Mercer County Consortium
Analysis of Impediments to
Fair Housing Choice

Prepared By

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Mercer County Consortium  
**Analysis of Impediments to Fair Housing Choice**  
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1.0 Executive Summary

Mercer County has history as a leader in opposing unfair housing practices both within publicly funded and supported housing and in the private sector. Some actions which appear to enlarge choice opportunities for one segment of the population, such as allowing all disabled applicants to share the facilities of elderly housing, potentially diminish choice for others. Some factors that limit the choice of housing opportunities, such as national shifts in the economy, are not amenable to state-by-state solutions. Health and safety requirements, such as lead removal, create safer environments but also reduce housing opportunities by increasing the cost of affordable housing. This requires that fair housing initiatives be thoughtfully designed and accompanied either by technical assistance and training or grant/loan programs whenever possible.

The geographical diversity of the Mercer County Consortium, from the less affluent suburbs surrounding the urban capitol city to the highly affluent Ivy halls of Princeton University, serves to highlight the many complex differences within our borders. Dealing with these differences and grappling with the demand for affordable and fair housing has proved to be a challenge that requires innovative solutions. The City of Trenton being an entitlement community is not part of the Mercer County HOME Consortium. The Townships of Hamilton and Ewing are Community Development Block Grant (CDBG) entitlement communities receiving those funds directly along with the responsibility for planning, monitoring and reporting. The other members of the consortium include the Townships of East Windsor, Hopewell, Lawrence, Princeton, Robbinsville (formerly Washington) and West Windsor, and the Boroughs of Hightstown, Hopewell, Princeton and Pennington.

Housing free of discrimination is a right protected by state and federal laws. Housing free of discrimination gives you and your family a chance to concentrate on living and building a stable future. Housing literally opens the door to so many opportunities. Where you live often determines the quality of education your children receive, the employment options and health services you enjoy, the availability of day care, and access to business associations.

The Mercer County Consortium receives a HOME Investment Partnerships Program allocation of funds each year from the federal government through the US Department of Housing and Urban Development (HUD). HOME funding supports a variety of housing activities, which improve the living conditions of low and moderate-income people. One of the conditions on the receipt of this money is that the communities have an updated Consolidated Plan, which involves citizens in establishing local priorities for spending HOME funds. Part of that consolidated planning process is to perform an assessment of public and private actions that might negatively affect a person’s opportunity to find a place to live.

In order to comply with Federal law, the U.S. Department of Housing and Urban Development (HUD) has had a long-standing mandate requiring state and local jurisdictions and housing providers receiving HUD funds to meet certain standards or
take specific actions to affirmatively further fair housing. These have included passage of local fair housing laws, fair housing marketing requirements, tenant selection criteria, assignment criteria, program accessibility, reasonable accommodations, and other activities to ensure non-discrimination for protected classes.

Since 1995, HUD has consolidated the submission and reporting requirements for several community planning and development formula grant programs into a single plan—the Consolidated Plan. Mercer County Consortium’s Consolidated Plan for housing and community development is the vehicle in which the Consortium certifies that it will affirmatively further fair housing through the Analysis of Impediments to Fair Housing (AI) process.

The AI is intended to review the opportunities and problems associated with people’s ability to choose a place to live with the only criteria being whether or not they can afford it. The analysis seeks to identify legitimate problem areas experienced by people in constitutionally protected classes and establishes a plan that includes specific, measurable objectives for improving opportunities for fair housing choice.

Mercer County is committed to working to eliminate public or private housing practices that have the effect of discriminating on the basis of race, national origin, religion, sex, handicap or familial states. This commitment follows the principal and long-standing components of federal housing and community development programs that, in turn, implement the provisions of Section 808(e)(5) of the federal Fair Housing Act (FHA).

Under the FHA, state and local units of government that receive certain federal housing funds are not only required to refrain from discrimination; they must also take steps to advance the goals of fair housing and use their policies and programs to help promote open and inclusive patterns of housing. More specifically, all units of government that receive CDBG and HOME funds are required by the HUD to undertake an AI. HUD encourages each unit of local government that is required to prepare an AI to update that document every three to five years.

Certain statistical data used to generate this report was not available in the American Community Survey 3-Year Estimates for 2006-2008. Every effort has been made to update our statistical analysis based upon these estimates. In the instances were that was not possible we relied upon the most recent available data. This document is an ongoing effort to address the housing needs of our residents and to ensure that they have access to housing opportunities. To that end this document will be updated on a regular basis and applicable statistics will be revised based upon available data.
2.0 Introduction

The County of Mercer pro-actively assesses fair housing choice and this AI builds on conducted analyses. The federal Fair Housing Act requires the Secretary of the U.S. Department of Housing and Urban Development (HUD) to administer the Department’s housing and community development programs in a manner to affirmatively further fair housing.

The Housing and Community Development Act of 1974 and the National Affordable Housing Act, as amended, govern the administration of CDBG and HOME funding and require participating jurisdictions to certify that they will affirmatively further fair housing.

To implement the requirement that jurisdictions affirmatively further fair housing, HUD requires all state and local governments that receive housing and community development funds from the following programs to complete an AI:

- Community Development Block Grant (CDBG)
- HOME Investment Partnership (HOME)
- Emergency Shelter Grant (ESG)
- Housing Opportunities for Persons with AIDS (HOPWA)

The County Consortium will receive an estimated $687,000 in HOME funds in federal fiscal year 2009. Within the County consortium the Townships of Hamilton and Ewing will receive their individual CDBG entitlement which is outside the consortium’s purview.

In order to uphold its commitment to affirmatively further fair housing and meet its federal obligation to engage in fair housing planning, the County completed this AI that identifies impediments affecting fair housing choice. HUD requires that the AI include:

- An analysis of demographic, income, housing and employment data
- An evaluation of the fair housing complaints filed in the jurisdiction
- A discussion of impediments, if any in:
  1) the sale or rental of housing;
  2) provision of brokerage services;
  3) financing,
  4) public policies; and
  5) administrative policies for housing and community development activities that affect housing choice for minorities
- An assessment of current fair housing resources
- Conclusions and recommendations

The AI utilizes publicly available data from a number of sources, including:

- Census and other demographic data
- Consolidated Plan and associated planning documents
In addition to the identification of impediments, jurisdictions are required to develop methods to address the issues that limit the ability of residents to rent or own housing, regardless of their inclusion in a protected class.

Evidence of impediments to fair housing was sought in the areas of sale or rental housing; the provision of housing brokerage services; the provision of financing assistance for dwellings; public policies and actions affecting the construction of publicly assisted housing; administration policies concerning community development and housing activities which affect opportunities for minority households to select inside or outside areas of minority concentration; and an analysis of actions taken by Mercer County to remedy any discriminatory conditions. Existing programs, services and activities that assist in the provision of fair housing were also identified.

Within this report we will describe the services available in Mercer County, which address the impediments to fair housing. The full report also identifies barriers to fair housing and suggests actions to reduce or eliminate these barriers, and includes graphs and tables that provide additional data on barriers to fair housing that were identified.

The AI was funded by the Mercer County Office of Housing and Community Development using eligible HOME funding for administrative services as allowed for in 24 CFR 92.207(d).
3.0 What is Fair Housing?

Every American has a right to fair housing. The right to live where you choose; to raise a family; to own a home in dignity and without fear of discrimination is a fundamental right guaranteed to all.

This document was prepared paying particular attention to the following protected classes which are the basis by which the Fair Housing Act prohibits discrimination in housing:

- Race or color
- National origin
- Religion
- Ancestry
- Sex
- Familial status (including children under the age of 18 living with parents or legal custodians; pregnant women and adults securing custody of children under 18)
- Disability

In the sale and rental of housing, no one may take any of the following actions based on race, color, national origin, religion, ancestry, sex, familial status or disability:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Deny occupancy of a dwelling unit
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely say that housing is not available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing
- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or disability. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

Discrimination is defined as any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or any other differentiation or preference in the treatment of a person or persons on account of race, religion, color, sex, national origin, or ancestry and/or any denial of any right, privilege or immunity secured or protected by the Constitution or laws of New Jersey. Discrimination shall include but not be limited to any practice that produces a demonstrable racial or ethnic effect without a valid business motive.
The U.S. Department of Housing and Urban Development enforces the Fair Housing Act, which protects Americans against violations of housing rights. The County of Mercer will act quickly and effectively on all complaints of discrimination to ensure every citizen will receive the full protection of the law.

**Racial Segregation and Restricted Housing Patterns**

Statistics have proven that white persons typically reside in a neighborhood that is more than 80 percent white. In contrast black persons live in neighborhoods that are on average 60 percent black, while Hispanics reside in communities that are approximately 40 percent Hispanic. The fact of severe and persistent racial segregation of housing patterns in metropolitan areas is not contested, though the causes of segregation can be debated.

Our analysis of racial segregation and restricted housing patterns identified three perspectives. The first focuses on individual choice which reflects a person’s preference to live in a culturally homogeneous neighborhood. The housing market, from this perspective, reflects the freely chosen preferences of millions of buyers and thousands of housing providers who make voluntary decisions in a free market.

The second perspective focuses on economics arguing that the spatial concentration of racial groups basically reflects the financial status of those groups. The US Census, which provides financial statistics for specific racial groups, has concluded that white persons in general have higher incomes and control more wealth than racial minorities. Thus white persons have more (and non-whites have fewer) choices in the housing market. It can be asserted that if white persons are hesitant to move into non-white neighborhoods it reflects concerns about the correlation between racial composition and property values as well as other neighborhood characteristics rather than discrimination. Housing segregation, therefore, reflects primarily impersonal market forces from this perspective.

A third perspective points to a range of discriminatory private practices and public policies that restrict housing opportunities for non-whites and serve to create and perpetuate segregated housing. It is asserted that these policies and practices, and the individual-level prejudices and stereotypes upon which they are based, are primarily responsible for the persistence of segregation to this day in urban housing markets.

**Protection for the Disabled**

Persons with disabilities are a protected class under the federal and state fair housing laws. Disability means a physical or mental impairment (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, HIV infection and/or mental retardation) that substantially limits one or more major life activities.
If a resident has a record of such disability, or is regarded as having such disability, the landlord may not:

- Refuse to let a tenant make reasonable modifications to the dwelling or common use areas, at the tenant's expense, if necessary for the individual with disability to use the housing. When reasonable, the landlord must permit changes if the tenant agrees and pays to restore the property to its original condition before the tenant moves out.
- Refuse to make reasonable accommodations in rules, policies, practices or services for individuals with a disability to use the housing.

Housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

**Mortgage Lending Practices**

A mortgage lender may not take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan
- Discriminate in appraising property
- Refuse to purchase a loan or set different terms or conditions for purchasing a loan.

**Accessibility Requirements for New Buildings**

If a new residential building was ready for first occupancy on or after March 13, 1991, has an elevator and four or more units, the following conditions apply.

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for persons with wheelchairs
- All units must have:
  - An accessible route into and through the unit
  - Accessible light switches, electrical outlets, thermostats and other environmental controls
  - Reinforced bathroom wall to allow later installation of a grab bar
  - Ample space in kitchens and bathrooms for people in wheelchairs
- If a building with four or more units has no elevator, and was ready for first occupancy after March 13, 1991, these standards apply to ground floor units only. The Fair Housing Act requires that buildings be designed with accessibility features in accordance with American National Standards Institute (ANSI) or equivalent standards for new buildings. ANSI does not replace more stringent standards in State or local law.
Housing Opportunities for Families with Children

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

- A parent
- A person who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates the intent to house persons who are 55 or older.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.

What Housing Is Not Covered by the Fair Housing Act?

The Fair Housing Act does not apply to owner-occupied buildings with four units or less, single-family housing sold or rented without the use of a broker, and apartments with no more than four units, if the owner lives in one of the units. A religious group may limit residence in buildings it owns to members of their own religion, provided the property is not owned for commercial purposes, and private clubs may limit occupancy to their members.
4.0 Methodology

In order to complete a comprehensive Analysis of Impediments to Fair Housing Choice, data and documentation was culled from the Mercer County Fair Housing Coordinator, HUD and fair housing agencies. These agencies were reviewed and analyzed for the purpose of updating the Mercer County’s AI. Documents which were reviewed included the 2000 Census and 2006, 2007 and 2008 estimates, the County’s Consolidated Annual Performance and Evaluation Report, the Annual Action Plan for the HOME Consortium, a variety of brochures on the County’s housing programs and services, the HUD Fair Housing Planning Guide and the last update to Mercer County’s AI. A review of websites addressing housing and fair housing was also done.

In the course of research it became clear that the Mercer County Consortium continues to have a public commitment to addressing diversity issues within its control. The County is dedicated to ensuring that a growing number of residents understand Fair Housing and their rights.

Additionally, the Consortium completed a comprehensive three-part approach which is referred to as "fair housing planning". The three parts contained in this approach are described as follows:

Analyzing impediments to fair housing choice This analysis is essentially what is covered in this report. The report includes: a general profile of the County and Consortium with data and trends that are related to fair housing issues; a fair housing profile presenting information on public and private sector fair housing activities and summarizing fair housing complaints and allegations; and summary statements of fair housing impediments.

Taking actions to eliminate identified impediments After completion of the AI, the next step in the planning process is to undertake activities that will address the identified problems. Some of these actions will be existing activities, but it is likely that new activities will need to be designed and implemented.

Maintaining records about the analysis and actions taken The third part of the fair housing planning process is to maintain records about the actions that are undertaken and, to the extent possible, to evaluate the results.
5.0 Housing and Market Conditions

5.1 Population

Mercer County is one of twenty-one counties in New Jersey. In 2008, Mercer County had a household population of 364,883 with the City of Trenton (85,403) as an entitlement community that is not included in the Consortium; the Mercer County Consortium includes the boroughs of Hightstown, Hopewell, Pennington and Princeton, and the townships of East Windsor, Ewing, Hamilton, Hopewell, Lawrence, Princeton, Robbinsville and West Windsor has a population of 275,672 of which 142,118 (51.55 %) are females and 133,554 (48.45%) are males. Within the Consortiums 22.31% of the population were under 18 years old and 12.43% were 65 years and older. It has 218.5 sq. miles in land area and a population density of 1,262 per square mile.

As of the 2008 Census estimates, there was 191,884 White Non Hispanic in Mercer County or 69.61% of the population. The number of Black or African American Non Hispanic was 29,559 or 10.72% of the overall population. The Asian population was 20,824 or 7.55%. The number of Hispanics was 21,919 or 7.95% of the overall population. Native Americans (including American Indian, Alaska Native, Native Hawaiian, Other Pacific Islander) made up 0.17% population or just 469 in number. There are 11,027 of the population having two or more races; or other race indications or 4.00%. Indications will be made and discussed when any racial group is any municipality exceeds 10% of overall population.

The minority population of Mercer County Consortium by municipality shows each group has a unique geographic pattern. As previously stated, the majority of the low and moderate-income county residents live closest to the urbanized areas of the county and this is also true for the majority of the minority populations.

As a group, the Black community remains concentrated in East Windsor, Ewing and Hamilton. A total of 22,714 Black non-Hispanic residents or 76.84% of the total group reside in these communities.

Generally, the Hispanic community is scattered throughout Mercer County. Areas of concentration include East Windsor with 17.62% of the municipal population; and Hightstown at 20.05% of the municipal population.

Evidence of the Asian community concentration can be found in West Windsor at 22.76% of the population and East Windsor at 16.73%.

For the Native American/American Indian/Alaska Native population, there is no significant concentration of population in any of the Consortium’s municipalities.
5.2 Income

The median income of households in Mercer County was $71,374. Of the total County household population 4.1% were reported below the poverty level while 54% of families report having income below the counties reported median.

5.3 Households and Families

In 2008 there were 96,370 households in Mercer County Consortium. The average household size was 2.86 people.

Families made up 70.14% of the households in Mercer County. This figure includes both married-couple families (66%) and female householder (18.07%). Non-family households made up 29.86% percent of all households in Mercer County. Most of the non-family households were people living alone, but some were comprised of people living in households in which no one was related to the householder.
5.4 Disability

In Mercer County, among people at least five years old in 2007, 12.64% reported a disability. The likelihood of having a disability varied by age from 5.42% of people 5 to 20 years old, to 12.83% of people 21 to 64 years old, and to 36.12% of those 65 and older. The 2008 estimate did not include data relative to this segment of the population. As this data becomes available the AI will be updated accordingly.

5.5 Housing Characteristics

In 2008, Mercer County Consortium had a total of 102,624 housing units, an increase of 3,187 or 3.2% since 2000. The number of new housing units built since 2000 averages a net increase of 398 units per year, compared to an annual increase of 779 units per year from 1990 to 1999. Of the total housing units, 71.43% were in single-unit structures, 24.36% were in multi-unit structures.

Based on Census as well, of the Consortium’s housing units 71,062 were constructed prior to 1980, while of those 14,061 were constructed prior to 1940. In 2008, the vast majority of the rental units were in standard condition, which means the unit generally exceeds HUD’s housing quality standards.

5.6 Occupied Housing Unit Characteristics

In 2008, Mercer County Consortium had 98,306 occupied housing units – 73,309 (71.43%) owner occupied and 24,997 (24.36%) renter occupied of the 102,624 total housing units in the Consortium. The remaining housing units (4,318) are vacant non-occupied units.
5.7 Housing Costs

There are households in Mercer County vulnerable to becoming homeless because they pay far too much for housing. Spending no more than 30% of household income on housing has been the benchmark for affordability. If households pay more, they are considered “cost-burdened.” If there is a precipitous loss of a wage-earner’s income – due to illness, unemployment or divorce – these households may end up homeless.

Of all households in Mercer County, 49,366 (39%) were cost-burdened in 2006, 62% of which were homeowners. The total number of cost-burdened makes up almost 50% of all renters and 35% of all homeowners. There are 21,968 households spending more than 50% of their income on housing, making up 25% of all renters and 14% of all home owners.

5.8 Housing Affordability

Mercer County’s (including the City of Trenton) median household income in 2008 was $71,374. The mean single family house price in 2001 was $231,725 which increased through 2005 and 2006 to $352,000 and continued to increase in 2008 to $376,945 an overall cumulative increase of 62.67%. Condominium sales indicated a 2001 mean price of $139,890 increasing through 2005 and 2006 to $270,000, while over 2007 and 2008 declined to $254,070, still a cumulative increase of 81.62%. Although the prices include the City of Trenton, that sales activity tends to skew the mean values down due to the larger volume of lower priced sales activity.

Units for renters and owners in Mercer County matched by affordability income levels demonstrates that in 2006 there was a mismatch in respect to unit affordability and household income. The market has produced an over-abundance of units available at the higher income level while it has not met the needs for housing at the extremely low income level.
This deficit amounts to almost 2,266 units affordable to households up to 80% of the MHI and 11,979 units affordable to households of up to 110% of Median Household Income. This deficit is what has caused such a large segment of cost-burdened households in Mercer County.

In Mercer County, 39% of all households were cost-burdened in the year 2006 according to the U.S. Census - American Community Survey (See Graph 2). Also, according to our analysis of the 2000 U.S. Census, cost-burdened households were found in every municipality in Mercer County.

Of that 39% cost-burdened, which represents 49,366 households, 62% (30,466 households) were homeowners.

Homeowner households, 35% of all homeowners were cost-burdened. There were a fairly evenly distributed percentage of cost-burdened homeowner households per income group, ranging from 6% to 10% per income group.
Cost-burdened renters comprise 50% of all renters. Among renters, the cost-burdened households weighed heavily on the lower income groups with almost half making up to only 30% of the MHI.

<table>
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</table>

**Avg Yrly Change**
- 360
- (3,042) 767
- 1,040
- (726) (1,601)

Source: U.S. Census, American Community Survey 2006, Occupied Housing Units: Renter occupied (Estimate)
Based on Contract Rent Values; Does Not Include 'No Cash Rent' Units
The cost-burdened homeowners with the lower incomes are found throughout the county. While cost-burdened homeowners with workforce incomes appear to be concentrated in the Lawrence and Princeton Townships.
The cost-burdened renters with the lower incomes are found throughout the county. While there are far fewer cost-burdened renters with workforce incomes, therefore the real need to alleviate cost-burdened renters is at the lower end of the income scale.

There are 57,612 units affordable to those making up to 110% of the Median Household Income (MHI), and there are 71,689 households with incomes that make up to 110% (about $72,000) of the MHI. As the price of housing goes up, the County loses what affordable housing it has. From 2002 to 2006 the County lost 1,915 rental units on average per year of housing that had originally been affordable to households making up to 80% of MHI. In the same time period, it lost 4,764 owner occupied units per year affordable to the same group (875 rentals, 6733 owner occupied units lost to households making up to 110%).

5.9 Mortgage Delinquencies

According to the RealtyTrac, a national real estate monitoring website, as of April 1, 2010 in Mercer County there were 1,977 Pre-foreclosures, 385 Sheriff Sales, 341 Bank owned and 4 Government owned properties
5.10 Residential Sales

Residential sales history reported through the Mercer County Multiple Listing Service is only available with data including the City of Trenton. Including the Trenton data tends to skew the results as prices in Trenton tend to be at the low end of pricing for the entire County. Trenton is currently experiencing an inordinate number of foreclosure and short sales along with a significant number of deed restricted affordable unit sales.

According to the Mercer County Multiple Listing Service in from 2001 to 2004 residential sales activity per year increased from 3,979 to 5,483 respectively, however declined to a low of 2,933 in 2008 and in 2009 with 2,976 sales. Conversely, the average sale price of all residential sales increased from $139,890 in 2001 to $270,577 in 2006 and then declined to $246,861 in 2009.

Single family property sale increased in activity from 3,379 in 2001 to a high of 4,600 in 2004 and declined to 2507 in 2008 and 2517 in 2009, while the average price continued to increase from 2001 at $231,725 through 2008 at $376,945 or a 62.67% increase in the average selling price. The average selling price for 2009 was reported at $332,936 down 11.68% from the high.

Condominium unit sales activity increased from 583 in 2001 to 883 in 2004 and then declined to 426 in 2008 and 459 in 2009. The average sales price increased from $81,556 in 2001 to $235,439 in 2005, however also declined to $108,234 in 2008 while slightly increasing to $113,309 in 2009.
5.11 Mount Laurel Units

Mount Laurel decision of 1975 required New Jersey townships to provide their “fair share” of low-income housing, including rehabilitating substandard units. New Jersey’s Supreme Court provided an initiative with the original decision to increase available low cost housing, but there was supposedly no noticeable change in the housing patterns.

The Mount Laurel II decision in 1980 set up a system of regulation outside of the court to determine the required amount of low-income housing. The Mount Laurel I decision along with the subsequent Mount Laurel II decision attempted to guarantee a specific number of low cost housing units in each New Jersey municipality for those labeled as low income families. The court concluded more aggressive measures were required because Mount Laurel I had resulted in perpetuation of exclusionary zoning without an improvement in the shelter problems of the poor. The Supreme Court therefore mandated inclusionary zoning policies while keeping the original “fair-share” framework in the second decision. In reality these policies forced developers to build high density residential areas where about 20% of the houses are sold at an affordable price to low and moderate income households. The losses on the price of these affordable units are recovered through the higher density building procedures because extra houses are sold at market rate or higher. The difference between Mount Laurel I and Mount Laurel II is that Mount Laurel II forces developers to build low cost housing, without giving them the choice to shirk on their constitutional responsibility to do so.
Following Mount Laurel II, the Fair Housing Act of 1985 was enacted to require every municipality to have a particular plan with regard to their objective figure for affordable housing. It also created the New Jersey Council for Affordable Housing (COAH). Municipalities have the option to adopt a Housing Element and Fair Share Plan and submit it to the Council on Affordable Housing (COAH) for certification. The majority of New Jersey municipalities already have a Housing Element because it must be a part of their Master Plan, which deals with zoning. However, once a municipality is challenged through COAH, it becomes a Housing Element and Fair Share Plan.

Over the course of more than twenty years, COAH has gone through two rounds of rules in an effort to address the needs and concerns of the public, municipal governments and the housing industry. The most recent rules were proposed by COAH in December 2007. These new “Third Round Rules” were published in the January 22, 2008 New Jersey Register and underwent public review and discussion at a recent series of meetings held throughout the State.

The new rules, as they are currently proposed, make a number of changes in the way that a community’s affordable housing obligation is calculated. Principally, municipalities will be obligated to provide affordable housing commensurate with their rate of development from 2004 – 2018. The revised ratios released by COAH require that one (1) unit of affordable housing be provided along with every five (5) new residential units and that one (1) affordable unit be provided for every 16 new jobs based on an estimate of square footage for new, non-residential construction. In addition, the new rules provide for an increase in Regional Contribution Agreements (RCA’s) from $35,000 per unit to $80,000 per unit.

Meeting the fair share target of the new affordable housing rules require analysis of three components of a municipality’s current housing status: A) The rehabilitation share, or the number of housing units that have been rehabilitated and that can be certified to meet the new, Round III number; B) The prior obligation of the municipality; and C) The obligation of the new growth share. Amending or preparing the municipal housing element and fair share plan to meet these new obligations is a lengthy and complicated process.

The implications of not complying with the Round III Rules or by not ensuring that a municipality is COAH Certified are numerous. Most commonly, a failure to become COAH certified has left many communities vulnerable to what is known as a “builder’s remedy law suit” which imposes an affordable housing solution and construction density obligation on a municipality which the community may not find suitable. If a municipality is not currently COAH certified, and/or municipal officials are not sure about whether to pursue certification under the new Round III Rules, discussions with the municipal planner and attorney are clearly necessary so that the implications of non-compliance are thoroughly weighed and evaluated.

Currently fifty-eight towns in New Jersey are certified by COAH with two in Mercer County, that being Lawrence and Robbinsville Townships.
5.12 Demand and Suitability of Housing

In Mercer County, 12.43% of the population was 65 or older in 2008. Increasing the stock of available housing is vital because New Jersey’s economy depends on its workforce, at all income levels with a mixture of housing stock that is habitable, clean and safe for various income levels. The majority of workers in the county earn less than 110% of the area’s MHI.

5.13 Lead Based Paint

The Residential Lead Based Paint Hazard Reduction Act of 1992 (Title X) added a lead based paint (LBP) element to the Consolidated Strategy and Plan. Title X emphasizes the reduction and prevention of lead based paint hazards, encourages development of a competent "abatement" industry and requires future disclosure of lead based paint in private real estate transactions.

Title X covers virtually all HUD programs, including Section 8 rental assistance in privately owned structures and existing public housing. Hazard is defined as any condition that causes exposure to lead from lead contaminated dust, soil or paint that is deteriorated or present in accessible or friction surfaces. Lead based paint hazards do not include intact lead based paint.

HUD released the final rule on Lead Based Paint Hazards on September 15, 1999 with a year phase-in period with the effective date of the final regulations as September 15, 2000. The only portion of the regulation that went into immediate effect with the final rule was the ban on using hazardous methods for removing lead based paint (i.e. torching, etc.).

The Mercer County Department of Health and multiple municipalities throughout Mercer County actively test children for elevated blood lead levels (EBL). The state requires that children are tested for elevated blood lead levels as young as age one. According to the final rule, a child has an EBL, now called Environmental Intervention Blood Lead Level (EIBLL), if they are confirmed to have a blood lead level greater than 20 mg/dl (micrograms per deciliter) or of 15 mg/dl in two tests taken at least three months apart.

The age of the housing stock and tenure is the first step in preparing a community profile. The percentage of lead in paint has varied from 50% by weight, common in the 1940's to 0.06% after the Consumer Product Safety Commission ban in 1978. Exterior paints have contained significantly more lead than "interior use" paints and results in a focus on windows, doors and their moldings. A national survey conducted by HUD estimated the percentage of homes having lead based paint somewhere in the unit is 90% for pre-1940 construction, 80% for 1940-1959 construction and 62% for construction during the 1960-1979 periods.

Lead was banned from residential paint in 1978 and more than three-fourths of pre-1978 housing contains lead based paint. The older the property, the higher the
potential that lead based paint is present. However, paint with a high lead content was expensive and the risk in older, high-income neighborhoods can be as significant as that in low-income areas. The majority of lead poisoning cases to date have been in older rental housing in Mercer County built prior to 1940.

The majority of the housing stock (75%) in Mercer County was constructed prior to 1978 and 25% was constructed prior to 1940. The following towns have historical housing and tend to be more affluent: Princeton Borough, Hopewell Borough and Pennington Borough. Princeton Borough is surrounded by newer housing in Princeton Township, while Hopewell and Pennington Boroughs are surrounded by rural Hopewell Township. An area where additional older housing is located includes Hightstown, which is surrounded by newer housing of East Windsor Township.

Mercer County Office of Housing and Community Development remains in compliance with the new lead-based paint regulations, set forth in the regulations 24 CFR Part 35. The staff continue to assure those working on project funded by HOME are trained and certified in various Lead-Based paint related disciplines. Approximately 12 homes per year undergo risk assessments and have lead-based paint hazards addressed through the Home Improvement Program. This effort allows Mercer County to increase the amount of lead safe housing available to County residents. Mercer County continues to offer training opportunities to regional contractors and maintenance workers. For more detailed information regarding Housing and Community Development lead hazardous reduction strategies please refer to The Consolidated Plan.

5.14 Poverty

In 2008, of all individuals in the Mercer County Consortium, 4.12% were considered in poverty compared with 0.64% of people who were 65 years old and over. Of all families with related children under 18 that were below the poverty level was 1.95%, and 1.12% of families with a female householder and no husband present had incomes below the poverty level.
5.15 Education

In 2008, of people 25 years and over 87.61% had at least graduated from high school and 41.32% had a bachelor's degree or higher. Among people 25 years and over 12.39% of the population had not received a high school diploma.

The total school enrollment in Mercer County Consortium was 76,199 in 2008. Preprimary school enrollment was 7.75% and elementary/high school enrollment (K-12) was 59.02%. College or graduate school enrollment was 33.23%.

![The Educational Attainment of People](image)

5.16 Nativity and Language

Among people at least five years old living in the Mercer County Consortium area, 13.80% were foreign born. American born residents 5 years and older accounted for 86.20% of the population, including 73.82% who were born in New Jersey.

Additionally, in 2008 people at least five years old living in the Mercer County Consortium 82.11% spoke English only, 17.89% spoke a language other than English.

5.17 Geographic Mobility

In 2000, 57.97% of the people at least 5 years old living in Mercer County were living in the same residence 5 years earlier; 18.95% had moved during the past year from another residence in the same county, 8.54% from another county in the same state, 10.65% from another state, and 3.89% from elsewhere.
5.18 Travel to Work

In 2000, 76.70% of Mercer County Consortium workers drove to work alone, 8.83% carpooled, 5.76% took public transportation, 4.18% walked and 0.99% used other means. The remaining 3.54% worked at home. Among those who commuted to work, it took them on average 31.7 minutes to get to work.

5.19 Industries

In 2008, for the employed population 16 years and older, the leading industries in Mercer County were professional, scientific, and management, administrative, waste management services, finance, real estate and information (26.81%); educational services and health care and social assistance (23.61%); public administration (9.66%); manufacturing, wholesale and retail trade and transportation (25.20%); construction (4.30%); other that includes: agriculture, forestry, fishing, hunting, mining, arts, entertainment, and recreation, and accommodation and food services (10.42%)
5.20 Occupations and Type of Employer

Among the occupations reported by category were: Management, professional, and related occupations (48.49%); service occupations (11.55%); sales and office occupations (26.23%); farming, fishing and forestry (0.12%); construction, extraction, and maintenance occupations (5.51%); and production, transportation, and material moving occupations (8.10%).
5.21 Priority Non-Housing Community Development Needs

In the Township of Hamilton, the CDBG program needs remain divided between housing and non-housing categories. The highest priority is allocated to addressing the rehabilitation needs of cost burdened homeowners of low income, with particular emphasis placed on homeowners of extremely low income and extremely low-income. Non-housing needs remain in the form of public facilities, infrastructure improvements, senior citizen centers, and the provision of public services.

Goals and objectives: to provide decent housing, to create suitable living environments, and to expand economic opportunities to principally benefit low income persons.

Hamilton Township’s objectives are:

- To ensure decent, safe and sanitary housing for all Hamilton residents, particularly those of low income and extremely low income;
- To preserve the existing housing stock, to promote energy conservation, and to develop a positive self image in targeted neighborhoods;
- To promote home ownership opportunities to low and moderate income persons and households;
- To protect the health and welfare of elderly, handicapped and disabled persons;
- To provide access to public facilities to persons with disabilities.

Ewing Township is an entitlement community receiving CDBG funds. Funds have been designated to community development with the construction and rehabilitation of community facilities serving low and moderate income residents, seniors, and citizen's with special needs. The highest priority will be allocated to addressing the rehabilitation needs of cost burdened homeowners of low-income, with particular emphasis placed on homeowners of extremely low income and extremely low-income.

Goals and objectives: to provide decent housing, to create suitable living environments, and to expand economic opportunities to principally benefit low income persons.

To facilitate this goal, Ewing Township has developed the following objectives:

- Provide adequate sites for affordable housing;
- Assist in the development and provision of housing for target income households and special needs groups;
- Identify, and where appropriate, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and special needs groups;
- Conserve and improve the condition of existing affordable housing stock;
- Promote equal housing opportunities;
- Preserve assisted housing developments for target income households.
6.0 Contributing Issues to Fair Housing

6.1 The Effect of Governmental Consolidation on Housing Choice

Two prevailing points of view dominate consolidation. One is from proponents of consolidation. They assert that metropolitan areas with many fragmented local governments result in service duplication, diseconomies of scale, and other inefficiencies. Consolidation also enhances a regional perspective and increases the prospects for regional cooperation in economic development.

The second point of view is from “Public Choice” theorists whom suggest that consolidation limits competition between smaller units of government. Such competition provides more choice for County residents and results in more efficient levels of service provision income and minimizing the potential for economic and racial integration.

Studies have indicated that cities that are geographically larger or capable of expanding to include suburban areas are less segregated by race and income and thus provide greater potential for beneficial results from housing choice. Counties that lack the ability to expand would have the opposite effect and the potential for beneficial results from housing choice would decrease.

6.2 Public Housing and Hope VI

The inventory of federal public housing is an essential housing resource for low-income Americans. It is also a testament to segregated housing policies of the 1940s, 50s, and 60s. Today, the pressing need to renovate or replace significant parts of this inventory represents an opportunity to give families in public housing more choices.

The federal HOPE VI program was originally conceived as a way of transforming poverty concentrated, high density public housing into mixed income housing on a more humane scale; and at the same time giving public housing residents more housing choice, including the opportunity to live in a new mixed income community. Unfortunately, the program did not achieve these goals; many public housing residents were not allowed to return to the original development after it was rebuilt, and many others were simply moved into other segregated neighborhoods, rather than into low poverty and racially integrated areas.

With public housing redevelopment, HOPE VI and other public housing reform initiatives should open up new choices for residents and not simply re-segregate public housing residents in low opportunity communities because funds are available to renovate dilapidated housing. A balance should be struck between residents’ right to return to a revitalized mixed income community, and the rights of other residents to move to new, less segregated areas of higher opportunity. There should be a balance to promote racially and economically integrated housing.
6.3 Housing Choice Voucher

Housing policy offers a number of tools for expanding the availability of housing affordable to low-income families in non-poor communities. Federally funded housing vouchers provide a mechanism, by allowing low-income families to rent homes and apartments of their choice and supplementing what they can afford to spend.

Housing voucher recipients are less likely than public housing families to live in high-poverty neighborhoods, and when vouchers are accompanied by effective housing search assistance and counseling, they allow very low-income families to move to low-poverty neighborhoods. Voucher programs do not focus explicitly on the quality of schools serving the neighborhoods where recipients live, and evidence indicates that low-income children moving to low-poverty neighborhoods do not necessarily gain access to a high-performing school or experience improved educational outcomes.

In communities with high performing schools, moderately priced rental housing is in short supply. Therefore, expanding access to these communities requires that local agencies build or buy housing units that can be made available to low and moderate-income families.

Building affordable housing in non-poverty neighborhoods tends to generate community opposition, fueled by prejudice and by fears about crime and declining property values. When affordable housing is widely scattered and properly managed, it has little to no adverse effects on otherwise healthy neighborhoods.

Some communities have directly addressed concerns about affordable housing by requiring the developer to provide supplemental funding to school districts to offset the costs of additional students generated by new housing construction.

Student mobility and the need for housing choice vouchers has an adverse effect on educational outcomes, not only for individual students but also for the schools they attend. The out-of-school environment in poor neighborhoods often contributes to problems, affecting children’s performance as students and undermining in-school efforts to improve educational outcomes.

6.4 Housing Code Enforcement

The regulation of building construction in the United States is the responsibility of government, and with very few exceptions, it is legislated at the local or state government levels. It traditionally has been accomplished by means of a set of inter-related codes, each addressing a specific building system or a specific building attribute. While these codes may be packaged in different ways in different jurisdictions, they generally can be described as follows:

- A building code that addresses the building’s structural system, fire safety, general safety, enclosure, interior environment, and materials.
• A plumbing code that addresses the building’s potable water supply and waste systems.
• A mechanical code that addresses the building’s combustion and mechanical equipment.
• An electrical code that addresses the installation of electrical wiring and equipment in buildings, and a gas code that does the same with respect to the installation of gas piping and gas-burning equipment.
• An energy code that addresses all parts of the building that consume, or contribute to the consumption of, energy.
• Other specialty regulations, such as an accessibility code, that addresses building accessibility to the physically disabled.

Because of the technical complexity of these codes, the time and money needed to keep them updated and the desire for uniformity, most state and local governments have abandoned the development and maintenance of their own codes, and rely on adoption (with or without amendment) of a model code (developed by a regional or national association). All of these codes make use of extensive references to voluntary consensus standards on design methods, test methods, materials, and systems. By reference, these standards become part of the building regulatory system. These codes typically are enforced at the local level in a process that begins with the application for a building or construction permit, and followed by plan review, permit issuance, inspections, and certificate of occupancy issuance.

A related but different set of regulations that sometimes are packaged together with the above-described measures are those that control the use and maintenance of existing buildings. Parts of these codes sometimes may overlap with the plumbing, mechanical, or electrical codes, such that some aspects of operation and maintenance are included therein. They generally can be described as follows:

• A fire prevention code, sometimes called a fire code, which regulates the building’s fire safety throughout its occupancy and use.
• A housing code that regulates the health and sanitation of residential buildings throughout their occupancy and use.
• A property maintenance code that expands the scope of the housing code to include other types of buildings.
• A hazard abatement code that identifies building conditions that are so hazardous that immediate remedial action may be required.

These codes are generally enforced at the local level by means of periodic inspections and citation of violations. An existing property that is rehabilitated typically will have to satisfy building, plumbing, mechanical, and sister codes as well as the fire, housing, property, and hazard codes.

A third category of building regulation is referred to as retroactive regulations. These generally address hazards in existing buildings that, while not necessarily imminent, are identified by society as needing remediation.
6.5 Inclusive Zoning

When a community adopts mandatory Inclusive Zoning regulations, it requires any new developments, sometimes with exceptions, to have a certain percentage of affordable units. The term "inclusive zoning" was meant as a response to suburban zoning policies that have come to be collectively known as "exclusionary zoning". As many middle-to-upper class families fled the urban core of U.S. cities after World War II, they formed suburbs that were economically and racially homogenous.

Many of these suburbs adopted exclusionary zoning policies, such as not allowing multi-family apartment buildings or requiring that homes, or even the lots in front of them, be of a certain size, which was cost-prohibitive.

Inclusive Zoning was first used in 1972 and since then has gained in popularity. While there is no national database on its use, the Center for Housing Policy (CHP) estimates there are at least 300 jurisdictions that have adopted Inclusive Zoning.

The effect of Inclusive Zoning policy is estimated to have created at least tens of thousands of affordable units in the last 40 years. A 2008 study by New York University and the CHP found that in Washington, DC, 15,252 affordable housing units have been created through inclusive zoning as of 2003. In San Francisco, California, 9,154 units were created as of 2004. Because of recent trends, more cities are beginning to look at inclusive zoning as middle to upper-class families are leaving the suburbs and moving back into the urban core of cities.

One of the positive aspects of Inclusive Zoning is that it does not require any local subsidy. This is unlike private housing vouchers or subsidized housing, where local governments spend taxpayer dollars to pay developers to provide at least some affordable housing.

There are many aspects of an Inclusive Zoning policy that can be tailored to fit the needs of the local community, although each of these variations introduces its own set of concerns. Inclusive zoning can be either voluntary or mandatory. However, research has shown that mandatory inclusive zoning has been much more effective than the voluntary option at producing affordable units.

6.6 How Re-Zoning May Increase Affordable Housing Development on Available Land

The Mercer County Open Space and Recreation Plan have been prepared by the Mercer County Department of Planning to provide a countywide policy direction on open space and recreation issues. The plan was reviewed during the preparation of the Analysis of Impediments as a means to analyze available land for multi-family housing developments and determine how rezoning might increase opportunities.
One aspect of the Mercer County’s Plan is to ensure compliance with State planning goals and strategies, taken from the New Jersey State Development and Redevelopment Plan which includes details concerning the revitalization of the State's cities and towns. A component of the State plan which is consistent with this document is to "Protect, preserve and develop the valuable human and economic assets in cities, towns and other urban areas. Plan to improve their livability and sustainability by investing public resources in accordance with current plans that are consistent with the provisions of the State Plan. Reduce the barriers which limit mobility and access of city residents, particularly the poor, to jobs, housing, services and open space within the region."

Municipal planning boards and boards of adjustment perform day-to-day planning and implementation, with municipal governing bodies responsible for enactment and amendment of zoning ordinances, subdivision regulations, and other land use controls. Municipalities may create environmental commissions that have certain prescribed research and advisory roles under the Municipal Land Use Law.

Another key planning-related agency is the Council on Affordable Housing (COAH), which is charged with overseeing the administration of the New Jersey Fair Housing Act, a response to a series of state Supreme Court decisions, known as the Mt. Laurel cases, which dealt with affordable housing and exclusionary zoning. In the first case, Southern Mercer County NAACP v. Township of Mount Laurel (67 N.J. 151), the court ruled in 1975 that developing municipalities have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate-income housing. In the second case, Mt. Laurel II (92 N.J. 158) in 1983, the court held that all municipalities share in the obligation to provide the opportunity for the development of affordable housing, and provided specific judicial remedies so that municipalities might meet this constitutional obligation. Municipalities that enacted zoning had to provide realistic opportunities to meet their fair share of low- and moderate-income housing in their regions.

Under the Fair Housing Act, COAH’s responsibilities include defining housing regions; estimating low and moderate-income housing needs; setting criteria and guidelines for municipalities to determine and address their fair share numbers; and reviewing and approving housing elements/fair-share plans and regional contribution agreements for municipalities. Once its housing element and fair-share plan are approved, the municipality has a degree of protection from Mt. Laurel type lawsuits.

The “Third Round Rules” were published in the January 22, 2008 New Jersey Register and underwent public review and discussion at a recent series of meetings held throughout the State has moved to a “growth share” formula that bases the affordable housing determination for a municipality on the actual growth of market-rate units and nonresidential development. The new rules made a number of changes in the way that a community’s affordable housing obligation is calculated. Principally, municipalities are be obligated to provide affordable housing commensurate with their rate of development from 2004 – 2018. The revised ratios released by COAH require that one (1) unit of
affordable housing be provided along with every five (5) new residential units and that one (1) affordable unit be provided for every 16 new jobs based on an estimate of square footage for new, non-residential construction.

When analyzing the multi-layered governmental functions throughout New Jersey, it becomes apparent that stringent guidelines do exist and have been designed to deal with the development of affordable housing on available parcels of land. While the functionality of each agency may vary slightly the specific tasks they are required to perform and the means by which they conduct them are consistent. It has been determined that sufficient regulatory oversight is provided to ensure the development of available land for affordable housing and that re-zoning may not increase opportunities.

6.7 Racial Steering

Although prohibited by the federal Fair Housing Act of 1968, studies in the 1980s found that racial steering by real estate agents in the U.S. was still occurring. That legislation was strengthened in 1988, but throughout the 1990s, no study examined whether these tougher laws helped eliminate steering. In 2000, HUD and the Urban Institute conducted the national Housing Discrimination Study in twenty U.S. metropolitan areas to replicate and extend that earlier work.

One form of discrimination in the housing market is steering, which may be defined as behaviors by real estate agents that differentially direct clients toward particular neighborhoods and away from others on the basis of race or ethnicity. Steering distorts the spatial patterns of housing demands by homebuyers in such a fashion that segregation is perpetuated and integration is discouraged.

All steering may be considered in some sense racial or ethnic steering. There are three distinct types of steering which have been identified as information, segregation, and class steering.

- Information steering is spatial patterns of home showings that differ between minority and white homebuyers in the number of areas represented.
- Segregation steering is spatial patterns of home showings in which areas shown minority homebuyers have larger (or growing, or more proximity to concentrations of, etc.) specified minority populations than areas shown whites, on average.
- Class steering is spatial patterns of home showings in which areas shown homebuyers have lower socioeconomic status (lower incomes, homeownership rates, property values, etc.) than areas shown other groups.

Information steering is important because unless all homebuyers are shown or recommended homes in the same areas, they are potentially receiving vastly different amounts and/or types of information about alternative neighborhood opportunities. The homebuyers shown fewer neighborhoods will be offered an inferior amount of spatial information. It is problematic conceptually, if the same number but different
neighborhoods are shown to potential buyers. Such a difference provides different information, but it is difficult to determine which homebuyer is being treated unfavorably.

Segregation steering is the most common form. This form of steering holds the potential to limit the housing choices of homebuyers in such ways that it undermines racially diverse neighborhoods and perpetuates segregation.

Class steering, though less frequently observed, homebuyers prove to be systematically directed into ethnically lower class neighborhoods.

Real Estate Agents can engage in steering in three ways: through inspecting, recommending, and editorializing. They can inspect homes in person with clients, recommend homes to clients from the Multiple Listing Service (MLS) or other listings, and they can editorialize about certain areas the client should or should not consider. The homes inspected or recommended can be distributed among a different number of areas (i.e., information-type steering) and/or the areas can differ systematically in their racial/ethnic composition (i.e., segregation type steering) or socioeconomic class composition (i.e., class-type steering).

Although there have been efforts to train real estate agents about the requirements of fair housing laws and to educate the public about their rights, such efforts do not appear to have eradicated steering.

6.8 How Mortgage Lending Practices Affect Housing Choice

The mortgage industry has changed in reaction to the number of foreclosures and short sales occurring across the country. There was once a “dual market”, prime lending and sub-prime lending. Prime lending was to borrowers with high credit scores and stable employment. Sub-prime lending was higher risk with limited or no documentation, lower credit scores and higher debt ratios demonstrating a lack of responsible lending. The majority of those loans were originated with the sole purpose of being packaged into substantially higher yielding securities, which is why they carried higher interest rates. This change in lending philosophy goes back to the 1990’s. The problem with that was the guidelines that were offered for these types of mortgages; such as: lower credit score requirements (substantially lower than what is now considered an acceptable number to the GSE’s), combination of first and second mortgages that required little to no borrower investment, and unsubstantiated verification of employment or asset documentation (In many cases, stated incomes was used even in cases of high loan to value scenarios) precipitate abuses.

During the rise of sub-prime lending, the Federal Housing Administration (FHA), a Government National Mortgage Association (GNMA) security pool, saw a dramatic reduction in the amount of loans presented to them for insurance and servicing. The FHA subsequently relaxed many of their guidelines (still remaining responsible) in an effort to regain market share. The FHA represented less than 5% of originations during the time of the sub-prime boom although now with the crash of the sub-prime market is
approaching 50%. This rapid shift has caused the government to “tighten” guidelines in a market where they need to “expand” such in an effort to stabilize the industry.

The major banks still have what are known as CRA (community reinvestment act) products but responsible guidelines are set up and this creates difficulty for many looking to acquire a home. This is no longer just affecting low income minorities. Due to the overall collapse in the job market and economy in general those that were stable (regardless of race, ethnicity, etc.) are now falling into the group that will have problems finding mortgage capital. This will only get worse based on the amount of existing homeowners facing foreclosure and short sale situations due to property value inversions (owing more on a mortgage than the property is worth) and the inability to make their payments based on economic hardship. It won’t be until new guidelines are established (regarding how previous situations of homeownership were handled) that we will be able to judge future demand for all homeownership, which will ultimately stabilize the housing market.

Currently all borrowers are bound by the same guidelines and restrictions. The agencies have come full circle regarding the documentation of a mortgage application. There is no discrimination or disparity in this environment. All lenders have basically forgotten that “lending” involves a certain amount of risk. With this in mind, guidelines apply across the board. Artificial underwriting intelligence is what is utilized in all cases including those that ultimately get delivered to state and federal programs. In summary, what was once a “dual market” is now “one” market. Either a borrower, regardless of any reason, qualifies or they don’t. Banks will need to “create” programs to assist neighborhoods in acquiring and maintaining stable homeownership most likely with the assistance of the federal government. Guidelines do not need to be relaxed in these cases as credit risk must be equal across the loan spectrum. However, with equal risk comes the necessity for equal terms.

6.9 The Effect of Mortgage Foreclosures and Housing Choice

What started as a sub-prime crisis, where borrowers defaulted because they could not handle the payments as their loans reset, has now become a crisis among prime borrowers, who lose the ability to pay their loans when they lose their jobs. The mortgage bankers, who have been conducting a quarterly survey since 1953, define delinquency as being at least one payment behind but not yet in foreclosure, which is a legal action initiated by the lender after at least three months. Foreclosures can stretch on for more than a year, particularly if the homeowner actively tries for a loan modification or other remedies.

Recent research, mainly from the credit bureaus, has also documented the increased incidence of "strategic defaults," where borrowers who could make their mortgage payments decide to pay other bills ahead of their mortgage loan. Typically, these are borrowers who owe more on their mortgage than the current market value of their home.
Looking back three or four years ago, it was the case where a borrower would pay the mortgage first before the second mortgage or credit card debt. Today, for some groups of borrowers, that's no longer true. It runs counter to what anyone would typically expect and the historical experience. Given that many strategic defaulters also have high credit scores, in the future, credit scores might not be as good a predictor of mortgage borrower risk. For people who take this route, even if their credit score improves, the fact they defaulted on their mortgage will have a negative impact for years to come. Some of these people are underestimating the long-term costs, including the ability to buy a house in the future.

Another strategy is a short sale where a homeowner's lender agrees to accept less than is owed on the mortgage for the property. It's a useful alternative for borrowers underwater on their mortgage and on their way to foreclosure. As home prices continue to decline, short sales have become a viable option for those who need to sell.

Through the securitization of mortgages and the emergence of new large-scale organizations that take full advantage of economies of scale in the origination, underwriting, and servicing of mortgages, the majority of borrowers have access to a plentiful supply of mortgage capital, at rates that rival those of the best and most financially secure corporate borrowers in the market.

In addition to better enforcement of existing consumer protection regulations, there needs to be an effort to help first time borrowers navigate the intricacies of the mortgage transaction.

6.10 Insurance Redlining

The methods used by insurers to underwrite and price a homeowner’s insurance policies do discriminate among their customers on the basis of risk through the application of a universal risk based insurance criteria. A consequence of the universal application of risk based insurance criteria is that, compared to other homeowners, residents of predominantly inner city neighborhoods often pay more for homeowners insurance, while frequently receiving less coverage. In as much as risk-based insurance redlining operates to the detriment of predominantly inner city communities, the problem of insurance availability and affordability in such areas.

When insurance policies function to make insurance more expensive in urban areas, the impacts are for higher housing costs for the individual homeowners. Lack of insurance puts the neighborhoods at risk.
7.0 Summary Impediments to Non-Discriminatory Housing

Mandated by HUD, the AI complies with Mercer County’s certification in its Consolidated Plan to affirmatively further fair housing through fair housing planning. The evidence of barriers to fair housing identified in the AI was supported by information collected during housing forums and personal interviews. The AI identified the following public and private fair housing impediments:

7.1 Impediment I - Housing Discrimination

An analysis of survey data indicates that discriminatory behavior exists even though specific forms of discrimination are sometimes difficult to fully document. Housing discrimination appears to primarily effects persons of color, the disabled, and families with children.

Personal surveys reported experiences for a number of people who are recognized as victims of discrimination and indicated no course of action reported or expecting no benefit in reporting.

The County is reaching out as a means to determine the actual affects of housing discrimination. One obvious conclusion is that the discriminatory practices are becoming less blatant and obvious to the typical home seeker but may still be occurring. It may also be that complaints represent an undercount of discriminatory practices in Mercer County.

7.2 Impediment II - Housing Education

The residents, landlords, realtors, and the protected classes in the County need more information readily available about the Fair Housing Laws, how to avoid discriminatory practices, and what to do if housing discrimination occurs.

Effort is needed to educate rental property owners and tenants about fair housing laws, rights, and responsibilities. Public outreach through workshops and seminars are needed to combat a general lack of public awareness of fair housing practices.

7.3 Impediment III - Complaint Process

Confusion exists concerning whom to turn to when a violation of fair housing law is alleged to occur, as well as how to access the State’s fair housing complaint system.

The process to file a fair housing complaint is viewed as complicated and with an expectation that no action will be taken.
7.4 Impediment IV - Bias in Lending

Predatory lending offering high loan to value loan amounts for low-income homeowners appears to have an adverse effect on housing affordability.

7.5 Impediment V - Lack of Decent Affordable Housing

Although low-income persons are not a protected class under the Fair Housing Act, it has been indicated that housing costs may restrict fair housing choice in the County. To address this situation, it is suggested that both the public and private sector strive to build more affordable housing.

However, regulations concerning environmental and labor requirements in housing construction, though not to be viewed negatively are obstacles to affordable housing. With competition for such housing among all groups, discrimination against groups protected by law is more likely to persist.

Prospective renters encounter unwillingness, on the part of agents and landlords, to rent to: families of color, families with children, female heads of households, people who cannot satisfy the demand for two or three months rent before occupancy.

Sellers of houses persist in discrimination against people who are African-American and Hispanics of color. Discrimination against African-Americans is a long and historical pattern, often spontaneous, without forethought.

Neighborhood resistance continues to hinder efforts to expand housing opportunities. Property owners and residents often resist the establishments of alternative living sites such as group homes, as well as affordable housing in general.

7.6 Impediment VI - Governmental Policies Negatively Affecting Affordable Housing

1. Federal Policies Negatively Affecting Affordable Housing

There are several federal policies that affect the development of affordable housing:

a) HOME Program CHDO Requirement
The federal policy related to the HOME program requiring 15% of the grant to be awarded to Community Housing Development Organizations (CHDO) has not resulted in competitive proposals due to a limited number of qualified CHDOs. The time delay in securing a 501(c)3 certificate and the requirement for one year of prior public service experience does not permit the formation of a new corporation quickly to utilize available funding. At this point, the Mercer Consortium has five active CHDOs and the situation has improved.
b) **Limited Availability of New Section 8 Certificates and Vouchers**

The limited availability of new Section 8 certificates and vouchers, which have been consolidated into the New Housing Choice Voucher, has been cited repeatedly by social service providers as a major obstacle. Since many new vouchers are targeted as ‘Welfare-to-Work vouchers’ and ‘Family Self-Sufficiency vouchers’, many people such as the mentally ill do not qualify. Access to general vouchers is limited and waiting lists far exceed availability in terms of units and vouchers.


c) **The Davis-Bacon Act**

Davis Bacon Act and Prevailing Wage Requirements of 1939 increase the cost of a project along with the regulatory burden for contractors has hindered affordable housing development. Additionally, with the lack of uniformity between the HOME program, which requires 11+ units to follow this law, and the CDBG program, which requires 8+ units to follow this law, it becomes more difficult to administer these funds. Contractors may refuse to bid on jobs when CDBG and HOME funds are used.

2. **State Policies Negatively Affecting Affordable Housing**

a) **Mount Laurel Lawsuit and COAH**

New Jersey has some of the highest median housing values in the nation. Housing costs and subsequently, housing affordability in New Jersey have been important issues.

The Mount Laurel Decision was affirmed in a 1983 State Supreme Court decision known as Mount Laurel II, which prompted the New Jersey Legislature to pass The Fair Housing Act of 1985. It was this act that led to the creation of the Council on Affordable Housing (COAH), and the implementation of administrative procedures that allowed the state’s municipalities to address their fair share affordable housing obligations.

Over the course of more than twenty years, COAH has gone through two rounds of rules in an effort to address the needs and concerns of the public, municipal governments and the housing industry. The most recent rules were proposed by COAH in December 2007. The rules made a number of changes in the way that a community’s affordable housing obligation is calculated. The rules provide for an increase in Regional Contribution Agreements (RCA’s) from $35,000 per unit to $80,000 per unit.

Meeting the fair share target of the affordable housing rules required an analysis of three components of a municipality’s current housing status: A) The rehabilitation share, or the number of housing units that have been rehabilitated and that can be certified to meet the new, Round III number; B) The prior obligation of the municipality; and C) The obligation of the
new growth share. Amending or preparing the municipal housing element and fair share plan to meet these obligations is a lengthy and complicated process.

The implications of not complying with the Round III Rules or by not ensuring that a municipality is COAH Certified are numerous. Most commonly, a failure to become COAH certified has left many communities vulnerable to what is known as a “builder’s remedy law suit” which imposes an affordable housing solution and construction density obligation on a municipality which the community may not find suitable. Over the past two decades, the builder’s remedy has allowed developers to coerce towns into agreeing to massive upscale developments that include only a small number of affordable units.

COAH regulations have permitted municipalities to satisfy up to 50% of their affordable housing obligation by agreeing to rehabilitate or construct housing units outside of their own community or County, but within the region. This Regional Contribution Agreement (RCA) provided a welcome funding source for many urban housing programs, but limited the impact of a Mount Laurel Court Order or COAH Certified Housing Element and Fair Share Plan had on de-concentration. Further, the numbers of new housing opportunities for low and moderate income residents in suburban communities were frequently limited to senior citizen housing and existing home owner rehabilitation.

The NJ Legislature found that the use of RCAs should no longer be used as a mechanism for the creation of affordable housing by COAH and the practice was prohibited.

b) **NJ Promotes Mixed-Use Centers Designated in the State Plan**

The NJ State Planning Commission Report on Implementation Issues adopted on June 12, 1992 identified legislative changes needed to promote more affordable housing. The Commission agreed that housing programs should be expanded, giving priority for subsidies and programs to mixed-use centers designated in the State Plan. Not all municipalities or parts thereof qualify as mixed-use centers.

c) **NJ Housing and Mortgage Finance Authority’s Policies**

The New Jersey Housing and Mortgage Finance Agency (NJHMFA) has demonstrated urban preference that does not encourage state financing of affordable housing units in suburban counties or municipalities. Further, the New Jersey Balanced Housing Fund is limited to the existing urban centers and municipalities with a COAH certified Housing Element and Fair Share Plan. However, it also limits the potential funding a non-profit can seek if they have a proposal in a community without COAH certification.
3. Local Policies Negatively Affecting Affordable Housing

Some of the local policies that affect affordable housing include:

a) **NIMBYism**  
The “Not in My Back Yard” (NIMBY) syndrome is visible in Mercer County. Neighborhood resistance continues to frustrate efforts to expand housing opportunities. Property owners and residents often resist the establishment of alternative living sites such as group homes, as well as affordable housing in general. Better educational efforts should be made to inform local officials of the need and possible solutions for affordable housing for special populations. This is particularly true for those with HIV/AIDS, the mentally ill, the developmentally disabled, homeless, and sex offender populations.

b) **Lack of Participation in Tax Abatement Programs**  
A minimal number of municipalities have taken advantage of Tax Abatement Programs and these participants only provide tax abatements for improvements to residential buildings. Municipalities may discourage non-profit sponsored housing since their funding sources will require that they are either exempt or tax abated. Sponsors of small group homes frequently find the only alternative is to rent an existing house, which is not tax abated as a means of access into a community. Family rental housing is especially difficult to site due to increase in educational costs and a limited tax revenue generating capacity.

c) **Creation of Illegal Apartments**  
The private sector creation of illegal apartments is common in older suburban areas where housing prices and real estate taxes are high. These units frequently have a negative physical impact on a neighborhood and code enforcement is the appropriate municipal policy. Recently, the real property tax issue and related education costs have encouraged municipalities to strictly enforce their zoning, building, health and fire codes. The negative side of this public policy is affordable units are being taken off the market without public action to encourage suitable replacement housing.

d) **Transitional Housing No Longer a Short-Term Solution**  
Families are staying longer at shelters and in transitional housing due to low family incomes, limited availability of subsidies and high rents. This need has not been alleviated by construction of new affordable housing.

In order to truly end homelessness among the chronically homeless, a shift away from transitional programs must take place as this population does not benefit from transitional programs. Countless studies and pilot programs have shown the success of the Housing First model in
addressing and ending chronic homelessness in communities across the country. Through this model, individuals are offered the very thing they need most, Housing. Once placed in permanent living situations, case managers can begin to work with individuals to develop a service plan tailored to their needs that provides wrap around services to ensure housing stability. This innovative approach separates housing and services in as much as the ability to remain stably housed is not dependant on participation in supportive services. With the proven track record of the Housing First approach and its adoption as evidence based practice, Mercer County will work through this model in addressing the housing and service needs of the chronically homeless population in the community. Through the lenses of a Housing First approach, the Ten Year Plan to End Chronic Homelessness in Mercer County outlines strategies that can begin to bring about real change in the lives of individuals who are chronically homeless living within the Mercer community.

7.7 Impediment VII - Evaluation of Public and Private Fair Housing Programs and Activities

There are several organizations with responsibilities related to fair housing, including providing education, outreach, and enforcement in the County. These are supplemented by housing authorities, non-profit organizations, community action groups, and service providers working in their local communities to promote fair housing awareness. Despite the multiplicity of organizations involved in fair housing, the County lacks adequate funding for fair housing testing, enforcement, and education. There is also an acknowledgment that collaborative statewide advocacy hampers fair housing efforts.

7.8 Impediment IX – Transportation Availability and Access to Jobs

Employment centers are no longer uniformly located along public transportation corridors, where they are accessible to those without access to private automobiles. This proves to be a barrier for many inner-city working poor, who cannot afford the cost of maintaining personal vehicles.

Neither the job locations nor the typical work schedules are well-served by public transportation. Decentralized metropolitan development patterns have resulted in fewer job locations being served by public transportation. In addition, an increasing number of businesses are open 24 hours per day, 7 days per week. Workers who staff second and third shifts are finding that public transportation is unavailable during nontraditional working hours. Coordinating transportation services can increase access to employment opportunities for the working poor, while simultaneously helping fill worker shortages in newly developed job centers.

New Jersey has enacted legislative mandates to coordinate human services transportation services. New Jersey has also mandated that counties develop coordination plans and submit them to the state.
Transportation coordination holds great potential for addressing multiple needs and goals with limited resources. Several dynamics are critical to success, including leadership, participation, and continuity. By establishing and supporting formal transportation coordinating mechanisms, leveraging of state, federal, local, and private resources can provide more effective transportation solutions that can lead to reduced congestion, better access to jobs, and more efficient provision of transportation services in their states.

Transportation services in New Jersey today include:

- Fixed-route buses operated by New Jersey Transit;
- Fixed-route buses operated by private transit operators;
- Other fixed and flexible route services operated by counties, municipalities, human services agencies, employers, and private companies, using full-size buses or small vehicles;
- Commuter and light rail service operated by New Jersey Transit;
- Access Link, paratransit service ("dial-a-ride") for individuals who cannot use fixed-route service, operated by New Jersey Transit;
- Paratransit services provided by county agencies, municipalities, or human services organizations; and
- Ride-sharing services, such as carpool matching and vanpools.
8.0 Actions to Overcome the Impediments to Fair Housing

Specific actions have been identified which will assist in overcoming the impediments to fair housing choice identified in this report and included are past actions taken to provide greater affordable housing choice. Mercer County continues to maintain its commitment to affirmatively further fair housing and implementation of the following actions will strengthen Mercer’s position with regard to fair housing activities and may remediate remaining impediments to fair housing choice:

8.1 Action Item I - Raise the Visibility of Fair Housing and the Complaint Process

A review of the Mercer County website found information about the County’s Consolidated Plan, One-Year Action Plan and fair housing. This is just one tool in improving the County’s ability to communicate key housing, community development and fair housing information. It is helpful that the County has established a point person to take fair housing inquiries.

The County must also create a plan to raise its fair housing visibility through public outreach. The County and its local fair housing agencies should continue to conduct presentations and distribute information about fair housing to public libraries, affordable housing providers and community/recreation centers. A suggestion is for the Fair Housing brochure to be placed near public use computers in libraries, computer rooms in housing developments, and other public places, containing links to the County website.

8.2 Action Item II - Consider Incentives and Alternative Funding Sources to Encourage and Increase Affordable Housing Development

Development and support of affordable housing require efforts by multiple parties including government agencies, housing organizations, nonprofits, advocates and real estate professionals. An examination of what proportion of units is affordable will assist in setting actual and attainable goals for affordable housing. The County will continue to examine how it can more effectively facilitate affordable housing. Over the past fifteen years, 141 units of affordable rental housing for the disabled (physical and mental) have been produced by Project Freedom, Visitation Home and ARC – Mercer. Additionally 326 units of Senior affordable rental housing were produced by McCorristin Square, Princeton Community Housing, Ujima Village, Ewing Independent Living and Heritage Village. The homeless population needs have been addressed by HomeFront with the acquisition of 25 units of affordable subsidize rental housing for families that would otherwise be homeless, and the construction of the Mercer County 5 unit affordable housing single room occupancy building.

Mercer County has also addressed various housing need throughout the county with affordable housing assistance in Hamilton, West Windsor and Princeton Borough with projects such as Capstone, Bootstraps, Shirley Court and John Street.
8.3 Action Item III - Increase Landlord and Resident Awareness and Knowledge of Fair Housing

The County should continue to provide information about fair housing to landlords. Possibly include a class, discussing fair housing issues that landlords must attend to become registered. Conduct fair housing workshops as part of community events (e.g., public service announcements, utility bill inserts, County website, etc.). Conduct public service campaigns to inform citizens about fair housing issues. These campaigns may consist of displaying posters, handing out flyers and conducting workshops in schools to reach future renters. Work with affordable housing providers to reach renters most likely to be affected by Fair Housing issues. Maintain a person at the County who is the central point of contact on fair housing issues for residents and landlords as well as for other County departments. This person would receive training on fair housing issues, communicate with state and local fair housing groups and HUD, and refer residents wishing to file complaints with follow-up as necessary.

8.4 Action Item IV - Work to Assist Residents with Disabilities Have Full Access to Housing and Needed Services

Continue to provide funding to increase housing opportunity for persons with disabilities. Specifically, funding should go to remove architectural barriers for persons with disabilities and to rehabilitate housing, including accessibility.

8.5 Action Item V - Ensure That Existing Credit Counseling Programs are Available and Targeted

Education about loan requirements and budgeting, commonly offered through first-time homebuyer classes, may help potential applicants to understand how to improve their chances of receiving a mortgage loan and how to mitigate the damaging effects of poor credit history. Such classes should include a discussion about fair housing and predatory lending, which may be a concern for the community.

Programs that provide credit counseling should target geographic areas in the County where loan denial rates are the highest. These programs should also contain information on predatory lending and counsel potential borrowers about the risks of carrying high levels of consumer debt. Finally, these programs should contain information on accessing government-sponsored and subsidized loans, which have more flexible underwriting standards.

8.6 Action Item VII - Ensure Readily Available Transportation Awareness for Access to Jobs

Educate those in need of transportation services of the existing services available within Mercer County that include the following:
- Fixed-route bus and rail service readily available in suburban areas.
- Train services availability:
1. River Line Light Rail Service
2. New Jersey Transit Local Service
3. Metroliner Non-Stop Service
   - Employment centers, medical facilities, and shopping centers serving targeted populations in areas served by public transportation.
   - Community-based, door-to-door services through T.R.A.D.E.
   - Existing transit and existing human services agency transit systems.
9.0 Strategies to Address the Impediments to Fair Housing

To address the impediments to fair housing choice identified in this report certain strategies were developed relating to impediments and recommended actions.

It is recommended that the County of Mercer maintain its commitment to affirmatively further fair housing. Implementation of the following recommendations will strengthen Mercer’s interest in fair housing activities and alleviate remaining impediments to fair housing choice:

9.1 Impediment I - Housing Discrimination

Target homeownership and lending marketing to African American, Native American and Hispanic households and other protected categories by ensuring fair housing is incorporated into homeownership initiatives. Engaging real estate organizations, convincing banks and lending institutions to increase marketing to African American and Hispanics homebuyers and ensuring that Mercer County funded first time homebuyer programs track minority involvement in first time homebuyer classes, closure on loans and marketing to African Americans and Hispanics would also provide a basis to track and correct this situation.

Continue ongoing enforcement activities and initiate further testing of housing providers to measure their willingness to make reasonable accommodations for prospective disabled residents. Additional ongoing testing should relate to the following protected categories; race, color, familial status, sex, national origin, ancestry, disability, creed, marital status, civil union status, domestic partnership status, gender identification or expression, affectational or sexual orientation, source of lawful income used for rental or mortgage payment.

The complaint and investigation results should be analyzed to form a basis for future education and outreach efforts.

9.2 Impediment II - Housing Education

County of Mercer continues to invest in fair housing education and outreach. To ensure that fair housing is fully integrated into its housing, especially those most affected by housing discrimination, it is recommended that the County of Mercer:

- Expand on-going housing education programs for housing providers, consumers, and local government officials about fair housing laws, right, and responsibilities. These workshops should occur at varying times throughout the year and should specifically relate to persons with disabilities and families with children.
- Raise awareness/ increase education programs on Federal Fair Housing Act and State Law Against Discrimination
- Ensure fair housing informational resources are made available to community partners to facilitate their ability to affirmatively further fair housing.
• Ensure that translated fair housing materials are available to immigrant groups.
• Increase fair housing information and links to fair housing laws/programs on the County's web site.
• Advocate with newspapers, real estate organizations, and housing providers to increase accessibility to fair housing internet resources on their web sites and to display fair housing information/resources in their offices.
• Increase educational efforts to homeless and transitional shelters to ensure compliance with fair housing laws.
• Ensure that the County funded first time homebuyer programs track minority involvement in first time homebuyer classes, closure on loans and marketing to African Americans and Hispanics.
• Place housing brochures and posters in public buildings, service agencies, libraries, and any other place where the public may find information on services

Conduct seminars on the Federal Fair Housing Act and the NJ State Law on Discrimination at the Mercer County Homebuyers Fair, and conduct additional seminars on Preventing Foreclosure in conjunction with the Mercer County Community Connections. It is anticipated that these and other efforts will continue and be an annual part of the County’s efforts to address fair housing choice.

Mercer County Housing will refer to legal guidance and counseling in matters of Landlord/Tenant law to County residents who fall within the HUD low to moderate income guidelines. They will also serve as a resource for public officials and other social service providers in need of their expertise as well as conducting appropriate community outreach activities.

9.3 Impediment III - Complaint Process

The County receives complaints of discrimination in housing based upon race, color, familial status, sex, national origin, ancestry, disability, creed, marital status, civil union status, domestic partnership status, gender identification or expression, or sexual orientation, source of lawful income or source of lawful income used for rental or mortgage payment and investigates these complaints. Referral to appropriate agencies is made to address and remediate the complaint.

Education and outreach to community groups and the real estate industry are also offered to encourage the public to practice fairness and justice in the housing marketplace.

In many instances as complaints are reviewed they are referred to other entities. The potential referral entities are as follows:

U.S. Department of Housing and Urban Development
New Jersey Division of Civil Rights
US Department of Justice
9.4 Impediment IV - Bias in Lending

Complaint data in the County indicate that protected classes may encounter differential treatment when seeking housing. To alleviate such impediments and progress in correcting discrimination:

- Initiate surveying housing providers to measure their willingness to make reasonable accommodations for prospective disabled residents. Additional Native American and familial status testing is also recommended.
- Utilize complaint and surveying results to inform education and outreach efforts.
- Increase review of lending institutions and mortgage loans to protect against bias in lending and predatory lending practices.
- Ensure that loans are readily available to low income borrowers at rates and payments that will not push them into foreclosure.

One component of the Mercer County First Time Home Buyer program is an outreach program that provides lending agencies informational brochures, facilitates meetings, and offers other technical assistance to inhibit bias in lending. This practice has proved beneficial and will continue.

9.5 Impediment V - Lack of Decent Affordable Housing

The Consolidated Funding Cycle requires participating agencies to certify their compliance with the Federal Fair Housing Act. The County received HOME Program funds which are utilized specifically to create affordable housing for very low and low-income persons. CDBG funds are awarded to Hamilton and Ewing Townships to fund homeowner rehabilitation, off-site publicly owned infrastructure for low and moderate-income census tracts.

The County will continue to actively seek other sources of funding for affordable housing and will use these funds as a way to remove some of the economic barriers to housing choice.

The County will also collaborate with developers and grantees to affirmatively market first time home buyer opportunities and affordable rental housing for those with disabilities to communities of color, especially projects utilizing County assistance.

Finally, the County will continue to encourage attendance at workshops geared towards home ownership education. The workshop topics will include the Fundamentals of Homeownership, Financial Fitness, Budget and Credit Counseling and How to Avoid Delinquency & Foreclosure. The mission is to promote and expand affordable home ownership opportunities in Mercer County through the centralizing of information, providing access to banks and other lenders and promoting of housing counseling programs.
9.6 Impediment VI - Governmental Policies Negatively Affecting Affordable Housing

This is a difficult item to measure and is not an item that can be corrected quickly and is worked on a case-by-case basis for each community. Multi-agency coordination to ensure successful completion of local projects is a priority.

Federal housing and support programs are an integral resource for implementing a Mercer County housing strategy. Some of the federal programs are administered through the State, others through entitlement agencies and a few directly by the provider. The inclusion of a comprehensive list of federal programs in the CHAS was of considerable assistance to service providers who were not familiar with all the resources available.

Projects that have received awards through the County will be monitored for land use zoning difficulties and assistance will be offered to those affordable housing projects that are experiencing difficulties. Reports of actions and accomplishments are available through the Citizen Participation process and can be found in the Consolidated Plan and One Year Action Plan.

The State of New Jersey not only administers many federal programs, but also has several of its own programs. These resources can be administered by county agencies or are directed to municipalities, non-profits, or the private sector. The state Comprehensive Affordability Housing Strategy (CHAS) should provide a clear and concise listing of all the available State programs, their funding source and program objectives, and limitations. Service providers may be uncertain as to which program could best meet their needs. This situation can be important when resources available for preparing grant requests and proposals are limited.

The Mercer County Human Services Advisory Council (HSAC) is the group through which representatives of government, voluntary organizations, providers, and non-providers can coordinate their efforts to improve the quality of human services for residents of the County. They are responsible for the Mercer County Comprehensive Human Service Plan.

The Mercer Alliance Ten Year Plan to End Chronic Homelessness in Mercer County outlines strategies that can begin to bring about real change in the lives of individuals who are chronically homeless and is designed to ensure the creation of affordable permanent housing over a ten (10) year period.

Additionally, the following actions or activities may assist in addressing deficiencies:

- Increased funding and support from federal, state, county government for programs that combat discrimination.
- Increased penalties for housing providers who discriminate.
• Expansion of federal laws to include discrimination based on lawful source of rental payment. (i.e. Section 8, TRA, RAP)
• Promote compact development within urban growth boundaries to minimize the cost of providing public services and infrastructure and to protect resource land outside urban growth boundaries.
• Give priority to a quality mix of development that addresses the economic and community goals of a community and region.
• Encourage mixed use, energy-efficient development designed to encourage walking, biking, and transit use.
• Support development that is compatible with a community’s ability to provide adequate public facilities and services.
• Facilitate development that is compatible with community and regional environmental concerns and available natural resources.
• Support development that provides for a balance of jobs and affordable housing within a community to reduce the need to commute long distances between home and work, thereby minimizing personal commuting cost as well as the public and societal cost of expanding the transportation infrastructure.
• Promote sustainable local and regional economies in order to provide jobs for residents and financial support for community services.
• Use population and employment forecasts developed or approved to plan and implement programs and activities.

A review of current housing and human services strategies demonstrates the County of Mercer’s commitment to maximize community benefit from limited resources. It is recommended the County:
• Continue implementing the housing and human services strategies articulated in the Consolidated Plan.
• Continue supporting housing and human service programs that affirmatively further fair housing and mitigate identified impediments.

9.7 Impediment VII - Evaluation of Public and Private Fair Housing Programs and Activities

HUD fair housing program guidelines suggest that the AI be updated regularly. The AI will be updated, at a minimum, on the same schedule as the Consortium’s Consolidated Plan.

A community can expand housing opportunities by informing those traditionally discriminated against about dwellings that are for sale or rent. HUD encourages fair housing agents to inform households outside a concentrated area about housing opportunities within the area. Both can be done through the use of the electronic media, billboards, newspapers, and local publications. Set-asides in any new development for moderate/low income families must be made public. Developers must advertise their properties.
Currently, we must attempt to overcome impediments to Mount Laurel decisions by discontinuing the practice of allowing municipalities to transfer their affordable housing mandates to the inner cities. This practice results in the corruption of the original intent of the Mount Laurel decision and it furthers racial housing patterns. The intent of the Mount Laurel decision was to create housing opportunities in the suburbs when employment opportunities were expanding.

The State of New Jersey has also adopted Fair Housing Statutes regarding the problem of discrimination. The statutes accomplish three things: (a) define unlawful housing practices, such as refusing to rent, sell, or lease a unit to legitimate applicants; discrimination in lending; blockbusting and steering, (b) contain procedures for initiating, investigating and resolving complaints, naming who is responsible for recommending a solution or imposing a penalty, and (c) name the department responsible for monitoring rental practices.

The County will utilize the resources made available through the government and private agencies to cope with impediments to fair housing. Those activities include but are not limited to:

1. Legal Action

   If the local fair housing agency is unable to resolve a particular issue, legal action may be the final recourse. Anyone engaging in steering, blockbusting, misrepresentation of housing availability, false description of a community, unequal lending practices, and listings that restrict minorities or low-income families to certain neighborhoods is chargeable. Refusal to rent to individuals because they are welfare recipients or are receiving alimony is also grounds for legal action.

2. Outreach to the Community

   Advertisements are placed in a local newspaper to inform the public that there are protected classes of people who can be helped by the Fair Housing Outreach in their search for housing. Programs are presented to community groups (such as church and civic groups as well as real estate groups) to inform them about the purpose and action of the County.

3. Housing Counseling

   Referrals will be made to HUD approved counseling agencies equipped to provide resources for the type of case.

9.8 Impediment IX – Transportation Availability and Access to Jobs

Transportation strategies will be encouraged to enable the County to respond to gaps in job access:
Modify existing bus routes and schedules to increase the frequency of service, add destinations, or provide connections to other services.

Increase coordination of existing transit services. Coordinate county transit, Medicaid, T.R.A.D.E., and services provided for human services agency clients, with a long-term goal of developing a transportation system to manage services in a combined manner.

Expand transit systems to offer service to new user groups or during additional hours. Use transit service to provide work trips in the evening and on weekends. Extend days and hours to provide second and third shift employment trips.

Provide employer shuttles. Operate shuttle services between points served by fixed-route and local shuttle services, residential areas, or both, and areas of significant employment.

Increase distribution of public transportation information to users, including trip-planning services. Establish a transportation information clearinghouse to provide transportation information to all county residents and manage contracts with transportation operators. Update county transit maps.
10.0 Records of Actions Taken to Overcome Impediments to Fair Housing

The County will collect data and create the necessary database to effectively monitor change in fair housing impediments. Materials will be collected, collated, and maintained to monitor the progress of the effort to mitigate impediments to fair housing. Materials gathered for this report will form the core of the record-keeping library. These documents, and additional data gathered from public and private sources, will be used to expand the section on fair housing in succeeding one-year action plans and to write fair housing reports as well as to provide the base data by which to judge the effectiveness of fair housing initiatives. The record keeping procedures to be followed includes the following steps:

1. Retain the materials gathered for this report as the core “library” of fair housing documents.
2. Enter a cooperative exchange program with essential organizations to receive on-going data on fair housing enforcement, types of cases and effects of changes in the law.
3. Track the efforts of implementation of the future initiatives to review progress in areas noted, particularly public education/information programs.

Additionally, the County will utilize the resources of the Federal and State Governments and private agencies to ensure the following:

1. Records are kept by the housing counselors of inquiries coming directly to them.
2. Records are kept of investigations into client’s complaints.
3. Records are kept of negotiations with brokers in cases of discrimination.
4. Records of litigation are kept.
5. In addition to individual records, statistics are assembled for comparison purposes and quick review of results.
11.0 Plan Preparation

Mercer County has designated the Mercer County Office of Housing Community Development as the lead agency for preparing and updating the AI. The plan was prepared in cooperation with the Mercer County Human Services Advisory Council, Mercer County Planning, Mercer County Board of Social Services, Mercer County Department of Human Services, Mercer County Office on Aging, Office for the Disabled, Mercer County Division Mental, Health, Legal Services, Catholic Charities, Crisis Ministries, Isles, Mount Carmel Guild, Project Freedom, Serv Behaviol, Ujima Ministries, Visitation Home, Mercer Alliance to End Homelessness Bank of America, Investors Savings Bank, PNC Bank, TD Bank, CHLP and American Credit Alliance, Inc.
12.0 Plan Updates

Comprehensive updates to the AI will be prepared on the same schedule (currently every five years) as the Mercer County Consolidated Plan for Housing and Community Development. The Mercer County Office of Housing Community Development will track progress in implementing the strategies outlined in the plan annually and make determination if additional updates are necessary.

Periodic updates to the plan can be accommodated at any time action items are addressed or needs change. Periodic updates to the plan will be considered by the Mercer County Office of Housing Community Development.
13.0 Appendices

13.1 Fair Housing Act

Sec. 800. [42 U.S.C. 3601 note] Short Title

This title may be cited as the "Fair Housing Act".

Sec. 801. [42 U.S.C. 3601] Declaration of Policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

Sec. 802. [42 U.S.C. 3602] Definitions

As used in this subchapter--

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11 [of the United States Code], receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 804, 805, 806, or 818 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person--

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,
(2) a record of having such an impairment, or
(3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

(i) "Aggrieved person" includes any person who--
   (1) claims to have been injured by a discriminatory housing practice; or
   (2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 810.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with--
   (1) a parent or another person having legal custody of such individual or individuals; or
   (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means--
   (1) the person or other entity accused in a complaint of an unfair housing practice; and
   (2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

(o) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

[42 U.S.C. 3602 note] Neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.
Sec. 803. [42 U.S.C. 3603] Effective dates of certain prohibitions

(a) Subject to the provisions of subsection (b) of this section and section 807 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 804 of this title shall apply:

(1) Upon enactment of this subchapter, to--
   (A) dwellings owned or operated by the Federal Government;
   (B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;
   (C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968;
   (D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) Nothing in section 804 of this title (other than subsection (c)) shall apply to--

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any
real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(c) For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if--

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices

As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--

(a) 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, familial status, or national origin.

(b) To 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, familial status, or national origin.

(c) 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.
(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to 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, handicap, familial status, or national origin.

(f) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--
   (A) that buyer or renter,
   (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
   (C) any person associated with that buyer or renter.

(2) To 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 with such dwelling, because of a handicap of--
   (A) that person; or
   (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
   (C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes--
   (A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
   (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or
   (C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwelling in such a manner that--
      (i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;
(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and
(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;
(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
(III) reinforcements in bathroom walls to allow later installation of grab bars; and
(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)

(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)

(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to receive and process complaints or otherwise engage in enforcement activities under this title.
(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this title.

(7) As used in this subsection, the term "covered multifamily dwellings" means--
   (A) buildings consisting of 4 or more units if such buildings have one or more elevators; and
   (B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 805. [42 U.S.C. 3605] Discrimination in Residential Real Estate-Related Transactions

(a) In General.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:
   (1) The making or purchasing of loans or providing other financial assistance--
      (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
      (B) secured by residential real estate.
   (2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

Sec. 806. [42 U.S.C. 3606] Discrimination in provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers'
organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

Sec. 807. [42 U.S.C. 3607] Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)

(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

(2) As used in this section "housing for older persons" means housing --

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and--

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--
(I) provide for verification by reliable surveys and affidavits; and
(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:
   (A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2)(B) or (C): Provided, That new occupants of such housing meet the age requirements of sections (2)(B) or (C); or
   (B) unoccupied units: Provided, that such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) A person shall not be held personally liable for monetary damages for a violation of this title if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

   (B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--
      (i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
      (ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.

Sec. 808. [42 U.S.C. 3608] Administration

(a) Authority and responsibility
   The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.
(b) Assistant Secretary
The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

(c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review
The Secretary may delegate any of his functions, duties and power to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5 [of the United States Code]. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

(d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes
All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary
The Secretary of Housing and Urban Development shall--
(1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;
(2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress--
(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and
(B) containing tabulations of the number of instances (and the
reasons therefore) in the preceding year in which--

(i) investigations are not completed as required by section
810(a)(1)(B);

(ii) determinations are not made within the time specified in
section 810(g); and

(iii) hearings are not commenced or findings and conclusions
are not made as required by section 812(g);

(3) cooperate with and render technical assistance to Federal, State, local,
and other public or private agencies, organizations, and institutions which
are formulating or carrying on programs to prevent or eliminate
discriminatory housing practices;

(4) cooperate with and render such technical and other assistance to the
Community Relations Service as may be appropriate to further its
activities in preventing or eliminating discriminatory housing practices;

(5) administer the programs and activities relating to housing and urban
development in a manner affirmatively to further the policies of this
subchapter; and

(6) annually report to the Congress, and make available to the public, data
on the race, color, religion, sex, national origin, age, handicap, and family
characteristics of persons and households who are applicants for,
participants in, or beneficiaries or potential beneficiaries of, programs
administered by the Department to the extent such characteristics are
within the coverage of the provisions of law and Executive orders referred
to in subsection (f) which apply to such programs (and in order to develop
the data to be included and made available to the public under this
subsection, the Secretary shall, without regard to any other provision of
law, collect such information relating to those characteristics as the
Secretary determines to be necessary or appropriate).

(f) The provisions of law and Executive orders to which subsection (e)(6) applies
are--

(1) title VI of the Civil Rights Act of 1964;

(2) title VIII of the Civil Rights Act of 1968;

(3) section 504 of the Rehabilitation Act of 1973;

(4) the Age Discrimination Act of 1975;

(5) the Equal Credit Opportunity Act;

(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

(7) section 8(a) of the Small Business Act;

(8) section 527 of the National Housing Act;

(9) section 109 of the Housing and Community Development Act of 1974;

(10) section 3 of the Housing and Urban Development Act of 1968;

(11) Executive Orders 11063, 11246, 11625, 12250, 12259, and 12432;

and

(12) any other provision of law which the Secretary specifies by
publication in the Federal Register for the purpose of this subsection.
Sec. 808a. [42 U.S.C. 3608a] Collection of certain data

(a) In general
To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C.A. {2000d et seq.] and title VIII of Public Law 90-284 [42 U.S.C.A. {3601 et seq.]}, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

(b) Reports to Congress
The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

Sec. 809. [42 U.S.C. 3609] Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of Title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

Sec. 810. [42 U.S.C. 3610] Administrative Enforcement; Preliminary Matters

(a) Complaints and Answers. --

(1)  

(A)  

(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or
terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint. (ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires. (iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section. (B) Upon the filing of such a complaint— (i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title; (ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint; (iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and (iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so. (C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so. (D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time. (2) (A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary. (B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that
the person to whom the notice is addressed is properly joined as a respondent.

(b) Investigative Report and Conciliation. --
(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.
(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.
(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.
(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.
(5)

(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing--
   (i) the names and dates of contacts with witnesses;
   (ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;
   (iii) a summary description of other pertinent records;
   (iv) a summary of witness statements; and
   (v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) Failure to Comply With Conciliation Agreement. -- Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

(d) Prohibitions and Requirements With Respect to Disclosure of Information. --
(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.
(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.
(e) Prompt Judicial Action. --

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under section 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) Referral for State or Local Proceedings. --

(1) Whenever a complaint alleges a discriminatory housing practice--

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection; the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless--

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)

(A) The Secretary may certify an agency under this subsection only if the Secretary determines that--

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

(iii) the remedies available to such agency; and
(iv) the availability of judicial review of such agency’s action; are substantially equivalent to those created by and under this title.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

(g) Reasonable Cause Determination and Effect. --

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)

(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

(B) Such charge--

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to
believe that a discriminatory housing practice has occurred or is about to occur;
(ii) shall be based on the final investigative report; and
(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).
(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.
(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.
(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(h) Service of Copies of Charge. -- After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served--
(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and
(2) on each aggrieved person on whose behalf the complaint was filed.

Sec. 811. [42 U.S.C. 3611] Subpoenas; Giving of Evidence

(a) In General. -- The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) Witness Fees. -- Witnesses summoned by a subpoena under this title shall be entitled to same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.
(c) Criminal Penalties. --

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this title--

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

Sec. 812. [42 U.S.C. 3612] Enforcement by Secretary

(a) Election of Judicial Determination. -- When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) Administrative Law Judge Hearing in Absence of Election. -- If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) Rights of Parties. -- At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.
(d) Expedited Discovery and Hearing. --

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.
(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.
(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

(e) Resolution of Charge. -- Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) Effect of Trial of Civil Action on Administrative Proceedings. -- An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) Hearings, Findings and Conclusions, and Order. --

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.
(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.
(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent--
(A) in an amount not exceeding $11,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding $27,500 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding $55,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)--

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

(h) Review by Secretary; Service of Final Order.--

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30
days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

(i) Judicial Review. --

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

(j) Court Enforcement of Administrative Order Upon Petition by Secretary. --

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

(k) Relief Which May Be Granted. --

(1) Upon the filing of a petition under subsection (i) or (j), the court may--

(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement Decree in Absence of Petition for Review. -- If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge’s order is entered, the administrative law judge's
findings of fact and order shall be conclusive in connection with any petition for enforcement--

(1) which is filed by the Secretary under subsection (j) after the end of such day; or
(2) under subsection (m).

(m) Court Enforcement of Administrative Order Upon Petition of Any Person Entitled to Relief. -- If before the expiration of 60 days after the date the administrative law judge’s order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of Decree. -- The clerk of the court of appeals in which a petition for enforcement is filed under subsection (1) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil Action for Enforcement When Election Is Made for Such Civil Action. --
(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.
(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.
(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's Fees. -- In any administrative proceeding brought under this section, or any court proceeding arising there from, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a
reasonable attorney’s fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

Sec. 813. [42 U.S.C. 3613] Enforcement by Private Persons

(a) Civil Action. --

(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

(b) Appointment of Attorney by Court. -- Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may--

(1) appoint an attorney for such person; or

(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.
(c) Relief Which May Be Granted. --

(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

(d) Effect on Certain Sales, Encumbrances, and Rentals. -- Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

(e) Intervention by Attorney General. -- Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

Sec. 814. [42 U.S.C. 3614] Enforcement by the Attorney General

(a) Pattern or Practice Cases. -- Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(b) On Referral of Discriminatory Housing Practice or Conciliation Agreement for Enforcement. --

(1)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.
(2)

(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

(c) Enforcement of Subpoenas. -- The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(d) Relief Which May Be Granted in Civil Actions Under Subsections (a) and (b). --

(1) In a civil action under subsection (a) or (b), the court--

(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent--

(i) in an amount not exceeding $55,000, for a first violation; and

(ii) in an amount not exceeding $110,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

(e) Intervention in Civil Actions. -- Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.
Sec. 814a. Incentives for Self-Testing and Self-Correction

(a) Privileged Information. --
   (1) Conditions For Privilege. -- A report or result of a self-test (as that term is defined by regulation of the Secretary) shall be considered to be privileged under paragraph (2) if any person-
      (A) conducts, or authorizes an independent third party to conduct, a self-test of any aspect of a residential real estate related lending transaction of that person, or any part of that transaction, in order to determine the level or effectiveness of compliance with this title by that person; and
      (B) has identified any possible violation of this title by that person and has taken, or is taking, appropriate corrective action to address any such possible violation.
   (2) Privileged Self-Test. -- If a person meets the conditions specified in subparagraphs (A) and (B) of paragraph (1) with respect to a self-test described in that paragraph, any report or results of that self-test-
      (A) shall be privileged; and
      (B) may not be obtained or used by any applicant, department, or agency in any --
         (i) proceeding or civil action in which one or more violations of this title are alleged; or
         (ii) examination or investigation relating to compliance with this title.

(b) Results of Self-Testing. --
   (1) In General. -- No provision of this section may be construed to prevent an aggrieved person, complainant, department, or agency from obtaining or using a report or results of any self-test in any proceeding or civil action in which a violation of this title is alleged, or in any examination or investigation of compliance with this title if --
      (A) the person to whom the self-test relates or any person with lawful access to the report or the results --
         (i) voluntarily releases or discloses all, or any part of, the report or results to the aggrieved person, complainant, department, or agency, or to the general public; or
         (ii) refers to or describes the report or results as a defense to charges of violations of this title against the person to whom the self-test relates; or
      (B) the report or results are sought in conjunction with an adjudication or admission of a violation of this title for the sole purpose of determining an appropriate penalty or remedy.
   (2) Disclosure for Determination of Penalty or Remedy. -- Any report or results of a self-test that are disclosed for the purpose specified in paragraph (1)(B) --
(A) shall be used only for the particular proceeding in which the adjudication or admission referred to in paragraph (1)(B) is made; and

(B) may not be used in any other action or proceeding.

(c) Adjudication. -- An aggrieved person, complainant, department, or agency that challenges a privilege asserted under this section may seek a determination of the existence and application of that privilege in --

(1) a court of competent jurisdiction; or

(2) an administrative law proceeding with appropriate jurisdiction.

(2) Regulations. --

(A) In General. -- Not later than 6 months after the date of enactment of this Act, in consultation with the Board and after providing notice and an opportunity for public comment, the Secretary of Housing and Urban Development shall prescribe final regulations to implement section 814A of the Fair Housing Act, as added by this section.

(B) Self-Test. --

(i) Definition. -- The regulations prescribed by the Secretary under subparagraph (A) shall include a definition of the term "self-test" for purposes of section 814A of the Fair Housing Act, as added by this section.

(ii) Requirement for Self-Test. -- The regulations prescribed by the Secretary under subparagraph (A) shall specify that a self-test shall be sufficiently extensive to constitute a determination of the level and effectiveness of the compliance by a person engaged in residential real estate related lending activities with the Fair Housing Act.

(iii) Substantial Similarity to Certain Equal Credit Opportunity Act Regulations. -- The regulations prescribed under subparagraph (A) shall be substantially similar to the regulations prescribed by the Board to carry out section 704A of the Equal Credit Opportunity Act, as added by this section.

(C) Applicability. --

(1) In General. -- Except as provided in paragraph (2), the privilege provided for in section 704a of the Equal Credit Opportunity Act or section 814a of the Fair Housing Act (as those sections are added by this section) shall apply to a self-test (as that term is defined pursuant to the regulations prescribed under subsection (a)(2) or (b)(2) of this section, as appropriate) conducted before, on, or after the effective date of the regulations prescribed under subsection (a)(2) or (b)(2), as appropriate.

(2) Exception. -- The privilege referred to in paragraph (1) does not apply to such a self-test conducted before the
effective date of the regulations prescribed under subsection (a) or (b), as appropriate, if --

(A) before that effective date, a complaint against the creditor or person engaged in residential real estate related lending activities (as the case may be) was --

(i) formally filed in any court of competent jurisdiction; or

(ii) the subject of an ongoing administrative law proceeding;

(B) in the case of section 704a of the Equal Credit Opportunity Act, the creditor has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section; or

(C) in the case of section 814a of the Fair Housing Act, the person engaged in residential real estate related lending activities has waived the privilege pursuant to subsection (b)(1)(A)(i) of that section.

Sec. 815. [42 U.S.C. 3614a] Rules to Implement Title

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

Sec. 816. [42 U.S.C. 3615] Effect on State laws

Nothing in this subchapter shall be constructed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

Sec. 817. [42 U.S.C. 3616] Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in

Federal Register
The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter
into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

Sec. 818. [42 U.S.C. 3617] Interference, coercion, or intimidation; enforcement by civil action

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 803, 804, 805, or 806 of this title.


There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

Sec. 820. [42 U.S.C. 3619] Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.


Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.


(a) Effective Date. -- This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) Initial Rulemaking. -- In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.


If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the
provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Section 901. (Title IX As Amended) [42 U.S.C. 3631] Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with--

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin and because he is or has been selling, purchasing, renting, financing occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from--

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection(a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate--

shall be fined not more than $1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.
TITLE 28, UNITED STATES CODE, AS AMENDED

Section 2341. Definitions

As used in this chapter --

(1) "clerk" means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

(2) "petitioner" means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

(3) "agency" means --

(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, the Interstate Commerce Commission, or the Atomic Energy Commission, as the case may be;

(B) the Secretary, when the order was entered by the Secretary of Agriculture;

(C) the Administration, when the order was entered by the Maritime Administration; and

(D) the Secretary, when the order is under section 812 of the Fair Housing Act.

Section 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of-

(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under section 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of-

(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, 41, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 802, 803, 808, 835, 839, and 841(a); and

(B) the Federal Maritime Commission issued pursuant to--

(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C.App. 822, 824, or 841a);

(ii) section 19 of the Merchant Marine Act, 1920 (46 U.S.C.App. 876);

(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C.App. 844, 845, 845a, or 845b);
(iv) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C.App. 1713 or 1716); or
(v) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C.App. 817d(d) or 817e(d);

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;

(5) all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of Title 49, United States Code; and

(6) all final orders under section 812 of the Fair Housing Act.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

13.2 Subpart C, 570.205
Eligible Planning, Urban Environmental Design and Policy-Planning-Management-Capacity Building Activities

a. Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:

1. Comprehensive plans;

2. Community development plans;

3. Functional plans, in areas such as:
   i. housing, including the development of a consolidated plan;
   ii. Land use and urban environmental design;
   iii. Economic development;
   iv. Open space and recreation;
   v. Energy use and conservation;
   vi. Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;
   vii. Transportation;
   viii. Utilities; and
   ix. Historic preservation.

4. Other plans and studies such as:
   i. Small area and neighborhood plans;
   ii. Capital improvements programs;
iii. Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under 570.201-570.204);

iv. The reasonable costs of general environmental, urban environmental design and historic preservation studies. However, costs necessary to comply with 24 CFR part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of 570.200(g);

v. Strategies and action programs to implement plans, including the development of codes, ordinances and regulations;

vi. Support of clearinghouse functions, such as those specified in Executive Order 12372; and

vii. Analysis of impediments to fair housing choice.

b. Policy-planning-management-capacity building activities which will enable the recipient to:
   1. Determine its needs;

   2. Set long-term goals and short-term objectives, including those related to urban environmental design;

   3. Devise programs and activities to meet these goals and objectives;

   4. Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and

   5. Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.


13.3 Subpart O, 570.904
Equal Opportunity and Fair Housing Review Criteria

a. General.

1. Where the criteria in this section are met, the Department will presume that the recipient has carried out its CDBG-funded program in accordance with civil rights certifications and civil rights requirements of the Act relating to equal employment
opportunity, equal opportunity in services, benefits and participation, and is affirmatively furthering fair housing unless:

i. There is evidence which shows, or from which it is reasonable to infer, that the recipient, motivated by considerations of race, color, religion where applicable, sex, national origin, age or handicap, has treated some persons less favorably than others, or

ii. There is evidence that a policy, practice, standard or method of administration, although neutral on its face, operates to deny or affect adversely in a significantly disparate way the provision of employment or services, benefits or participation to persons of a particular race, color, religion where applicable, sex, national origin, age or handicap, or fair housing to persons of a particular race, color, religion, sex, or national origin, or

iii. Where the Secretary required a further assurance pursuant to 570.304 in order to accept the recipient's prior civil rights certification, the recipient has failed to meet any such assurance.

2. In such instances, or where the review criteria in this section are not met, the recipient will be afforded an opportunity to present evidence that it has not failed to carry out the civil rights certifications and fair housing requirements of the Act. The Secretary's determination of whether there has been compliance with the applicable requirements will be made based on a review of the recipient's performance, evidence submitted by the recipient, and all other available evidence. The Department may also initiate separate compliance reviews under title VI of the Civil Rights Act of 1964 or section 109 of the Act.

b. Review for equal opportunity. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and implementing regulations in 24 CFR part 1, together with section 109 of the Act (see 570.602), prohibit discrimination in any program or activity funded in whole or in part with funds made available under this part.

(The above streamlined text replaced the following language: Section 570.601(a) sets forth the general requirements for title VI of the Civil Rights Act of 1964 and 570.602 sets forth the general requirements for section 109 of the Act. Together these provisions prohibit discrimination in any program or activity funded in whole or in part with funds made available under this part.)

1. Review for equal employment opportunity. The Department will presume that a recipient's hiring and employment practices have been carried out in compliance with its equal opportunity certifications and requirements of the Act. This presumption may be rebutted where, based on the totality of circumstances, there has been a deprivation of employment, promotion, or training opportunities by a recipient to any person within the meaning of section 109. The extent to
which persons of a particular race, gender, or ethnic background are represented in the workforce may in certain circumstances be considered, together with complaints, performance reviews, and other information.

2. Review of equal opportunity in services, benefits and participation. The Department will presume a recipient is carrying out its programs and activities in accordance with the civil rights certifications and requirements of the Act. This presumption may be rebutted where, based on the totality of circumstances, there has been a deprivation of services, benefits, or participation in any program or activity funded in whole or in part with block grant funds by a recipient to any person within the meaning of section 109. The extent to which persons of a particular race, gender, or ethnic background participate in a program or activity may in certain circumstances be considered, together with complaints, performance reviews, and other information.

c. Fair housing review criteria. See the requirements in the Fair Housing Act (42 U.S.C. 3601-20), as well as 570.601 (a), which sets forth the grantee's responsibility to certify that it will affirmatively further fair housing.

(The above streamlined text replaced the following language: Section 570.601(b) sets forth the general requirements for the Fair Housing Act (42 U.S.C. 3601-3620) and the grantee's certification that it will affirmatively further fair housing.)

d. Actions to use minority and women's business firms. The Department will review a recipient's performance to determine if it has administered its activities funded with assistance under this part in a manner to encourage use of minority and women's business enterprises described in Executive Orders 11625, 12432 and 12138, and 24 CFR 85.36(e). In making this review, the Department will determine if the grantee has taken actions required under 85.36(e) of this chapter, and will review the effectiveness of those actions in accomplishing the objectives of 85.36(e) of this chapter and the Executive Orders. No recipient is required by this part to attain or maintain any particular statistical level of participation in its contracting activities by race, ethnicity, or gender of the contractor's owners or managers.

14.0 Informational Resources

US Department of Housing and Urban Development

US Census Bureau

National Low Income Housing Coalition

Mercer at a Glance

Mercer County Department of Planning and Economic Development

Mercer County Data Book

Mercer County Department of Human Services

Mercer County Department of Planning

Mercer Alliance to End Homelessness

RealTract.com

Mercer County Multiple Listing Service

The Mercer County Priority Populations Plan 2005 - 2009

The Effects of City-County Consolidation: A Review of the Recent Academic Literature

Municipal Building Codes and Housing

U.S.: Cities Use Inclusionary Zoning as Housing Costs Climb

Racial Steering by Real Estate Agents in the U.S. in 2000