold seminars, and address delinquencies and foreclosures.

The Toledo Fair Housing Center is providing \$700,000 to the Lucas County Land Bank, which will match those funds. In turn, the Land Bank will provide an additional \$250,000, which will fund a neighborhood vacant, to occupied rehab housing program.

An additional \$100,000 will be given to the Ability Center of Greater Toledo for a home accessibility modification program. The

grant will provide ramps for the dis-abled and other disability related modifications to homes.

Mr. Marsh went on to explain that Wells Fargo isn't the only bank guilty of fair housing violations. A similar complaint has been filed against Safeguard, the largest home preservation company in the United States, whose headquarters is located in Ohio.

Bank of America, U.S. Bank and others are also

facing similar charges.

Due to the fact that many of the foreclosure prevention programs are coming to an end, Toledo Fair Housing Center's Renea Wilson, director of Foreclosure Prevention, created a grant program that will assist homeowners with their mortgages or back taxes.

Cheryl Riley was the first in Lucas County to be a recipient of the program.

Ms. Riley, a para-professional for Toledo Pub-

lic Schools, said she was behind on her taxes when a family member told her to contact Toledo Fair Housing Center about the newly created program.

"I'm so blessed and thankful for the Fair Housing Center. I would encourage anyone facing similar problems to contact them," she said.

For more information about the various grants available to homeowners, call the Toledo Fair Housing Center at 419-243-6163 ext.33.

Conclusion

As our nation and Toledo continue to recover from a devastating housing crisis, families and neighborhoods of color are in danger of being left behind because of discriminatory practices in the housing and banking industries. The poor maintenance, marketing, and securing of REO properties in communities of color by banks and property management companies will inhibit the recovery and stabilization of these families and neighborhoods.

As this report demonstrates, TFHC, NFHA, and its partners have continued to find that properties in communities of color are not maintained to the same extent and in accordance with the same quality standards as those in predominantly white communities. REO properties in communities of color continue to be more likely to have trash, overgrown grass and shrubbery, and to have boarded and broken windows. Their owners are not marketing them with professional “For Sale” signs. Instead, they are promoting their disposition as distressed or dangerous properties by placing more “No Trespassing” and “Foreclosure” or “Auction” signage on them than that which they place on REO properties in white neighborhoods. Properties in communities of color appear and are neglected and deteriorating, which drives down the sale price of the surrounding properties if they are, in fact, ever sold and shepherds in investor purchasers rather than homeowners, thus further destabilizing these neighborhoods.

Advocates, government, and, ultimately, the housing and lending industries themselves must stop and reverse this behavior through drastic changes in the practices of the banking industry such as those that appear in the recommendations section of this and NFHA’s reports. Banks and their vendors must have a deep understanding of the Fair Housing Act and their liability under the law during the ownership and management of REO properties. Banks and other owners should utilize a local, diverse vendor pool for the maintenance and marketing of their REO properties. REO property owners must also manage vendors with clear expectations and improved quality control standards and mechanisms. Owners and other responsible parties should regularly review their policies and practices for the treatment of and impact on neighborhoods of color in order to identify and address discriminatory behavior. Federal regulators, local governments, and local community groups must remain ever-vigilant to hold banks, the GSEs, and property management companies accountable for their actions with regard to REO ownership and management.

Banks must begin now to reform their REO disposition practices, work with fair housing and community groups, and comply with the Fair Housing Act. If such changes transpire, the potential for communities across the country and those in Toledo to recover and once again be able to celebrate vibrant, stable, and integrated communities will greatly improve. If banks and other owners fail to act immediately and affirmatively address and counteract this discrimination, they face the consequences of protracted administrative and legal proceedings that will demand compensation and remedies for neighborhoods suffering their practices.

INSURANCE

Recent insurance complaints and concerns have involved:

- Marketing and access to insurance agents. Offices continue to be located primarily in predominately white neighborhoods and suburbs.
- Access to insurance products. The Toledo Fair Housing Center is still receiving complaints indicating that customers in predominately African American and integrated neighborhoods are being denied replacement cost coverage due to discriminatory underwriting criteria such as the age of the dwelling or the purchase price. Other customers with homes in integrated and minority neighborhoods have complained that insurance companies have not returned their phone calls or kept scheduled appointments.
- Insurance companies are using credit and insurance scores to price insurance. Some companies appear to be using credit as an excuse to price lines of insurance so expensively that customers can no longer afford them. FHC complainants have resided largely in minority and predominately African American areas.
- Non-renewal and cancellation of existing policies of long-standing customers in minority neighborhoods. Housing condition criteria has been more strictly enforced in minority neighborhoods than predominately white neighborhoods. Some insurance companies have not allowed homeowners an opportunity to correct condition concerns before taking punitive action.
- Non-payment of claims.
- Discontinuation of entire lines of insurance. In situations in which minority customers have been historically segregated into particular lines of insurance, this can have a discriminatory effect.
- Some insurance companies do not give enough time for homeowners to make the repairs before cancelling and/or non-renewing property insurance.
- Homeowners experience increasing premiums without warning or explanation.
- Applying stricter standards for claim payments in minority neighborhoods. For example, some insurance companies delay payment in minority neighborhoods, appear to require more vigorous investigation of claims for residents in minority neighborhoods, and even subject homeowners to lengthy depositions prior to payment.
- Homeowners need to understand their insurance policies, especially before switching to another company that initially offers lower premiums. Shortly after switching, homeowners are being told certain repairs have to be made, which can be costly and jeopardize coverage.
- Habitational insurance concerns. “Habitational” insurance refers to property and liability coverage for multi-family apartment buildings. Some habitational insurance policies prohibit coverage for properties with Section 8 voucher holders, cap Section 8 residents to a certain percentage of all tenants, e.g. 25%, and/or charge higher premiums on properties at which Section 8 voucher-holders reside. Such policies may have a disparate impact on people of color, families with children, women, and persons with disabilities. TFHC is partnering with NFHA to assist in the developing investigations of the habitational insurance industry. This partnership has two objectives: 1) to develop knowledge about insurance companies that may be implementing “no Section 8” policies; and 2) to identify potential complainants who have been subject to such potentially discriminatory policies, which might take the form of asking

some survey questions, working with housing providers to evaluate their insurance coverage, and developing cases with NFHA.

Although participants in the public forums for this study mainly focused on financial, educational, and credit issues that can affect one's ability to obtain insurance and or achieve homeownership, previous responses from Center staff that address the question regarding barriers to someone's ability to insure housing are valuable to echo. Therefore, responses to the question "What barriers do you see in the housing market that would impede someone's ability to rent, purchase or insure housing?", as provided by the Center's staff, are included below.

- Insurance companies are limiting access to insurance that is actually sufficient to rebuild a house in a number of ways, including the following:
 - Many agents do not disclose the full assortment of policies available to prospective customers, often quoting inferior policies in integrated and minority neighborhoods.
 - Some insurance companies are using the age of a house to restrict or deny coverage. (This puts homeowners and communities with older housing stock, such as Toledo, at risk).
 - Some insurance companies are using the market value of a house to restrict coverage.
 - Insurance companies are using credit scores to price premiums, with some companies having up to 20 levels of pricing for the same amount of coverage. This can make adequate insurance unaffordable for homeowners who have credit blemishes.
 - The absence of insurance that is both affordable and available at levels of coverage adequate to rebuild in minority neighborhoods has been a historic problem. Since many residents have had the same insurance company for decades, past discriminatory limitations may have gone without rectification.
- Refusal to deal with insurance customers in integrated and minority neighborhoods.
 - Some agents do not return phone calls or provide quotes to residents in integrated and minority neighborhoods.
 - Some agents do not keep scheduled appointments to write insurance in integrated and minority neighborhoods.
- There is less marketing to residents in integrated and minority neighborhoods.
 - Few agents locate offices in integrated and minority neighborhoods.
 - Agents often "farm" or market to middle and upper income clientele and do not seek out business in low and moderate income areas. This can have a racially discriminatory impact.
- Non-renewal and cancellation of existing policies in integrated and minority neighborhoods.
 - Some insurance companies are conducting proportionally more condition inspections in integrated and minority neighborhoods than white neighborhoods.
 - Some insurance companies are cancelling and non-renewing properties due to condition without providing the homeowner with the opportunity to correct the condition.
 - Some insurance companies are not renewing and/or cancelling policies for minor condition issues.
- Nonpayment of claims. Some insurance companies are not paying customer claims and/or unfairly delaying payment.

- Discontinuation of entire lines of insurance which have historically insured homes in central city neighborhoods.

Finally, the Center's staff desires to emphasize the pressing need for better education of consumers as well as the community leaders, organizations, professionals and others who serve them. By expanding awareness of the rights of those seeking and/or possessing coverage and the policies and practices of homeowners' insurance providers, communities and their residents will be empowered, and insurance providers will be less likely to continue discriminatory practices unobstructed. This is essential both because misconceptions and/or ignorance persist and because the inability to acquire sufficient coverage has very real implications for the individuals, families and entire neighborhoods who must suffer the consequences.

While some may believe that insurance providers only tend to deny adequate coverage to older housing that is in disrepair, the experience of the Center has corroborated that even homeowners of beautifully maintained homes are being refused satisfactory policies due to the age of the structure. Additionally, consumers who have insurance have found that the policy the provider sold to them as replacement coverage was actually not enough to rebuild their home.

For instance, one complainant thought she had enough homeowners insurance until her house suffered significant damage in a fire. This complainant discovered, through this unfortunate experience, that her \$90,000 policy on the three-bedroom home, which was valued at approximately \$40,000, was unable to cover the total cost of rebuilding (\$136,000). As the complainant was retired, she lacked disposable funds sufficient to pay for the costs of replacing her home, and, therefore, the house simply had to be torn down. Such situations only demonstrate further the dire need for improved education concerning homeowners insurance.

LENDING ISSUES

Discussion of today's lending issues without acknowledging the recent real estate and financial crises that the global market experienced would be imprudent. While the collapse of the subprime market is the straw that broke the camel's back, the groundwork of the subprime meltdown and subsequent foreclosure crisis was being laid over half a century ago as World War II was winding down and our nation's servicemen were returning home in droves. During this time period, commonly used underwriting criteria devalued or refused to insure integrated, minority, or older housing stock-rich neighborhoods and set the groundwork of federal guidelines for FHA and VA loans (the same guidelines which were later seamlessly absorbed into private market practices). The refusal to extend credit to low-income communities of color became known as "redlining" due to the red lines drawn on property maps that indicated "hazardous" (no loan) areas. Because the origination of loans was not occurring in minority neighborhoods, many banks saw no need to build and maintain bank branches in minority communities either. This absence, in turn, opened up the floodgates for high-cost credit institutions (such as payday lenders, rent-to-own merchants, check cashing services, and, most recently, brokers dealing in subprime home loans) to move in.

Not only did communities of color suffer because of the lack of safe, affordable access to credit, but they also were deprived of the benefits that fair and competitive credit institutions foster, not the least of which are options and choice. Unfortunately, when multiple suitors did come calling, it wasn't the fair and competitive lenders, but instead the oftentimes unscrupulous subprime mortgage brokers who saw equity-rich homeowners in need of cash, and the brokers were more than willing to provide it. Suddenly, minority communities were saturated with offers to help them pay off their credit card debt, pay off medical expenses, or help with home repair costs. No one bothered to explain to the homeowners that they were exchanging unsecured debt with debt they were now securing with their homes. The new phenomenon was given the term "reverse redlining" and the subprime boom was off and running on all cylinders.

For several years, brokers made enough money in minority neighborhoods to keep them happy. This was accomplished by a number of tactics, including: flipping loans, over-appraising properties, creating new loan products such as "interest only" loans, "no-doc" loans, ARMS, balloon payments, pre-payment penalties etc. Many of these tactics made it easier to qualify borrowers who would not have qualified for a loan before. As property values continued to climb, unlimited access to capital into which the nation's homeowners could tap appeared to exist. While the brokers and sub-prime lenders continued to enjoy substantial profits, the conventional lenders decided it was time for them to benefit from such gains as well, and the risky (and oftentimes predatory) lending that had started in minority neighborhoods years before soon branched out to the entire city, suburbs and rural parts of the country.

The effects of deregulation, predatory lending, the subprime meltdown, greed, fraud, and abuse were made evident every time another house was lost to foreclosure. Unfortunately, significant inequality still persists among consumers on the basis of race and ethnicity, and many of the policies and practices that were the origin and foundation of the financial and foreclosure crisis are appearing once again. As the data and discussion below will demonstrate, redlining, the

absence of bank branches, appraisal issues, and other forms of systemic discrimination persist in the lending sphere. African Americans and Hispanics continue to trail considerably behind Caucasians in the acquisition of prime and conventional financing.

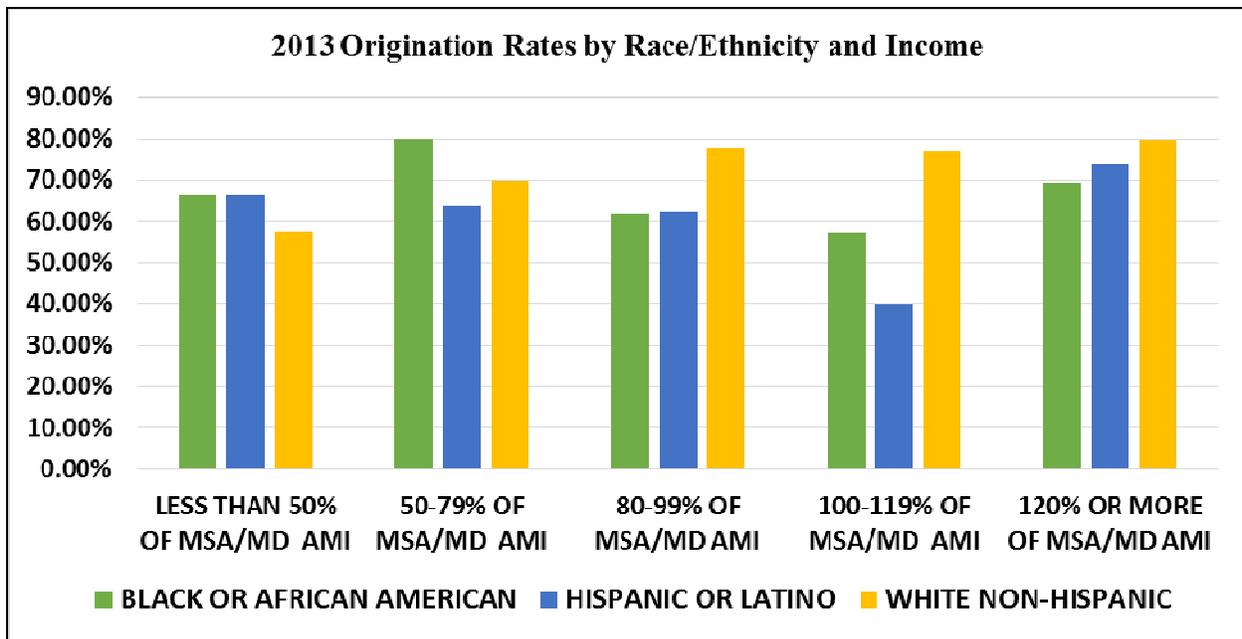
An analysis of 2013 HMDA data for the Toledo MSA reveals that origination rates for conventional home-purchase loans for 1- to 4-family and manufactured home dwellings for Hispanics (64.62%) and African-Americans (68.47%) are substantially lower than those for White, non-Hispanic consumers (75.84%). These loans' denial rates for African-Americans (17.12%) and Hispanics (12.31%) were also higher than that of White, non-Hispanic consumers (10.91%).

In 2013, the HMDA data reveals that in the Toledo MSA, among very low-income applicants (those making less than 50% of the area median income), 66.67% of African-American (8 out of 12 applications) and Hispanic (4 out of 6 applications) and 57.53% of White non-Hispanic (172 out of 299 applications) applicants were approved with loans originated.¹²⁵ Nevertheless, the average loan amount for White, non-Hispanics (\$57,215) was significantly higher than that for African-American (\$50,500) and Hispanic (\$38,250) applicants.

As the income categories rise, the origination rates rise fairly consistently for White, non-Hispanic applicants. However, the origination rates do not rise consistently for African-American or Hispanic applicants. The following graph displays the origination rates for the 5 different income groups delineated by the Federal Financial Institutions Examination Council.

Additionally, the percentage of loans for Hispanics (9.23%) and African-Americans (6.31%) that are "Approved, But Not Accepted" is significantly higher than the rate for White, non-Hispanic (3.79%) consumers, which may suggest that a larger percentage of loans offered to African-Americans and Hispanics have loan terms that are not acceptable to them. This often occurs when the lender is only willing to offer a loan for an amount that is less than what the consumer wishes or for terms that are other than what the consumer desires. According to the 2013 HMDA data, there were 5,056 conventional home purchase loan applications for 1- to 4-family and manufactured home dwellings in the Toledo MSA. Of those, 83.92% were from White, non-Hispanic applicants, 8.62% were from applicants whose race was not determined by the lender, 2.2% were from Black applicants, .87% were from joint White/Minority applicants, 1.29% were from Hispanic applicants, 1.64% were from Asian and Native Hawaiian and other Pacific Islanders, and .16% were from American Indians or Alaskan Natives.

¹²⁵ AGGREGATE TABLE 5-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS, 1 TO 4 FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2013 HMDA Data for MSA/MD: 45780 - TOLEDO, OH



These figures demonstrate discouraging figures for certain racial and ethnic minority groups. For example, while 16.2% of the Toledo MSA population who identified as Black or African-American as a single race or in combination with other races (according to the 2013 American Community Survey 3-Year Estimates), they only accounted for 2.2% of the total loan applications.¹²⁶ Although Hispanics represented 6.2% of the Toledo MSA population, they only comprised 1.29% of total loan applicants.¹²⁷ Furthermore, Blacks only received 76, or 2.03%, of the total loans originated, and Hispanics received 42, or 1.12%, of the total loans originated.¹²⁸ Comparatively, whites represented 75.7% of the MSA population (“white alone”), submitted 83.92% of the loan applications and received 85.84% of loans originated. Asians (alone or in combination with other races) comprised 2.0% of the MSA population, completed 1.56 % of the loan applications and received 1.57% of the loans.

	Conventional Loan Applications (% of Totals)			% of MSA population
	Received	Originated	Denied	
Black	2.2	2.03	3.18	16.2
Hispanic	1.29	1.12	1.34	6.2
White	83.92	85.84	81.10	75.7
Asian	1.56	1.57	0.50	2.0

¹²⁶ This is even more troubling than the figures observed in the previous AI – “while 13.6% of the Toledo MSA population who identified as Black or African-American as a single race or in combination with other races (according to the 2008 American Community Survey 1-Year Estimates), they only accounted for 3.94% of the total loan applications.”

¹²⁷ This is also more troubling than the figures observed in the previous AI – “Although Hispanics represented 5.2% of the Toledo MSA population, they only comprised 2.2% of total loan applicants.”

¹²⁸ These figures are also more troubling – “Furthermore, Blacks only received 111, or 3.21%, of the total loans originated, and Hispanics received 52, or 1.5%, of the total loans originated.”

Application Outcomes and Percentages by Race and
Ethnicity¹²⁹

RACE / ETHNICITY	Applications Received	Loans Originated	% of Applications Originated	Approved but not accepted	Applications Denied	% of Applications Denied	Applications Withdrawn	Files Closed for Incompleteness
AMERICAN INDIAN/ ALASKA NATIVE	8	6	75.00%	2	0	0.00%	0	0
ASIAN	79	59	74.68%	8	3	3.80%	7	2
BLACK OR AFRICAN AMERICAN	111	76	68.47%	7	19	17.12%	9	0
NATIVE HAWAIIAN/ OTHER PACIFIC ISLANDER	4	3	75.00%	1	0	0.00%	0	0
HISPANIC OR LATINO	65	42	64.62%	6	8	12.31%	6	3
WHITE NON-HISPANIC	4243	3218	75.84%	161	463	10.91%	363	38
TOTAL	5056	3749	74.15%	218	598	11.83%	432	59

	Race / Ethnicity						TOTAL
	AMERICAN INDIAN/ ALASKA NATIVE	ASIAN	BLACK OR AFRICAN AMERICAN	NATIVE HAWAIIAN/ OTHER PACIFIC ISLANDER	HISPANIC OR LATINO	WHITE NON-HISPANIC	
Applications Received	8	79	111	4	65	4243	5056
	0.16%	1.56%	2.20%	0.08%	1.29%	83.92%	100.00%
Loans Originated	6	59	76	3	42	3218	3749
	0.16%	1.57%	2.03%	0.08%	1.12%	85.84%	100.00%
Approved but not accepted	2	8	7	1	6	161	218
	0.92%	3.67%	3.21%	0.46%	2.75%	73.85%	100.00%
Applications Denied	0	3	19	0	8	463	598
	0.00%	0.50%	3.18%	0.00%	1.34%	77.42%	100.00%
Applications Withdrawn	0	7	9	0	6	363	432
	0.00%	1.62%	2.08%	0.00%	1.39%	84.03%	100.00%
Files Closed for Incompleteness	0	2	0	0	3	38	59
	0.00%	3.39%	0.00%	0.00%	5.08%	64.41%	100.00%

¹²⁹ 2013 HMDA DATA, AGGREGATE TABLE 4-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT

**MODIFIED AGGREGATE TABLE 7-2: DISPOSITION OF APPLICATIONS FOR
CONVENTIONAL HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND
MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS
TRACT IN WHICH PROPERTY IS LOCATED, 2013**

TYPE OF CENSUS TRACT	Applications Received	Loans Originated	Applications Approved but not Accepted	Applications Denied	Applications Withdrawn	Files Closed for Incompleteness
	Number	Number	Number	Number	Number	Number
RACIAL/ETHNIC COMPOSITION						
LESS THAN 10% MINORITY	2583	1968	99	282	203	31
10-19% MINORITY	1858	1397	70	194	175	22
20-49% MINORITY	448	299	28	81	36	4
50-79% MINORITY	146	77	21	35	11	2
80-100% MINORITY	21	8	0	6	7	0
INCOME CHARACTERISTICS						
LOW INCOME	48	15	2	21	9	1
MODERATE INCOME	319	186	40	66	22	5
MIDDLE INCOME	2084	1519	78	303	158	26
UPPER INCOME	2605	2029	98	208	243	27
INCOME & RACIAL/ETHNIC COMP						
LOW INCOME						
LESS THAN 10% MINORITY	0	0	0	0	0	0
10-19% MINORITY	0	0	0	0	0	0
20-49% MINORITY	12	1		9	1	1
50-79% MINORITY	19	8	2	8	1	0
80-100% MINORITY	17	6	0	4	7	0
MODERATE INCOME						
LESS THAN 10% MINORITY	13	8	0	2	3	0
10-19% MINORITY	42	35	0	3	2	2
20-49% MINORITY	149	80	21	36	11	1
50-79% MINORITY	111	61	19	23	6	2
80-100% MINORITY	4	2	0	2	0	0
MIDDLE INCOME						
LESS THAN 10% MINORITY	953	698	37	147	56	15
10-19% MINORITY	828	595	34	116	74	9
20-49% MINORITY	287	218	7	36	24	2
50-79% MINORITY	16	8	0	4	4	0
80-100% MINORITY	0	0	0	0	0	0
UPPER INCOME						
LESS THAN 10% MINORITY	1617	1262	62	133	144	16
10-19% MINORITY	988	767	36	75	99	11
20-49% MINORITY	0	0	0	0	0	0
50-79% MINORITY	0	0	0	0	0	0
80-100% MINORITY	0	0	0	0	0	0
TOTAL	5056	3749	218	598	432	59

In its March 2013 report, *Racial & Ethnic Disparities in 2011 Ohio Mortgage Lending*, staff at the Housing Research & Advocacy Center (HRAC) investigates mortgage lending applications and originations in 2011. The publication features analysis of 2011 HMDA data¹³⁰ on the state as

130 Congress enacted the Home Mortgage Disclosure Act (HMDA) in 1975, which requires certain banks, savings associations, and credit unions to submit information regarding their lending activity to their respective regulatory agencies. The Federal Financial Institutions Examination Council (FFIEC) examines this data, prepares tables reflecting the level of lending in

well as Metropolitan Statistical Area (MSA) levels. In particular, HRAC analyzes data for the MSAs of Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown (the seven largest Ohio MSAs) to uncover the existence of any “racial and/or ethnic disparities in who is denied mortgage loans and, for those who obtain loans, who receives ‘high-cost’ loans.”¹³¹

As the report observes,

Statewide, the overall number of home purchase and refinance lending originations decreased significantly over the last five years, from 774,401 loan originations in 2007 to 236,435 in 2011, a 69.47% decrease. Although members of all racial groups received fewer loans, the 2011 data reveal continuing disparities in mortgage lending in Ohio based on both race and ethnicity. In particular, African Americans and Hispanics continue to have limited access to fair and equal credit. Both racial and ethnic groups faced higher denial rates and high-cost lending rates than Whites in the state of Ohio and in almost all of the MSAs that the Housing Center studied.

In 2011, African Americans in Ohio were denied home purchase loans 27.04% of the time, compared to 19.20% for Hispanics, 17.33% for Asians, and 14.83% for Whites. For refinance loans, African Americans were denied loans 53.28% of the time, compared to 41.85% of the time for Hispanics, 28.68% for whites, and 19.23% for Asians.

Statistics are similar for high cost loans. In the state of Ohio, African Americans received high cost home purchase loans at the highest rate (8.43%), followed by Hispanics at 6.85%, Whites at 5.51%, and Asians at 1.81%. For high cost refinance loans, African Americans received the highest rate at 6.74%, followed by Hispanics at 4.52%, Whites at 3.00%, and Asians at 0.99%.

The results of the analysis of mortgage lending presented in this report reveal the same disturbing pattern that has been found in every study conducted by the Housing Center on racial and ethnic disparities since 2006: in almost every MSA, African Americans were denied mortgage loans at disproportionate rates compared to whites and, when they did obtain loans, they received high-cost loans more often than whites. In addition, Hispanics were denied mortgage loans and obtained high-cost loans at greater rates than whites, although not at rates as high as African Americans. This data raises great concerns that African Americans and Hispanics/Latinos are not obtaining equal access to the mortgage lending market in Ohio compared to whites.

The excerpted pages from the study that follow demonstrate the disparities that the HRAC noted for the Toledo MSA in its analysis of the 2011 HMDA data.

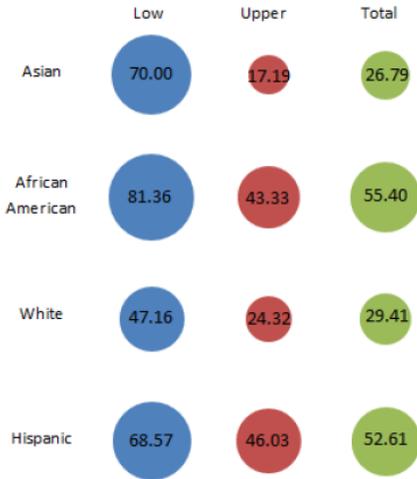
individual geographical areas and releases the HMDA data to the public. This information can be accessed via the FFIEC website located at www.ffiec.gov.

¹³¹ Wells, Krissie and Ki-Duk Park. “Racial & Ethnic Disparities in 2011 Ohio Mortgage Lending.” Cleveland, OH: Housing Research & Advocacy Center, March 2013, accessible at <http://www.thehousingcenter.org/wp-content/uploads/2013/03/RED-Report-2013.pdf>.

Denial Rates of Refinance Loans

Figure 27 shows low-income African Americans were denied refinance loans at the highest rate (81.36%), followed by Asians (70.00%), and Hispanics (68.57%). Low-income white applicants were denied at a rate significantly lower than minority groups (47.16%). Upper-income Hispanics were denied at the highest rate in the category (46.03%) while upper-income Asians were denied at the lowest rate (17.19%).

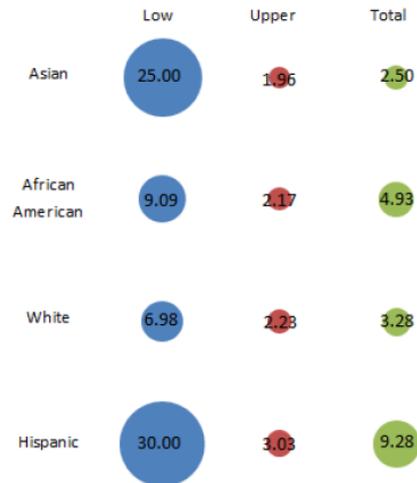
Figure 27. Refinance Denial Rates of Lower and Upper-Income Individuals, Toledo, 2011.



Rates of High Cost Refinance Loans

Figure 28 shows low-income Hispanics received the highest number of high cost refinance loans (30.00%) followed by Asians (25.00%). Upper-income borrowers received high cost loans at similar rates. Overall, Hispanics were given high costs loans the most often at 9.28%.

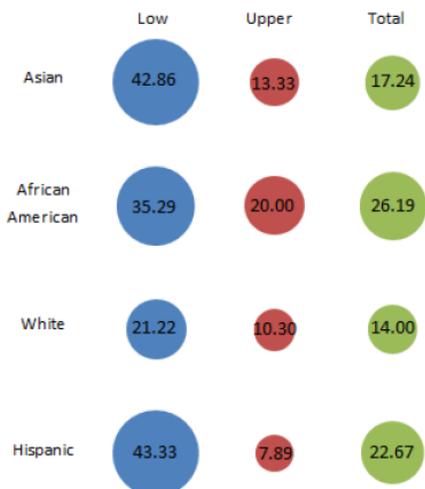
Figure 28. Refinance High Cost Rates of Lower and Upper-Income Individuals, Toledo, 2011.



Denial Rates of Home Purchase Loans

Figure 25 displays 2011 home purchase loan denial rates of lower and upper-income individuals sorted by race in Toledo. Low-income Hispanic applicants were denied at the highest rate (43.33%), followed closely by Asians (42.86%). Amongst upper-income individuals, African Americans were denied loans the most (20.00%) while upper-income Hispanics were denied the least (7.89%).

Figure 25. HP Denial Rates of Lower and Upper-Income Individuals, Toledo, 2011.



Rates of High Cost Home Purchase Loans

Figure 26 shows 2011 rates of high cost home purchase loans to low-income and upper-income borrowers. White low-income borrowers were given high cost loans at the highest rates of any race (11.22%) followed by African Americans at 10.34% and Hispanics at 6.25%. Among upper-income applicants, African Americans were given high cost loans at the highest rate (10.00%) followed closely by Hispanic borrowers (9.09%).

Figure 26. HP High Cost Rates of Lower and Upper-Income Individuals, Toledo, 2011.



The HMDA data also sheds light on the reasons for denials for conventional home purchase loans. According to Aggregate Table 8-2, the highest number of conventional home purchase loans were denied based on credit history. This was also the case with the data analyzed in the previous AI. The second most frequent reason for loan denial were issues with the collateral that would secure the loan. This means that either the property did not appraise high enough or there was some other issue concerning the collateral that did not meet the lender’s underwriting guidelines. The third most common reason for denial was an incomplete credit application. Unlike in 2009, a debt-to-income ratio that was too high was the fourth, as opposed to the second most frequent reason for denial. Finally, insufficient cash, other reasons, unverifiable information, employment history, and the denial of mortgage insurance were the remaining reasons for loan denials. The table that follows shows the number and percentage of denials based on reason for denial in decreasing rank order.

Reason for Denial	Number	Percent
Credit History	155	23.07%
Collateral	132	19.64%
Credit Application Incomplete	131	19.49%
Debt-to-Income Ratio	107	15.92%
Insufficient Cash	49	7.29%
Other	45	6.70%
Unverifiable Information	26	3.87%
Employment History	20	2.98%
Mortgage Insurance Denied	7	1.04%
Total	672	100.00%

The tables following show that very little pricing data exists for census tracts in the MSA characterized by lower-income residents and/or a substantial percentage of minorities. This makes an analysis of who and/or what types of neighborhoods are receiving higher cost loans exceedingly difficult. Nevertheless, these tables can show how such tracts account for a proportionally small percentage of loan applications and, especially, loans originated (i.e. between 2.05 and 3.30%). Finally, these tracts also suffer a far higher percentage of denials of loan applications. Whereas the percentage of total denials are nearly double the percentage of total applications in low-to-moderate income and substantially minority neighborhoods, the percentage of total applications exceeds the percentage of total denials that substantially white and higher income neighborhoods experience. When one reviews the HMDA data alongside the analysis of the Housing Research & Advocacy Center, the need for affordable, accessible, secure lending products in underserved communities becomes even more apparent.

TYPE OF CENSUS TRACT	Applications Received		Loans Originated		Applications Approved but not Accepted		Applications Denied		Applications Withdrawn		Files Closed for Incompleteness	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
RACIAL/ETHNIC COMPOSITION												
Substantially Minority (≥50%)	167	3.30%	85	2.27%	21	9.63%	41	6.86%	18	4.17%	2	3.39%
Not Substantially Minority	4889	96.70%	3664	97.73%	197	90.37%	557	93.14%	414	95.83%	57	96.61%
INCOME CHARACTERISTICS												
LOW INCOME	48	0.95%	15	0.40%	2	0.92%	21	3.51%	9	2.08%	1	1.69%
MODERATE INCOME	319	6.31%	186	4.96%	40	18.35%	66	11.04%	22	5.09%	5	8.47%
MIDDLE INCOME	2084	41.22%	1519	40.52%	78	35.78%	303	50.67%	158	36.57%	26	44.07%
UPPER INCOME	2605	51.52%	2029	54.12%	98	44.95%	208	34.78%	243	56.25%	27	45.76%
INCOME & RACIAL/ETHNIC COMP												
Low/Moderate Income and Substantially Minority	151	2.99%	77	2.05%	21	9.63%	37	6.19%	14	3.24%	2	3.39%
All Other Census Tracts	4905	97.01%	3672	97.95%	197	90.37%	561	93.81%	418	96.76%	57	96.61%
TOTAL	5056	100.00%	3749	100.00%	218	100.00%	598	100.00%	432	100.00%	59	100.00%

AGGREGATE TABLE 11 - 3: PRICING INFORMATION FOR CONVENTIONAL HOME-PURCHASE LOANS, FIRST LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING (EXCLUDES MANUFACTURED HOMES), BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2013											
CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE AVERAGE PRIME OFFER RATE: ONLY INCLUDES LOANS WITH APR ABOVE THE THRESHOLD							MEAN	MEDIAN
			1.50 - 1.99	2.00 - 2.49	2.50 - 2.99	3.00 - 3.99	4.00 - 4.99	≥5			
RACIAL/ETHNIC COMPOSITION											
LESS THAN 10% MINORITY	1606	43	28	7	1	6	1			2.07	1.77
10-19% MINORITY	1163	28	17	4	1	4	2			2.17	1.73
20-49% MINORITY	219	6	3	1		2				2.41	2.20
50-79% MINORITY	30	4	3	1						1.88	1.74
80-100% MINORITY	5										
INCOME CHARACTERISTICS											
LOW INCOME	12	1		1						2.44	2.44
MODERATE INCOME	94	6	5		1					1.86	1.74
MIDDLE INCOME	1135	43	29	7	1	5	1			2.03	1.77
UPPER INCOME	1782	31	17	5		7	2			2.28	1.77

Considering the attention that the Government-sponsored Enterprises (GSEs) attracted and their prominence in discussions regarding the mortgage market, economic decline and government intervention, mention of Fannie Mae and Freddie Mac in a section on lending is essential. Fannie Mae and Freddie Mac have become major players in the mortgage market, owning or guaranteeing roughly half of the nation's \$12 trillion in mortgages in the United States as of 2008.¹³² In September of 2008, owing to the financial crisis, the Bush administration took over the housing finance companies Fannie Mae and Freddie Mac after it determined that the companies did not possess capital sufficient to maintain the existing scope of their function in funding home mortgages. Treasury Secretary Henry M. Paulson Jr. devised a plan through which the government placed the two companies under "conservatorship," a legal state similar to that of Chapter 11 bankruptcy. As a result of Fannie and Freddie acquiring this status, the firing of the companies' boards and chief executives occurred, and the Federal Housing Finance Agency (FHFA) appointed replacement chief executives. This takeover represented "one of the most sweeping government interventions in private financial markets in decades." The reason authorities and government officials considered Fannie Mae and Freddie Mac to be so central to the recovery of the housing market resided in their funding 70 percent of mortgages in the months leading up to the decision. The government concluded that if a reduction in the funding and guaranteeing activities of the companies transpired, it may have had the potential to increase

¹³² Duhigg, Charles. "Loan-Agency Woes Swell From a Trickle to a Torrent." New York Times, 11 July 2008, accessible at <<http://www.nytimes.com/2008/07/11/business/11ripple.html?ex=1373515200&en=8ad220403fcdf6e&ei=5124&partner=permalink&exprod=permalink>>.

the rates that ordinary home buyers were paying so substantially that a further, deeper crisis could have taken place.¹³³

Information produced by the GSEs reveals similar patterns and raises additional concerns. GSE data reveals that quality capital made by entities such as Fannie Mae and Freddie Mac are less available to consumers in predominately African-American and Latino areas. In fact, the level of GSE lending in predominately African-American and Latino communities is significantly lower than the level of GSE lending in predominately Caucasian communities.

Healthy levels of GSE investment are more desirable because the GSEs, Fannie Mae and Freddie Mac, are not only regulated by HUD for safety and soundness, fair lending and other compliance issues, but Fannie Mae and Freddie Mac have adopted anti-predatory lending guidelines that place specific barriers on the type of loans they will purchase on the secondary market. These restrictions include innovative and progressive solutions to limiting the amount of predatory lending and are designed to weed out abusive loans.

According to the 2013 HMDA data, of the 4,202 applications for Lucas County, 1,054 loans were sold to Fannie or Freddie, and 1,714 of the applications did not result in a loan origination or were not sold in the calendar year covered by the register. Thus, of the 2,488 loans originated and/or sold, over 42% were already sold to Fannie or Freddie by the close of the calendar year covered by the register.¹³⁴

In addition to the loans that the GSEs purchase from lenders, the government also insures lending products.

Lucas County 2013 HMDA Data-Home Purchase Loans

	Total Apps.		Originated		(Orig./Apps.)	Denied		(Denied/Apps.)
	Number	%	Number	%	%	Number	%	%
Loan Purpose and Type								
Purchase - Conventional	2664	63.40%	1942	64.18%	72.90%	288	55.92%	10.81%
Purchase - Government	1538	36.60%	1084	35.82%	70.48%	227	44.08%	14.76%
Totals	4202	100.00%	3026	100.00%	72.01%	515	100.00%	12.26%

Portion of Table from 2010 Analysis of Impediments (for comparison – 2008 HMDA data)

	Total Apps.		Originated		(Orig./Apps.)	Denied		(Denied/Apps.)
	Count	%	Count	%	%	Count	%	%
Purchase - Conventional	3512	60.27	2069	63.78	58.91	517	64.30	14.72
Purchase - Government	2315	39.73	1175	36.22	50.76	287	35.70	12.40
Totals	5827	100	3244	100		804	100	

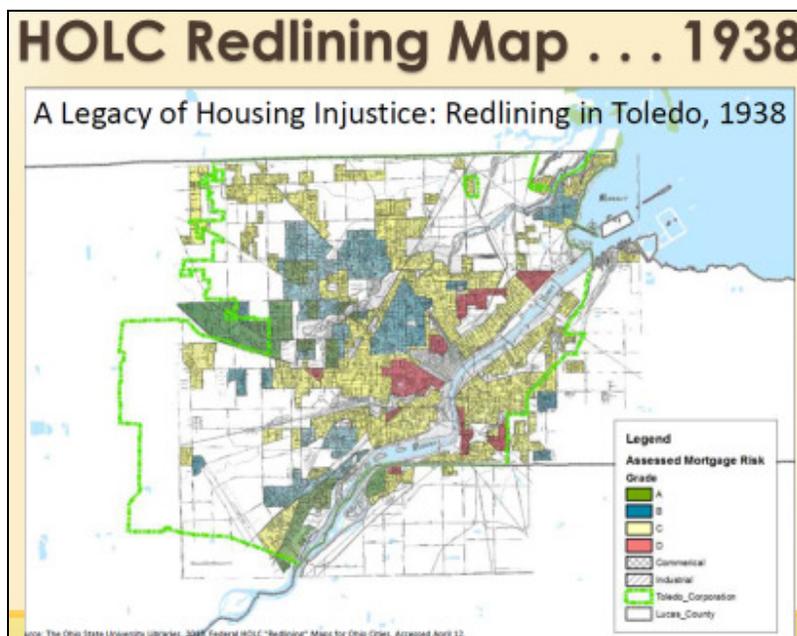
¹³³ Goldfarb, Zachary A., David Cho and Binyamin Appelbaum. “Treasury to Rescue Fannie and Freddie-Regulators Seek to Keep Firms’ Troubles From Setting Off Wave of Bank Failures.” Washington Post, 7 September 2008, accessible at <<http://www.washingtonpost.com/wp-dyn/content/article/2008/09/06/AR2008090602540.html?hpid=topnews>>.

¹³⁴ The data refers to home purchase, first-lien, loans for owner-occupied 1-4 family and manufactured dwellings.

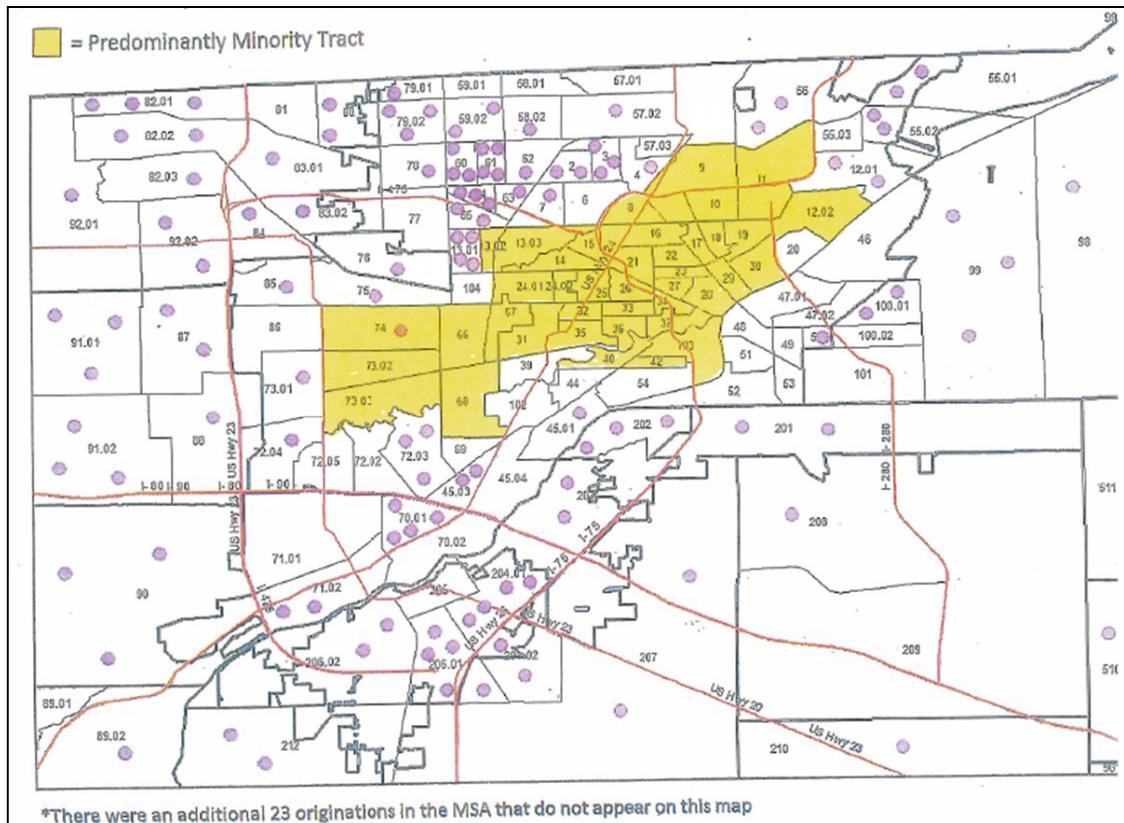
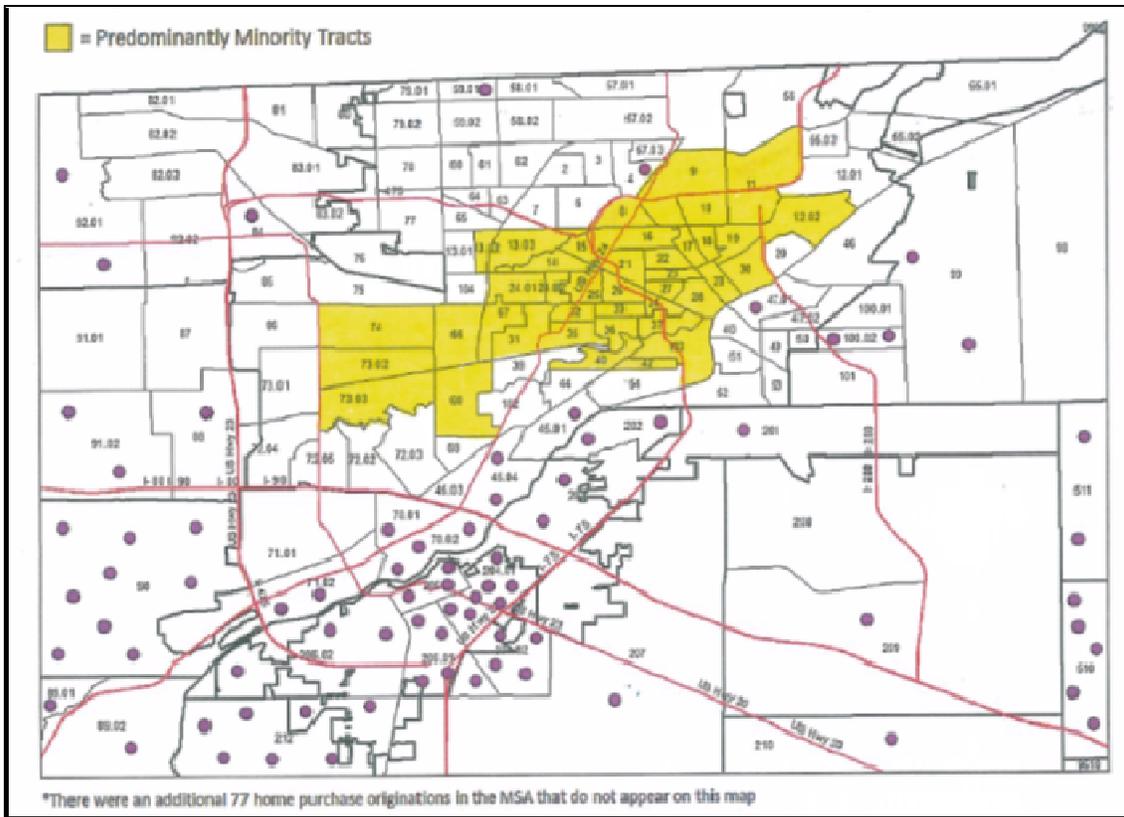
A comparison of the 2008 HMDA data from the 2010 Analysis of Impediments and the 2013 HMDA data demonstrates the lower share of the home purchase loan market that is comprised of government-insured products. Whereas, for 2008, conventional financing made up 63.78% of home purchase loans, in 2013 that percentage rose to 64.2% of loans originated. This is a reversal of the trend observed in the prior AI. Government-insured loans have also become more common as subprime and other financing have dissipated drastically due to the economic decline and due to the unavailability and inaccessibility of other forms of financing, including conventional financing. Nevertheless, government-financed home purchase loans decreased slightly from 36.22% of loans originated to 35.82%. Since 2014 HMDA data is not yet available and access to credit, whether conventional or government-insured, remains limited, in which direction this data will trend is uncertain.

Redlining and Inaccessibility of Credit

In 2014, the Center began to take a closer look at the geographic lending patterns of several financial institutions. The Center has found that the patterns of applications, originations, and locations of bank branches are reminiscent of those that one would expect to see in the late 1930s when the Federal Home Owners' Loan Corporation, a government-sponsored corporation, was formally and openly engaging in the redlining of neighborhoods (see map below).



The maps below, which the Center produced using 2013 HMDA data, demonstrate the aforementioned troubling patterns. The predominantly minority census tracts appear in yellow, and each red dot signifies an origination of a home purchase loan. As one can see, these lenders originated few, if any loans in communities of color.



Model Bank – Serving Toledo’s credit and other banking needs

As a result of the concerning patterns that the Center was uncovering and that it shared with representative from the Department of Neighborhoods of the City of Toledo, the Center staff (at the suggestion of the Director Tom Kroma) composed a list of the characteristics that a “Model Bank” for Toledo would exhibit. The characteristics of a lender and of products that would best serve Toledo’s needs are below.

- Mortgage loan products that offer underwriting flexibilities and features to help serve low- to moderate- income home buyers and communities. Local underwriting staff for community products, i.e. those who know and understand the Bank’s service areas. A model bank should also provide a loan product that assists with rebuilding credit and offer home repair loans.
 - Lower down payment
 - Lower or no mortgage insurance
 - Not limited to first-time home buyer
 - Seller-paid closing costs
 - Lower minimum credit score
 - Flexible underwriting terms
- Banking products that reduce barriers to banking and increase access to the financial mainstream by providing low-income **unbanked** and **underbanked** individuals with free or low-cost starter or “second chance” bank accounts and access to financial education.¹³⁵
- A model bank should engage in the creation, supervision, and maintenance of student-run bank branches/credit unions in local schools and/or community hubs/centers. Other communities have located such bank branches in low-income, diverse neighborhoods and limited bank services to students, teachers, and parents, but allowed students to oversee real accounts handling real money. Students receive training to work as tellers and receive stipends, college scholarship money, etc. in return for their work. This innovative type of project was featured at <http://www.npr.org/2014/06/04/318489887/as-banks-open-in-schools-a-chance-for-students-to-learn-to-save>.
- A model lender would engage in self-testing or contract with NFHA or an affiliate to make sure that it is in compliance.
- A model lender would allow for the use of alternative indicators of positive payment history, i.e. other than traditional credit, such as the use of VantageScore.
- A model lender would expand educational programs to help individuals become more knowledgeable about the borrowing process to minimize apprehensiveness about seeking credit and financial assistance.
- A model lender would be committed to making mortgage and home improvement loans available to qualified borrowers in every census tract in our community.
- A model lender would have a physical presence, i.e. bank branches in integrated neighborhoods with hours of operation comparable to those that bank branches in suburban and/or predominantly white neighborhoods have.

¹³⁵ **Unbanked**: No checking or savings account.

Underbanked: Has an account, but relies on alternative financial services, like check-cashing services, payday loans, rent-to-own agreements or/and pawn shops.

- A model bank would openly engage in self-monitoring for CRA compliance and its effectiveness in serving community credit and banking needs. This would include not only the self-testing mentioned above, but also regularly meeting with fair housing professionals and sharing information necessary for timely analysis and feedback.
- A model bank would share information about the Center and its services with its clients, both generally and when a client experiences an adverse action such as a denial of a banking product or service.
- A model bank would have a diverse staff at all levels.
- A model bank would train all employees involved in lending (including sales, marketing, branch staff, etc.) in fair lending practices.
- A model bank would designate an individual as the bank's liaison officer.
- A model bank would work with borrowers who experience an unforeseen financial hardship or unemployment in order to avoid foreclosure and keep residents in their homes.
- A model bank would take all reasonable steps to provide financial and technical assistance for housing rehabilitation for low- and moderate-income persons and for low- and moderate-income rental housing development.
- A model bank would provide FHA and VA mortgage loans to all credit worthy persons who wish to obtain such loans and not place any limitations upon the number of such loans that it makes available.
- A model bank would develop and implement an affirmative marketing plan to encourage home mortgage and home rehabilitation loan applications from low- and moderate-income and minority persons in low-/moderate-income or predominantly minority census tracts.
- A model bank would include all areas of census tracts that are low- and moderate-income.
- A model bank would to the greatest extent feasible make available financial assistance for expansion, rehabilitation, or development of businesses located in low- and moderate-income and predominantly minority census tracts.
- A model bank would develop and implement an affirmative marketing program in order to attract more applications by minority- and female-owned businesses.
- A model bank would avoid applying credit overlays to the existing requirements under the QM Rule for sale to GSEs.
- A model bank would take all steps reasonable and necessary to purchase Industrial Development Revenue Bonds for industrial development projects in low- and moderate-income census tracts. A model bank would also participate in and facilitate public forums regarding IRDB and other financial mechanisms funding economic development in low and moderate income neighborhoods (with other neighborhood/community groups). These efforts should be undertaken with the purpose of attracting and encouraging participation by business in job creating mechanisms and to provide information about the practical aspects of using these funding mechanisms.
- A model bank would utilize minority suppliers, contractors, and services wherever possible.
- A model bank will provide contributions to a variety of organizations to encourage housing and community development in the central city.

- A model bank will use corporate lending and account policies as guidelines only.
- A model bank will partner with Financial Opportunity Centers and similar agencies involved in helping households achieve financial stability and increase income and wealth.
- A model bank will have more of a holistic, personal, flexible, and community-needs driven approach to serving customers (an approach most often associated with credit unions)– a bank whose staff looks for positive and/or creative solutions to financial needs rather than just processing applications.
- A model bank will maintain a local Community Lender/CRA Officer.

In addition to the aforementioned attributes, the list below details “minimum standards” that Center staff developed in the early 1980’s and is still relevant to the banking needs of Toledo today.

1. Personal checking program geared to serve the needs of low-/moderate-income persons with a number of free checks monthly (e.g. 8-10) and no service charge;
2. Savings accounts without minimum amount requirements;
3. Proportional number of mortgage and home improvement loans in the 41 predominantly minority census tracts;
4. Compliance with the Fair Housing Act, the Community Reinvestment Act, and the Equal Credit Opportunity Act – e.g. no minimum mortgage amounts or minimum home improvement amounts, no tiered rates, equal treatment for applicants and neighborhoods;
5. Participation in affirmative lending programs;
6. Equitable distribution of full-service neighborhood branches throughout Toledo neighborhoods with equal lending hours;
7. Appraisals available to the public;
8. Disclosure of pertinent applicant information and disposition of applications;
9. Affirmative marketing;
10. Restraint in mortgage foreclosure; and
11. Equal opportunity employer.

APPRAISAL PRACTICES

In 2003, the Toledo Fair Housing Center began their Predatory Lending Remediation Program. This was in collaboration with Fannie Mae and a number of conventional lenders in the Toledo area and was designed to help homeowners who had been targeted by unscrupulous lenders and placed in predatory loans. The purpose of the program was to refinance the homeowners into safe, affordable loans. When the Center began looking at loan documents to determine what, if any, predatory terms were associated with each loan, it became evident very early on that one of the things that drove many of these predatory loans and made them so profitable for the brokers was that the houses were almost always over-appraised (some by as much as twice the actual value of the house). This was made possible by brokers who solicited the services of appraisers who were willing to “bring in” an appraisal amount that was dictated by the broker and had nothing to do with the actual value of the property. Most often the brokers were selling these loans to lenders located out of state, oftentimes as far away as California, so the lenders had no way of knowing that the properties were being grossly over appraised. This was especially easy to do in markets such as Toledo, where the housing stock is very affordable and the area median value of homes is lower than other parts of the country.

The practice of over-appraising properties was certainly not limited to the Toledo market and after years of exhaustive testimony and thousands of examples of the abuse, Senate Bill 185 was passed in Ohio in May of 2006 and became effective on January 1, 2007. SB 185 prohibits anyone from performing a real estate appraisal for mortgage loans if the person is not licensed or certified. This legislation prohibits knowingly bribing or coercing an appraiser for the purpose of corrupting his or her judgment. The bill contains additional requirements for title insurance agents. Specifically, the bill requires every title insurance agent or agency and any subcontractors to maintain an errors and omissions policy.

In addition, as of May 1, 2009, federal regulations regarding real estate appraisals changed significantly for lenders who sell their loans on the secondary market. These lenders now must conform to the rules stipulated by Fannie Mae and Freddie Mac, which have demanded the adoption of the Home Valuation Code of Conduct (HVCC). By delivering loans to Fannie Mae or Freddie Mac, lenders represent and warrant that appraisals conducted in connection with single-family mortgage loans, other than government-insured and -guaranteed loans, with application dates on or after May 1, 2009 conform to the Code.

The HVCC introduces principles regarding “solicitation, selection, compensation, conflicts of interest and appraiser independence.” The HVCC prohibits mortgage brokers and real estate agents from choosing appraisers. While the code of conduct allows lenders to conduct appraisals via “in house” staff appraisers, it prohibits the loan production staff from “(1) selecting, retaining, recommending, or influencing the selection of an appraiser for an appraisal assignment or for inclusion on an appraisal roster” and/or “(2) having any substantive conversation with an appraiser or appraisal management company regarding valuation, including ordering or

managing an appraisal assignment.” Again, the code only applies to 1-4 unit single-family loans sold by mortgage originators to Fannie Mae and Freddie Mac.¹³⁶

The HVCC contains standards that apply to:

- All lenders in the United States who desire to sell single-family mortgage loans to the GSEs (with some exceptions made for “small banks” that could possibly incur hardship as a result of particular portions of the code, with other stipulations still in effect);
- Individual REALTORS® and licensed real estate agents, who can no longer serve as a third party between a lender and appraiser;
- Any employee, director, officer, or agent of the lender, or any other third party acting as joint venture partner, independent contractor, appraisal company, appraisal management company, or partner on behalf of the lender.¹³⁷

The HVCC does not apply to FHA loans, and Federal Home Loan Banks are not participants. Additionally, lenders may choose to use a pre-approved list and/or panel in the selection of appraisers, but the lender “must ensure that (1) employees of the lender tasked with selecting appraisers are independent of the loan production staff; and (2) loan production staff is not involved with selecting appraisers from the list for particular assignments.” Through these standards, the HVCC has aimed to achieve improved regulation of banks and other mortgage lenders as well as encourage the independence of appraisals.¹³⁸

Unfortunately, the adoption and implementation of the HVCC has not been entirely effective. As a December 2014 Wall Street Journal article notes in its title, “Dodgy Home Appraisals Are Making a Comeback.”¹³⁹ In a return to practices observable prior to the financial crisis, home appraisers assessing some properties at inflated values often in accordance with the demand of loan officers and real-estate agents.

After being hired by some of the 20 largest lenders to review their loan files, Digital Risk Analytics, a subsidiary of Digital Risk LLC, provided data to the Wall Street Journal demonstrating that an estimated one in seven appraisals conducted from 2011 through early 2014 inflated home values by 20% or more. The firm conducted its examination of over 200,000 mortgages by utilizing its software and staff appraisers. The analysis included the homes’ appraised values and other information such as the properties’ sizes and similar homes sold in the areas at comparable times.

¹³⁶ National Association of REALTORS® Government Affairs Division. “NAR Frequently Asked Questions The Home Valuation Code of Conduct,” accessible at <<http://www.realtor.org/wps/wcm/connect/d3beb3804ed22197a49afeb684cb314f/FAQs+HVCC.pdf?MOD=AJPERES&CACHEID=d3beb3804ed22197a49afeb684cb314f>>.

¹³⁷ Text of the HVCC is accessible at <http://www.freddiemac.com/singlefamily/pdf/122308_valuationcodeofconduct.pdf>.

¹³⁸ See NAR’s FAQs sheet cited in previous footnote.

¹³⁹ Available at http://finance.yahoo.com/news/dodgy-home-appraisals-making-comeback-003500926.html;_ylt=A0LEVjmUI4VUmuwAVFpjmolQ;_ylu=X3oDMTBBybnV2cXQwBHNIYwNzcgRwb3MDMgRjb2xvA2JmMQR2dGlkAw--

The WSJ article states,

Bankers, appraisers and federal officials in interviews said inflated appraisals are becoming more widespread as the recovery in the housing market cools. While home prices are increasing generally, their appreciation is slowing, and sales have been weak despite low interest rates. The dollar amount of new mortgages issued this year is expected to be down 39% from last year, at about \$1.12 trillion, according to the Mortgage Bankers Association.

That has put increasing pressure on loan officers, who depend on originating new mortgages for their income, as well as real-estate agents, who live on sales commissions. That in turn is raising the heat on appraisers, whose valuations can make or break a sale. Banks generally won't agree to a mortgage if the purchase price or the refinancing amount is higher than the appraised value.

The practice is garnering broader notice. The Office of the Comptroller of the Currency is reviewing the mortgages banks are doling out, concerned that some of them are based on inflated values, according to Darrin Benhart, a deputy comptroller who focuses on identifying areas of risk in the federal banking system. The OCC oversees national bank and federal savings associations lending practices. Separately, Freddie Mac, the mortgage-finance giant, said it has opened fraud investigations related to appraisals of homes backing mortgages it bought.

Almost 40% of appraisers surveyed from Sept. 15 through Nov. 7 reported experiencing pressure to inflate values, according to Allterra Group LLC, a for-profit appraiser-advocacy firm based in Salisbury, Md. That figure was 37% in the survey for the previous year.

The problem is becoming so disconcerting that the Collateral Risk Network, which represents appraisers employed by lenders and other companies, has been discussing concerns about appraisers being pressured into inflating values in meetings with regulators.

Among the more troubling practices that Digital Risk Analytics observed in its review were assessments in which appraisers determined values for decades-old homes based on sales prices for newly constructed ones and in which appraisers were comparing homes blocks away from shorelines with waterfront properties.

This does not mean that inflated appraisals are a concern in every location or in every transaction. Real-estate agents and others continue to observe the failure of transfers of property as a result of appraisals that come in below the purchase price on which the transacting parties have agreed. Although nearly a quarter of real estate agents surveyed have reported low appraisals resulting in the cancellation, delay, or renegotiation to a lower price of sales contracts, the prevalence of this observation has been declining, with 29% of agents reporting this occurrence in March of 2013 and 31% of them reporting it happening in March 2012.

The pressure to inflate appraisals might come from various players in the transaction. Appraisers have stated that aggressive real estate agents and appraisal-management companies (AMCs) are

the main sources of the pressure. Banks hire AMCs to assign appraisal work to appraisers. Since the issuance of the new rules and requirements discussed above, banks have filtered a much larger share of appraisals through these companies in order to maintain distance between loan officers and appraisers. However, many in the industry now are observing and saying that AMCs are applying pressure in an attempt to keep lenders' business.

The WSJ article observes the concerns of federal regulators and GSEs as well, stating,

Mr. Benhart, of the Office of the Comptroller of the Currency, first warned of problems with how banks review appraisal reports last year in a speech to mortgage bankers. He says the agency has been spending more time at banks this year scrutinizing the home-valuation paperwork used to help originate mortgages. The OCC found cases in which bank staff didn't have enough training, Mr. Benhart said. In some cases, for example, they didn't have experience with the type of property or the area, he said. It also found banks that didn't thoroughly check reports or provide oversight of AMCs.

Freddie Mac has found cases of appraisers submitting a suspiciously high number of reports in one day, as well as reports for properties in places where they aren't certified or licensed to operate, according to a spokesman. It has also received tips from employees at lenders and other insiders warning of inflated valuations, he said.

The article states that regulators are looking into whether or not some of the lines have been crossed from compliance to noncompliance with regard to appraisal independence. Regulators are watching it closely and are very aware of the issues. Considering the way that such appraisals can either occur disparately or contribute to predatory practices, this issue will require further attention and vigilance.

THE EFFECTS OF DISCRIMINATION

The long-term result of discrimination is that the communities in which people live are different in kind, not simply in degree. For instance, according to the Pew Research Center, the median wealth of white households is 20 times that of black households.¹⁴⁰ “The Pew Research analysis finds that, in percentage terms, the bursting of the housing market bubble in 2006 and the recession that followed from late 2007 to mid-2009 took a far greater toll on the wealth of minorities than whites.”

Moreover, black families are not only restricted by the fact poor wealth distribution, but also by a lack of choice of neighborhood. According to the Manhattan Institute, segregation has declined, but African Americans remain the most segregated ethnic group in the country.¹⁴¹

Race is a fundamental factor to address in the identification and treatment of impediments to fair housing choice. Both people seeking housing and housing providers consider race to be a principal source of motivation underlying discriminatory practices. This fact prompted Sam Roberts, the Urban Affairs columnist of *The New York Times*, to write: “Whites have a choice. Blacks usually don’t.” The University of Toledo conducted a survey which examined the reasons why people were moving from Toledo to suburban communities. One of the major reasons people gave for moving was for “racial reasons.” There are still a large number of people who make their housing decisions based on race and who prefer racially homogenous communities.

Indeed, consumer representatives and housing industry professionals commented that NIMBYism is a major hindrance, prohibiting the advancement of housing opportunities. Unfortunately, policy makers and housing providers cater to NIMBYist concerns and act in ways that limit, rather than expand opportunities.

The African-American population living in Toledo resulted primarily from the southern exodus that took place between the 1910s and 1930s. Migration continued through the 1960s as well. The growth of the automobile industry and the valuable role Toledo had acquired in the manufacturing-based economy further enabled such settlement patterns. African-Americans found jobs and homes in the central city area, and, therefore, decided to establish residence there.

Starting in the 1950s, the White population of Toledo began leaving the central city area. The post-World War II trend of living in suburban communities was triggered by the expansion of a consumer-driven culture. This change fueled the movement of people who were economically advantaged to migrate to suburbs and communities outside the boundaries of Toledo. This trend continues today.

The results of this trend were disastrous. As the principal consumers moved away from the city, shopping centers and businesses relocated within the new suburban communities. Lending institutions, real estate agencies, and insurance companies developed policies that greatly benefited suburban residents and neglected (and, in some cases, even harmed) urban residents. In

¹⁴⁰ <http://www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-hispanics/>

¹⁴¹ <http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/>

addition, the advocacy of school integration increased “white flight.” This pattern reflects the manifestation of the Concentric Zone Model as it applies today.

At the present time, a substantial majority of African-Americans and Hispanics living in the City of Toledo reside within the central city area. The map of the percentage of minority population by census tract illustrates this. What the map fails to reveal, however, is that even these minority groups do not live with one another; Toledo remains a markedly segregated community.

Segregation may partially stem from individual preference, but systemic barriers in the marketplace, including real estate steering, lending discrimination, and insurance redlining, are also dominant reasons contributing to the extent of the problem.

Accompanying the issue of race, and as a result of the intolerance and ignorance of many members of the community, barriers for persons with disabilities and families with children also persist.

The effects of prohibitory practices in the housing market have taken their toll. In summary, they include the following:

- **Housing Segregation** Many communities in Toledo and across the country have come to exhibit what David Rusk calls “modern American urban apartheid.” Mr. Rusk, in his book Cities without Suburbs assigns a Dissimilarity Index to cities across the country. The Dissimilarity Index reveals the level of concentration or segregation of African-Americans. Toledo's Dissimilarity Index is 74, indicating that in order for there to be racial parity, 74% of the African-American population would have to move into other census tracts. In Toledo, the population of 20 census tracts is comprised of more than 50% African-American residents. All of these census tracts are located in or directly adjacent to the inner city. A proportion in excess of 80% of the African-American and Hispanic populations lives in these 20 tracts.
- **School Segregation** As a result of “white flight” from the central city and segregated residential patterns, the school systems are either predominately Caucasian or predominately African-American. In fact, the racial division between Toledo's two public school systems is quite evident. The student population of Washington Local Public School System is approximately 84.8% white, 9% African-American, and 5% Hispanic, while the Toledo Public School System's student body is approximately 42.97% white, 47.41% African-American, and 8.86% Hispanic.¹⁴²
- **Loss of Tax Revenues** Practices like redlining result in an imbalanced pattern of out-migration of residents from the City of Toledo into adjacent suburban communities. Furthermore, predatory lending practices can generate loans in which the tax and homeowners insurance payments are not escrowed. As a result, consumers neglect to pay their taxes and/or insurance either because they do not realize that the payments are not being escrowed or because they cannot afford to make the additional payments. Predatory lending practices also contributed to an increase in foreclosures and bankruptcy filings, which generally decrease the rate of

¹⁴² Source: <http://www.localschooldirectory.com/district-schools>

homeownership and the percentage of occupied housing stock. Finally, poorly maintained, marketed, and secured REO and investor-owned properties that are purchased by or from banks further contribute to the deterioration of neighborhoods and declining property values as well as increase the difficulty that owner occupants experience in attempting to successfully sell their homes in these neighborhoods.

- **Homeownership Decrease** The rate of homeownership has decreased in Toledo by nearly 7% between 1990 and 2008, according to the figures presented in the 1990 Census and the 2008 American Community Survey One-Year Estimates. The United States experienced a decade-low in home ownership in 2013.¹⁴³ This is especially characteristic of Toledo. The rate of homeownership (2008-2012) in Toledo is 55.9%, which is less than the Ohio state average of 68%.¹⁴⁴ The Ohio 68% rate of home ownership is actually above the national rate of 65.5%. Therefore, Toledo is behind both the national average and its own superior state average.¹⁴⁵ Given the continuation of residential flight from the City of Toledo, the proliferation of foreclosures, and rising housing costs, forecasts foresee even further decline in the rate of homeownership. This has a negative impact on city services, neighborhood preservation and stability, and public school support.
- **Extremely Limited Access to Affordable and Quality Credit** As lenders increased their usage of credit scoring and automated underwriting systems, more and more historically underserved populations were relegated to the sub-prime and non-conventional lending markets. The rise of subprime and predatory lending has brought about the loss of equity and financial assets for consumers and increased rates of delinquency and foreclosure. This has had a disparate impact on minority neighborhoods where these lending activities originated. After the wave of predatory lending and the foreclosure crisis, obtaining credit is, once again, nearly impossible for far too many. Without access to safe, affordable, mainstream banking products and services, historically underserved populations and communities will continue to suffer.
- **Limited Access to Affordable Insurance** An increasing number of insurance companies are using insurance scoring systems that either prohibit some consumers from obtaining insurance or increase the insurance premium for consumers with unattractive scores. Moreover, insurers are using credit scores in their scoring and pricing. As more consumers find insurance with voluntary carriers to be inaccessible or unaffordable, they must opt for insurance in the residual market or forgo having insurance altogether.
- **Loss of Equity and Financial Assets** Both the foreclosure crisis and the market decline resulted in a huge loss of wealth for the American consumer. More and more, people have found themselves dealing with negative equity, job loss, transitioning from homeownership to renting, and the inability to access credit. Predatory lending, the foreclosure crisis, discriminatory REO maintenance and marketing, and the unavailability of credit all seem to result in the burden falling primarily on the same set of consumers. Just as with the prior waves

¹⁴³ Source: <http://www.gallup.com/poll/154124/u.s.-homeownership-hits-decade-low.aspx>

¹⁴⁴ Source: <http://quickfacts.census.gov/qfd/states/39/3977000.html>

¹⁴⁵ Source: <http://quickfacts.census.gov/qfd/states/39000.html>

of economic downturn and forms of discrimination, underserved communities are, once again, bearing the brunt of the current situation.

- **Economic Segregation** As David Rusk prudently acknowledges, "'Separate but equal' cannot work. It has never worked. Ghettos and barrios create and perpetuate an urban underclass." According to the U.S. Census and Toledo's Consolidated Plan, inner-city communities contain a disproportionate number of low- and moderate-income, disabled, and homeless persons. The Plan also reports that there are few housing opportunities outside the central city for these groups. Restrictive zoning ordinances in many suburban communities perpetuate this effect.
- **Lack of Accessible Housing** Although any new multi-family housing built after 1991 was supposed to be built according to accessibility standards, this has not happened. Many housing units still pose barriers to persons with disabilities. The unwillingness of some apartment managers and condominium complexes to allow reasonable modifications and accommodations further exacerbates the dire need for accessible housing.
- **Decrease in Traditional Banking Services** As traditional lenders refuse to provide banking services to certain markets, non-traditional lenders succeed them or the members of these communities go without any services at all.
- **Destruction of human character and dignity** The most devastating effect of housing discrimination is the destruction it causes to the individual, the human being. Discrimination is dehumanizing. As Vice-President Mondale observed, "there is nothing more humiliating...it is a crushing thing."¹⁴⁶
- **Deteriorated and Abandoned Housing** Due to systemic barriers in the housing industry, such as the lack of quality insurance in urban areas, the inability of homeowners to obtain home repair loans, and residential flight, an inordinate amount of homes in the urban core remain in poor condition and/or are vacant and abandoned. For example, after experiencing a loss, many homeowners are left without the means necessary to adequately repair their homes. In addition, many homes in the hands of unscrupulous investors and banks following foreclosure sales are not properly maintained and secured.
- **Decline of the city and greater metropolis** Central city decline has a devastating effect on the greater metropolis. When communities are snared in a web of exclusion, shunned by lenders, real estate agents, insurers and appraisers, residential flight occurs. This generates a loss of revenue, unstable neighborhoods, and job loss. Richard P. Nathan and Charles F. Adams argue in their article "Four Perspectives on Urban Hardship" that the "city-suburb hardship disparity works not only to the long-term disadvantage of the city, but also in its surrounding suburban area. Hence, the effects of such disparity manifest themselves not as a simple zero-sum game between city and suburb, but as a more complex negative-sum game for the metropolitan area

¹⁴⁶ Schwemm, Robert G. "Discriminatory housing statements and s. 3604: a new look at the Fair Housing Act's most intriguing provision." *Fordham Urban Law Journal*. October, 2001.

as a whole.”¹⁴⁷ David Rusk draws the comparison of elasticity versus inelasticity. Elastic cities grow by encompassing suburban communities. Inelastic cities have fixed borders, which entraps them and compounds the negative impact of discriminatory housing practices. According to Rusk's index, Toledo has low elasticity. One also can observe the extent to which this inelasticity exists by witnessing the geographic convergence of racial segregation, the severely heightened risk of lead-based paint poisoning, concentrated poverty, the absence of lending and bank branches, and low-opportunity zones all within the core of the City.

- **Separation** The population of the United States is comprised of people from nearly every race and ethnicity of the global community. The analogy of a patchwork quilt can represent the diversity of America's people. The quilt's patches include those who identify themselves to be of different genders. Those who have disabilities, those who have not yet acquired them, and those who have been able to recover from them also make up pieces of the quilt. Nevertheless, a single thread of unity holds together all people who compose this quilt. Discrimination corrodes the thread, causing the pieces to fall apart. Tocqueville made a discerning observation regarding the oppressors and the oppressed. He observed that when people believe they are superior, a "natural prejudice" exists, which compels them to act as though they are superior, even when laws and conventional wisdom dismiss such a notion. Hence, discrimination is the way oppressors validate their superiority as well as their victims' inferiority. This obviously sets one group in opposition to another. Discrimination magnifies the differences between members of the human race, rather than the similarities, generating and strengthening real as well as perceived separation.

¹⁴⁷ Nathan, Richard P. and Charles F. Adams. "Four Perspectives on Urban Hardship." *Political Science Quarterly*, v. 104 issue 3, 1989, p. 483-508.

SUMMARY AND CONCLUSIONS

The Analysis of Impediments to Fair Housing Choice (AI) is a comprehensive review of barriers in the community that inhibit consumers from acquiring the housing of their choice based on race, color, ancestry, national origin, religion, sex, familial status, disability, military status, and sexual orientation. The AI is arranged according to impediment areas, and discussions of the identified impediments throughout the text furnish insight pertaining to the local experience. The AI has identified and discussed a very wide variety of areas of concern, including but not limited to the following:

- ECONOMIC, EMPLOYMENT, AND TRANSPORTATION ISSUES;
- ASSISTED HOUSING;
- HOUSING MOBILITY AND SOURCE OF INCOME PROTECTION;
- REENTRY AND HOUSING;
- HOMELESS SERVICES;
- ADVERTISING AND MONITORING;
- NEW IMMIGRANT ISSUES;
- HOUSING FOR PERSONS WITH DISABILITIES;
- REAL ESTATE SALES;
- ZONING CODES AND PUBLIC POLICY;
- LEAD POISONING;
- FORECLOSURE;
- REAL ESTATE-OWNED PROPERTIES;
- INSURANCE;
- LENDING; and
- APPRAISAL PRACTICES.

The Action Plan that follows contains specific recommendations for these areas of concern. The proposed Action Plan also identifies partners throughout the region who will be responsible for the action steps to affirmatively further fair housing (AFFH). The Center will invite and encourage these partners and others essential to affirmatively furthering fair housing to join a Fair Housing Implementation Council, which will meet quarterly. This will be a partnership of the Center, local governments, housing industry professionals, and advocates working together to open doors and expand housing choice. The Center proposes the establishment of this Council and the formation of various committees within it in order to more effectively address each impediment area and increase community buy-in into the AI and AFFH processes.

The study as a whole has driven the Fair Housing Action Plan, which is the guiding document that states the concrete steps that partners in the City and its partners will take to address the impediments according to a corresponding timeline. The Fair Housing Action Plan follows.

FAIR HOUSING ACTION PLAN

The Analysis of Impediments should be used as a foundation from which a community can develop its Fair Housing Action Plan. The Fair Housing Action Plan includes a comprehensive strategy to effectively address and eliminate obstacles that impede access to housing. The Action Plan also includes benchmarks and timelines that the community can utilize to measure its progress and determine how well it has accomplished its fair housing goals over the course of the planning and implementation period.

The Action Plan below contains specific recommendations for impediment areas. The Action Plan also identifies partners throughout the region who will be responsible for the action steps to affirmatively further fair housing (AFFH). The Center will invite and encourage these partners and others essential to affirmatively furthering fair housing to join a Fair Housing Implementation Council, which will meet quarterly. This will be a partnership of the Center, local governments, housing industry professionals, and advocates working together to open doors and expand housing choice. The Center proposes the establishment of this Council and the formation of various committees within it in order to more effectively address each impediment area and increase community buy-in into the AI and AFFH processes.

The Center, the City, and their partners (the beginning of the FH Implementation Council) have determined goals, action steps, timelines, and the parties primarily accountable for the action steps in the action plan.

In conjunction with representatives from the City of Toledo, the Center identified 20 areas that require particular attention and action in order to remedy impediments to fair housing. They are as follows:

- Rental
- Economic, Employment, and Transportation Issues
- Assisted Housing
- Housing Mobility and Expanding Housing Choice
- Source-of-income Protection
- Reentry and Housing
- Homeless Services
- Advertising
- New Immigrant Issues
- Housing for Persons with Disabilities
- Appraisal
- Real Estate Sales
- Zoning Regulations and Occupancy Standards
- Other Local Public Policies that Affect Housing Choice
- Lead Poisoning
- Foreclosure
- Real-estate Owned Properties
- Homeowners' and Habitational Insurance
- Lending
- Fair Housing Awareness

The impediment areas above are those for which the Center and the City have determined goals, action steps, timelines, and the parties primarily accountable for the actions. The chart below provides further detail along with any information relevant for reference.

Impediment Area	Goals/ Objectives	Action Steps	Primary Responsibilities/ Potential Partners	Timeline
Rental	Improve landlord-tenant relationship in order to promote long-term, sustainable housing of choice.	The City and its partners will assess the existing landlord-tenant services and identify any gaps or utilization/referral issues.	City of Toledo, TFHC, ABLE/LAWO, Courts, UT Law	Within first year
Rental	Improve landlord-tenant relationship in order to promote long-term, sustainable housing of choice.	Educate providers of rental housing and tenants of rights and responsibilities through the provision of materials to landlords and tenants. Identify existing materials and needs and make available online.	City of Toledo, TFHC, ABLE/LAWO, BGSU and UT Legal Services, UT Legal Clinic, TAAR, HBA	Ongoing
Rental	Improve landlord-tenant relationship in order to promote long-term, sustainable housing of choice.	Develop web pages with description of services and resources for landlord-tenant issues. Meet with 2-1-1 and discuss intake and referral process to ensure callers are directed to appropriate resources/organizations.	TFHC, Ability Center, City of Toledo	Within first year
Rental	Ensure equal access to housing regardless of protected class status/ membership.	Investigate complaints of discrimination.	TFHC, Ability Center	Ongoing
Rental	Ensure equal access to housing regardless of protected class status /membership.	Conduct testing using HUD-approved methodologies.	TFHC	Ongoing

Rental	Encourage development of safe and affordable housing in high opportunity areas.	Review proposals to develop new low-income housing units in the greater Toledo area and discuss fair housing implications of developments. When a developer requests support from local government, including the City of Toledo, regarding the development of Low-Income Housing Tax Credit housing or other subsidized housing, the local government will discuss the proposal with the Fair Housing Implementation Council and review the fair housing implications of such development.	TFHC, ABLE, City of Toledo, Fair Housing Implementation Council	Ongoing
Rental	Ensure equal access to housing regardless of protected class status/ membership.	Where appropriate, file administrative complaints with HUD/OCRC.	TFHC, Ability Center	Ongoing
Economic, Employment, & Transportation	Promote and ensure access to regional transportation.	Community Advocates for Transportation Rights (CATR) and TFHC will work together to discourage efforts of local communities to withdraw from TARTA services unless an equivalent or better service is proposed in its place and to encourage those communities that have withdrawn to connect with the regional transportation network.	TFHC, CATR, Ability Center, TLCCOD	Ongoing
Economic, Employment, & Transportation	Promote and ensure access to regional transportation.	Identify and address LEP issues with transportation entities/service providers.	ABLE, TFHC, Adelante	Ongoing

Economic, Employment, & Transportation	Promote and ensure access to regional transportation.	Advocates and the City will work to address snow removal issues that negatively affect the accessibility of services or facilities. Partners will try to identify the major areas of concern and work with the City to ensure accessible, safe pathways.	City of Toledo, TFHC, Ability Center	Within first year
Economic, Employment, & Transportation	Promote and ensure access to regional transportation.	Advocates and the City will work to create a pamphlet/flier to educate businesses about snow removal.	City of Toledo, Ability Center, Blight Authority	Within first year
Assisted Housing	Expand availability of Section 8 housing.	Effectively market the Section 8 program and its benefits to landlords.	LMHA, TFHC	Ongoing
Assisted Housing	Expand availability of Section 8 housing.	Encourage HUD and local jurisdictions to provide sufficient funding to allow LMHA to properly carry out the voucher and mobility programs, as described further below.	TFHC, LMHA, Cities of Toledo and Oregon, Lucas County, ABLE	Ongoing
Housing Mobility	Establish and implement a mobility program.	LMHA will implement a mobility program based on the Poverty Race Research Action Council's publication "Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program," and move at least fifty families through the program by the end of the five-year period of this Analysis of Impediments. The mobility program will include landlord development, target population outreach, pre-search counseling, housing search assistance, and post-move support, as described in PRRAC's publication.	TFHC, LMHA, ABLE, TLCHB, Lucas County	Within five years

Source-of-income Protection	Add Source of Income to the current list of protected classes at the City level.	TFHC and ABLE will meet with the City to consider proposed legislative changes and will advocate for the inclusion of source of income as a protected class in the City of Toledo's municipal code.	TFHC, ABLE, City of Toledo	Within first year
Reentry and Housing	Promote access of the re-entry population to assisted housing opportunities.	Review current policies and discuss the feasibility of floating set-aside units/vouchers for people re-entering society as well as the development of distinct criteria for different offenses. Implement the changes proposed by Reentry Coalition and TFHC to the ACOP and letters and advocate for similar changes by other assisted housing providers. Advocate for similar changes in other assisted housing policies.	TFHC, Reentry Coalition, LMHA	Ongoing
Homeless Services	Promote accessibility of homeless services and ensure homeless service providers are aware of fair housing and disability rights and responsibilities.	Advocates and providers will review existing policies, procedures, and facilities for compliance with fair housing and disability law. Advocates will make recommendations for any changes or best practices and work with service providers to develop an implementation plan.	Ability Center, Toledo-Lucas County Commission on Disabilities (TLCCOD), TFHC, the City of Toledo, Toledo-Lucas County Homelessness Board (TLCHB), Homeless Service Providers, and United Way 2-1-1	Within first year

Homeless Services	Promote accessibility of homeless services and ensure homeless service providers are aware of fair housing and disability rights and responsibilities.	TFHC, Ability Center, and TLCCOD will go over the client intake, case management, and coordinated assessment process and evaluate for any fair housing or accessibility concerns. They will make recommendations to TLCHB, United Way 2-1-1, service providers, and the City as is appropriate.	TFHC, Ability Center, TLCCOD, TLCHB, United Way 2-1-1, homeless service providers, City of Toledo	Within first year
Homeless Services	Promote accessibility of homeless services and ensure homeless service providers are aware of fair housing and disability rights and responsibilities.	TFHC and Ability Center will develop and conduct a series of trainings for homeless service providers and Third-party Partners regarding fair housing and disability rights and responsibilities.	TFHC, Ability Center, City of Toledo, TLCHB, homeless service providers, Third-party partners	Within first year
Advertising	Decrease the presence, frequency, and dissemination of discriminatory language in the advertisement of housing.	Monitor area print media for fair housing violations, particularly race, familial status, and disability.	TFHC	Ongoing
Advertising	Decrease the presence, frequency, and dissemination of discriminatory language in the advertisement of housing.	Monitor internet for fair housing violations, particularly familial status, gender, national origin, sexual orientation, and race.	TFHC	Ongoing
Advertising	Decrease the presence, frequency, and dissemination of discriminatory language in the	Conduct auditing and follow-up testing where necessary.	TFHC	Ongoing

	advertisement of housing.			
New Immigrant Issues	Develop better partnerships and collaboration with organizations serving the immigrant community.	TFHC and the City of Toledo will develop partnerships with organizations that serve the immigrant community and identify issues that these populations face.	TFHC, City of Toledo, ABLE, Catholic Charities, Welcome Toledo	Ongoing
Housing for Persons with Disabilities	Ensure full enjoyment of housing units for disabled tenants.	Assist clients with reasonable accommodation and modification requests.	TFHC, The Ability Center	Ongoing
Housing for Persons with Disabilities	Ensure full enjoyment of housing units for disabled tenants.	Investigate reasonable accommodation/modification denials or complaints.	TFHC, the Ability Center	Ongoing
Housing for Persons with Disabilities	Ensure full enjoyment of housing units for disabled tenants.	Assist clients with complaint process as needed.	TFHC, The Ability Center	Ongoing
Real Estate Sales	Educate consumers and real estate professionals about fair housing rights and responsibilities, and identify and address any potential fair housing violations, e.g. steering.	TFHC will conduct education and outreach activities regarding real estate sales and identify and address any potential fair housing violations.	TFHC	Ongoing
Zoning & Occupancy Standards	Ensure that codes, policies, and practices do not impede those in protected classes from obtaining or	The City should address the language in §1745.07(b)(1)(H) by deleting the phrase “or the written rental agreement.”	City of Toledo, ABLE, TFHC	Within first year

	remaining in the housing of their choice.			
Zoning & Occupancy Standards	Ensure that appropriate zoning and permitting decisions are made regarding housing, both established and new, for persons with disabilities.	Toledo-Lucas County Plan Commission and the Division of Building Inspection will provide the Toledo Fair Housing Center and the Ability Center with reports of any permit applications filed concerning housing for persons with disabilities and their outcomes, including but not limited to group homes, homes for those recovering from substance abuse, and modifications to structures to improve accessibility.	Toledo-Lucas County Plan Commission, TFHC, Ability Center	Ongoing, quarterly
Zoning & Occupancy Standards	Ensure that appropriate zoning and permitting decisions are made regarding housing, both established and new, for persons with disabilities.	Monitor the above permit applications and the resulting decisions for compliance with fair housing law and challenge any questionable denials.	TFHC, Ability Center	Ongoing
Zoning & Occupancy Standards	Ensure that appropriate zoning and permitting decisions are made regarding housing, both established and new, for persons with disabilities.	The City of Toledo Division of Building Inspection will send a quarterly list to TFHC and the Ability Center of the number of accessible units developed as a result of new construction.	Division of Building Inspection, TFHC, Ability Center	Ongoing

Other Local Public Policies	Ensure that public employees are aware of fair housing and disability law.	TFHC and Ability Center will conduct trainings of public employees regarding fair housing and disability rights and responsibilities, so as to improve delivery of services and ensure proper referrals.	TFHC, City of Toledo, Ability Center	Within first two years
Lead Poisoning	Develop and implement a primary preventative approach to significantly reduce lead poisoning in the City of Toledo.	Toledo Lead Poisoning Prevention Coalition (TLPPC) and City officials will meet and consider legislation. TLPPC will advocate for legislation that will take a preventative approach.	TLPPC, TFHC, City of Toledo	Ongoing
Foreclosure	Help to reduce and/or prevent foreclosures, thereby stabilizing area neighborhoods.	Provide consumers with foreclosure prevention resources including, but not limited to: education, emergency mortgage assistance, and loan modifications.	TFHC, Neighborhood Housing Services, City of Toledo, Lucas County and NODA	Ongoing
Foreclosure	Help to reduce and/or prevent foreclosures, thereby stabilizing area neighborhoods.	Education: Foreclosure prevention counseling, financial management training, credit counseling, mortgage rescue scam identification.	TFHC, Neighborhood Housing Services, and NODA	Ongoing
Foreclosure	Help to reduce and/or prevent foreclosures, thereby stabilizing area neighborhoods.	Loan Modifications: working with lenders/servicers through such programs as Making Home Affordable.	TFHC, NODA, NHS	Ongoing, as resources permit
Foreclosure	Help to reduce and/or prevent foreclosures, thereby stabilizing area neighborhoods.	Emergency mortgage/tax assistance: grants from funding sources such as NFMC, settlements, and/or private donations.	TFHC/NODA	Ongoing, as resources permit

Foreclosure	Address issues faced by families who have been displaced due to foreclosure.	Provide alternative housing options.	United Way 2-1-1, Homeless Shelters, Transitional housing facilities, LMHA, City of Toledo	Ongoing
Foreclosure	Address issues faced by families who have been displaced due to foreclosure.	Connect families with community resources/services.	United Way 2-1-1	Ongoing
Foreclosure	Mitigate negative impact of foreclosures on targeted neighborhoods.	Strategic acquisition and demolition of unsalvageable foreclosed properties.	Land Bank, City of Toledo	Ongoing
Real-estate Owned Properties	Ensure that bank-owned properties are being maintained, marketed, and secured in the same manner in all communities.	TFHC will continue its REO-related investigation and enforcement activities in order to identify and address instances of discriminatory treatment of predominantly minority neighborhoods by financial institutions, servicers, and/or the property management companies that they employ.	TFHC	Ongoing
Homeowners' & Habitational Insurance	Ensure the opportunity for quality, affordable full-replacement cost insurance policies in historically underserved communities.	Conduct systemic investigations of minimum age restrictions, minimum value restrictions, and redlining.	TFHC	Ongoing
Homeowners' & Habitational Insurance	Ensure the opportunity for quality, affordable full-replacement cost insurance	Conduct investigations of differential treatment in customer service issues and risk assessment of dwelling.	TFHC	Ongoing

	policies in historically underserved communities.			
Homeowners' & Habitational Insurance	Ensure the opportunity for quality, affordable full-replacement cost insurance policies in historically underserved communities.	Educate consumers and the community leaders, organizations, professionals and others who serve them regarding policies and practices of homeowners insurance providers, with special emphasis on the differences between full-replacement cost and market value policies.	TFHC	Ongoing
Homeowners' & Habitational Insurance	Address insurance policies/terms that discourage landlords from renting to voucher-holding tenants.	TFHC will undertake investigation and enforcement activities to identify and address discriminatory terms and conditions in insurance policies for multi-family housing providers who desire to rent to tenants who utilize housing vouchers.	TFHC, Fair Housing Implementation Council	Ongoing
Lending	Increase community lending opportunities through Community Development Financial Institutions (CDFIs) and banks with community products.	Encourage conventional lenders to support CDFIs through low/no-interest loans.	TFHC, NODA	Ongoing
Lending	Expand banking and financing opportunities for the traditionally underserved and unbanked.	Encourage lenders to develop or improve community lending products and aggressively market them to traditionally underserved communities.	TFHC, NODA	Ongoing

Lending	Expand banking and financing opportunities for the traditionally underserved and unbanked.	Provide input to regulators regarding the activities of conventional lenders in order to strengthen compliance and support of CRA.	TFHC, NODA	Ongoing
Lending	Expand banking and financing opportunities for the traditionally underserved and unbanked.	Identify financial institutions that participate in the City of Toledo Down Payment Assistance program and have community lending products, and compare products, service, and other factors in order to identify those most likely to adopt "Model Bank" characteristics (identified in the AI and by partners) as their own.	TFHC, NODA, City of Toledo	Ongoing
Lending	Expand banking and financing opportunities for the traditionally underserved and unbanked.	Work with financial institutions to adopt the "Model Bank" characteristics, as identified in the AI and developed by TFHC and the City of Toledo.	TFHC, City of Toledo, NODA	Ongoing
Lending	Expand banking and financing opportunities for the traditionally underserved and unbanked.	Conduct HMDA analysis and investigation of potential discriminatory policies/practices in the lending industry.	TFHC	Ongoing
Appraisal	Ensure that discriminatory policies, practices, and/or effects do not impede people from obtaining the housing of their choice.	Monitor appraisal activity for discriminatory policies, practices, and/or effects; engage in investigation and enforcement activity as necessary to address any potential discrimination.	TFHC	Ongoing
Fair Housing Awareness	Increase awareness of fair housing laws and the entities responsible for their	Provide outreach to housing industry professionals, consumers, and public and private organizations.	TFHC, The Ability Center	Ongoing

	enforcement.			
Fair Housing Awareness	Increase awareness of fair housing laws and the entities responsible for their enforcement.	Provide outreach to the general public.	TFHC	Ongoing
Fair Housing Awareness	Increase awareness of fair housing laws and the entities responsible for their enforcement.	Provide outreach in the form of trainings, presentations, resource booths, printed materials, media outlets, and website.	TFHC, The Ability Center	Ongoing
Fair Housing Awareness	Increase awareness of fair housing laws and the entities responsible for their enforcement.	Continue to utilize social networking sites/social media marketing to build awareness and share fair housing events and information with the community.	TFHC	Ongoing
Fair Housing Awareness	Promote more extensive collaboration and increase education and information-sharing.	Identify entities that have an influence on impediment areas and facilitate in-person and electronic communications between these entities.	TFHC	Ongoing
Fair Housing Awareness	Promote more extensive collaboration and increase education and information-sharing.	Establish and recruit members for a Fair Housing Implementation Council to more effectively address impediments.	TFHC, City of Toledo, Ability Center, ABLE	Ongoing

APPENDIX I FAIR HOUSING MEMORANDA



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410

FEB - 9 2007

MEMORANDUM FOR: Community Planning and Development Field Directors
Fair Housing and Equal Opportunity Regional Directors
Community Development Block Grant and State Recipients
Fair Housing Initiatives Program Recipients
Fair Housing Assistance Program Recipients

FROM: *Pamela H. Patenaude*
Pamela H. Patenaude, Assistant Secretary for Community Planning
and Development, D

Kim Kendrick
Kim Kendrick, Assistant Secretary for Fair Housing and
Equal Opportunity, E

SUBJECT: Affirmatively Furthering Fair Housing in the Community
Development Block Grant Program

PURPOSE:

The purpose of this guidance is to clarify the use of Community Development Block Grant (CDBG) funds in supporting fair housing activities to assist CDBG recipients in meeting their certifications to affirmatively further fair housing (AFFH).

BACKGROUND:

Title VIII of the Civil Rights Act of 1968, as amended (the Fair Housing Act), prohibits discrimination in all housing-related activities on the basis of race, color, religion, sex, national origin, familial status (number and age of children) and disability ("handicap"). Section 808(e)(5) of the Fair Housing Act also requires the Secretary of HUD to administer the Department's housing and community development programs in a manner to affirmatively further fair housing (AFFH). CDBG grantees (metropolitan cities, urban counties, States, insular areas, and non-entitled grantees in Hawaii) are also required by Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, and Section 105(b)(3) of the National Affordable Housing Act (NAHA) of 1990 to certify that they will AFFH. Actions to AFFH should further policies of the Fair Housing Act by actively promoting wider housing opportunities for all persons while maintaining a nondiscriminatory environment in all aspects of public and private housing markets.

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AFFIRMATIVELY FURTHERING FAIR HOUSING GUIDELINES:

The Consolidated Plan regulations at 24 CFR 91.225 and 91.325 establish the AFFH requirements of the Fair Housing Act that apply to the CDBG program. They specify that the AFFH certification requires the grantee to engage in fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, taking appropriate actions to overcome the effects of identified impediments, and maintaining records to document the analysis and the actions taken.

Sections 105(a)(8) and (13) of the Housing and Community Development Act of 1974, as amended, authorize the use of CDBG funds for public services and for planning and program administration costs. The entitlement regulation at 24 CFR 570.205(a)(vii) makes eligible, as a planning activity, developing an analysis of impediments to fair housing choice, while the use of CDBG to provide fair housing services may be eligible as a program administration cost in accordance with 24 CFR 570.206 or as a public service in accordance with 24 CFR 570.201(e). Eligible public services include the use of CDBG funds for activities such as fair housing counseling. Eligible fair housing costs designed to AFFH are detailed in 24 CFR 570.206(c) and include making all persons aware of the range of housing options available, enforcement, education, outreach, avoiding undue concentrations of assisted persons in areas with many low- and moderate-income persons, and other appropriate activities, including testing, selected by the grantee to AFFH. States may use the entitlement regulations referenced above for interpretive guidance.

One major method for achieving these purposes is funding of local fair housing agencies, which includes agencies in both the Fair Housing Initiative Program (FHIP) and Fair Housing Assistance Program (FHAP). Between these programs, these agencies can:

- Undertake fair housing enforcement, *i.e.*, complaint processing;
- Draft amendments to State and local fair housing laws in order to make them substantially equivalent to the federal Fair Housing Law;
- Conduct the Analysis of Impediments to Fair Housing Choice (AI);
- Provide fair housing education and outreach;
- Provide translation and interpretation services for persons who are limited English proficient; and/or
- Assist in the development of accessible housing for persons with disabilities

RECORDKEEPING:

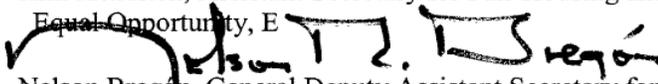
In accordance with 24 CFR 570.490 and 570.506(g), as applicable, grantees should establish a record-keeping system for their AFFH activities. This would include, among other items: copies of local fair housing laws and ordinances; the full history of the development of its AI; options available for overcoming impediments; local businesses, agencies, and resident-groups involved in the consultative process; planned actions and those taken; issues that arose when the actions were planned and conducted; and any other information about the community's fair housing planning process.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410

JAN 11 2008

MEMORANDUM FOR: Community Planning and Development Field Directors
Fair Housing and Equal Opportunity Regional Directors
Community Development Block Grant and State Recipients
Fair Housing Initiatives Program Recipients
Fair Housing Assistance Program Recipients

FROM: 
Kim Kendrick, Assistant Secretary for Fair Housing and
Equal Opportunity, E

Nelson Bregón, General Deputy Assistant Secretary for
Community Planning and Development, D

SUBJECT: Fair Housing Agencies eligible for Community Development
Block Grant (CDBG) and other HUD Program funding.

PURPOSE:

The purpose of this guidance is to clarify the definitions of fair housing organizations. When awarding funds in support of the entitlement communities' certifications to "Affirmatively Further Fair Housing," CDBG recipients are encouraged to ensure that recipients receiving the funds meet one of the definitions of a fair housing organization.

BACKGROUND:

Title VIII of the Civil Rights Act of 1968, as amended (the Fair Housing Act), prohibits discrimination in all housing-related activities on the basis of race, color, religion, sex, national origin, familial status (number and age of children) and disability ("handicap"). Section 808(e)(5) of the Fair Housing Act also requires the Secretary of HUD to administer the Department's housing and community development programs in a manner to affirmatively further fair housing (AFFH). CDBG recipients are also required by Section 104(b)(2) of the Housing and Community Development Act of 1974, as amended, and Section 105(b)(3) of the National Affordable Housing Act (NAHA) of 1990 to certify that they will AFFH.

The Consolidated Plan regulations at 24 CFR 91.225 and 91.325 and the AFFH certification require the grantee to engage in fair housing planning by conducting an analysis to identify impediments to fair housing choice within its jurisdiction, take appropriate actions to overcome the effects of identified impediments, and maintain records to document the analysis and the actions taken. The regulation at 24 CFR 570.205(a)(vii) makes eligible, as a planning

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activity, developing an analysis of impediments to fair housing choice, while the use of CDBG to provide fair housing services may be eligible as a program administration cost in accordance with 24 CFR 570.206 or as a public service in accordance with 24 CFR 570.201(e). Eligible fair housing costs designed to AFFH are detailed in 24 CFR 570.206(c) and include making all persons aware of the range of housing options available, enforcement, education, outreach, avoiding undue concentrations of assisted persons in areas with many low- and moderate-income persons, and other appropriate activities, including testing. States may use the entitlement regulations referenced above for interpretive guidance.

DEFINITIONS OF FAIR HOUSING ORGANIZATIONS:

On February 9, 2007, the Offices of Community Planning and Development (CPD) and Fair Housing and Equal Opportunity issued a joint memorandum that encouraged CDBG recipients to fund activities in support of their certifications to Affirmatively Further Fair Housing. The agencies could be HUD-approved Fair Housing Assistance Programs (FHAP) or Fair Housing Initiatives Programs (FHIP). This earlier memorandum failed to define the fair housing organizations that are eligible to receive funding under the FHIP program. This memorandum provides the regulatory definition.

Regulations at 24 CFR 125.103 define two kinds of fair housing organizations:

- Qualified Fair Housing Enforcement Organization (QFHO) -- an organization, engaged in fair housing enforcement activities, whether or not enforcement is its sole activity, that: (1) Is organized as a private, tax-exempt, nonprofit, charitable organization; (2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and (3) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.
- Fair Housing Enforcement Organization (FHO) -- an organization, engaged in fair housing enforcement activities, whether or not enforcement is its sole activity, that: (1) Is organized as a private, tax-exempt, nonprofit, charitable organization; (2) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and (3) Upon the receipt of FHIP funds will continue to be engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

To ensure the quality of fair housing activities and services provided to the jurisdictions and to support their certifications to AFFH, CDBG recipients are encouraged to consider QFHO's and FHO's when awarding funds. CDBG recipients are also encouraged to market the announcements of the availability of funds for fair housing planning and other activities to QFHOs and FHOs.

CONTACTS:

CDBG grantees having questions about this guidance should contact the CPD Division in their respective HUD Field Office (see attached list). HUD staff should contact Richard Kennedy, Director, Office of Block Grant Assistance or Pamela Walsh, Director, Office of Policy, Legislative Initiatives and Outreach. Mr. Kennedy's telephone number is 202-402-4542, and Ms. Walsh's telephone number is 202-402-7017.