San Diego Regional Analysis of Impediments to Fair Housing Choice

Draft
April 2010

SIGNATURE PAGE

AN ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

I, _____, hereby certify that this San Diego Regional Analysis of Impediments to Fair Housing Choice represents _____'s conclusions about impediments to fair housing choice, as well as actions necessary to address any identified impediments.

_____ _____

Name Date

_____

Title

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CHAPTER 1 INTRODUCTION

AN ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

San Diego County, one of the most populous counties in the nation, is home to over 3 million residents and an increasingly diverse demographic. The County encompasses 19 incorporated cities and more than 25 rural and urban unincorporated neighborhoods and communities.

Diversity among its residents, in terms of cultural backgrounds and socioeconomic characteristics, makes San Diego County a highly interesting and desirable area to live. To continue nurturing this diversity, civic leaders must ensure that an environment exists where equal access to housing opportunities is treated as a fundamental right.

1.1 Purpose of the Report

Equal access to housing is fundamental to each person in meeting essential needs and pursuing personal, educational, employment, or other goals. In recognition of equal housing access as a fundamental right, the federal government and the State of California have both established fair housing choice as a right protected by law.

Through the federally funded Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) programs, among other state and local programs, jurisdictions in San Diego County work to provide a decent living environment for all. Pursuant to CDBG regulations [24 CFR Subtitle A §91.225(a)(1)], to receive CDBG funds, each jurisdiction must certify that it "actively furthers fair housing choice" through the following:

- Completion of an Analysis of Impediments to Fair Housing Choice (AI);
- Actions to eliminate identified impediments; and
- Maintenance of fair housing records.

This report, the Analysis of Impediments to Fair Housing Choice (commonly known as the "AI"), presents a demographic profile of San Diego County, assesses the extent of housing needs among specific income groups, and evaluates the availability of a range of housing choices for residents. This report also analyzes the conditions in the private market and public sector that may limit the range of housing choices or impede a person's access to housing. As the name of the report suggests the document reviews "impediments" to fair housing. While this report also assesses the nature and extent of housing discrimination, the focus is on identifying impediments that may prevent equal housing access and developing solutions to mitigate or remove such impediments.

1.2 Legal Framework

Fair housing is a right protected by both Federal and State of California laws. Among these laws, virtually every housing unit in California is subject to fair housing practices.

Federal Laws

The federal **Fair Housing Act of 1968** and **Fair Housing Amendments Act of 1988** (42 U.S. Code §§ 3601-3619, 3631) are federal fair housing laws that prohibit discrimination in all aspects of housing, including the sale, rental, lease or negotiation for real property. The Fair Housing Act prohibits discrimination based on race, color, religion, sex, familial status, or national origin. In 1988, the Fair Housing Act was amended to extend protection to familial status and people with disabilities (mental or physical). Specifically, it is unlawful to:

- Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, or national origin.

- Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status, or national origin.

- 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, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

- Represent to any person because of race, color, religion, sex, disability, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

- For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, or national origin.

Reasonable Accommodations and Accessibility: The Fair Housing Amendments Act requires owners of housing facilities to make "reasonable accommodations" (exceptions) in their rules, policies, and operations to give people with disabilities equal housing opportunities. For example, a landlord with a "no pets" policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces, at the tenant's own expense. Finally, the Act requires that new multi-family housing with four or

more units be designed and built to allow access for persons with disabilities. This includes accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver, and other adaptable features within the units.

California Laws

The State Department of Fair Employment and Housing (DFEH) enforces California laws that provide protection and monetary relief to victims of unlawful housing practices. The **Fair Employment and Housing Act** (FEHA) (Gov. Code §§12955 et seq.) prohibits discrimination and harassment in housing practices, including:

- Advertising
- Application and selection process
- Unlawful evictions
- Terms and conditions of tenancy
- Privileges of occupancy
- Mortgage loans and insurance
- Public and private land use practices (zoning)
- Unlawful restrictive covenants

The following categories are protected by FEHA:

- Race or color
- Ancestry or national origin
- Sex
- Marital status
- Source of income
- Sexual Orientation
- Familial status (households with children under 18 years of age)
- Religion
- Mental/Physical Disability
- Medical Condition
- Age

In addition, the FEHA contains similar reasonable accommodations and accessibility provisions as the Federal Fair Housing Amendments Act.

The **Unruh Civil Rights Act** (California Civil Code § 51) provides protection from discrimination by all business establishments in California, including housing and accommodations, because of age, ancestry, color, disability, national origin, race, religion, sex, and sexual orientation. While the Unruh Civil Rights Act specifically lists "sex, race, color, religion, ancestry, national origin, disability, or medical condition" as protected classes, the California Supreme Court has held that protections under the Unruh Act are not necessarily restricted to these characteristics.

Furthermore, the **Ralph Civil Rights Act** (California Civil Code § 51.7) forbids acts of violence or threats of violence because of a person's race, color, religion, ancestry, national origin, age, disability, sex, sexual orientation, political affiliation, or position in a labor dispute (California Civil Code section 51.7). Hate violence can be: verbal or written threats; physical assault or attempted assault; and graffiti, vandalism, or property damage.

The **Bane Civil Rights Act** (California Civil Code § 52.1) provides another layer of protection for fair housing choice by protecting all people in California from interference by force or threat of force with an individual's constitutional or statutory rights, including a right to equal access to housing. The Bane Act also includes criminal penalties for hate crimes; however, convictions under the Act are not allowed for speech alone unless that speech itself threatened violence.

In addition to these acts, Government Code §§ 111135, 65008, and 65580-65589.8 prohibit discrimination in programs funded by the State and in any land use decisions. Specifically, recent changes to Sections 65580-65589.8 (**Housing Element law**) require local jurisdictions to address the provision of housing options for special needs groups, including:

- Housing for persons with disabilities (SB 520)
- Housing for homeless persons, including emergency shelters, transitional housing, supportive housing (SB 2)
- Housing for extremely low income households, including single-room occupancy units (AB 2634)

Fair Housing Defined

In light of the various pieces of fair housing legislation passed at the federal and state levels, fair housing throughout this report is defined as follows:

> *Fair housing is a condition in which individuals of similar income levels in the same housing market having a like range of housing choice available to them regardless of age, race, color, ancestry, national origin, religion, sex, disability, marital status, familial status, source of income, sexual orientation, or any other arbitrary factor.*

Impediments Defined

Within the legal framework of federal and state laws and based on the guidance provided by the U.S. Department of Housing and Urban Development (HUD) Fair Housing Planning Guide, impediments to fair housing choice can be defined as:

> *Any actions, omissions, or decisions taken because of age, race, color, ancestry, national origin, religion, sex, disability, medical condition, marital status, familial status, source of income, sexual orientation, or any other arbitrary factor which restrict housing choices or the availability of housing choices; or*

> *Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of age, race, color, ancestry, national origin, religion, sex, disability, medical condition, marital status, familial status, source of income, sexual orientation, or any other arbitrary factor.*

To affirmatively promote equal housing opportunity, a community must work to remove impediments to fair housing choice. Furthermore, eligibility for certain federal funds requires the compliance with federal fair housing laws. Specifically, to receive HUD Community Planning and Development (CPD) formula grants, a jurisdiction must:

- Certify its commitment to actively further fair housing choice;
- Maintain fair housing records; and
- Conduct an analysis of impediments to fair housing.

1.3 Scope of Analysis

This Analysis of Impediments (AI) to Fair Housing Choice provides an overview of laws, regulations, conditions or other possible obstacles that may affect an individual or a household's access to housing. The AI involves:

- A comprehensive review of the laws, regulations, and administrative policies, procedures, and practices;

- An assessment of how those laws, regulations, policies, procedures, and practices affect the location, availability, and accessibility of housing; and

- An assessment of conditions, both public and private, affecting fair housing choice.

1.4 Geographic Areas Covered

This AI covers the entirety of San Diego County, including the 18 incorporated cities and all unincorporated areas. When this report states, "San Diego County" it refers to the 18 cities and the 25 unincorporated neighborhoods, except for when the "County" is expressly defined as an entitlement jurisdiction. To help understand the organization of the data and discussions in this AI, geographic references are defined as follows (see Figure 1-1 at the end of this Chapter):

Entitlement Jurisdictions

An entitlement jurisdiction is a jurisdiction with a population of over 50,000 residents. An "entitlement" jurisdiction is so defined because it is "entitled", based on its population, to directly receive formula Community Development Block Grant (CDBG) from HUD. Entitlement jurisdictions in the County include:

- City of Carlsbad
- City of Chula Vista
- City of El Cajon
- City of Encinitas
- City of Escondido
- City of La Mesa
- City of National City
- City of Oceanside
- City of San Diego
- City of San Marcos
- City of Santee
- City of Vista
- San Diego Urban County

San Diego Urban County

Cities with a population smaller than 50,000 residents do not directly receive CDBG funds from HUD. Instead, these small cities participate in the Urban County program. The Urban County program is responsible for administering the CDBG funds received from HUD and the requirements for obtaining funds on behalf of the cities, including this study. The San Diego Urban County includes:

- Unincorporated areas
- City of Coronado
- City of Del Mar
- City of Imperial Beach
- City of Lemon Grove
- City of Poway
- City of Solana Beach

San Diego County Subregions

San Diego County is divided into seven Metropolitan Statistical Areas (MSAs):

- Central
- North City
- South Suburban
- East Suburban

- North County West
- North County East
- East County

Certain housing and demographic data presented in this AI are aggregated at the MSA level.

1.5 Lead Agency and Funding Sources

The San Diego Fair Housing Resources Board (FHRB) is comprised of representatives from the entitlement jurisdictions in the County, as well as organizations with a mission in promoting fair housing. The FHRB oversees the preparation of this AI, which has been funded with CDBG and local funds contributed by all entitlement jurisdictions in the County on a pro rata basis.

1.6 Data and Methodology

The following data sources were used to complete this AI. Sources of specific information are identified in the text, tables and figures.

- 1990 and 2000 U.S. Census
- Bayside Community Services
- California Association of Realtors
- California Department of Fair Employment & Housing
- California Department of Department of Finance
- California Department of Social Services Community Care Licensing Division
- California Housing Partnership Corporation
- Center for Social Advocacy
- Center On Policy Initiatives (San Diego)
- County of San Diego, Department of Housing & Community Development
- County of San Diego, Health and Human Services Agency
- County of San Diego, Parks and Recreation Department
- Fair Housing Council of San Diego
- Home Mortgage Disclosure Act data obtained through Marquis Software Solutions, Centrax HMDA 2007
- National Association of Home Builders
- National Fair Housing Alliance
- North County Lifeline
- North County Transit District
- San Diego County Apartment Association
- San Diego Housing Commission
- San Diego Housing Federation
- San Diego Metropolitan Transit System
- San Diego Regional Taskforce on the Homeless

- San Diego Sourcebook
- South Bay Community Services
- San Diego Association of Governments (SANDAG)
- U.S. Department of Housing and Urban Development (HUD)
- U.S. Federal Bureau of Investigation (FBI)

1.7 Organization of the Report

The AI is divided into eight chapters:

1. **Introduction** defines "fair housing" and explains the purpose of the report.

2. **Community Participation** describes the community outreach program and summarizes comments from residents and various agencies on fair housing issues such as discrimination, housing impediments, and housing trends.

3. **Community Profile** presents the demographic, housing, and income characteristics in San Diego County. Major employers and transportation access to job centers are identified. The relationships among these variables are discussed.

4. **Lending Practices** assesses the access to financing for different groups. Predatory and subprime lending issues are discussed.

5. **Public Policies and Practices** analyzes various public policies and actions that may impede fair housing within the County.

6. **Current Fair Housing Profile** evaluates existing public and private programs, services, practices, and activities that assist in providing fair housing in the County. This chapter also assesses the nature and extent of fair housing complaints and violations in different areas of the County. Trends and patterns of impediments to fair housing, as identified by public and private agencies, are included.

7. **Achievements of the 2005 Plans** assesses the progress made since the preparation of the 2005 Analysis of Impediments (AI) to Fair Housing Choice.

8. **Conclusions and Recommendations** summarizes the findings regarding fair housing issues in San Diego County and provides recommendations for furthering fair housing practices.

Appendix B: Previous AIs and Impediments Identified

Table B-1: Previous AIs and Impediments Identified

Impediment	Carlsbad	Chula Vista	Coronado	Del Mar	El Cajon	Encinitas	Escondido	Imperial Beach	La Mesa	Lemon Grove	National City	Oceanside	Poway	San Diego (City)	San Diego (County)	San Marcos	Santee	Solana Beach	Vista
1985 Fair Housing Assessment																			
None of the listed activities seem to necessarily overcome housing discriminations based on race, color etc.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fair housing activities are passive in nature														X					
1988 Fair Housing Assessment																			
Racially and ethnically segregated housing patterns	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Low income whites have broader geographic distribution than low income minorities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Blacks are more segregated than Hispanics who are more than Asians	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Low income programs contributed to racial/ethnic imbalance														X					
1996 AI																			
Real Estate Practices	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

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Impediment	Carlsbad	Chula Vista	Coronado	Del Mar	El Cajon	Encinitas	Escondido	Imperial Beach	La Mesa	Lemon Grove	National City	Oceanside	Poway	San Diego (City)	San Diego (County)	San Marcos	Santee	Solana Beach	Vista
Human relations (bigotry, prejudice, fear)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Attitudes and ideologies held by community leaders and politicians	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lack of knowledge of fair housing laws by property owners/ managers, renters and buyers	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Lack of knowledge of where to file complaints.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
State of local land use policies for assisted housing mf, new construction, handicapped and group home	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
1996 AI																			
Disproportionate higher denial rates for Hispanic applicants	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rental discrimination based on disabilities and families with kids	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Minority Concentrations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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Housing discrimination against Hispanics in rental market	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1992-2000 Regional AI																			
Cultural and language diversity impacts outreach and education to minority groups	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Education about fair housing rights and complaints process needed	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Differential treatment of minority rental apps	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Differential treatment of minority applications for loans	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Differential treatment of applicants for property ins. Based on neighborhood or race	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Increased allegation of housing discrimination against families with kids and persons with disabilities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Sexual harassment in housing and on basis of religion	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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2000-2005 Regional AI																			
Lending: Hispanics and African American underrepresented in homebuyer market and have disparities in loan approval rates	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Home Sales/Housing Discrimination: Differential treatment of Hispanics and African American in home sales market	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Affordable accessible housing for persons with disabilities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Income to Rent Ratios (disabilities)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Concentration of group homes for persons with disabilities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Unequal access to homeowner ins.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Predatory lending	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adverse Advertising Practices	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Regional Public transportation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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Impediment	Carlsbad	Chula Vista	Coronado	Del Mar	El Cajon	Encinitas	Escondido	Imperial Beach	La Mesa	Lemon Grove	National City	Oceanside	Poway	San Diego (City)	San Diego (County)	San Marcos	Santee	Solana Beach	Vista
Segregated Housing and Housing patterns	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fair housing training for Staff	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Adequate Fair Housing Funding	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Outreach for Private Enforcement Efforts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Minorities on Comm. Planning Boards	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Disparate treatment in the rental market – African American	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Differential treatment in housing sales on basis – African American	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Differential treatment in mortgage lending for - African American	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Substantial amount of complaints alleging familial status discrimination	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Discrimination in mortgage Lending and property insurance (Hispanic)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Table B-1: Previous AIs and Impediments Identified

Impediment	Carlsbad	Chula Vista	Coronado	Del Mar	El Cajon	Encinitas	Escondido	Imperial Beach	La Mesa	Lemon Grove	National City	Oceanside	Poway	San Diego (City)	San Diego (County)	San Marcos	Santee	Solana Beach	Vista
Minority Concentration (high % of Hispanic pop in low/mod tracts and block groups.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Rental discrimination based on race	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
De-Concentration of minority pop	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Zoning regulations and practices affecting families and disabled[1]	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Rental Discrimination: diff treatment in rental market place w/ respect to minorities and families with kids	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Property Ins redlining for minorities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lending: Mortgage Lending rates are higher for minorities						–													
Ins. Redlining racial discrimination	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lending: Disparity in approval for minorities	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Housing Discrimination: accessible housing for disabled	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

Table B-1: Previous AIs and Impediments Identified

Impediment	Carlsbad	Chula Vista	Coronado	Del Mar	El Cajon	Encinitas	Escondido	Imperial Beach	La Mesa	Lemon Grove	National City	Oceanside	Poway	San Diego (City)	San Diego (County)	San Marcos	Santee	Solana Beach	Vista
Rental owners and managers lack of fair housing laws	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Lending Hispanic and AA underrepresented in housing market	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Housing Discrimination – persons with disabilities offered very limited housing choices, primarily in rental market.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

X Impediment applies to the jurisdictions but at varying degrees. The reader is advised to refer to the documents for detailed discussions.

\- Indicates issues were discussed from a regional or subregional context and data available by jurisdiction varies by topic. The reader is advised to refer to the documents for detailed discussions.

Note:

1. Zoning regulations are discussed extensively for individual jurisdictions. Each jurisdiction has different impediments.