



# California Department of Housing and Community Development

## Affirmatively Furthering Fair Housing

Guidance for All Public Entities and for Housing Elements

(April 2021 Update)



## Definition of Affirmatively Furthering Fair Housing

Meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development.

Additional definitions can be found on Pg. 64.

## Purpose and Uses of Ongoing Guidance and AFFH Data Viewer:

(Sample text for now – actual text to follow)

This guidance memo is a more comprehensive update to the AB 686 summary of requirements in housing element law that the Department of Housing and Community Development (HCD) released April 23, 2020, which can be found at [hcd.ca.gov](http://hcd.ca.gov). This guidance is meant to assist public agencies and local governments meet AB 686 requirements. The guidance will be updated periodically in collaboration with practitioners and stakeholders to provide additional samples and best practices.

This guidance is advisory and is adopted pursuant to HCD's general authority to provide technical assistance on the preparation of housing elements. HCD is also cognizant of its own duty to affirmatively further fair housing (AFFH) in adopting this guidance. Nevertheless, where the document says "shall" or "must," there is no intent to create a mandatory duty that does not independently exist in statute, and the use of these terms is merely a repetition of that mandatory duty. This document offers guidance and should not be construed as legal advice.

HCD has also developed a statewide AFFH Data Viewer that assembles various data sources and provides options for addressing each of the components within the full scope of the assessment of fair housing. The AFFH Data Viewer may be utilized to address the data components of new requirements to affirmatively furthering fair housing but must be used in combination with other data such as local or regionally available data. The AFFH Data Viewer consists of map data layers organized by: 1) Fair Housing Enforcement and Outreach Capacity, 2) Segregation and Integration, 3) Disparities in Access to Opportunity, 4) Disproportionate Housing Needs, including Displacement Risks, 5) Racially and Ethnically Concentrated Areas of Poverty and Affluence and 6) Supplemental Data. The AFFH Data Viewer is intended to be useful to a broad audience, such as local and regional governments, and organizations involved in the housing element process. For more information, visit the HCD's website at [www.hcd.ca.gov/community-development/affh/](http://www.hcd.ca.gov/community-development/affh/).



# HCD Mission, Vision, and Core Values

## Mission

Promote safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians.

## Vision

Every California resident can live, work, and play in healthy communities of opportunity.

## Core Values

**INNOVATION:** Empowered to apply creative solutions

**PROFESSIONALISM:** Demonstrate a willing attitude, open-mindedness, competence, and respect at all levels

**ACCOUNTABILITY:** Responsible, thoughtful ownership and acknowledgement of actions and performance

**MISSION-DRIVEN:** Determined and focused on achieving HCD's purpose

**INTEGRITY:** Direct, honest, transparent, and ethical in every action

**DIVERSITY:** Support, strengthen, and foster diversity and inclusive teams, programs, and partnerships



## California Department of Housing and Community Development

**Director Gustavo Velasquez**

### **Message Re: AB 686 Affirmatively Furthering Fair Housing**

April is fair housing month, and April 2021 marks a momentous time in the recent history of fair housing in America. Racial and economic inequity have been catapulted to the forefront of public discourse through the lenses of a deadly pandemic and ongoing structural racism, clearly capturing which of our neighbors are affected most, and why. For the well-being of our state, it is vital that we maintain a sharp focus on addressing the challenges we face in achieving racial equity and opportunity for all Californians.

President Joe Biden is following through with his early commitment to make racial equity and fair housing advancement a cornerstone of his administration's policy and has committed to reinstate the 2015 Affirmatively Furthering Fair Housing rule and the 2013 Disparate Impact rule. California also recognizes and fully commits to addressing the role that public policy – at all levels of government – played in creating the patterns of segregation and racially concentrated areas of poverty that we see in our state today.

In 2018, California passed AB 686 as the statewide framework to affirmatively further fair housing; to promote inclusive communities, further housing choice, and address racial and economic disparities through government programs, policies, and operations. AB 686 is one of the most important tools that our local jurisdictions and partners can use to address systemic racism in housing and achieve positive impact for all Californians through public policies. AB 686 applies to all public agencies in all activities related to housing and community development. The duty to affirmatively further fair housing must be taken with the utmost diligence and cannot be ignored by any of us if it is to be successful.

Together, we must ameliorate past actions that led to inequity. As decision-makers we must create land-use and funding policies to increase affordable housing in high-resource neighborhoods that have often been exclusionary and bring additional resources to traditionally under-resourced neighborhoods.

Affirmatively furthering fair housing in California is about achieving better outcomes for all Californians regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, disability, and all other protected characteristics. These principles and requirements are necessary in addressing the racial wealth and homeownership gap, income disparities, and unequal access to opportunities. When everyone has better housing, health, and economic outcomes, we all do better as a whole.

Please join HCD and the many devoted partners in promoting stronger and more inclusive, sustainable communities. We know that our shared struggle for racial equity is centuries in the making and that there is more work to be done. We are honored to be part of a legacy of stepping up and making things better, for all of us.

## Purpose

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This guidance memo is a more comprehensive update to the AB 686 summary of requirements in housing element law that the Department of Housing and Community Development (HCD) released April 23, 2020, which can be found at [hcd.ca.gov](http://hcd.ca.gov). This guidance is meant to assist public agencies and local governments meet AB 686 requirements. The guidance will be updated periodically in collaboration with practitioners and stakeholders to provide additional samples and best practices.

This guidance is adopted pursuant to Department of Housing and Community Development's (HCD's) general authority to provide technical assistance on the preparation of housing elements. Local jurisdictions' use of this guidance will support their legal obligation to comply with the duty to affirmatively further fair housing. HCD is also cognizant of its own duty to affirmatively further fair housing in this guidance.

## Acknowledgements

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- » Western Center on Law and Poverty
- » PolicyLink
- » Public Advocates
- » Public Interest Law Project
- » California Rural Legal Assistance
- » Disability Rights
- » Leadership Counsel for Justice and Accountability
- » Poverty and Race Research Action Council
- » Housing Rights Center
- » The Law Foundation of Silicon Valley
- » Public Law Center
- » Public Interest Advocacy
- » California Housing Partnership Corporation

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# Background and History of Affirmatively Furthering Fair Housing

Where we call home has far-reaching impacts on our lives and futures. Home can provide us with the building blocks to success: a sense of belonging, safety, and access to economic and social opportunities. Housing is a key determinant in whether or not people have the resources to live healthy lives and achieve their full potential. Land use policies and planning often translate into the ability of families to access neighborhoods of opportunity, with high-performing schools, greater availability of jobs that afford entry to the middle class, and convenient access to transit and services. The limits on housing choice and access experienced by people within protected classes, such as race, sexual orientation, or disability, have far-reaching impacts on access to job opportunity, quality education, and mental and physical health.

Residential segregation and exclusion, whether by race, ethnicity, disability, or income, is a result of numerous housing policies, practices, and procedures—both public and private—that have had enduring and pervasive negative impacts. Overt and covert housing discrimination through land use policy, shifting housing markets, and patterns of investment and disinvestment, have restricted meaningful fair housing choice and equitable access to opportunity, particularly for communities of color. Historic patterns of segregation persist in California despite the long-standing federal mandate, established by the Fair Housing Act of 1968 (FHA), that federal agencies and federal grantees affirmatively further the purposes of the FHA.

In the decades preceding and since the passage of the FHA, government and non-governmental policies and practices have disproportionately and unfairly impacted people and communities. Rampant exclusionary tactics and disparate treatment such as redlining, racially restrictive covenants, and biased mortgage lending practices were a few of the methods in the housing system that federal, state, and local lawmakers developed or explicitly supported to encourage spatial inequality based on race. State-sponsored, racially explicit practices fostered economic inequality and created a systematic wealth gap, as some groups were excluded from accessing homeownership and thereby denied the ability to create intergenerational wealth through investments in real estate.

In 1968, the FHA was enacted to remedy significant and long-standing inequities borne by protected classes, particularly Black and Hispanic people. As amended in subsequent years, the FHA mandates broad protections, prohibiting housing discrimination based upon race, color, religion, sex, disability, familial status, or national origin. Importantly, it advances the need to go beyond prohibiting housing discrimination and create opportunities for real housing choice through affirmatively furthering fair housing.<sup>1</sup>

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<sup>1</sup> The Fair Housing Act of 1968 originally only protected against discrimination based on race, color, religion, and national origin. The FHA was later amended in 1974 to include sex and then again in 1988 to include discrimination based on disability and familial status.

Although federal mandates prohibit overt forms of discrimination in housing, forces driving residential segregation have persisted, sometimes taking on new forms to achieve the same discriminatory ends. Racially explicit practices were subtly replaced by race-neutral methods to exclude people of color from predominantly white neighborhoods. Over time, single-family zoning emerged and replaced race-based zoning as a tool for segregating communities by restricting more affordable housing options, such as apartments or condominiums. Exclusionary zoning policies have made it difficult for lower-income residents to access certain communities and in turn has had a discriminatory effect on protected characteristics such as race, disability, and familial status. Furthermore, federal, state, and local subsidized programs failed to construct affordable housing in high-resource neighborhoods, which are disproportionately white, thereby reinforcing the spatial segregation of low-income communities of color.<sup>2</sup>

Past and present discriminatory policies and practices, including long-term disinvestment, have resulted in neighborhoods with concentrated poverty and poor housing stock, limited access to opportunity, unsafe environmental conditions, underfunded schools, dilapidated infrastructure, and other disproportionately experienced problems. In addition, governmental policies have subsidized the development of segregated, high-resourced suburbs in metropolitan areas by constructing new highway systems—often through lower income communities of color—to ensure access to job opportunities in urban centers. This physical and policy infrastructure supports patterns of discrimination and high levels of segregation that continue to persist in California and across the country. All of these conditions persist despite the over 50-year-old obligation to prohibit discrimination and affirmatively further fair housing.

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<sup>2</sup> As of 2017, the State of California had 391 racially and ethnically concentrated areas of poverty (R/ECAP) areas, which represents a notable 40 percent increase from the 278 R/ECAP areas documented in 2010. Between 2000, when the state had 182 R/ECAP areas, and 2017, California has seen a 115 percent increase in R/ECAP areas (Final 2020 Analysis of Impediments (AI), p. 165).

Housing policy, program guidelines, and regulations were essential in creating current inequities, and they are equally important in both preventing further segregation and concentration of poverty, as well as increasing access to opportunity. In order to ameliorate past actions that led to inequity, decision-makers must create land-use and funding policies to increase affordable housing in high resource neighborhoods that have often been exclusionary (explicitly or in effect of costs and zoning policies) and bring additional resources to traditionally under-resourced neighborhoods.



To address these conditions, Assembly Bill 686 (AB 686), signed in 2018, establishes an independent state mandate that expands the duty of all California’s public agencies to affirmatively further fair housing (AFFH). AB 686 added to existing protections in California. The Fair Employment and Housing Act (FEHA) provides broad protections to California residents, prohibiting housing discrimination through public or private land-use practices, decisions, and authorizations based upon “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information.”<sup>3</sup> Also, Government Code section 65008 prohibits discrimination against affordable housing based on financing or occupancy by low- and moderate-income households. With the passage of AB 686, state and local public agencies are required to affirmatively further fair housing through deliberate action to explicitly address, combat, and relieve disparities resulting from past and current patterns of segregation to foster more inclusive communities. Importantly, AB 686 also creates new housing element requirements applying to all housing elements due to be revised on or after January 1, 2021. These requirements include an assessment of fair housing practices, an analysis of the relationship between available sites and areas of high or low resources, and concrete actions in the form of programs to affirmatively further fair housing. The purpose of this assessment and analysis is to replace segregated living patterns with truly integrated and balanced living patterns and to transform racially and ethnically concentrated areas of poverty (R/ECAP) into areas of opportunity. The purpose of this memo is to assist in that assessment and analysis.

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3 Gov. Code, §§ 12900-12996.

# Chart 1: Summary of AB 686 Requirements



# Overview of AB 686 Changes to Law

**AB 686** (Chapter 958, Statutes of 2018) makes changes to laws in two broad areas:

1. Duty of All Public Agencies to Affirmatively Further Fair Housing
2. Affirmatively Furthering Fair Housing Changes to Housing Element Law

## Duty of All Public Agencies to Affirmatively Further Fair Housing

Existing federal law requires departments and agencies to administer programs relating to housing in a way that affirmatively furthers fair housing.<sup>4</sup> These obligations extend to state and local governments that receive funds or contract with the federal government. For example, a local government receiving Community Development Block Grant (CDBG) dollars directly from the federal government is obligated to affirmatively further fair housing; under federal law this included completing an assessment of fair housing to inform the consolidated plan. However, federal planning requirements are subject to shifting promulgation of laws through various mechanisms such as regulations, rules, and program guidelines.<sup>5</sup>

As of January 1, 2019, AB 686 extends the obligation to affirmatively further fair housing to all public agencies in the State of California. This affirmative duty is not limited to those agencies with relationships with the federal government and is to be broadly applied throughout agencies at the state and local level.<sup>6</sup> Now, all public agencies must both (1) administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing, and (2) take no action inconsistent with this obligation. Affirmatively furthering fair housing means “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities.”<sup>7</sup> These new statutory obligations charge all public agencies with broadly examining their existing and future policies, plans, programs, rules, practices, and related activities and make proactive changes to promote more inclusive communities.<sup>8</sup>

## Affirmatively Furthering Fair Housing Changes to Housing Element Law

Even prior to the passage of AB 686, Housing Element Law inherently promoted more inclusive communities, such as by addressing the disproportionate housing needs of lower income households, and households with special needs (e.g., persons with disabilities, elderly, large households, single

4 See [Executive Order 12892](#) – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing. January 17, 1994.

5 Effective September 8, 2020, HUD replaced the final AFFH rule with the [Preserving Community and Neighborhood Choice rule](#) [\[federalregister.gov\]](#). Under the new rule entities are not required to complete a fair housing assessment (AFH or AI). They must AFFH, which has been redefined to read as, “means to take any action rationally related to promoting any attribute or attributes of fair housing as defined in the preceding subsection” (24 C.F.R. §5.150 (2020)).

6 Gov. Code, § 8899.50, subd. (a)(2).

7 Id., subd. (a)(1).

8 Id., subds. (a)(1), (a)(2), (b), (c), and (d).

parent households, farmworkers, and people experiencing homelessness).<sup>9</sup> For example, Housing Element Law requires local governments to make diligent efforts to include all segments of the community in public participation. Housing Element Law requires specific analysis of persons and households with special needs and commensurate development of policies and programs.<sup>10</sup> Housing Element Law, among many other things, also requires zoning for a variety of housing choices, the identification of sites to accommodate the housing needs of all incomes, and specific programs to promote fair housing.<sup>11</sup>

AB 686 makes changes to Housing Element Law to ensure the long-standing duty to affirmatively further fair housing is part of the housing element of the general plan,<sup>12</sup> which is the fundamental guiding document for community development for all local governments.<sup>13</sup>

Major changes include:

### Outreach and Capacity

The preparation, adoption, and implementation of a housing element requires a diligent effort to include all economic segments of the community.<sup>14</sup> AB 686 reinforces and builds on this requirement. Under AB 686 and changes to Housing Element Law, the housing element must also include a summary of fair housing outreach and capacity.<sup>15</sup> The element must describe meaningful, frequent, and ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element.<sup>16</sup>

Outreach plans should consider geographic barriers to participation, especially in geographically extensive jurisdictions and rural areas, and should plan to hold in-person meetings in various locations to ensure residents from across the jurisdiction have the opportunity to participate. Jurisdictions should seek sites that are transit-accessible and/or consider options to assist residents without vehicle access with transportation.<sup>17</sup> Meetings should be held outside of work hours, including on evenings and weekends, to facilitate participation.<sup>18</sup> Drafts of the housing element should be made available to the public for review and comment with ample time before submission to the Department of Housing and Community Development (HCD) for review. In-person and electronic options for participation should also be made available. Also, housing element outreach should be aligned with the SB 1000 (2016)

<sup>9</sup> See, e.g., Gov. Code, § 65583, subds. (a)(1), (a)(7); HCD, Building Blocks, at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

<sup>10</sup> Gov. Code, § 65583, subds. (a)(7), (c).

<sup>11</sup> See, e.g., Gov. Code, § 65583, subd. (a)(4), (c)(1).

<sup>12</sup> See, e.g., Gov. Code, § 65583, subd. (c)(5).

<sup>13</sup> *DeVita v. County of Napa* (1995) 9 Cal.4th 763, 772–773 (“general plan ... remains, a ‘constitution’ for future development”); *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540 (general plan is located at the top of “the hierarchy of local government law regulating land use”).

<sup>14</sup> Gov. Code, § 65583, subd. (c)(9).

<sup>15</sup> See, e.g., Gov. Code, § 65583, subd. (c)(10)(A)(i).

<sup>16</sup> Gov. Code, §§ 65583, subds. (c)(9), (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42292-42302, 42353-42360, esp. 42354-42356 (July 16, 2015).

<sup>17</sup> Gov. Code, § 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360, esp. 42354-42356 (July 16, 2015); HCD, Building Blocks, Public Participation at <https://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

<sup>18</sup> Gov. Code, § 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42292-42302, 42353-42360, esp. 42354-42356 (July 16, 2015); HCD, Building Blocks, Public Participation at <https://www.hcd.ca.gov/community-development/building-blocks/getting-started/public-participation.shtml>.

(Environmental Justice Element)<sup>19</sup> outreach to the extent possible, given the overlapping topic areas.

**Examples of key stakeholders:**

- Community-based and other organizations (CBOs) that represent protected class members
- Public housing authorities
- Housing and community development providers
- Lower income community members and households that include persons in protected classes
- Fair housing agencies
- Independent living centers
- Regional centers
- Homeless services agencies
- Churches and community service organizations that serve ethnic/linguistic minorities

**Important components of meaningful engagement:**

- Translation of materials and making translation available at meetings
- Working with CBOs and other community stakeholders to develop effective outreach and engagement plans
- Making accessible information materials that avoid use of overly technical language
- Offering mini-grants to CBOs and other stakeholders to assist with engagement of low-income households and protected classes

**Assessment of Fair Housing: Summary of Issues and Analysis of Patterns, Trends, and Disproportionate Housing Needs**

The housing element now incorporates planning and analysis which is collectively referred to as an assessment of fair housing (AFH),<sup>20</sup> which generally includes:

- A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction’s fair housing enforcement and outreach capacity; and
- An analysis and summary of fair housing issues utilizing available federal, state, and local data and knowledge. The analysis must include a variety of factors, such as trends and patterns within the locality and in comparison to the broader region, and the analysis must address:
  - » Integration and segregation;
  - » Racially or ethnically concentrated areas of poverty;
  - » Disparities in access to opportunity, including for persons with disabilities; and
  - » Disproportionate housing needs (this may include things like overpayment, overcrowding, housing conditions disproportionately affecting protected classes), including displacement risk.

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<sup>19</sup> Gov. Code, § 65302, subd. (h).

<sup>20</sup> Gov. Code, §§ 65583, subds. (c)(9), (c)(10), 8899.50, subds. (a), (b), (c); AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42292-42302, 42343-42344, 42353-42360 (July 16, 2015).

## Site Inventory

Prior to AB 686, Housing Element Law required jurisdictions to inventory and identify adequate sites appropriately zoned and available to accommodate its Regional Housing Need Allocation (RHNA).<sup>21</sup> The housing element must demonstrate that there are adequate sites zoned for the development of housing for households at each income level sufficient to accommodate the number of new housing units needed at each income level as identified in the RHNA.<sup>22</sup>

AB 686 now requires that a jurisdiction identify sites throughout the community in a manner that is consistent with its duty to affirmatively further fair housing (AFFH) and the findings of its assessment of fair housing, pursuant to Government Code section 65583, subdivision (c)(10)(A).<sup>23</sup> In the context of AFFH, the site identification requirement involves not only an analysis of site capacity to accommodate the RHNA, but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.<sup>24</sup>

## Identification and Prioritization of Contributing Factors

Existing Housing Element Law requires various analyses, such as a housing needs assessment, housing needs of persons with special needs, housing conditions, potential governmental and non-governmental constraints, site inventory to accommodate the projected housing need (i.e., regional housing need allocation), and identification of units at risk of converting to market-rate uses.<sup>25</sup> Each of these analyses inform the goals, policies and schedule of actions to address the existing and projected housing needs over the planning period.<sup>26</sup> AB 686 advances this same framework and requires linking analysis with policy and action formulation. AB 686 requires an identification and prioritization of contributing factors to fair housing issues based on all the previously required analysis (outreach, fair housing assessment, site inventory).<sup>27</sup> This identification and prioritization must give highest priority to factors that limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights.<sup>28</sup>

## Goals and Actions

Existing Housing Element Law requires programs with a schedule of actions with timelines and specific commitment to have a “beneficial impact” within the planning period to achieve the goals and objectives of the housing element. Programs must address various statutorily mandated areas, such as identification of adequate sites, zoning for a variety of types, assisting development for lower and moderate income households, addressing governmental and non-governmental constraints,

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21 See, e.g., Gov. Code, § 65583, subds. (a)(3); HCD, Building Blocks, at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

22 Ibid.

23 Gov. Code, § 65583.2, subd. (a).

24 Gov. Code, § 8890.50, subd. (b).

25 See, e.g., Gov. Code, § 65583, subd. (a); HCD, Building Blocks, at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

26 See, e.g., Gov. Code, § 65583, subds. (b), (c); HCD, Building Blocks, at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

27 See, e.g., Gov. Code, § 65583, subd. (c)(10)(A)(iii); Gov. Code, § 8899.50, subds. (a)(1), (b).

28 See, e.g., Gov. Code, § 65583, subd. (c)(10)(A)(iv).

conserving the existing housing stock, preserving at-risk units, and promoting housing opportunities for all people.<sup>29</sup> AB 686 builds upon these program requirements, including modifying the existing program requirement to promote fair housing opportunities to now include actions that promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons. As part of this requirement, the housing element now requires an identification of priorities and goals based on identified contributing factors that limit or deny fair housing choice or access to opportunity, or that negatively impact fair housing or civil rights compliance.<sup>30</sup> Similar to the existing Housing Element Law, AB 686 also requires identification of metrics or quantified objectives and milestones for determining what fair housing results will be achieved.<sup>31</sup> Strategies and actions to implement priorities and goals may include, but are not limited to:

- Enhancing mobility strategies and promoting inclusion for protected classes
- Encouraging development of new affordable housing in high-resource areas
- Implementing place-based strategies to encourage community revitalization, including preservation of existing affordable housing
- Protecting existing residents from displacement

These actions, taken together, must significantly address disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, fostering and maintaining compliance with civil rights; and must affirmatively further fair housing.

### Consistency with the Affirmatively Furthering Fair Housing Rule

The passage of AB 686 in 2018 enshrined the duty to affirmatively further fair housing within California state law, regardless of future federal actions. California's law essentially preserves the U.S. Department of Housing and Urban Development's (HUD) 2015 Affirmatively Furthering Fair Housing Final Rule as published in the Federal Register in 2015.<sup>32</sup> This was done to ensure the 2015 AFFH Final Rule remained the law in California, despite the potential federal rollback of the rule and tool. (The 2015 rule was suspended in 2018 and ultimately terminated in 2020.) State law is clear, California's AFFH duty remains regardless of subsequent amendment, suspension, or revocation of the 2015 AFFH Final Rule.

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<sup>29</sup> Gov. Code, § 65583, subd. (c).

<sup>30</sup> Gov. Code, §§ 65583, subds. (c)(10), 8899.50, subds. (a), (b), (c); AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360, esp. 42358 (July 16, 2015).

<sup>31</sup> Gov. Code, § 65583, subds. (c)(10)(A)(iv).

<sup>32</sup> Per Government Code section 8899.50, subdivision (c), the section shall be interpreted consistent with the AFFH Final Rule and accompanying commentary as published by [HUD in volume 80 of the Federal Register, Number 136, pages 42272 to 42371, inclusive, dated July 16, 2015](#). Note that, at times, this document cites to the 2016 the Code of Federal Regulations; this is because the rule adopted in July 2015 was too late to be codified in the 2015 Code and was codified in the regulations for the first time in the 2016.

# Part 1:

## Duty of All Public Agencies to Affirmatively Further Fair Housing

AB 686 strengthens existing California fair housing and civil rights laws. California’s Fair Employment and Housing Act (FEHA) provides broad protections to California residents, prohibiting housing discrimination based upon “race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information.”<sup>33</sup> California’s Government Code section 65008 prohibits discrimination in housing based on occupation, age, or protected characteristic; method of financing; or the intended occupancy by lower or moderate income people. While state law prohibited discrimination through public or private land use practices, decisions, and authorizations based on any of these characteristics, it had not included a state requirement to affirmatively further fair housing. As of January 1, 2019, AB 686 creates a state mandate requiring public agencies and jurisdictions to go beyond combating discrimination to affirmatively further fair housing.

**“Affirmatively furthering fair housing”** means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development. - (Gov. Code, § 8899.50, subd. (a)(1).)

Beyond the housing element requirements, AB 686 requires all public agencies (including, but not limited to, all cities and counties, and housing authorities) to ensure that their housing and community development programs and activities—taken together—affirmatively further fair housing, and that they take no action materially inconsistent with this obligation.<sup>34</sup>

Affirmatively furthering fair housing includes taking proactive and meaningful actions that have a

<sup>33</sup> Gov. Code, §§ 12900-12996.

<sup>34</sup> Gov. Code, § 8890.50, subds. (a)(1), (b), (d).



significant impact in integrating living patterns and socio-economic concentrations—well beyond combating discrimination or mitigating disparities. Meaningful actions must be taken in concert with each other and address all of the following:<sup>35</sup>

- 1. Significant Disparities in Housing Needs and in Access to Opportunity:** Examples include incentivizing new residential development to include below-market rate housing; conserving affordability of existing housing, such as limitations on rents or conversion of such housing to higher rent or higher priced housing; encouraging systematic code enforcement activities that maintain housing stock while ensuring such enforcement does not cause displacement; and promoting housing mobility strategies and displacement mitigation strategies to ensure equitable access to opportunity. Housing mobility strategies may include providing affordable and accessible transportation options to enhance access to education and economic development opportunities. Displacement mitigation strategies may include tenant protections, conservation of existing stock, preservation of units at-risk of conversion to market-rate uses, acquisition and rehabilitation of existing stock, including naturally occurring affordable housing, and removing barriers to building affordable housing.
- 2. Replacing Segregated Living Patterns with Truly Integrated and Balanced Living Patterns:** Examples include community benefits agreements that balance development proposals with tangible, local benefits to residents in the area ( e.g., creating affordable housing, funding renter assistance programs for nearby residents, or other investments that meet community-identified needs, such as infrastructure and community amenities). Other examples include inclusionary zoning requirements and land-value recapture mechanisms, zoning for a variety of housing types, particularly those that may be lacking from the community or neighborhood, including: multifamily housing, low-barrier navigation centers, group homes, supportive housing, and accessible units. Promote education on how restrictions on multifamily housing, such as limited multifamily zoning and height and density limitations, impact inclusive communities. Seek local input on housing proposals while recognizing that “local vetoes” of affordable and mixed-income housing in racially segregated concentrated areas of affluence create fair housing issues.<sup>36</sup>
- 3. Transforming Racially and Ethnically Concentrated Areas of Poverty (R/ECAP) into Areas of Opportunity:** Examples include community-led, place-based strategies to revitalize communities, such as economic development strategies and prioritizing investment in R/ECAPs that meet the needs of existing low-income residents, such as safe routes to school, transit, parks, schools, bike and pedestrian infrastructure, urban forestry, other neighborhood improvements; preserving naturally occurring affordable housing, such as mobilehome parks; and preservation as affordable housing of market-rate units where low-income households live; and promoting mixed-income development coupled with strong anti-displacement protections. Conduct outreach and advertise city program to persons with limited English proficiency. Other examples include community engagement in planning processes, including targeted outreach, technical assistance to help apply for grants, economic development strategies, workforce development, youth engagement and educational programs, healthy food access, affordable energy, and transportation access.

35 Gov. Code, §§ 8890.50, subds. (a)(1), (b), (d), 65583, subds. (c)(5), (c)(10); AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154 (2016).

36 The Internal Revenue Service Revenue Ruling 2016-29 states that the Internal Revenue Code neither forces nor encourages local approval in decisions allocating Low Income Housing Credits, based on the concern that this practice perpetuates racial segregation. State housing agencies are not required or encouraged to honor local vetoes.

**4. Fostering and Maintaining Compliance with Civil Rights and Fair Housing Laws:** Agencies must diligently comply with civil rights and fair housing laws, including the California Fair Employment and Housing Act (FEHA) (Part 2.8 (commencing with section 12900) of Division 3 of Title 2), Government Code sections 8899.50, 65008, 65583, subdivisions (c)5 and (c)10), and 11135, Civil Code section 51 (the Unruh Civil Rights Act), and FEHA regulations in California Code of Regulations, title 2, sections 12005-12271.

In addition to taking meaningful action, public agencies must not take any action materially inconsistent with the obligation to affirmatively further fair housing. Examples of materially inconsistent actions include those that:

- Hinder any of the affirmative actions public agencies take to further fair housing (e.g., lack of enforcement of rules intended to promote fair housing choices, diminishing fair housing principles from program guidelines, and inequitable implementation or enforcement of programs and activities)
- Perpetuate discrimination, segregation, R/ECAPs, and barriers that restrict access to opportunity based on protected characteristics (e.g., lack of affirmative marketing in funded housing developments, excluding accessibility modifications from eligible uses in funding, absence of community revitalization strategies in programs and policies)
- Are inconsistent with the housing element or the No-Net-Loss Law<sup>37</sup> (e.g., downzoning without upzoning, zoning barriers to housing choices, removing tenant protections)
- Have a disparate impact on protected classes (e.g., zoning or siting toxic or polluting land uses or projects near a disadvantaged community, lack of investment in concentrated areas of poverty, lack of multifamily housing or affordable housing options in high-resource areas, investment without ant-displacement strategies in areas of disproportionate housing need)

Public agencies must ensure housing and community development programs and activities are designed and can be reasonably expected to achieve a significant and tangible positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.

## All Public Agencies

Existing federal law requires departments and agencies to administer programs relating to housing in a way that affirmatively furthers fair housing. These obligations apply to state and local governments that receive funds or contract with the federal government and are often limited to housing programs. However, California Government Code section 8899.50 extends well beyond those agencies with federal funds or contracts and includes virtually all public agencies in California.

Public agencies include all subdivisions of the state, such as officers, offices, agencies, commissions, bureaus, boards, departments and divisions. Examples include the Department of Housing and Community Development (HCD), California Housing Finance Agency, Department of Developmental Services, Department of Health Services, Department of Social Services, Tax Credit Allocation Com-

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<sup>37</sup> Gov. Code, § 65863.

mittee, Governor’s Office of Planning and Research, including the Strategic Growth Council, California Department of Transportation, California Transportation Commission, California Department of Education, Department of Conservation, California Coastal Commission, Natural Resources Agency, California Environmental Protection Agency, State Water Resources Control Board, Department of Water Resources, and many more. Public agencies also include all public housing authorities, redevelopment successor agencies, cities, counties, cities and counties, and charter cities and counties.<sup>38</sup>

## Programs and Activities

The obligation to AFFH for public agencies applies to all housing and community development programs and activities. Programs and activities should be considered expansively and not in a manner to limit affirmatively furthering fair housing. For example, most state agencies are involved in some combination of planning, financial investment, regulatory function, or technical assistance, outreach and education. All of these broad categories should be considered programs and activities. This expansive application of programs and activities also applies to local governments. For example, capital improvement plans, code enforcement and other regulatory functions, housing assistance programs, and planning and zoning documents should all affirmatively further fair housing.

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38 Gov. Code, § 8899.50, subd. (a)(2).

### Programs and Activities Related to Housing and Community Development

All public agencies are required to administer programs and activities relating to housing and community development in a manner to affirmatively further fair housing. Housing and community development should be broadly construed and should not be interpreted in a limited manner. For example, an agency’s name does not need to explicitly bear the words “housing” or “community” or “development” to have activities or programs related to housing and community development. Any program or activities that impact housing and community development should address the obligation to affirmatively further fair housing. Community development should be considered broadly as any processes or issues related to community members or social and physical surroundings. Housing and community development are not limited to housing programs and activities. For example, public agencies with programs and activities in any way related to land use or access to opportunity based on where a person lives pertains to community development, which in turn involves housing. In this way, programs and activities that involve transportation, land conservation, hazard planning, infrastructure, economic issues, public facilities, social services, coastal resources, other environmental resources, and more should be affirmatively furthering fair housing. The same applies to local agencies. This obligation is not limited to investment, planning, and outreach related to housing, but also broader community development, such as infrastructure, public schools, parks and recreation, and other capital improvements.

## Tips for Implementation

To affirmatively further fair housing through programs and activities, public agencies should consider a variety of factors and consult with other agencies. Agencies should also consider a process to incorporate affirmatively furthering fair housing in programs and activities.

For example:

- 1. Gather and Analyze Data:** To better understand affirmatively furthering fair housing, agencies should explore available data related to the topic area to identify spatial patterns and trends and evaluate the impacts of programs and activities. For data options, see “Part 3 Resources” or visit HCD’s website at [www.hcd.ca.gov/community-development/affh/](http://www.hcd.ca.gov/community-development/affh/).
- 2. Engage the Community:** Proactively reach out to individuals and organizations that represent lower income households, people in protected classes, and households with special needs to develop open and mutual communication. Solicit input and communicate on a regular and ongoing basis, not just during formal public comment periods.
- 3. Assess Programs and Activities:** Inventory programs and activities and explore opportunities to affirmatively further fair housing.
- 4. Develop a Plan with Clear Timelines:** Identify goals and actions and establish a schedule. Proactively seek the public’s input on the plan and make it available prior to finalizing.
- 5. Implement the Plan and Monitor Progress:** Assign a lead and prioritize the plan to carry out the actions and achieve the goals. Regularly monitor (e.g., biannually) progress and make adjustments.

### Engagement: Early, Often, Ongoing and More

Outreach early in the development and throughout the completion of programs and activities is foundational to affirmatively furthering fair housing. Public agencies should seek a variety of methods to gather input from key stakeholders, such as community-based and other organizations that include and represent protected class members, lower income households and households with special needs (e.g., elderly, persons with disabilities, large households, farmworkers, female-headed households and persons experiencing homelessness), public housing authorities, community members that are lower income, and members of protected classes.

- **Early:** Public agencies should involve stakeholders well before releasing drafts of programs and in the early stages of development of other activities. This early engagement often yields better program results and at a nimbler stage in the development of a program. Early engagement is also key to building stronger working relationships and products that are more inclusive by design.
- **Often:** Many times, the development of programs and activities at a state and local level can take months and even years. An effective and inclusive outreach process will have multiple contact points throughout the development.

- **Ongoing:** Outreach should not stop after a program or activity is developed. An inclusive process will continue outreach through marketing, technical assistance, implementation, and evaluation of a program or activity.
- **More:** Outreach should employ a variety of strategies and methods to promote access (e.g., effective communication and reasonable accommodations for persons with disabilities, and meaningful access for persons with limited English proficiency) and consider feedback loops to keep stakeholders and individuals informed whenever possible.

## Inventory and Amend Existing Programs and Activities

Public agencies should review all programs and activities for opportunities to affirmatively further fair housing. For state programs, example areas include planning documents, eligibility and scoring criteria and other provisions for funding programs, geographic distribution criteria, outreach, marketing and technical assistance, regulatory enforcement, and lack of exception processes. For local programs, example areas include assessing land use and zoning policies against patterns of racial segregation, marketing and outreach, prioritization of areas of concentrated poverty or lack of access to opportunity, funding, capital improvements such as infrastructure investment, anti-displacement policies, workforce development training, and economic development strategies.

Public agencies should also incorporate racial and equity inclusion into regulatory and technical assistance functions by prioritizing assistance to combat racial segregation, foster inclusion, and benefit areas of concentrated poverty, eliminate disparities in access to opportunity, and address disproportionate housing need, including displacement and housing and transportation cost burden. For example, a local government could adopt zoning and incentives for more housing choices and affordability in higher resource areas; target resources for rehabilitation and maintenance of existing housing and anti-displacement policies in lower resource areas; develop pathways to homeownership for people in lower resource areas; seek to creatively engage communities; and create decision-making opportunities for communities in low resource areas regarding outcomes for health, economic development, planning, housing, and transportation.

## Make a Schedule and Regularly Evaluate and Modify Programs

All public agencies should immediately evaluate all programs and activities for opportunities to affirmatively further fair housing. A comprehensive evaluation and modification of programs and activities may be time-consuming for larger agencies, especially when regulation and legal changes are required. To address these challenges, make a schedule and allocate adequate staff time and resources to make affirmatively furthering fair housing a deliberate and consistent effort. Also, whenever updates occur, ensure that equity and inclusion are considered and addressed. This will require a thorough analysis of potential intended and unintended impacts of policy decisions on protected class members, lower income households, households with special needs, areas of concentrated poverty, lower resource areas, and areas of disproportionate housing need. Examples include updates to regulations, guidelines, notices of funding availability, scoring rubrics, and planning document updates such as general plans, community plans, zoning codes and capital improvement plans. Engaging residents and representative organizations into policy decisions is the best way to understand the full breadth of impacts of policy change.

## Cultivate Values of Inclusion

Fostering inclusion in an agency's values can have a huge impact in program and activity design. Agencies could consider implementing a variety of diversity, equity, and inclusion initiatives, such as racial equity trainings, incorporating racial equity into hiring practices and promotional opportunities, and committing to creating an organizational culture of inclusion and open communication. Making sure that staff and leadership are better trained and consistently practicing inclusion will have an ongoing impact throughout the processes.

**A Public Agency AFFH Success:** In partnership with [Race Forward](#), the Public Health Institute, and the [California Endowment](#), the California Strategic Growth Council (SGC) is leading a variety of activities to affirmatively further fair housing in the agency. Specifically, SGC supports the Capitol Collaborative on Race & Equity (CCORE)—a racial equity capacity-building program for State of California employees. CCORE builds on the success of a 2018-2019 Government Alliance for Race and Equity Capitol Cohort pilot initiative, and offers two cohorts for participants to receive training to learn about, plan for, and implement activities that embed racial equity approaches into institutional culture, policies, and practices. In 2020, SGC adopted a [Racial Equity Action Plan](#), which outlines concrete actions that SGC is taking to achieve racial equity in the organization's operations, programs and policies in order to achieve its vision that all people in California live in healthy, thriving and resilient communities regardless of race.

# Part 2:

# Affirmatively Furthering Fair Housing Changes to Housing Element Law

As discussed in Part 1, AB 686 requires virtually all state and local agencies (including, but not limited to, all cities, counties, cities and counties, and housing authorities) to ensure that their laws, programs and activities affirmatively further fair housing, and that they take no action inconsistent with this obligation.<sup>39</sup> In addition, AB 686 amends Housing Element Law<sup>40</sup> to better affirmatively further fair housing by adding several new requirements related to:

- Outreach
- Assessment of Fair Housing
- Site Inventory
- Identification and Prioritization of Contributing Factors
- Goals and Actions

## Outreach

The preparation, adoption, and implementation of a housing element includes a diligent effort to include public participation from all economic segments of the community.<sup>41</sup> A diligent effort means going beyond simply giving the public an opportunity to provide input and should be proactively and broadly conducted through a variety of methods to assure access and participation.<sup>42</sup> AB 686 also requires jurisdictions to include a summary of their fair housing outreach capacity.<sup>43</sup> To address these requirements, the housing element must describe meaningful, frequent, and ongoing public participation with key stakeholders.<sup>44</sup> Among others, examples of key stakeholders must include public housing authorities, housing and community development providers, advocacy groups (local, regional, and state level), community members who are lower income, persons and households with special needs, members of protected classes, representative advocacy organizations and other similarly interested parties, fair housing agencies, independent living centers, regional centers, and

<sup>39</sup> Gov. Code, § 8899.50, subd. (a)(2).

<sup>40</sup> Gov. Code, § 65583, subds. (c)(5), (c)(10).

<sup>41</sup> Gov. Code, §§ 65583, subds. (c)(9).

<sup>42</sup> Gov. Code, §§ 65583, subds. (c)(9), (c)(10)(A)(i), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (esp. 42354-42356), 42363-42364 (July 16, 2015).

<sup>43</sup> Gov. Code, §§ 65583, subds. (c)(9), (c)(10)(A)(i).

<sup>44</sup> Gov. Code, §§ 65583, subds. (c)(9), (c)(10)(A)(i), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (July 16, 2015). See details in, for instance, 24 C.F.R. § 5.158 (2016).

homeless service agencies. The element must describe:<sup>45</sup>

- Outreach activities intended to reach a broad audience, such as utilizing a variety of methods, broad and proactive marketing, including targeted areas and needs, promoting language access and accessibility for persons with disabilities (which can include effective communication, reasonable accommodations, and remote participation opportunities), and consulting with relevant organizations;
- List of organizations contacted and consulted in the process and for what purpose;
- Summary of comments and how the comments are considered and incorporated (including comments that were not incorporated), particularly with changes to the housing element; and
- Summary of issues that contributed to lack of participation in the housing element process by all economic segments, particularly people with protected characteristics, if that proves to be the case.

While localities must undertake diligent outreach efforts throughout the entire housing element preparation, some key areas to seek input include:

- **Review of Past Actions:** The housing element requires a review of the previous housing element for progress in implementation, effectiveness of programs in meeting goals, and appropriateness of modifying programs for the current planning period. Localities should make a specific effort to gather input from all segments of the community on the effectiveness of these programs and how to make adjustments moving forward.
- **Assessment of Fair Housing:** The assessment of fair housing requires various analyses such as segregation, integration, disparities in access to opportunity, and disproportionate housing needs. Localities should reach out to fair housing organizations for any available data to complement readily available state or federal data.
- **Potential Constraints on Housing for Persons with Disabilities:** Localities should seek individuals and advocates for persons with disabilities to better identify barriers and promote access to fair housing choices. Examples of agencies to reach include independent living centers, regional centers for developmental services, information from institutions including jails and prisons, state hospitals, etc. Disability outreach should include place-based/neighborhood-based groups and senior groups, like area associations on aging and others, including those that serve distinct ethnic or linguistic communities.
- **Policies and Actions:** Specific outreach to all segments of the community will assist and strengthen policy formulation to result in meaningful actions that have a significant positive impact.

## Assessment of Fair Housing

The housing element includes a housing needs assessment, which includes various requirements such as analysis of household characteristics (e.g., overpayment, overcrowding), housing conditions, and persons with special needs.<sup>46</sup> These analyses, in turn, guide policy and action formulation. As part of the housing needs assessment, the element is now required to include an assessment of fair

<sup>45</sup> Gov. Code, §§ 65583, subds. (c)(9), (10)(A)(i), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42292-42297, 42353-42360 (July 16, 2015). See details in, for instance, 24 C.F.R. §§ 5.514(d)(6), 5.158 (2016).

<sup>46</sup> Gov. Code, §§ 65583, subd. (c)(10)(A), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42348-42351, 42353-42360, esp. 42353-42354 (July 16, 2015).



housing, including a summary of fair housing issues. A summary of fair housing issues is an essential step to informing and prioritizing contributing factors and, eventually, goals and actions.

A **fair housing issue** is a condition in a geographic area of analysis that restricts fair housing choice or access to opportunity, and includes such conditions as ongoing local or regional segregation or lack of integration, racially or ethnically concentrated areas of poverty and affluence, significant disparities in access to opportunity, disproportionate housing needs, and evidence of discrimination or violations of civil rights law or regulations related to housing.

**Fair housing choice** means that individuals and families have the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to race, color, religion, sex, familial status, national origin, disability, or other protected characteristics. Fair housing choice encompasses: **(1) Actual choice**, which means the existence of realistic housing options; **(2) Protected choice**, which means housing that can be accessed without discrimination; and **(3) Enabled choice**, which means realistic access to sufficient information regarding options so that any choice is informed. For persons with disabilities, fair housing choice and access to opportunity include access to accessible housing and housing in the most integrated setting appropriate to an individual's needs as required under federal civil rights law, including equitably provided disability-related services that an individual needs to live in such housing.

Examples:

- People with mobility impairments have **actual choice** when realistic housing options (e.g., units with accessible features) exist in their housing market area at an affordable cost. Persons with disabilities who are unable to use stairs or need a zero-step shower may not have actual housing choice without the presence of housing units with these accessibility features.
- People with lower incomes have **actual choice** when units that are affordable and well maintained exist in all parts of a jurisdiction and region.
- In order for families to have **protected choice** they need to access housing options without discrimination. In a 2016 housing discrimination study, researchers found that compared to households without children, households with children were shown slightly fewer units and were commonly told about units that were slightly larger, and as a result, slightly more expensive to rent. This differential treatment is considered discrimination and a type of steering, which occurs on a racial basis as well.<sup>47</sup>
- Households participating in the Housing Voucher Program have **enabled choice** when they are provided with sufficient information regarding their housing options so that any choice is informed. For example, researchers found that, "if given the appropriate information and opportunities, more voucher families would move to better schools when their children reach school age."<sup>48</sup>

47 For additional information see HUD's December 2016 study, "Discrimination Against Families with Children in Rental Housing Markets: Findings of the Pilot Study" available at: <https://www.huduser.gov/portal/sites/default/files/pdf/HDSFamiliesFinalReport.pdf>.

48 NYU Furman Center, "Why Don't Housing Choice Voucher Recipients Live Near Better Schools? Insights from Big Data" published in June 2016 available at: <https://furmancenter.org/research/publication/why-don8217t-housing-voucher-recipients-live-near-better-schools-insights-f>.

## Analysis Requirements

An assessment of fair housing must consider the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs.<sup>49</sup> Such an assessment would at least include all of the following components:<sup>50</sup>

- **Identification and Analysis of Patterns and Trends:** First, the assessment should identify the conditions using either narration, data tables, maps or a combination of all three. See “Part 3: Resources” for sample data tables. The identification of conditions should spatially describe concentrations of all the assessment of fair housing components (e.g., fair housing enforcement and outreach, integration and segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs including displacement risk). Using the data tables and maps, the housing element must analyze differences in geographies. The analysis must address patterns at a regional and local level and trends in patterns over time.<sup>51</sup> Patterns at a regional level must compare conditions at the local level to the rest of the region. This analysis should compare the locality at a county level or even broader regional level such as a Council of Government, where appropriate, for the purposes of promoting more inclusive communities. For localities near county borders, trends and patterns across county boundaries should be addressed. Patterns at a local level must address whether certain areas strongly differ from other areas and should utilize a data level (i.e., census tract or block group) that is most meaningful for this analysis. At minimum, the analysis should compare patterns from the most recent 5-Year American Community Survey and the prior 10-year census and could address trends over longer periods of time. The analysis should also examine differences in housing tenure (ownership vs. rental) among members of protected classes.
- **Local Data and Knowledge:** In addition to using federal or state level data sources, local jurisdictions are also expected to use local data and knowledge to analyze local fair housing issues, including information obtained through community participation or consultation, such as narrative descriptions of people’s lived experiences. Federal and state level data identify fair housing issues that exist within a community, but local data and knowledge can be especially important to developing an understanding of why the problems exist and why they persist. Using point-in-time federal and state level data sets alone to identify areas may misrepresent areas that are experiencing more current and rapid changes or may be primed to do so in the near future. Also, federal and state data sets might not be available or could be less accurate at a smaller geography. For these reasons, an additional screen of local data and knowledge is necessary and should complement available federal and state data sources. There may be rare circumstances in which a jurisdiction has no local data or local knowledge for a particular topic and should include a statement that it has no local data or local knowledge it can use to address that particular assessment component.

49 Gov. Code, §§ 65583, subds. (c)(10)(A), (c)(10)(B), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271 (July 16, 2015). See also 24 C.F.R. §§ 5.150, 5.152, 5.154(a), (d)(2) (2016).

50 Gov. Code, §§ 65583, subds. (c)(10)(A), (c)(10)(B), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42274, 42282-42283, 42322, 42323, 42336, 42339, 42353-42360, esp. 42355-42356 (July 16, 2015). See also 24 C.F.R. §§ 5.150, 5.154(b)(2) (2016).

51 Gov. Code, §§ 65583, subds. (c)(9), (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271; 24 C.F.R. §§ 5.150, 5.154(d)(6), 5.158 (2016).

- **Other Relevant Factors:** A discussion of other relevant factors is an important piece of evaluating patterns and trends, policies and practices, and other factors that lead to fair housing conditions. Other relevant factors should consider information beyond data that identifies and compares concentrations of groups with protected characteristics. Examples of other relevant factors include changes and barriers in zoning and land use rules, information about past redlining/greenlining, patterns of institutionalization, restrictive covenants and other discriminatory practices, presence and history of place-based investment, mobility option patterns, and outreach and community engagement. Demographic trends can include population growth, age, housing tenure by protected characteristics, race, educational attainment, rates of homelessness, construction, and rent and sales prices. Policies and practices should include governmental barriers or lack of action, preservation of housing and development of new affordable housing, and addressing the needs of renters and unhoused or unstably housed people. This discussion should also incorporate the public participation process. Localities could engage the community around these patterns and trends to better identify policies and practices that led, or could lead, to less fair housing choice. This discussion should also include topics and information that complement the data at a regional and local level and sub-geographies within a locality. Other useful information could be the location and type of publicly assisted housing, such as housing financed with federal, state, and local financing. Trends related to housing choice vouchers can show patterns of concentration and integration to inform needed actions. Outcomes and policies related to inclusionary ordinances, general plans or specific plans can also be a good source of past practices to promote integration.
- **Conclusions and Summary of Issues:** A complete assessment must identify and summarize key issues to better identify and prioritize contributing factors to fair housing issues. An analysis will point to the clearest fair housing issue trends and patterns both within the jurisdiction and in comparison to the region, and will highlight the primary practices and other factors that have led to current conditions. In addition to utilizing the data and mapping resources, the jurisdiction must draw upon relevant and easily obtainable local data and knowledge when describing fair housing issues and trends. Local data may be more up-to-date and available at a more granular level. The summary of issues must be detailed and comprehensive enough so that later in the Assessment of Fair Housing it is clear what it would take for an action or program to not only address, but overcome and undo, the identified fair housing issues.

## Data Sources and Using the Statewide AFFH Data Viewer

The assessment of fair housing should use a variety of data, such as the U.S. Census, American Community Survey, local data and knowledge, and issues identified in the community participation process. Local data and knowledge refer to any locally gathered and available information, such as a survey with a reasonable statistical validity or usefulness for identifying contributing factors, policies, and actions. Localities must also collaborate with regional agencies to collect the appropriate data for the assessment of fair housing. For additional information on data sources see “Part 3: Resources.”

# Barriers to AFFH

## Examples of Common Zoning and Land Use Barriers Include:

- Lack of zoning for a variety of housing types throughout a jurisdiction such as multifamily, duplexes to fourplexes, group housing, transitional and supportive housing at a variety of need levels, shelters, single room occupancy, residential motels, mobilehomes, and accessory dwelling units
- Predominance of single family uses and larger lot sizes in racially concentrated areas of affluence
- Voter initiatives that restrict multifamily developments, rezoning to higher density, height limits or similar measures that limit housing choices
- Multifamily height requirements
- Minimum unit sizes
- Parking requirements
- Lack of new affordable housing choices in high resource areas
- Lack of anti-displacement policies, including nonet loss of units in the case of demolitions and replacement housing, and relocation ordinances
- Lack of incentives and other land use mechanisms to promote affordable housing throughout the community
- Excluding group homes or residential care (greater than six persons) from single family zones or excessive spacing/concentration requirements
- Family definitions or other occupancy requirements
- Nuisance or crime free ordinances or programs
- Ordinances prohibiting excessive use of city services
- Restrictive historic preservation districts
- Zoning that does not allow for residential uses in commercial zones
- Failure to allow supportive housing by right
- Failure to allow emergency shelters by right
- Lack of zoning on land appropriate for accessible development

## Examples of Common Investment Barriers Include:

- Lack of infrastructure investment, including community infrastructure such as parks, community amenities in lower resource areas, disadvantaged communities, and areas of concentrated poverty
- Lack of targeted housing preservation/conservation and tenant protection programs in areas at risk of displacement
- Lack of public (local, state, or federal) funds invested in the development of affordable housing
- Absence of housing choice vouchers
- Limited housing stock affordable to lower income households or households with special needs
- Lack of proactive outreach with developers of affordable housing and non-profit service providers
- Lack of proactive measures to assist maintenance and rehabilitation of existing housing
- Lack of multilingual tenant counseling or foreclosure assistance

**AFFH Data Viewer:** In addition to various data sources, HCD has developed a statewide AFFH Data Viewer. The AFFH Data Viewer assembles various data sources and provides options for addressing each of the components within the full scope of the assessment of fair housing. The AFFH Data Viewer may be utilized to address the data components of new requirements to affirmatively furthering fair housing but must be used in combination with other data such as local or regionally available data. The AFFH Data Viewer consists of map data layers organized by: 1) Fair Housing Enforcement and Outreach Capacity, 2) Segregation and Integration, 3) Disparities in Access to Opportunity, 4) Disproportionate Housing Needs, including Displacement Risks, 5) Racially and Ethnically Concentrated Areas of Poverty and Affluence and 6) Supplemental Data. The AFFH Data Viewer is intended to be useful to a broad audience, such as local and regional governments, and organizations involved in the housing element process. For more information, visit the HCD's website at [www.hcd.ca.gov/community-development/affh/](http://www.hcd.ca.gov/community-development/affh/).

### **Incorporate HUD Assessment of Fair Housing into Housing Elements**

Generally, local jurisdictions that complete or revise an assessment of fair housing (AFH) or an analysis of impediments to fair housing choice (AI) pursuant to past federal requirements (prior to August 17, 2015) may incorporate relevant portions into the AFH portion of their housing element. This may include localities participating in a regional AI. For example, the housing element AFH may include various data points from their HUD AFH or AI, such as fair housing issues, analysis of patterns and trends, and identification of priorities that can be incorporated in concert with other data collection and analysis required in the housing element. Identification and prioritization of contributing factors to fair housing issues may also be useful as part of the housing element. However, incorporating these documents, particularly the analysis of impediments, may not meet all requirements or might include less relevant information than required for the housing element. For example, a regional HUD AI might not have relevant local data or contributing factors tailored to fair housing issues. Information in a HUD AFH or AI may also be outdated or incomplete depending on how recently that information was prepared. Also, a HUD AI likely will not have the specific actions and programs that will be required in the housing element. The housing element must have programs with specific timelines, milestones, and metrics to ensure a meaningful impact. Local governments should seek to incorporate only the relevant portions in a manner that complements the analysis, identification of contributing factors and strategies and action. Jurisdictions may not simply add the HUD AFH or AI as an appendix, or place sections into the housing element without context or purpose, in lieu of engaging in the requisite analysis.<sup>52</sup>

### **Components of the Housing Element Assessment of Fair Housing<sup>53</sup>**

An assessment of fair housing must identify and analyze patterns, trends, conditions, and practices that result in less fair housing choice and must address all of the following assessment components. This section addresses each of the required components:

1. Summary of fair housing enforcement and outreach capacity;
2. Integration and segregation patterns, and trends related to people with protected characteristics;
3. Racially or ethnically concentrated areas of poverty;

<sup>52</sup> Gov. Code, § 65583, subd. (c)(10)(B).

<sup>53</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (esp. 42354-42356), 42361-42362 (July 16, 2015); 24 C.F.R. §§ 5.150, 5.152, 5.154(a), (b)(2), (d) (2016).

4. Disparities in access to opportunity for people with protected characteristics, including persons with disabilities; and
5. Disproportionate housing needs within the jurisdiction, including displacement risk.

## 1. Fair Housing Enforcement and Outreach Capacity

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Fair housing enforcement and outreach capacity relates to the ability of a locality and fair housing entities to disseminate information related to fair housing and provide outreach and education to assure community members are well aware of fair housing laws and rights. In addition, enforcement and outreach capacity includes the ability to address compliance with fair housing laws, such as investigating complaints, obtaining remedies, and engaging in fair housing testing. The summary should include (1) a listing of local, regional and state agencies and organizations active in the locality, (2) description of primary activities and capacity for each entity, including actions taken by the locality, such as provision of dedicated resources, (3) evaluation of impacts on protected characteristics and geographic trends, and (4) any additional relevant information about fair housing enforcement, outreach capacity, and resources in the jurisdiction and region affecting groups with other protected characteristics.<sup>54</sup>

This summary will provide valuable information for local jurisdictions to evaluate fair housing issues that exist within the community, highlighting needs for remediation of existing fair housing concerns. Wherever possible, the summary should include a discussion of fair housing enforcement and outreach at a geographic level appropriate to better determine any locational trends—simply reporting information at a city-wide level will not fully display patterns and impacts on protected characteristics. Examples of appropriate geographic levels include census tracts, block groups, neighborhoods, housing development, or any other sub-section of a locality. Additionally, fair housing organizations and other non-profits that receive funding through the Fair Housing Initiatives Program are a valuable resource for information, trends, and patterns to tailor and complete an adequate summary of fair housing enforcement and outreach capacity. An adequate discussion of fair housing enforcement and outreach will provide the necessary background information that can be analyzed with other components of the assessment of fair housing and site inventory to better inform contributing factors, priorities, and meaningful actions.

This summary must address:<sup>55</sup>

- Findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or civil rights;
- Compliance with existing fair housing laws and regulations;
- Fair housing enforcement and housing outreach capacity; and
- Conclusion and findings: Summary of fair housing issues related to enforcement and outreach capacity and relationship to other fair housing issue areas (e.g., segregation and integration, racially and ethnically concentrated areas of poverty, etc.).

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<sup>54</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (esp. 42354-42356), 42361-42362 (July 16, 2015).

<sup>55</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42353-42360 (July 16, 2015); 24 CFR § 5.154 (2016).

## Findings, Lawsuits, Enforcement Actions, Settlements or Judgments Related to Fair Housing and Civil Rights

This section lists and summarizes legal actions that have or have not been resolved, including a charge or letter of finding from HUD concerning a violation of a civil rights-related law, a cause determination from the Department of Fair Employment and Housing (DFEH) or local fair housing agency concerning a violation of a state or local fair housing law, a letter of findings or notice of violation issued by HCD, or a letter of findings issued by or lawsuit filed or joined by the U.S. Department of Justice or the State of California Department of Justice, Office of the Attorney General, alleging a pattern or practice or systemic violation of a state and/or federal fair housing or civil rights law, or a claim under the False Claims Act related to fair housing, nondiscrimination, or civil rights generally, including an alleged failure to affirmatively further fair housing.

## Compliance with Existing Fair Housing Laws and Regulations

The element should include a description of state and local fair housing laws and how the locality complies with those laws.

Examples of state fair housing laws include:

- California Fair Employment and Housing Act (FEHA) (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2)
- FEHA Regulations (California Code of Regulations (CCR), title 2, sections 12005-12271)
- Government Code section 65008 covers actions of a city, county, city and county, or other local government agency, and makes those actions null and void if the action denies an individual or group of individuals the enjoyment of residence, landownership, tenancy, or other land use in the state because of membership in a protected class, the method of financing, and/or the intended occupancy.
  - » For example, a violation under Government Code section 65008 may occur if a jurisdiction applied more scrutiny to reviewing and approving an affordable development as compared to market-rate developments, or multifamily housing as compared to single family homes.
  - » Government Code section 65008, subdivision (e), authorizes preferential treatment of affordable housing
- Government Code section 8899.50 requires all public agencies to administer programs and activities relating to housing and community development in a manner to affirmatively further fair housing and avoid any action that is materially inconsistent with its obligation to affirmatively further fair housing.
- Government Code section 11135 et seq. requires full and equal access to all programs and activities operated, administered, or funded with financial assistance from the state, regardless of one's membership or perceived membership in a protected class.
- Density Bonus Law (Gov. Code, § 65915.)
- Housing Accountability Act (Gov. Code, § 65589.5.)
- No-Net-Loss Law (Gov. Code, § 65863)

- Least Cost Zoning Law (Gov. Code, § 65913.1)
- Excessive subdivision standards (Gov. Code, § 65913.2.)
- Limits on growth controls (Gov. Code, § 65302.8.)
- Housing Element Law (Gov. Code, § 65583, esp. subds. (c)(5), (c)(10).)

Examples of local fair housing laws include:

- San Francisco’s “No Eviction without Representation Act” which provides eligible tenants who have received an eviction notice, or been served with an unlawful detainer (eviction) lawsuit, free legal representation.
- Local rent control or rent freezes
- Voter initiatives to fund affordable and/or supportive housing
- Local ordinances that limit rent increases and limit late fees
- Ordinances facilitating community land trusts and tenant opportunities to purchase their multi-family housing
- Local ordinances designed to prevent displacement of mobilehome residents
- Local relocation ordinances
- Local ordinances that prohibit unlawful harassment of tenants including things such as illegal lockouts, utility shutoffs, and removing tenants’ belongings from the unit.
- The City of Oakland’s tenant protection ordinance which makes it illegal for landlords to misrepresent or conceal material facts related to a tenant vacating
- Inclusionary ordinances
- Laws/regulations or agreements related to the use of local housing funds
- Eviction protection ordinances enacted to protect renters during the COVID-19 pandemic and rental relief programs to protect tenancies that accumulated rental debt during the pandemic

## 2. Integration and Segregation Patterns and Trends Related to People with Protected Characteristics and Lower Incomes

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To inform priorities, policies, and actions, the housing element must include an analysis of integration and segregation, including patterns and trends, related to people with protected characteristics.<sup>56</sup> Importantly, the analysis must address both integration and segregation to holistically evaluate the patterns and practices and better identify and prioritize contributing factors to fair housing issues.<sup>57</sup> A strong analysis would also address segregation and integration of households with lower incomes.<sup>58</sup>

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<sup>56</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42336, 42353-42360 (July 16, 2015); 24 C.F.R. § 5.152 (2016).

<sup>57</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42336, 42353-42360 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154 (2016).

<sup>58</sup> Gov. Code, §§ 65008, 65583 [“shall make adequate provision for the existing and projected needs for all economic segments of the community] and subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42336, 42353-42360 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154 (2016).



## Defining Integration and Segregation

**Integration** generally means a condition in which there is not a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a particular type of disability when compared to a broader geographic area.

**Segregation** generally means a condition in which there is a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a type of disability in a particular geographic area when compared to a broader geographic area.

The analysis must address areas of ongoing and concentrated segregation and integration and compare concentrations of protected characteristics and incomes at both a regional and local level.<sup>59</sup> The analysis should consist of comparisons using data tables or maps. To compare, the analysis should discuss the degrees of segregation and integration for protected characteristics and incomes. At minimum, the analysis must discuss levels of segregation and integration for race and ethnicity, income, familial status, persons with disabilities, and identify the groups that experience the highest levels of segregation.<sup>60</sup>

### Data Considerations

Two quantitative metrics can be used to analyze the relative extent of racial and ethnic segregation in entitlement jurisdictions for federal housing programs.<sup>61</sup> These are known as the dissimilarity index and the isolation index. The dissimilarity index is a primary quantitative metric used for identifying patterns of geographic segregation. The isolation index, another quantitative metric for identifying patterns of geographic segregation, compares a group's share of the overall population to the average share within a given sub-area (such as block group). Data to calculate dissimilarity index and isolation index are available at the Census Tract or block group level from the American Community Survey: <https://www.census.gov/programs-surveys/acs/data.html>. Smaller jurisdictions may wish to utilize block group level data to better capture trends and patterns. Additional sources and approaches include the Entropy Index, the Divergency Index and the Exposure Index. For more information on formulas, see "Part 3: Resources."

**Identifying Dissimilarity at a Regional Level:** To determine dissimilarity at a regional level, data tables or maps should be utilized to compare the locality to the broader region. See "Part 3: Resources" for sample data tables.

**Identifying Dissimilarity at a Local Level:** To determine dissimilarity or isolation at a local level, the housing element should identify and compare indices across census tracts, block group or some

<sup>59</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42336, 42353-42360 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154 (2016).

<sup>60</sup> Gov. Code, § 8899.50; 24 C.F.R. 51.154(d) (2016); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42284-42285 (July 16, 2015).

<sup>61</sup> HUD. (2013). AFFH Data Documentation. Available at: [http://www.huduser.org/portal/publications/pdf/FR-5173-P-01\\_AFFH\\_data\\_documentation.pdf](http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_AFFH_data_documentation.pdf); Glaeser, E. and Vigdor, J. (2001). Racial Segregation in the 2000 Census: Promising News. Washington, DC: The Brookings Institution, Center on Urban and Metropolitan Policy. Available at: <https://www.brookings.edu/wp-content/uploads/2016/06/glaeser.pdf>

other geography at a level that best highlights patterns of segregation and integration. Data tables or maps may be utilized.

**Identifying Dissimilarity for Lower Income Households:** Using readily available data, local jurisdictions should map concentrations of low- and moderate-income (LMI) households within the community. Particularly for smaller jurisdictions with relatively few Census Tracts, this tool can enhance understanding of where there are pockets of concentrated low and moderate-income households within the community, because data are available at the block group level.

Data for this analysis are available in the form of HUD Low and Moderate Income Summary Data (LMISD), based on the American Community Survey (2011-2015). The data are available at the block group level from the following website: <https://www.hudexchange.info/programs/acs-low-mod-summary-data/acs-low-mod-summary-data-block-groups-places/> The data file includes records for each block group with a calculation of the percentage of households that are LMI.

The LMISD data for the local jurisdiction can be thematically mapped to show the block groups where there are high concentrations of LMI households. Local jurisdictions should use this tool as part of the needs assessment to understand where there are concentrations of lower-income households within the community and identify the need for housing element policies and programs that can help to better distribute households of all income levels across the community. This can also highlight the need for housing element policies and programs that can help to provide better access to opportunity for households that live in areas where there are high concentrations of lower-income households.

This map can be overlaid with R/ECAP maps to identify areas where there are concentrations of LMI households as well as higher levels of segregation. Because the block group data available for this tool enables a more fine-grained geographic analysis of patterns low-income concentration and racial/ethnic segregation, this approach may be particularly useful in jurisdictions with relatively low populations spread across small numbers of census tracts where tools that rely on data only available at the census tract level may not provide sufficient resolution for meaningful analysis (e.g., see R/ECAP tool, below).

### 3. Racially & Ethnically Concentrated Areas of Poverty (R/ECAP)

The housing element must include an analysis of racially and ethnically concentrated areas of poverty.<sup>62</sup> A strong analysis will separately evaluate significant concentrations of poverty and concentrations of Black, Indigenous and people of color (BIPOC) populations. The analysis must be conducted at a regional and a local level where the incidence of concentrated areas of poverty is discussed relative to the region and within the locality.<sup>63</sup> Importantly, this regional comparison should discuss the incidence of racial concentrations in areas of affluence. For example, a jurisdiction might not have areas of concentrated poverty, but have areas of affluence or vice versa, which might be unique when compared to the rest of the region. Identifying this difference between the locality and the region

<sup>62</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42336, 42353-42360 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154(c) (2016).

<sup>63</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42771, 42273, 42275, 42338-42342 (July 16, 2015); 24 C.F.R. §§ 5.152, 5.154(d), 5.156(d) (2016).

is an essential part of evaluating policies, practices and investments to better identify and prioritize contributing factors to fair housing issues. The analysis should evaluate the patterns and changes over time and consider other relevant factors, such as public participation, past policies, practices, and investments and demographic trends.

## Data Considerations

**R/ECAP:** To assist communities in identifying racially and ethnically concentrated areas of poverty (also known as R/ECAPs), HUD developed a definition that relies on a racial and ethnic concentration threshold, as well as a poverty test. For an area to be identified as having a racial and ethnic concentration, the threshold is that a RCAP or ECAP have a non-White population of 50 percent or more, within metropolitan or micropolitan areas. In locations outside these areas, where the non-White populations are likely to be much smaller than 50 percent, the threshold is set at 20 percent. The poverty test defines areas of “extreme poverty” as those where 40 percent or more of the population lives at or below the federal poverty line, or those where the poverty rate is three times the average poverty rate in the metropolitan area, whichever is less. An area that meets either the racial or ethnic concentration and also meets the poverty test would be considered a RCAP or ECAP; broadly referred to as R/ECAPs.

The R/ECAP database is available online at:

[https://hudgis-hud.opendata.arcgis.com/datasets/56de4edea8264fe5a344da9811ef5d6e\\_0](https://hudgis-hud.opendata.arcgis.com/datasets/56de4edea8264fe5a344da9811ef5d6e_0).

**TCAC/HCD Opportunity Map:** The High Segregation & Poverty category in the TCAC/HCD Opportunity Area Map may also be used in identifying R/ECAPS and is available online at:

<https://www.treasurer.ca.gov/ctcac/opportunity.asp>

Much like the R/ECAP, the High Segregation and Poverty category uses an absolute threshold for poverty. However, instead of a threshold for race, the TCAC/HCD approach uses a location quotient for racial segregation. The poverty threshold is 30 percent of the population living below the poverty line and the location quotient is essentially a measure of the concentration of race in a small area compared to a county level.

Local jurisdictions can use the HUD data to map or the TCAC/HCD Opportunity Area Map for High Segregation and Poverty to identify and analyze the presence of R/ECAPS in their community.

**Racially Concentrated Areas of Affluence:** In addition to identifying and analyzing racially and ethnically concentrated areas of poverty, an analysis should also consider concentrated areas of affluence to better evaluate trends, patterns, policies, and practices and to guide meaningful goals and actions to address fair housing issues. In response to the R/ECAPs utilized by HUD in its 2015 AFFH rule, scholars at the University of Minnesota Humphrey School of Public Affairs have created the Racially Concentrated Areas of Affluence (RCAAs) metric to more fully tell the story of segregation in the United States.<sup>64</sup> Based on their research, RCAAs are defined as census tracts where 1) 80 percent or more of the population is white, and 2) the median household income is \$125,000 or greater (slightly more than double the national the median household income in 2016). While this is a useful measure nationwide, HCD has adjusted the RCAA methodology to better reflect California’s relative diversity.

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<sup>64</sup> Goetz, E. G., Damiano, A., & Williams, R. A. (2019). [Racially Concentrated Areas of Affluence: A Preliminary Investigation](#). *Cityscape: A Journal of Policy Development and Research*, 21(1), 99–124.

HCD's version of the RCAA map and accompanying data can be accessed using the AFFH Data Viewer, and HCD encourages jurisdictions to use this metric as they prepare their R/ECAP analysis.

When analyzing patterns and trends of segregation and proposing policy approaches, localities should not only focus on communities of color. Segregation is a continuum, with polarity between race, poverty, and affluence, which can be a direct product of the same policies and practices. To better evaluate these conditions, both sides of the continuum should be considered and compare patterns within the community and across the region. This more holistic approach will better unveil deeply rooted policies and practices and improve identification and prioritization of contributing factors to inform more meaningful actions.

Local jurisdictions should use this information to understand where there are racial/ethnic concentrations of poverty and affluence as a starting point. A complete analysis will then address the trends, patterns, policies, practices, and conditions in combination with other relevant factors to summarize issues and better inform goals and actions.

## 4. Disparities in Access to Opportunity<sup>65</sup>

The housing element must identify and analyze significant disparities in access to opportunity. While the analysis can consider indices of various access to opportunity variables, it must also independently address access to opportunity variables. For example, the analysis may evaluate total access to opportunity (e.g., high, moderate, low), but must also individually address access to opportunity for education, transportation, economic development, and environment. This more complete understanding of what types of disparities in access to opportunity exist for what populations and in what geographies is necessary to identify and prioritize contributing factors to fair housing issues and formulation of goals and actions. This analysis must be conducted at a regional and local level and should address substantial differences in access to education, transportation, economic, environment and other important opportunities based on socio-economic characteristics (e.g., race, income, familial status, disability, income, poverty). Patterns over time should be discussed as well as policies, practices, and investments that affect access to opportunity. Local data and knowledge and other relevant factors must be considered, including incorporating public outreach and targeted community engagement. This analysis is a key opportunity to engage residents to learn what they want/need, but lack access to, as well as essential community assets to preserve.

### What is Access to Opportunity?

Access to opportunity is a concept to approximate place-based characteristics linked to critical life outcomes. Access to opportunity oftentimes means both improving the quality of life for residents of low-income communities, as well as supporting mobility and access to 'high resource' neighborhoods. This encompasses education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, and other opportunities, including recreation, food and healthy environment (air, water, safe neighborhood, safety from environmental hazards, social services, and cultural institutions).

<sup>65</sup> Gov. Code, §§ 65583, subd. (c)(10), 8899.50, subds. (a), (b), (c); see also AFFH Final Rule and Commentary (AFFH Rule), 80 Fed. Reg. 42271, 42305, 42338, 42336, 42353-42360 (July 16, 2015).

## Housing Element Access to Opportunity Analysis

Through maps, data tables and discussion, the access to opportunity analysis must address the following opportunity variables: education, transportation, economic, environment, and other factors.

For educational opportunities, the analysis should, at minimum:

- Describe any differences amongst schools within a jurisdiction and whether access to more proficient schools has any patterns across protected characteristics (e.g., race and ethnicity, familial status, persons with disabilities);
- Analyze the proximity of proficient and less proficient schools to areas of segregation and racial and ethnic concentrated areas of poverty; and
- Evaluate the presence or lack of policies, practices, and investment to promote access to more proficient schools or that contribute to a disparity in access to opportunity.

For employment opportunities, the analysis should, at minimum:

- Describe any disparities in access to jobs by protected groups;
- Address where protected groups live and how that affects their ability to obtain a job; and
- Evaluate employment trends by protected groups.

For transportation opportunities, the analysis should, at minimum:

- Compare concentrations of protected groups with access to transportation options;
- Assess any disproportionate transportation needs for members of protected classes; and
- Analyze combined housing and transportation cost impacts on protected groups.

For access to a healthy environment, the analysis should, at a minimum:

- Describe any disparities in access to environmentally healthy neighborhoods by protected class groups;
- Consider available statewide data such as CalEnviroScreen at <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>;
- Evaluate consistency with the environmental justice element; and
- Discuss policies, practices and investments that impact access to environmentally healthy neighborhoods.

Additional factors to consider in the analysis should, at minimum:

- Patterns in Disparities in Access to Opportunity
  - » Identify and discuss any overarching patterns of access to opportunity for members of protected classes, including trends over time;
  - » Identify areas that experience an aggregate of poor access to opportunity; and
  - » Include how these patterns compare to patterns of segregation and R/ECAPs.

- Additional Information
  - » Provide additional relevant information, including local data and knowledge and community input, about disparities in access to opportunity in the locality and relative to the region.

## Data Considerations

In collaboration, the California Tax Credit Allocation Committee (TCAC) and HCD developed the TCAC/HCD Opportunity Maps, a mapping tool that identifies areas of higher and lower resources to evaluate access to opportunity. The tool maps areas of highest resource, high resource, moderate resource, moderate resource (rapidly changing), low resource and high segregation and poverty. Note: The moderate resource (rapidly changing) designation is still being evaluated to understand its efficacy at predicting future trends. The tool may be utilized to identify areas of high and low resources to address this analysis and is available at:

<https://www.treasurer.ca.gov/ctcac/opportunity.asp>

The TCAC/HCD Opportunity Maps can help to identify areas within the community that provide good access to opportunity for residents or, conversely, provide low access to opportunity. They can also help to highlight areas that are rapidly changing (potentially creating risk of displacement for lower-income households) and areas where there are high levels of segregation and poverty. The information from the opportunity mapping can help to highlight the need for housing element policies and programs that would help to remediate conditions in low resource areas and areas of high segregation and poverty and to encourage better access for LMI and BIPOC households to housing in high resource areas.

## Disparities in Access to Opportunity for Persons with Disabilities

An analysis of disparities in access to opportunity must specifically address the housing and community development needs of persons with disabilities. According to the U.S. Census Bureau, over four million Californians have a disability. Health and safety are directly linked to housing, and yet, many people with disabilities face enormous barriers in finding suitable housing to accommodate their needs. Additionally, because people with disabilities have faced a history of institutionalization—in state hospitals, developmental centers, jails and prisons, etc. – ensuring that appropriate community-based housing with appropriate supports exists is critical. People with disabilities are also overrepresented in the unhoused population and any solutions related to homelessness must address appropriate accommodations and accessibility. Critically, there are significant disparities by race within the population with disabilities, so jurisdictions should engage in an intersectional analysis of needs. The assessment should consider the unique needs and barriers faced by persons with disabilities and whether persons with disabilities are able to access housing choices and services in an integrated community-based setting. Examples include accessibility features for housing, transportation, education, jobs and other types of community elements to enable fair housing choices.

**Disability types** include hearing difficulty, vision difficulty, cognitive difficulty, ambulatory difficulty, self-care difficulty, and independent living difficulty.

Data and factors to consider in an analysis of access to opportunity for persons with disabilities could include:

- Prevalence of Disability by Type (e.g., vision, hearing, cognitive, ambulatory, self-care and independent living)
- Disability by Age Group
- Disability by Race/Ethnicity/National Origin
- Assessment of Supportive Housing Stock and Other Housing Stock Including Group Homes, Homes for People with Intellectual or Developmental Disabilities and Mental Health Disabilities
- Assessment of Accessibility of Homelessness Programs and Coordinated Entry System
- General or Estimated Number of “Covered Multifamily Dwellings” – Adaptable Units under the Fair Housing Act<sup>66</sup>
  - » Federal law triggers specific accessibility requirements in fourplex and larger developments with covered multifamily dwellings.
- Estimated Number of Units with Mobility and Communication Accessibility Features under California Building Code Ch. 11B for public housing projects<sup>67</sup> – housing provided by, for, or on behalf of a public entity, or as part of a public entity’s program to provide housing
  - » 5 percent of these units are required to have mobility features, 2 percent of the units are required to have communication features regardless of first occupancy date or number of units in a building, including multistory dwellings and single-family dwellings. **Note:** Jurisdictions should consider higher requirements commensurate with identified need.
- Estimated Number of Multifamily Units pursuant to Government Code section 12955.1(b)
  - » 10 percent of units in multifamily buildings without elevators consisting of three or more rental units or four or more condominium units are subject to accessibility building standards.

To address the housing needs of persons with disabilities and better inform the formulation of policies and actions, the analysis should include, where available: (1) data tables to evaluate trends, magnitude of needs relative to disability at a local, regional and state level (see Resources section for sample tables), (2) maps to analyze spatial patterns relative to accessibility features and services, in comparison to racial and ethnically concentrated areas of poverty, (3) housing accessibility, such as the dispersion of housing choices and zoning to encourage a variety of housing types, (4) efforts to integrate persons with disabilities into community based settings, and (5) a discussion of disproportionate housing needs, including policies and practices such as zoning barriers and gaps, disparities in access to accessibility features, services, resources and strategies, including geographically. Examples of data sources include U.S Census and American Community Survey. When evaluating spatial patterns, an analysis should address whether persons with disabilities are concentrated or integrated throughout the jurisdiction and region and if there are any geographic patterns for persons with disabilities by age.

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<sup>66</sup> The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991 to be accessible to and usable by people with disabilities. Covered multifamily dwellings are all dwelling units in buildings containing four or more units with one or more elevators, and all ground floor units in buildings containing four or more units, without an elevator. Federal regulations adopted by the Department of Housing and Urban Development at [24 C.F.R. § 100.201](#) define covered multi-family dwellings.

<sup>67</sup> California Building Code Chapter 11B covers public housing and generally meets 2010 Americans with Disabilities Act Standards, Fair Housing Act requirements when applicable by requiring adaptability features of FHA to other covered multifamily dwelling units if built for first occupancy as housing on or after March 13, 1991.

This disparities analysis for people with disabilities may be included in the disparities in access to opportunity section, segregation and integration section, as part of the section of the housing element that addresses the housing needs of persons with special needs, or in the specific analysis required on potential constraints on housing for persons with disabilities. Additionally, the analysis must go beyond simply identifying and removing barriers and constraints. The analysis should discuss resources and strategies to encourage housing options and access to opportunity to better inform meaningful and proactive goals and actions to address the housing and community development needs of persons with disabilities.

### Common Zoning Barriers for Persons with Disabilities

- Reasonable Accommodation Procedure:** The lack of a procedure to address disability issues is one of the most prominent zoning barriers because a strong process can be utilized to provide exception to zoning and land use policies that impact housing choices and livability for persons with disabilities. Other common issues with reasonable accommodation procedures include excessive findings of approval, burden on applicants to prove the need for exception, application costs, and discretionary approvals.
- Family Definition:** Family definitions in zoning or other land use related documents can directly impact housing choices for persons with disabilities, particularly group home situations. Examples of common elements in family definitions that have an exclusionary effect include regulating the number of people, or requiring occupants to be related or under one lease agreement.
- Excluding Group Homes:** Excluding group homes, community or residential care homes for seven or more persons, or subjecting these homes to a conditional use permit in single family zones acts as a barrier to housing choice for persons with disabilities.
- Spacing Requirements:** Excessive spacing requirements, such 500 feet or more, between group homes or community or residential care facilities can have a direct impact on the supply of housing choices.
- Unit Types and Sizes:** The lack of multifamily housing or zoned capacity for multifamily and a variety of sizes from efficiency to four or more bedrooms can constrain the ability of persons with disabilities to live in a more integrated community setting.
- Lack of Accessible Accessory Dwelling Units (ADUs):** ADUs can provide an important housing choice for persons with disabilities or care providers, including independent and integrated living patterns.
- Nuisance and Crime Free Ordinances:** Ordinances that can be used or have the effect of disproportionately targeting persons with disabilities.
- Lack of By Right Zoning for Supportive Housing:** By right zoning for supportive housing can result in more objective processes that are less likely to discriminate or have the effect of discriminating against persons with disabilities.



## 5. Disproportionate Housing Needs, Including Displacement

The housing element must include an assessment of disproportionate housing needs, including displacement risk, on people with protected characteristics and households with low incomes. This analysis is important to understand how some groups of persons experience severe housing needs when compared to other populations within a local level and when compared to a region. Particularly important to this analysis is local data and knowledge, since some areas could be impacted by market conditions that put households at risk of displacement, or pending or upcoming planning decisions may exacerbate displacement risk.

**Disproportionate Housing Needs** generally refers to a condition in which there are significant disparities in the proportion of members of a protected class experiencing a category of housing need when compared to the proportion of members of any other relevant groups, or the total population experiencing that category of housing need in the applicable geographic area. For purposes of this definition, categories of housing need are based on such factors as cost burden and severe cost burden, overcrowding, homelessness, and substandard housing conditions.

At minimum, the analysis must address:

- **Cost Burden and Severe Cost Burden:** Cost burden is the fraction of a household's total gross income spent on housing costs. There are two levels of cost burden: (1) "Cost Burden" refers to the number of households for which housing cost burden is greater than 30 percent of their income; and (2) "Severe Cost Burden" refers to the number of households paying 50 percent or more of their income for housing. This analysis must address the burdens on both owners and renters (tenure).
- **Overcrowding:** Households having more than 1.01 to 1.5 persons per room are considered overcrowded and those having more than 1.51 persons per room are considered severely overcrowded. The person per room analysis excludes bathrooms, porches, foyers, halls, or half-rooms. This analysis must address the overcrowding on both owners and renters.
- **Substandard Housing:** As defined by the U.S. Census, there are two types of substandard housing problems: (1) Households without hot and cold piped water, a flush toilet and a bathtub or shower; and (2) Households with kitchen facilities that lack a sink with piped water, a range or stove, or a refrigerator. Given the limits of this measure, the analysis must incorporate local data and knowledge, such as housing conditions surveys or code enforcement activities.
- **Homelessness:** Includes individuals or families who lack or are perceived to lack a fixed, regular, and adequate nighttime residence, or who have a primary nighttime residence in a shelter, on the street, in a vehicle, or in an enclosure or structure that is not authorized or fit for human habitation. People experiencing homelessness are vulnerable to violence and criminalization due to their unhoused status.

The analysis should address these factors for protected characteristics and at least race and ethnicity, familial status, persons with disabilities and incomes. The analysis may use data tables or maps and at least must compare the locality to the broader region and the sub-geographies within the locality. Other considerations for the analysis include:

- Identifying the protected groups (e.g., race/ethnicity, familial status, persons with disabilities and income) that experience higher rates of housing cost burden, overcrowding, homelessness, or substandard housing when compared to other groups;
- Discussing the areas of a locality that experience the greatest disproportionate housing needs and any coincidence with protected groups;
- Comparing the needs of families with the availability of housing stock with two and three or more bedrooms; and,
- Evaluating significant disparities relative to other factors such as renter and owner rates.

## Displacement

Shifts in neighborhood composition are often framed and perpetuated by established patterns of racial inequity and segregation. Neighborhood change is influenced by three processes: movement of people, public policies and investments, such as capital improvements and planned transit stops, and flows of private capital (Zuk et al 2015)<sup>68</sup>. These processes can disproportionately impact people of color, as well as lower income households, persons with disabilities, large households, and persons at-risk or experiencing homelessness. These processes can also displace people to the extent of homelessness. An assessment of displacement within a city should address these three processes and their mutual dependencies, particularly as mediated by race and scale. For the purposes of this guidance, displacement is used to describe any involuntary household move caused by landlord action or market changes. Displacement is fueled by a combination of rising housing costs, rising income inequality, stagnant wages, and insufficient market-rate housing production (Been, Ellen, & O'Regan 2018)<sup>69</sup>. Decades of disinvestment in low-income communities, coupled with investor speculation, can result in a rent gap or a disparity between current rental income of the land, and potentially achievable rental income if the property is converted to its most profitable use.

Displacement can broadly be understood to be caused by disinvestment, investment-fueled gentrification, or a process combining the two. Low-income neighborhoods experience displacement due to disinvestment resulting from both public and private sector decisions. Similarly, both public and private investments fuel displacement by attracting residents with higher incomes and higher educational attainments into low-income communities (Chapple 2020).<sup>70</sup> These forces can cause both physical displacement, preventing low-income communities of color from benefiting from the new economic growth; cultural displacement, as cultural resources disappear and communities are disrupted; and/or exclusionary displacement, with increasing housing prices preventing the entrance of low-income households (Cash et al. 2020).<sup>71</sup>

68 Zuk, M., et al. (2015). Gentrification, Displacement, and the Role of Public Investment. Federal Reserve Bank of San Francisco, 32.

69 Been, V., Ingrid, E., & O'Regan, K. (2019). Supply Skepticism: Housing Supply and Affordability. Housing Policy Debate, 29(1), 25-40.

70 Chapple, K. (2020). "On the Brink of Homelessness: How the Affordable Housing Crisis and the Gentrification of America Is Leaving Families Vulnerable." Written statement for the record before the House Financial Services Committee, Washington DC: January 14, 2020. <https://docs.house.gov/meetings/BA/BA00/20200114/110362/HHRG-116-BA00-Wstate-ChappleK-20200114.pdf>Desmon

71 Cash, Anna et al. (2019). Building a National Narrative of Anti-Displacement Strategies: Key Takeaways From SPARCCC Regions. Urban Displacement Project, University of California, Berkeley.

**Disinvestment-driven Displacement:** Historically, low-income communities in California with large populations of people of color have received fewer public sector investments in infrastructure, impacting everything from parks and schools to streets and sewers. Racially exclusionary housing policies and limited access to credit have limited and shaped private-sector investments in the same communities with lasting impact on homeownership and intergenerational wealth building (Trounstine 2018).<sup>72</sup> Together, these forms of neighborhood disinvestment can lead to displacement of low- and moderate-income communities and communities of color. Disinvestment-fueled displacement can occur when the value of a property does not justify investing in its maintenance, often resulting in abandonment and decay (Zuk et al 2015).<sup>73</sup> These displaced residents can often endure “hyper-mobility” when forced moves to substandard housing compel them to rapidly move again, creating a destructive cycle of housing instability (Desmond et al. 2015).<sup>74</sup>

**Investment-driven Displacement:** Displacement can take place as a neighborhood undergoes a process of gentrification, particularly within the context of the increasing desirability of housing in urban cores. Often following decades of disinvestment, a flood of public and private sector investments can lead to real estate speculation, improvements in transit access, and changes in land use. While these investments and changes can be positive, they are also associated with displacement, as historic residents cannot afford to stay and benefit from investments in housing, transit infrastructure, and access to healthy foods. Studies of gentrification and investment-driven displacement consistently describe a pattern of whiter, wealthier, and more educated residents moving into historically disinvested neighborhoods, matching an outflow of poorer renters of color displaced by rising residential rents (Zuk et al. 2015).<sup>75</sup>

The foreclosure crisis contributed to making low-income communities vulnerable to gentrification and displacement. In these communities, disproportionate levels of predatory subprime lending resulted in waves of foreclosures, leaving the neighborhoods vulnerable to investors looking to purchase and flip homes. This displacement has been financed by banks, private equity, and Wall Street firms. Capital providers often work with real estate speculators and serial evictor corporate landlords who purchase properties with the intention of evicting tenants and small businesses.

**Gentrification:** A process of neighborhood change that includes economic change in a historically disinvested neighborhood —by means of real estate investment and new higher-income residents moving in - as well as demographic change - not only in terms of income level, but also in terms of changes in the education level or racial make-up of residents.<sup>76</sup>

72 Jessica Trounstine, *Segregation By Design: Local Politics and Inequality in American Cities*. (Cambridge University Press, 2018).

73 Zuk, M., et al. (2015). Gentrification, Displacement, and the Role of Public Investment. Federal Reserve Bank of San Francisco, 32.

74 Desmond, M., Gershenson, C., & Kiviat, B. (2015). Forced Relocation and Residential Instability among Urban Renters. *Social Science Review* 89(2). 237-262.

75 Zuk, M., et al. (2015). Gentrification, Displacement, and the Role of Public Investment. Federal Reserve Bank of San Francisco, 32.

76 [Gentrification Explained | Urban Displacement Project](#)

**Disaster-driven Displacement:** The geologic and climate forces that have helped shape California’s natural beauty also make the state susceptible to environmental disasters and their ensuing potential for displacement. California’s recent history has shown that environmental disasters such as wildfires, earthquakes and floods can be significant causes of displacement, and that climate change is accelerating the risk from such disaster events. The risk of climate disaster can also put pressure on lower income communities as wealthy people seek to relocate to safer locations. An analysis should address the potential displacement from local environmental hazards. Jurisdictions should make reference to their Local Hazard Mitigation Plan, Safety Element, Environmental Justice Element, and any recent locally available hazard data in detailing the types of environmental hazards present in the community, the location of high hazard risk areas in the community, and what type of populations live in those areas of heightened hazard risk. FEMA flood maps are a good starting point for assessing flood risk, but jurisdictions are encouraged to utilize any more recent local flood risk data available, as FEMA flood maps can oftentimes be outdated and fail to account for climate change.<sup>77</sup> Addressing disaster risk is not a justification for furthering segregation, and policies that seek to address this risk should include strategies that mitigate the risk of displacement and exclusion.

In this analysis, jurisdictions should make note of potential impacts of disasters on protected classes and low-income residents, particularly low-income renter populations. Research has shown that low-income renter populations are disproportionately exposed to environmental hazards and that housing tenure is a telling determinant of social vulnerability to disasters.<sup>78</sup> Renters bear the brunt of the existing affordable housing shortage, and their adaptive capacity to cope and recover from the impacts of environmental hazards may be reduced due to systemic inequities and limited resources. Furthermore, renters also face the added physical challenges because they do not control the housing units they live in, and are more likely to be displaced post-disaster because of the following forces:

- Lack of control of when or if their housing unit will be rebuilt
- Lack of control of the maintenance or possible addition of resilience investments to the property
- Fewer financial resources to rebuild rental housing than for homeowners
- Rental price increases as rental housing supply decreases
- Evictions
- More likely to live in housing typologies such as apartments or duplexes, which can take longer to rebuild post-disaster

Any analysis of disaster-driven displacement risk should call out how those risks impact low-income renters in the community, and any programs or resources in place meant to increase resiliency and address those hazard risks. Disaster risk is not a justification for the perpetuation of patterns of segregation. Jurisdictions should creatively utilize both land use planning and public investments in mitigation measures to solve for the issues of environmental hazard risk, climate change adaptation, fair housing, and housing affordability simultaneously.

77 Homeland Security Inspector General – FEMA Needs to Improve Management of its Flood Mapping Programs, 2017, <https://www.documentcloud.org/documents/4066233-OIG-17-110-Sep17.html>

78 Lee & Van Zandt, 2018, Social Vulnerability to Disasters: A Review of the Evidence

**Data Considerations:** Through maps, data tables, and discussion, the analysis must address the concentrations of risk of displacement. The analysis might consider the following variables that are associated with risk of displacement and neighborhood change.

### Other Considerations:

- **Public Infrastructure Investments:** Government investments in physical infrastructure, such as rail transit, schools, parks, and highways can be associated with increasing home values and subsequent displacing forces (Zuk et al. 2015).
- **Historically Disinvested Areas:** Today's displacement is built upon a history of dispossession and exclusion, fueled by racism, and perpetuated by the logic of capitalism. Historical exclusionary housing policies such as redlining, racially restrictive covenants, implicitly racial zoning, racialized public housing policies, and urban renewal continue to shape wealth accumulation and access to resources like high-quality schools and job centers.
- **At-risk Affordable Units:** The conversion of federally-and -state-subsidized affordable rental developments to market-rate units can constitute a substantial loss of housing opportunity for low-income residents. There are approximately 149,000 units of privately owned, federally assisted, multifamily rental housing, as well as tax-credit and mortgage revenue bond properties, often with project-based rental assistance. As the subsidy contracts or regulatory agreements expire, a large percentage of these units may convert to market-rate. These at-risk units are home to seniors and families with low incomes who are at risk of displacement if the developments convert.

Income Variables		
Variable	Data Source	Association
Income Diversity	U.S. Census Table P007 ACS % Year Estimates Table B03002	Higher income diversity is associated with higher risk of neighborhood change
% of renters paying >35% of income	ACS 5 Year Estimates, DP04	Higher share of rent-burdened tenants is associated with higher risk of displacement
% of owners paying >35% of income	ACS 5 Year Estimates, DP04	Higher share of over-burdened owners associated with higher risk of displacement

Demographic Variables		
Variable	Data Source	Association
% non-family households	ACS 5 Year Estimates, DP02, B09029	Larger share of non-family households associated with higher risk of displacement
% non-Hispanic whites	ACS 5 Year Estimates, DP05	Larger share of non-Hispanic whites associated with lower risk of displacement
Educational Attainment	ACS 5 Year Estimates, S21501	Increasing share of high educational attainment associated with active displacement

Housing Variables		
Variable	Data Source	Association
% of dwellings units in buildings with 3+ units	ACS 5 Year Estimates, DP04	Higher share of multi-unit buildings is associated with higher risk of displacement
% renter-occupied housing	ACS 5 Year Estimates, DP04	Higher share of renter-occupied housing is associated with higher risk of displacement
Median gross rent	ACS 5 Year Estimates, DP04	Lower median gross rent compared to nearby higher rents is associated with higher risk of displacement
Overcrowding	ACS 5 Year Estimates, DP04	Higher rates of overcrowding are associated with higher risk of displacement

## Site Inventory

The purpose of the housing element’s site inventory is to identify and analyze specific land (site) that is available and suitable to accommodate the regional housing need by income group. The site inventory enables the jurisdiction to determine whether there are sufficient and adequate sites to accommodate the RHNA by income category. A site inventory and analysis will determine whether program actions must be adopted to “make sites available” with appropriate zoning, development standards, and infrastructure capacity to accommodate the new development need.

AB 686 requires a jurisdiction’s site inventory “...shall be used to identify sites throughout the community, consistent with...” its duty to affirmatively further fair housing.<sup>79</sup> Sites must be identified and evaluated relative to the full scope of the assessment of fair housing (e.g., segregation and integration, racially and ethnically concentrated areas of poverty and affluence, access to opportunity, etc.). The site inventory and accompanying analysis must identify and analyze selected sites, map the location of the sites, indicate the number of projected units for each site and represent the assumed affordability (i.e., lower, moderate and above moderate) for each site, and evaluate relative to socio-economic patterns. Importantly, the analysis ought not be limited to the identification of sites for lower income households. Rather, it should incorporate the jurisdiction’s projected housing development at all income levels and assess the extent to which that development will either further entrench or help to ameliorate existing patterns of segregation and/or exclusion of members of protected categories. Where the analysis of the inventory indicates that the community has insufficient sites appropriately zoned and located to accommodate its lower income RHNA in a manner that affirmatively furthers fair housing, the housing element must include a program to address this inconsistency, such as making additional sites available to accommodate its lower income RHNA in a manner that affirmatively furthers fair housing. To evaluate the site inventory’s consistency with the obligation to affirmatively furthering fair housing, the site inventory analysis should address:

- **Improved Conditions:** A discussion of how the sites are identified in a manner that better integrates the community with a consideration for the historical patterns and trends, number of existing households, the magnitude (e.g., number of units) of the RHNA by income group and impacts on patterns of socio-economic and racial concentrations.
- **Exacerbated Conditions:** Similar to above, an explanation of identified sites relative to the impact on existing patterns of segregation and number of households relative to the magnitude (e.g., number of units) of the RHNA by income group.
- **Isolation of the RHNA:** An evaluation of whether the RHNA by income group is concentrated in areas of the community.
- **Local Data and Knowledge:** A consideration of current, planned and past developments, investment, policies, practices, demographic trends, public comment and other factors.

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<sup>79</sup> Gov. Code, §§ 65583.2, 65583, subd. (c)(10)(A), 8899.50; see also HCD, Building Blocks, at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>; 24 C.F.R. § 5.154 (2016).

- **Other Relevant Factors:** Any other factors that influence the impacts of the identification of sites to accommodate the regional housing need on socio-economic patterns and segregation. This requirement should address any pending or approved plans, other elements of the general plan and relevant portions of the housing element and site inventory analysis requirements including, but not limited to, effectiveness of past programs in achieving the goals of the housing element, suitability of sites, existing uses and impacts of additional development potential, including potential for displacement of residents, businesses and other community amenities and infrastructure capacity.

**Summary of Conclusions and Approach to Policies and Programs:** Based on the outcomes of the analysis, the element must summarize conclusions and directly identify policies and programs needed to address identifying and making available adequate sites to accommodate the RHNA in a manner that affirmatively furthers fair housing. Policies and programs must include “meaningful actions” beyond combating discrimination to overcome patterns of segregation and foster inclusive, affordable and stable communities.

Specifically, the analysis must include each of the fair housing issue areas: (1) segregation and integration, (2) racially and ethnically concentrated areas of poverty (R/ECAPs), (3) access to opportunity, and (4) disproportionate housing needs, including displacement. The analysis should not be limited to the jurisdiction itself, but should include the surrounding region and an understanding of the role the jurisdiction plays in current and historical trends of segregation at a regional level.

## Segregation and Integration

The analysis must address identified sites relative to segregation and integration of protected classes. This analysis may focus on households by income but must address segregation and integration of other protected classes as well, including population by race, disability and familial status; the analysis must address the effects of economic segregation on members of protected classes. The analysis must show how the site inventory decreases the segregation index scores for protected classes and along income within the jurisdiction, as well as the segregation indices at the regional scale. It should provide an estimate of how much the sites identified are expected to decrease the dissimilarity and isolation index scores. Furthermore, the analysis should include an evaluation of current and historical spatial patterns of subsidized housing within and surrounding the jurisdiction, including emergency shelters, subsidized affordable housing, supportive housing, and usage of housing choice vouchers, and how the site inventory decreases patterns of segregation given these trends. This analysis of subsidized housing can provide insights into patterns of segregation and integration at a more granular scale that may prove helpful when U.S. Census data is only available at large geographies like tracts and block groups.



**Data Considerations:** Sample Methodology for Analysis by Income Group (should also be applied to race, disability and familial status)

1. Identify the percentage of the total local households that are lower, moderate and above moderate income.
2. **A.** Calculate the percentage of households in each census tract or block group that are lower, moderate and above moderate income.
 

**B.** As a secondary indicator, identify those tracts or block groups where the percentage of households at the appropriate income level is significantly higher than the community-wide average. The actual level chosen should be sensitive to the local context. For example, if a community has a very low existing percentage of lower income households, an appropriate measure might be block groups where the percentage of lower income households is double the community-wide average. In communities where the percentage of existing lower income households is relatively high, then a standard of 25 or 50 percent higher than the community-wide average may be appropriate. When tracts or block groups contain relatively small numbers of households, the percentage calculations will have relatively high margins of error (MOE). MOEs are also included in each record in the LMISD data. The MOEs should be considered when interpreting the results of this analysis.
3. Identify the existing percentage of LMI households in each block group where there is a residential capacity targeted to accommodate the RHNA for LMI households.
4. **A.** Calculate the total percentage of housing units counted towards satisfaction of the RHNA for lower income households where the existing block group percentage of LMI households exceeds the overall average for the jurisdiction.
 

**B.** Calculate the total percentage of housing units counted towards satisfaction of the RHNA for LMI households where the existing block group percentage of LMI households exceeds the secondary standard for concentration of LMI households that is significantly higher than the overall jurisdiction average.
5. If the percentage of housing units from #4 A. is significantly higher than the percentage from #2 A., and/or if the percentage of housing units from #4 B. is significantly higher than the percentage from #2 B., then this is an indicator that the site inventory for development of housing for lower income households is overly concentrated in areas that the housing sites would tend to encourage over-concentration of lower income households and sites targeted for lower income housing development should be better located among tracts or block groups where the percentage of lower income households is below the exiting citywide average.
6. Analyze local and regional data and knowledge, policies, practices and investments, demographic trends and other factors.

## **Racially and Ethnically Concentrated Areas of Poverty and Affluence**

The analysis must evaluate both the location of identified sites and the location of capacity (number of units) by income group relative to racially and ethnically concentrated areas of poverty and affluence. The analysis should address whether sites are located in or near areas of concentrated poverty and race and affluence, and whether the identified sites significantly concentrate capacity (number of units) to accommodate lower income households in or near racially and ethnically concentrated areas of poverty. The analysis should also evaluate the relationship between the location where the capacity for the lower-income housing need is accommodated in comparison to the housing need for above moderate income households. For example, whether sites to accommodate above moderate income households are significantly concentrated in areas of affluence. This analysis of R/ECAPs and RCAs should include looking at neighborhoods of the jurisdiction where there are no identified sites in the site inventory and evaluating if the absence of sites in those neighborhoods perpetuates patterns of R/ECAPs or RCAs.

## **Disparities in Access to Opportunity**

The analysis must address the location of identified sites and the location of capacity (number of units) by income group relative to overall access to opportunity and various categories of access to opportunity (e.g., education, transportation, employment, environment). The analysis should not only address an overall score value of access to opportunity, but must also individually address access to education, transportation, economic prosperity, areas with low rates of violent crime, parks and recreation areas, environmentally healthy neighborhoods and other important opportunities. This is an important place to include local data, such as school performance and enrollment boundaries, local bicycle and pedestrian data, and access to critical local and cultural institutions if available, although the analysis should extend beyond the jurisdiction's boundaries when considering access to opportunity. This analysis should be quantitative where possible and qualitative at least to guide appropriate goals and actions resulting from the analysis. Even where information about these indicators of opportunity is more qualitative or anecdotal than quantitative, it is a valuable and necessary component of developing appropriate actions.

Local jurisdictions using the TCAC/HCD Opportunity Maps should note that rural areas are scored relative to other rural areas in the same county, meaning they are not scored on the same scale as non-rural areas. This is important to note in jurisdictions that include a mix of rural and non-rural areas. While the TCAC/HCD Opportunity Maps provide data at a block group level in rural areas, data tools for rural areas and lower population areas sometimes do not fully capture the nuance of the socio-economic patterns, which highlights the importance of using local data and knowledge as a complement.

## Disproportionate Housing Needs, including Displacement Risk

The identification of sites should be informed by the findings of the disproportionate housing needs section of the assessment of fair housing. To analyze sites relative to disproportionate housing needs, including displacement risk, a locality must identify and evaluate sites according to cost burdens, overcrowding and substandard housing. This analysis must also address displacement risks as well as any other disproportionate housing needs addressed in the assessment of fair housing based on local data and knowledge. Factors of disproportionate housing need (e.g., overpayment, overcrowding, displacement, etc.) may be considered together to the extent there is a significant coincidence. The analysis must also address ways in which development of the identified sites will impact displacement risk. Where development of the identified sites is likely to increase displacement risk, then the element must include programs to mitigate the risks and impacts of displacement.

## Identification and Prioritization of Contributing Factors

The housing element must include an identification and prioritization of significant contributing factors to segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs. Fair housing contributing factor (or contributing factor) means a factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues. See “Part 3: Resources” for examples of contributing factors by fair housing issue area. Contributing factors should be based on all the prior efforts and analyses: outreach, assessment of fair housing, and site inventory. Contributing factors must also be prioritized in terms of needed impact on fair housing choice and strongly connect to goals and actions.

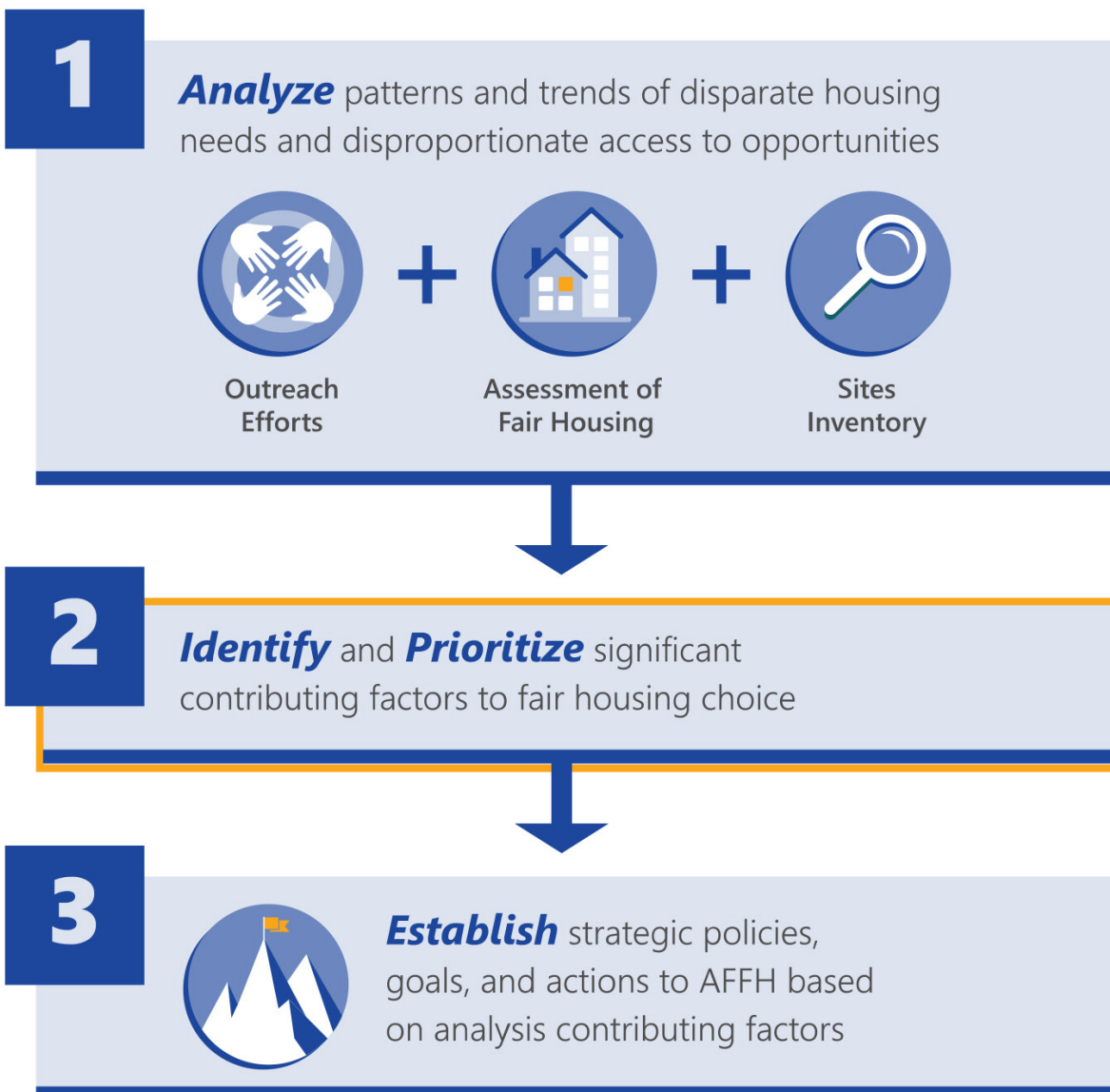
The identification and evaluation of contributing factors must:

- Identify fair housing issues and significant contributing factors;
- Prioritize contributing factors, including any local information and knowledge, giving highest priority to those factors that most limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights compliance; and
- Discuss strategic approaches to inform and strongly connect to goals and actions.

For more information, see “Part 3: Resources” (Sample Contributing Factors and Action Matrix)

**Chart 2: Contributing Factors Relationship Between Assessment of Fair Housing and Goals and Actions**

# AFFIRMATIVELY FURTHERING FAIR HOUSING



## The Importance of Prioritization

In any given community, there will be several contributing factors. However, listing contributing factors without analysis will not result in meaningful actions. For example, a list of 50 contributing factors that are not analyzed will likely result in less guided and impactful goals and actions. Instead, the housing element must prioritize contributing factors and should consider a manageable list (e.g., 4-6) to strongly connect to goals and actions, focus resources and maximize impact in the planning period. Further, the element should consider regular evaluation of the effectiveness of goals and actions and adjust and re-prioritize contributing factors and goals and actions as necessary.

Contributing factors are not limited to public actions. Private actions can also contribute to patterns of segregation, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs. While public agencies do not directly control private actions or contributing factors beyond a locality's boundaries, the actions of public agencies can influence private action and have impacts beyond local boundaries. As a result, regardless of whether contributing factors are public or private or local, region, state or federal, the housing element must recognize a broader social and legal obligation to affirmatively further fair housing and still identify and prioritize those contributing factors to commit to commensurate goals and actions.

## Using Other Consolidated Plan Documents

Localities may utilize an assessment of fair housing or analysis of impediments created pursuant to past federal requirements to identify and prioritize contributing factors to fair housing issues. Also, the statewide analysis of impediments and, if available, a regional analysis of impediments may be useful. While these documents may be a sufficient starting point, in all cases, contributing factors must be tailored to local conditions or must be re-evaluated and prioritized based on the assessment of fair housing in the housing element. Note that information in an AFH or AI may also be outdated or incomplete depending on how recently that information was prepared and may need to be updated.

## Goals, Policies, and Actions

The housing element must include goals, policies and most specifically, a schedule of actions during the planning period. Actions must be specific with timelines, discrete steps and measurable outcomes to have a "beneficial impact" during the planning period. The schedule of actions must reflect the results of analyses and is intended to be adequate to address the housing needs of all economic segments of the community. The schedule of actions must address the following statutory areas:

- Identify adequate sites, with appropriate zoning and development standards and services to accommodate the locality's share of the regional housing needs for each income level;
- Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households;

- Address and, where possible, remove governmental and non-governmental constraints to the maintenance, improvement, and development of housing, including housing for people at all income levels, as well as housing for people with disabilities and providing reasonable accommodation;
- Conserve and improve the condition of the existing affordable housing stock;
- Preserve assisted housing developments at risk of conversion to market rate;
- Promote housing opportunities throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics; and
- Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at an affordable rent.

### What is “Beneficial Impact”

Programs in the element must have specific commitment to deliverables, measurable metrics or objectives, definitive deadlines, dates, or benchmarks for implementation. Deliverables should occur early in the planning period to ensure actual housing outcomes. For example, programs to “explore” or “consider” on an “ongoing” basis are inadequate to demonstrate a beneficial impact in the planning period. Conversely, a program with clear and specific commitment and numerical objectives such as “rezone 50 acres to high density by June 2022” is adequate to demonstrate a beneficial impact. This specific and clear commitment combined with numerical objectives and timelines is called “beneficial impact.” Similarly, programs to affirmatively furthering fair housing must have specific and clear commitment, milestones, and metrics or numerical and anticipated outcomes.

### Goals and Policies

Goals and policies typically are utilized to determine a direction in the implementation of a schedule of actions. Through this direction, actions can be interpreted, prioritized, adjusted and carried out to best achieve the necessary outcomes to address the identified needs without re-evaluating over-arching principles or re-starting legislative or complex policy-making processes. To affirmatively further fair housing, goals and policies must have a specific connection to outreach, the assessment of fair housing, the analysis of the site inventory and most importantly, the prioritization of contributing factors to fair housing issues. Goals, policies and actions must be aggressively set to overcome those contributing factors to meet the “meaningful impact” requirement in statute and to avoid actions that are materially inconsistent with the obligation to affirmatively further fair housing. Goals and policies must be created with the intention to have a significant impact, well beyond a continuation of past actions, and to provide direction and guidance for meaningful action.

## What If Goals Are Outside of Local Control?

Goals should be set regardless of whether a locality directly controls all the factors involved in achieving that goal. A locality's ability to influence may be a consideration in development of actions but should not limit setting goals. Instead, recognizing the ability or inability to influence a goal should be a starting point for forming appropriate policies and actions. For example, a locality might have limited financial and staff resources. Instead of setting goals and actions at an inadequate level due to limited resources, localities should recognize this constraint and form policies and actions accordingly, such as building partnerships with non-profits to explore all private and public funding available, creating coalitions, working with legislators, exploring all private and public funding available, collaborating with nearby localities and seeking technical assistance.

Goals and policies to affirmatively further fair housing do not need to be independent or isolated on a contributing factor. Instead, goals and policies can be integrated with other goals and policies required by the housing element. For example, a housing element could have a program to "Improve housing supply." On the other hand, an integrated program could "Improve and integrate housing supply, choices and affordability throughout the community." Goals and policies intended to affirmatively further fair housing should be described as such. By integrating goals and policies, a locality can leverage efforts for a broader and more significant impact while better reflecting more inclusive values.

## Actions

Actions implement goals and consist of concrete steps, timelines and measurable outcomes. Actions should be considered a part of the schedule of actions or programs required by Housing Element Law and must affirmatively further fair housing pursuant to Government Code section 8899.50. Specifically, Government Code section 8899.50 requires "meaningful actions" well beyond combating discrimination to overcome patterns of segregation and foster inclusive communities. These actions, as a whole, must:

- Address significant disparities in housing needs and in access to opportunity;
- Replace segregated living patterns with truly integrated and balanced living patterns;
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity; and
- Foster and maintain compliance with civil rights and fair housing laws.

Further, local agencies shall not take any action materially inconsistent with the obligation to affirmatively further fair housing. This requirement should apply to all actions in the housing element and the rest of the general plan as well as any actions, policies or practices outside of the general plan.

## Action Areas

Actions to affirmatively further fair housing may include, but are not limited to:

- Enhancing housing mobility strategies;
- Encouraging development of new affordable housing in high resource areas;
- Improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing; and
- Protecting existing residents from displacement.

While the goals, policies and actions may select from the above areas (e.g., mobility, housing in high resource areas, place-based, protection from displacement), actions must be formulated in a manner to address the full scope of outreach, assessment of fair housing, analysis of site inventory and overcome contributing factors to fair housing. As a result, a schedule of actions generally must address all four categories.

For examples of affirmatively furthering fair housing actions by each of the action areas, see “Part 3: Resources.”

## Using a Variety of Actions

To address the full scope of outreach, complete the assessment of fair housing, and overcome contributing factors to fair housing and affirmatively further fair housing, actions must consider a wide range of actions across all action areas (e.g., mobility, housing in high resource areas, place-based and protection from displacement). The number and scale of actions will depend on the severity of the needs but regardless of need, a cohesive and effective program will consider multiple action areas. For example, a place-based approach might improve infrastructure or invest in active transportation, but those efforts would be ineffective in addressing needs without complementary anti-displacement measures.

Further, a balanced and effective approach will consider different types of actions utilizing: (1) human resources: outreach, education, marketing, collaboration, (2) land use resources: planning documents such as general plans, zoning, specific plans, ordinances and procedures, and (3) financial resources.

A balanced and effective approach will consider and combine each of these areas. For example, an approach could include marketing and collaboration as part of increasing mobility, zoning to increase housing choices in high resource areas, and investing financial resources in place-based and displacement action areas. An effective approach will also seek to combine these types within an action area. For example, a locality might take a zoning and financial resources approach to displacement risks or creating new housing choices in high resource areas. By combining these action areas, a program will be more balanced and more effective in achieving the goals to affirmatively further fair housing.



## Milestones, Objectives, Monitoring and Making Adjustments

Specific actions with timelines and measurable or numerical objectives are essential to an effective approach. Successful outcomes will not be achievable and discernable without specificity. For example, a program to “explore feasibility on an ongoing basis” does little to achieve tangible results but a commitment to “rezone 50 acres to the high density district by October 2021” has a far more likelihood of producing results. In addition, measurable or numerical objectives clarify goals and serve as a reference point for monitoring the effectiveness of programs. As part of the annual progress report (Gov. Code, § 65400), localities, through a community process, should evaluate actions for progress toward goals and objectives and effectiveness to make regular adjustments as necessary.

## Integrating Affirmatively Furthering Fair Housing into Existing Housing Element Programs

Housing elements must include actions to address statutory areas, such as identifying adequate sites to accommodate the regional housing need, assisting in the development of housing for lower income households and households with special needs, and conserving and improving the existing housing stock.<sup>80</sup> These statutory program areas can be modified to complement the statutorily required affirmatively furthering fair housing programs.<sup>81</sup> Examples include:

- **Adequate Sites:** In some cases, housing elements will include programs to rezone to address a shortfall of sites to accommodate the regional housing need. These types of programs should be carried out where possible to promote more inclusive communities. In addition, in some cases, a locality might find circumstances warranting rezoning above and beyond the regional housing need to promote more housing choices and affordability. Examples include long held patterns of isolation in higher income areas, or other factors, or when identifying sites to accommodate the housing need for lower income households exacerbates segregation.
- **Assist in Development of Housing for Lower Income Households and Households with Special Needs:** Housing elements will include programs to encourage affordable development, such as utilizing, seeking or supporting funding, building partnerships with non-profit developers and incentives for affordability. These programs can be targeted to high resource areas or other similar areas to promote inclusive communities.
- **Addressing Governmental and Non-governmental Constraints:** Land use and zoning can be a key barrier to inclusive communities. Zoning, permit processing, fees and other land use reforms can be targeted geographically to promote more inclusive communities. Non-governmental constraints can include factors such as local opposition to affordable housing. Education and other programs can be geographically targeted to build campaigns for more integrated land use patterns.

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80 Gov. Code, §§ 65583, subd. (a)(3) , 65583.2; see also HCD, Building Blocks at <https://www.hcd.ca.gov/community-development/building-blocks/index.shtml>.

81 Gov. Code, §§ 8899.50, 65583, subd. (c).

- **Conserve and Improve the Existing Affordable Housing Stock:** Elements must have actions to conserve and improve the existing affordable housing stock. Typical actions include programs for rehabilitation (renter, owner), acquisition and rehabilitation, infrastructure investment, conservation of mobilehome parks, housing choice vouchers, and administrative actions like zoning or displacement policies. These types of programs can be geographically targeted as place-based strategies to revitalize and improve communities or as new opportunities in high opportunity areas.
- **Incentivize Accessory Dwelling Units (ADUs):** Programs to incentivize ADUs can be targeted as new opportunities in high resource areas or as place-based revitalization strategies.

### **Integrating Goals, Policies and Actions across Multiple Planning Objectives**

Various policy topics can be integrated where more than one objective is considered at a time to promote more balanced approaches and multiple benefits. The intent is to align objectives and set clearer direction to avoid future conflict. Various policy topics can be considered within the housing element and also across the general plan. For example, a goal or policy could be set to both identify adequate sites to accommodate the regional housing need and affirmatively furthering fair housing. Also, a housing issue could be considered at the same time as a circulation or safety issue. Through more integrated approaches, the general plan becomes a more cohesive, internally consistent and implementable plan. For examples of integrated concepts in the general plan, please review resources developed by the Governor’s Office of Planning and Research. In addition, See “Part 3: Resources” for a matrix of policy topics and integrated planning approaches.

# Part 3:

## Resources

### Statute (strikeout/underline)

#### Division 1 of Title 2 of the Government Code, Chapter 15

#### Government Code Section 8899.50 (Additions and Deletions in Strikeout/Underline)

**Section 8899.50.** (a) For purposes of this section, the following terms have the following meanings:

- (1) “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.
- (2) “Public agency” means all of the following:
  - (A) The state, including every state office, officer, department, division, bureau, board, and commission, including the California State University.
  - (B) A city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency.
  - (C) A public housing authority created pursuant to the Housing Authorities Law (Chapter 1 (commencing with Section 34200) of Part 2 of Division 24 of the Health and Safety Code).
  - (D) A public housing agency, as defined in the United States Housing Act of 1937 (codified at 42 U.S.C. Sec. 1437 et seq.), as amended.
  - (E) Any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development under the Community Development Block Grant program, the Emergency Solutions Grants program, the HOME Investment Partnerships program, or the Housing Opportunities for Persons With AIDS program.
- (b) A public agency shall administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

- (c) This section shall be interpreted consistent with the Affirmatively Furthering Fair Housing Final Rule and accompanying commentary published by the United States Department of Housing and Urban Development contained in Volume 80 of the Federal Register, Number 136, pages 42272 to 42371, inclusive, dated July 16, 2015. Subsequent amendment, suspension, or revocation of this Final Rule or its accompanying commentary by the federal government shall not impact the interpretation of this section.
- (d) In selecting meaningful actions to fulfill the obligation to affirmatively further fair housing, this section does not require a public agency to take, or prohibit a public agency from taking, any one particular action.

## **Division 1 of Title 7 of the Government Code, Chapter 3**

### **Government Code Section 65583 (Additions and Deletions in Strikeout/Underline)**

**Section 65583.** The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

- (a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:
  - (1) through (9) Omitted – No substantive changes.
  - (b) (1) through (2) Omitted – No substantive changes.
- (c) A program ~~which~~ that sets forth a schedule of actions during the planning period, each with a timeline for implementation, ~~which~~ that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:
  - (1) Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level

that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

- (A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.
- (B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.
- (C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.
- (2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.
- (3) Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.
- (4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.
- (5) Promote ~~housing opportunities~~ and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or ~~disability~~. disability, and

other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

- (6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.
- (7) Include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals.
- (8) Include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.
- (9) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:
  - (i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.
  - (ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.
  - (iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).
  - (iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.
  - (v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.
- (B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of

Section 91.225 of Title 24 of the Code of Federal Regulations in effect prior to August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

- (C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.
- (d) through (f) omitted – No substantive changes.

## **Division 1 of Title 7 of the Government Code, Chapter 3**

### **Government Code Section 65583.2 (Additions and Deletions in Strikeout/Underline)**

**65583.2.** (a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the standards set forth in subdivisions (c) and (g):

- (1) Vacant sites zoned for residential use.
  - (2) Vacant sites zoned for nonresidential use that allows residential development.
  - (3) Residentially zoned sites that are capable of being developed at a higher density, including the airspace above sites owned or leased by a city, county, or city and county.
  - (4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.
- (b) Through (l) omitted – No substantive changes.

# AB 686 Housing Element Compliance Checklist

## Part 1 Outreach:

- Does the element describe and incorporate meaningful engagement that represents all segments of the community into the development of the housing element, including goals and actions (e.g., language access, accessibility for persons with disabilities, resident engagement, including low income residents and residents in subsidized housing programs, description of comments and whether incorporated, and outreach to fair housing agencies, legal services and public housing agencies)?

## Part 2 Assessment of Fair Housing:

- Does the element include a summary of fair housing enforcement and capacity in the jurisdiction?
- Does the element include an analysis of these five areas: Fair housing and enforcement capacity? Integration and segregation patterns and trends? Racially or ethnically concentrated areas of poverty? Disparities in access to opportunity? And disproportionate housing needs within the jurisdiction, including displacement risk? Each of these four areas must have its own analysis.

Each analysis on the four fair housing issue areas should include the following:	Fair Housing Enforcement and Capacity	Segregation and Integration	R/ECAP	Access to opportunity	Disp. Housing needs +displacement risk
Patterns and trends – local and regional					
Local data and knowledge					
Other relevant factors					
Conclusions and summary of issues					



### Part 3 Site Inventory:

- Did the element identify and evaluate (e.g., maps) the number of units, location and assumed affordability of identified sites throughout the community (i.e., lower, moderate, and above moderate income RHNA) relative to all components of the assessment of fair housing?
- Did the element analyze identified sites related to improving or exacerbating conditions for each of the fair housing areas (integration and segregation, racially and ethnically concentrated areas of poverty, areas of opportunity, disproportionate housing needs, including displacement)?

### Part 4 Identification of Contributing Factors

- Did the element identify, evaluate and prioritize the contributing factors to fair housing issues? Did the element prioritize those factors that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance?

### Part 5 Goals and Actions

- Did the element identify goals and actions based on the identified and prioritized contributing factors?
- Do goals and actions address mobility enhancement, new housing choices and affordability in high opportunity areas, place-based strategies for preservation and revitalization, displacement protection, and other program areas?
- Are actions significant, meaningful and sufficient to overcome identified patterns of segregation and affirmatively further fair housing?
- Did the element include metrics and milestones for evaluating progress on programs/actions and fair housing results, including concrete timelines?

# Definitions

## Affirmatively Furthering Fair Housing

Meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's activities and programs relating to housing and community development.<sup>82</sup>

## Assessment of Fair Housing (AFH)

An analysis undertaken pursuant to 24 CFR § 5.154 that includes an analysis of fair housing data, an assessment of fair housing issues and contributing factors, and an identification of fair housing priorities and goals, and is conducted and submitted to HUD using the Assessment Tool. The AFH may be conducted and submitted by an individual program participant (individual AFH), or may be a single AFH conducted and submitted by two or more program participants (joint AFH), or two or more program participants, where at least two of which are consolidated plan program participants (regional AFH).<sup>83</sup>

## Community Participation

As required in 24 CFR § 5.158, means a solicitation of views and recommendations from members of the community and other interested parties, a consideration of the views and recommendations received, and a process for incorporating such views and recommendations into decisions and outcomes. For HUD regulations implementing the Housing and Community Development Act of 1974, the statutory term for "community participation" is "citizen participation."<sup>84</sup>

## Contributing Factor

A factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues. Goals in an AFH are designed to overcome one or more contributing factors and related fair housing issues as provided in 24 CFR § 5.154.<sup>85</sup>

## Disparities in Access to Opportunity

Defined by the AFFH Final Rule as "substantial and measurable differences in access to educational, transportation, economic, and other opportunities in a community based on protected class related to housing."<sup>86</sup>

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<sup>82</sup> Gov. Code, § 8899.50, subd. (a)(1).

<sup>83</sup> 24 C.F.R. §5.152 (2016).

<sup>84</sup> *ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

### **Disproportionate Housing Needs**

Generally refers to a condition in which there are significant disparities in the proportion of members of a protected class experiencing a category of housing need when compared to the proportion of members of any other relevant groups, or the total population experiencing that category of housing need in the applicable geographic area. For purposes of this definition, categories of housing need are based on such factors as cost burden, severe cost burden, overcrowding, tenure (own vs. rent), homelessness, and substandard housing conditions.

### **Fair Housing Choice**

Under the AFFH Final Rule, fair housing choice means that individuals and families have the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to race, color, religion, sex, familial status, national origin, or disability. Fair housing choice encompasses:

- Actual choice, which means the existence of realistic housing options;
- Protected choice, which means housing that can be accessed without discrimination;
- Enabled choice, which means realistic access to sufficient information regarding options so that any choice is informed. For persons with disabilities, fair housing choice and access to opportunity include access to accessible housing and housing in the most integrated setting appropriate to an individual's needs, as required under Federal civil rights law, including disability-related services that an individual needs to live in such housing.

### **Fair Housing Issue**

A condition in a program participants geographic area of analysis that restricts fair housing choice or access to opportunity, and includes such conditions as ongoing local or regional segregation or lack of integration, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, disproportionate housing needs, and evidence of discrimination or violations of civil rights law or regulations related to housing.<sup>87</sup>

### **Integration**

A condition within the program participants geographic areas of analysis, as guided by the AFFH Data Viewer, in which there is not a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a type of disability in a particular geographic area when compared to a broader geographic area."<sup>88</sup>

### **Land Value Recapture**

A policy approach by which communities can recover and reinvest land value increases that result from public investment and other government actions, including re-zoning. This can include things such as requiring community benefits from landowners and developers whose land has increased in value due to government actions, public benefit zoning, incentive zoning, density bonuses, housing overlay zoning, tax increment financing, community benefits agreements, special assessment districts, transferable development rights, linkage or impact fees, and others.

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

### Meaningful Action

Significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.<sup>89</sup>

### Public Agency

Means all of the following:

- A. The state, including every state office, officer, department, division, bureau, board, and commission, including the California State University.
- B. A city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency.
- C. A public housing authority created pursuant to the Housing Authorities Law (Chapter 1 (commencing with Section 34200) of Part 2 of Division 24 of the Health and Safety Code).
- D. A public housing agency, as defined in the United States Housing Act of 1937 (codified at 42 U.S.C. Sec. 1437 et seq.), as amended.
- E. Any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development under the Community Development Block Grant program, the Emergency Solutions Grants program, the HOME Investment Partnerships program, or the Housing Opportunities for Persons With AIDS program.<sup>90</sup>

### Segregation

A condition within the program participant's geographic area of analysis....in which there is a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a type of disability in a particular geographic area when compared to a broader geographic area.<sup>91</sup>

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<sup>89</sup> Ibid.

<sup>90</sup> Gov. Code, § 8899.50, subd. (a)(2).

<sup>91</sup> 24 C.F.R. §5.152 (2016).

## Dissimilarity and Isolation Index Formulas

**Dissimilarity Index:** This index measures the evenness with which two groups (frequently defined on racial or ethnic characteristics) are distributed across the geographic units, such as block groups within a community. The index ranges from 0 to 100, with 0 meaning no segregation and 100 indicating complete segregation between the two groups. The index score can be understood as the percentage of one of the two groups that would need to move to produce an even distribution of racial/ethnic groups within the specified area. An index score above 60 is considered high (i.e.: 60 percent of people would need to move to eliminate segregation), while 30 to 60 is considered moderate, and below 30 is considered low.<sup>92</sup>

The formula for calculating the dissimilarity index, by Census block group, is as follows:

$$D = \frac{1}{2} \times \sum_{i=1}^N \left| \frac{P_{ig}}{P_g} - \frac{P_{ih}}{P_h} \right|$$

- $P_{ig}$  is the population of group g in Census block group i
- $P_{ih}$  is the population of group h in Census block group i
- $P_g$  is the total population of group g in the City
- $P_h$  is the total population of group h in the City

**Isolation Index:** Ranging from 0 to 100, the isolation index represents the percentage of residents of a given race or ethnicity in a block group where the average resident of that group lives, correcting for the fact that this number increases mechanically with that group's share of the overall citywide population. Using Hispanic or Latino residents as an example, an aggregate isolation index of 40 indicates that the average Hispanic or Latino resident lives in a block group where the Hispanic share of the population exceeds the overall citywide average by roughly 40 percent. Isolation index values that equal close to zero indicate that members of that BIPOC group live in relatively integrated neighborhoods.<sup>93 94</sup>

The formula for calculating the isolation index, by Census block group, is as follows:

$$I = \frac{\left[ \left( \sum_i^N \frac{P_{ig}}{P_g} \times \frac{P_{ig}}{P_{it}} \right) - \frac{P_g}{P_t} \right]}{1 - \frac{P_g}{P_t}}$$

- $P_{ig}$  is the population of group g in Census block group i
- $P_{it}$  is the total population in Census block group i
- $P_g$  is the total population of group g in the City
- $P_t$  is the total population in the City

92 Massey, D.S. and N.A. Denton. (1993). *American Apartheid: Segregation and the Making of the Underclass*. Cambridge, MA: Harvard University Press.

93 HUD. (2013). AFFH Data Documentation. Available at: [http://www.huduser.org/portal/publications/pdf/FR-5173-P-01\\_AFFH\\_data\\_documentation.pdf](http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_AFFH_data_documentation.pdf)

94 Glaeser, E. and Vigdor, J. (2001). *Racial Segregation in the 2000 Census: Promising News*. Washington, DC: The Brookings Institution, Center on Urban and Metropolitan Policy. Available at: <https://www.brookings.edu/wp-content/uploads/2016/06/glaeser.pdf>

Local jurisdictions should use the dissimilarity index and/or isolation index tools as part of the needs assessment to help to understand where there are areas of segregation in the community and highlight needs for housing element policies and programs to help reduce segregation. Dissimilarity index and Isolation index values for census tracts within the jurisdiction can be mapped thematically to highlight areas with high levels of segregation. This will highlight locations within the community where there are needs for housing element policies and programs to promote better racial and ethnic integration and reduce segregation.

## Examples of Contributing Factors to Fair Housing Issues by Area

### Outreach

- Lack of a variety of media (e.g., meetings, surveys, stakeholder interviews)
- Lack of marketing community meetings
- Lack of meetings at various times
- Lack of accessibility to draft documents
- Lack of language access
- Lack of accessible forums (e.g., webcast, effective communication, reasonable accommodation procedures)

### Fair Housing Enforcement and Outreach Capacity

- Lack of local private fair housing outreach and enforcement
- Lack of local public fair housing enforcement
- Lack of resources for fair housing agencies and organizations
- Lack of state or local fair housing laws to support strong enforcement
- Unresolved violations of fair housing or civil rights law (including challenges to protect the constitutional and statutory rights of unhoused people)

### Segregation and Integration

- Community opposition
- Displacement of residents due to economic pressures
- Lack of community revitalization strategies
- Lack of private investments in specific neighborhoods
- Lack of public investments in specific neighborhoods, including services or amenities
- Lack of regional cooperation
- Land use and zoning laws
- Lending discrimination
- Location and type of affordable housing
- Occupancy codes and restrictions
- Private discrimination
- Source of income discrimination
- Lack of tenant protections
- Harassment
- Lack of supportive housing in community-based settings
- Policing and criminalization

### **Racially and Ethnically Concentrated Areas of Poverty**

- Community opposition
- Deteriorated and abandoned properties
- Displacement of residents due to economic pressures
- Lack of community revitalization strategies
- Lack of private investments in specific neighborhoods
- Lack of public investments in specific neighborhoods, including services or amenities
- Lack of regional cooperation
- Land use and zoning laws
- Location and type of affordable housing
- Occupancy codes and restrictions
- Private discrimination
- Lending discrimination
- Policing and criminalization

### **Disparities in Access to Opportunity**

- Access to financial services
- The availability, type, frequency, and reliability of public transportation
- Lack of private investments in specific neighborhoods
- Lack of public investments in specific neighborhoods, including services or amenities
- Lack of regional cooperation
- Land use and zoning laws
- Lending discrimination
- Location of employers
- Location of environmental health hazards
- Location of proficient schools and school assignment policies
- Location and type of affordable housing
- Occupancy codes and restrictions
- Private discrimination
- Policing and criminalization

### **Disparities in Access to Opportunity for Persons with Disabilities**

- Access to proficient schools for persons with disabilities
- Access to publicly supported housing for persons with disabilities
- Access to transportation for persons with disabilities
- Inaccessible government facilities or services
- Inaccessible sidewalks, pedestrian crossings, or other infrastructure
- Lack of affordable in-home or community-based supportive services
- Lack of affordable, accessible housing in range of unit sizes
- Lack of affordable, integrated housing for individuals who need supportive services
- Lack of assistance for housing accessibility modifications
- Lack of assistance for transitioning from institutional settings to integrated housing
- Land use and zoning laws
- Lending discrimination
- Location of accessible housing

- Occupancy codes and restrictions
- Lack of effective accommodations for unhoused people with disabilities
- Regulatory barriers to providing housing and supportive services for persons with disabilities
- State or local laws, policies, or practices that discourage individuals with disabilities from being placed in or living in apartments, family homes, and other integrated settings
- Policing and criminalization (especially people with mental disabilities or neurodivergent individuals)

### **Disproportionate Housing Needs, Including Displacement Risks**

- The availability of affordable units in a range of sizes
- Displacement of residents due to economic pressures
- Lack of private investments in specific neighborhoods
- Lack of public investments in specific neighborhoods, including services or amenities
- Lack of renter protections
- Lack of protections for mobilehome park residents
- Land use and zoning laws
- Lending discrimination
- Lack of rental relief programs for people at risk of homelessness

### **Site Inventory**

- Community opposition
- Lack of community revitalization strategies
- Lack of private investments in specific neighborhoods
- Lack of public investments in specific neighborhoods, including services or amenities
- Lack of regional cooperation
- Land use and zoning laws
- Local policies or practices (e.g., councilmember veto)
- Location and type of affordable housing
- Private discrimination



## Sample Contributing Factors & Actions Matrix

Identified Fair Housing Issue	Contributing Factor	Priority (high, medium, low)	Meaningful Action

# Examples of Affirmatively Furthering Fair Housing Actions

**Housing Mobility Strategies** consist of removing barriers to housing in areas of opportunity and strategically enhancing access. Examples include:

- Voucher mobility
- Housing mobility counseling
- City-wide affordable rental registries
- Landlord outreach to expand the location of participating voucher properties
- Landlord education and outreach on source of income discrimination and voucher programs
- Assistance with security deposits and moving expenses for voucher holders and other low-income tenants
- Extend search times for particular groups with housing choice vouchers, such as larger families with children or persons with disabilities
- Regional cooperation and administration of vouchers (such as through portability and shared waiting lists);
- Affirmative marketing can be targeted at promoting equal access to government-assisted housing or to promote housing outside the immediate neighborhood to increase awareness and the diversity of individuals in the neighborhood
- Collaborate with high performing school districts to promote a diversity of students and staff to serve lower income students
- Developing multifamily housing opportunities<sup>95</sup>
- Encouraging the development of four or more units in a building
- Encouraging collaboration between local governments and community land trusts as a mechanism to develop affordable housing in higher-opportunity areas.<sup>96</sup>
- Accessibility programs focus on improving access to housing, transit, public buildings and facilities, sidewalks, pedestrian crossings, and businesses

**New Housing Choices and Affordability in Areas of Opportunity** means promoting housing supply, choices and affordability in areas of high opportunity and outside of areas of concentrated poverty. Examples include:

- Zoning, permit streamlining, fees, incentives and other approaches to increase housing choices and affordability (e.g., duplex, triplex, multifamily, accessory dwelling units, transitional and supportive housing, group homes) in high opportunity areas
- Target housing creation or mixed income strategies (e.g., funding, incentives, policies and programs, density bonuses, land banks, housing trust funds)
- Inclusionary requirements

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<sup>95</sup> The federal FHA includes design and construction requirements for all residential buildings with four or more attached units. In buildings with stairs, all ground floor units must be accessible, and in buildings with elevator access, all units must have minimum access. There is no federally mandated standard for accessibility in single family homes. Government Code section 12955.1, subdivision (b), requires 10 percent of units in multifamily buildings without elevators consisting of 3 or more rental units or 4 or more condominium units are subject to accessibility building standards.

<sup>96</sup> See Community Land Trusts and Stable Affordable Housing, available at <https://www.huduser.gov/portal/pdredge/pdr-edge-featd-article-110419.html>, last visited on March 19, 2021.

- Scattered site affordable development
- Targeted investment and programs, including sweat equity, down payment assistance, new rental construction
- Accessibility modification programs and other measures that proactively enhance accessibility
- Increase accessible number of units above state law through incentives, policies, funding and other similar measures
- Developing waiting lists for persons with disabilities, such as coordination with regional centers for developmental services and targeting those lists to property owners or homeowners making units (e.g., ADUs) available
- Leveraging in-home or community based supportive services
- Develop a campaign to combat local opposition
- Increase number of ADUs allowed per site
- Increasing opportunities for community ownership of housing

**Place-based Strategies to Encourage Community Conservation and Revitalization** Involves approaches that are focused on conserving and improving assets in areas of lower opportunity and concentrated poverty such as targeted investment in neighborhood revitalization, preserving or rehabilitating existing affordable housing, improving infrastructure, schools, employment, parks, transportation and other community amenities. Examples include:

- Targeted investment in areas of most need focused on improving community assets such as schools, recreational facilities and programs, social service programs, parks, streets, active transportation and infrastructure
- Develop a proactive code enforcement program that targets areas of concentrated rehabilitation needs, results in repairs and mitigates potential cost, displacement and relocation impacts on residents
- Dedicate or seek funding to prioritize basic infrastructure improvements (e.g., water, sewer) in disadvantaged communities
- Address negative environmental, neighborhood, housing and health impacts associated with siting and operation of land uses such as industrial, agricultural, waste storage, freeways, energy production, etc. in disadvantaged communities
- Address negative impacts from climate change through investments in adaptation measures such as urban forestry, flood prevention measures, etc. in disadvantaged communities
- Target acquisition and rehabilitation to vacant and blighted properties in neighborhoods of concentrated poverty
- Inter-governmental coordination on areas of high need
- Prioritized capital improvement programs
- Develop new financing
- Recruit residents from areas of concentrated poverty to serve on boards, committees, task forces and other local government decision-making bodies
- Catalyze leadership and future community wide decision-makers, including affirmative recruitment in hiring practices
- Leverage private investment for community revitalization, including philanthropic
- Expand access to community meetings, including addressing language barriers, meeting times

**Protecting Existing Residents from Displacement** comprises strategies that protects residents in areas of lower or moderate opportunity and concentrated poverty and preserves housing choices and affordability. Examples include:

- First right of return to existing residents and policies that include moving expenses
- Multi-lingual tenant legal counseling
- Affirmative marketing strategies or plans targeting nearby neighborhoods, a Disadvantaged Community or a Low-Income Community
- Replacement requirements in targeted growth areas such as transit stations, transit corridors, job and housing rich areas, downtowns and revitalization areas or policies on sites identified to accommodate the housing needs of lower income households
- Rent stabilization programs beyond what is required by California Civil Code 1946.2
- Just cause eviction or other efforts improving tenant stability beyond what is required by California Civil Code 1946.2
- Policies to preserve Single Room Occupancy (SRO) housing or mobilehome parks
- Condominium conversion restrictions
- Land banking programs actively receiving funding
- Community benefit zoning and/or other land value recapture strategy
- Rent review board and/or mediation, foreclosure assistance, or multilingual tenant legal counseling services
- Density bonus ordinances that expand on state replacement requirements
- Implementation of an overlay zone to protect and assist small businesses
- Establishment of a small business advocate office and single point of contact for every small business owner;
- Creation and maintenance of a small business alliance;
- Increased visibility of the jurisdiction's small business assistance programs;
- Formal program to ensure that some fraction of a jurisdiction's purchases of goods and services come from local businesses
- Prioritization of Minority and Women Business Enterprises (MWBE) for public contracting
- Environmental contamination mitigation and hazard mitigation measures such as seismic retrofits, flood adaptation measures, etc. to prevent displacement from disasters
- Eliminating crime-free or nuisance ordinances or programs that result in penalties to landlords and evictions of tenants

# Sample Tables

## Regional Comparisons

### Population by Race/Ethnicity

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
White (Non-Hispanic)						
Hispanic/Latino						
Black or African American						
Native American						
Asian						
Native Hawaiian and Other Pacific Islander						
Other						
Two or More Races						

### Population by Disability Type

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Total with a Disability						
» Hearing Difficulty						
» Vision Difficulty						
» Cognitive Difficulty						
» Ambulatory Difficulty						
» Self-care Difficulty						
» Independent Living						

Source: XXXXXXXXXX

### Housing Units by Type

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Single Family-Detached						
Single Family-Attached						
2-4 Units						
5+ Units						
Mobilehomes						
Other						

Source: XXXXXXXXXX

### Population by Familial Status

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Family Households						
» Married-Couple Family Households						
• With Children						
• Without Children						
» Other Family Households						
• With Children						
• Without Children						
Non-family Households						

Source: XXXXXXXXXX

## Households by Income

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Less than \$10,000						
\$10,000-\$14,999						
\$15,000-\$24,999						
\$25,000-\$34,999						
\$35,000-\$49,999						
\$50,000-\$74,999						
\$75,000-\$99,999						
\$100,000-\$149,999						
\$150,000-\$199,999						
\$200,000 or More						
Median Income						

Source: XXXXXXXXXX

## Households by Overpayment

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Owner Households (All Low Income Levels 0-80% AMI)						
Paying >30%						
Paying >50%						
Renter Households (All Low Income Levels 0-80% AMI)						
Paying >30%						
Paying >50%						
Owner Households (Extremely Low Income Levels 0-30% AMI)						
Paying >30%						
Paying >50%						
Renter Households (Extremely Low Income Levels 0-30% AMI)						
Paying >30%						
Paying >50%						

Source: XXXXXXXXXX

### Households by Tenure

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Owner Households						
Renter Households						
Total Households						

Source: XXXXXXXXXX

### Households by Overcrowding

	City		County		Region/State	
	2010	2018	2010	2018	2010	2018
Owner Households						
» 1.01 to 1.50 occupants per room						
» 1.51 to 2.00 occupants per room						
» 2.01 or more occupants per room						
Renter Households						
» 1.01 to 1.50 occupants per room						
» 1.51 to 2.00 occupants per room						
» 2.01 or more occupants per room						
Total Households						

Source: XXXXXXXXXX



## List of Fair Housing Assistance Organizations

Name	Service Area	Address	Phone	Website
California Department of Fair Employment and Housing	California	2218 Kausen Dr. Ste. 100 Elk Grove, CA 95758	916-478-7251	<a href="https://www.dfeh.ca.gov/">https://www.dfeh.ca.gov/</a>
Greater Bakersfield Legal Assistance, Inc.	Kern County, CA	615 California Ave. Bakersfield, CA 93304	661-325-5943	<a href="http://www.gbla.org/">http://www.gbla.org/</a>
Fair Housing Council of Central California	Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Inyo, Kern, Kings, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, Shasta, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba	333 W. Shaw Ave. Ste. 14 Fresno, CA 93704	559-244-2950	<a href="http://www.fhc-cc.org/index.html">http://www.fhc-cc.org/index.html</a>
Mental Health Advocacy Services, Inc.	Los Angeles area	3255 Wilshire Blvd. Ste. 902 Los Angeles, CA 90010	213-389-2077	<a href="http://mhas-la.org/">http://mhas-la.org/</a>
Southern California Housing Rights Center	The City of Los Angeles, Los Angeles County, Antelope Valley, & Ventura County	3255 Wilshire Blvd. 1150 Los Angeles, CA 90010	213-387-8400	<a href="http://www.hrc-la.org/default.asp?id=6">http://www.hrc-la.org/default.asp?id=6</a>
Housing and Economic Rights Advocates	State of California	1814 Franklin St. Ste. 1040 Oakland, CA 94612	510-271-8443	<a href="http://www.heraca.org/">http://www.heraca.org/</a>
Bay Area Legal Aid	San Rafael, Napa, Richmond, Oakland, San Francisco, Redwood City, & San Jose	1735 Telegraph Ave. Oakland, CA 94612	510-663-4755	<a href="https://baylegal.org/">https://baylegal.org/</a>
		1025 Macdonald Ave, Richmond, CA 94801	510-233-9954	
		575 Lincoln Ave., Ste. 210, Napa, CA 94558	707-259-0579	
		1800 Market St., 3rd Floor, San Francisco, CA 94102	415-982-1300	
		1038 El Camino Real, Ste. A, Redwood City, CA 94063	650-358-0745	
		4 N. Second St., Ste. 600, San Jose, CA 95113	408-283-3700	

Name	Service Area	Address	Phone	Website	
California Rural Legal Assistance	California	1430 Franklin St., Ste. 103 Oakland, CA 94612	1-800-337-0690	<a href="https://www.crla.org/">https://www.crla.org/</a>	
		141 A Street, Suite D. Arvin, CA 93203	661-854-3839		
		1460 6th Street, P.O. Box 35Coachella, CA 92236	760-398-7261		
		601 High St., Ste. C Delano, CA 93215	661-725-4350		
		449 Broadway St. El Centro, CA 92243	760-353-0220		
		3747 E. Shields Ave. Fresno, CA 93726	559-441-8721		
		126 North "B" St. Madera, CA 93638	559-674-5671		
		511 "D" St. Marysville, CA 95901	530-742-5191		
		1020 15th St, Ste. 20, Modesto, CA 95354	209-577-38811		
		338 "A" St. Oxnard, CA 93030	805-486-1068		
		3 Williams Rd. Salinas, CA 93905	831-757-5211		
		175 Santa Rosa St. San Luis Obispo, CA 93405	805-544-7994		
		2050 South Broadway Ste. G Santa Maria, CA 93454	805-922-4564		
		1160 N. Dutton Ave., Ste. 105 Santa Rosa, CA 95401	707-528-9941		
		145 E. Weber Ave. Stockton, CA 95202	209-946-0605		
640 Civic Ctr. Dr. #108, Vista, CA 92084	760-966-0511				
21 Carr St. Watsonville, CA 95076	831-724-2253				
CSA San Diego County	San Diego County, CA	131 Avocado Ave. El Cajon, CA 92020	619-444-5700	<a href="https://www.c4sa.org/">https://www.c4sa.org/</a>	
Eden Council of Hope & Opportunity	Alameda, Contra Costa, and Monterey Counties, and the Cities of Alameda, Antioch, Concord, Hayward, Livermore, Monterey, Oakland, Pleasanton, Richmond, Salinas, San Leandro, Seaside, Union City, and Walnut Creek	770 A Street, Ste. 204, Hayward, CA 94541	510-581-9380	<a href="http://www.echofairhousing.org">www.echofairhousing.org</a>	
		301 W. 10th St. Antioch, CA 94509	925-732-3919		
		141 N. Livermore Ave. Livermore, CA 94550	925-583-5992		
		1305 Franklin St. #305 Oakland, CA 94612	510-496-0496		
		570 Pacific St. Monterey, CA 93940	831-566-0824		
		168 W. Alisal St. Salinas, CA 93901	831-566-0824		

Name	Service Area	Address	Phone	Website
Fair Housing Advocates of Northern California	Marin County and Sonoma Counties; cities of Fairfield and Vallejo	1314 Lincoln Ave. Ste. A San Rafael, CA 94901	415-457-5025	<a href="http://www.fairhousingnorcal.org/">http://www.fairhousingnorcal.org/</a>
Fair Housing Council of Orange County	Orange County, CA	1516 Brookhollw Dr., Ste. A Santa Ana, CA 92705	714-569-0823	<a href="https://www.fairhousingoc.org/">https://www.fairhousingoc.org/</a>
Fair Housing Council of Riverside County	Riverside County (all jurisdictions), Moreno Valley, Corona, Temecula, Palm Springs, Palm Desert, Perris, Jurupa Valley, Hemet, Menifee	4164 Brockton Ave. Riverside, CA 92501	951-682-6581	<a href="https://fairhousing.net/">https://fairhousing.net/</a>
		23890 Alessandro Blvd., Suite A1 Moreno Valley, Ca 92553		
		190 W. Amado Rd. Palm Springs, CA 92262		
		650 Main St. Corona, CA 92882		
Fair Housing Council of San Diego	San Diego Region	9845 Erma Rd., Ste. 300 San Diego, CA 92131	619-699-5888	<a href="https://fhcsd.com/">https://fhcsd.com/</a>
Fair Housing Council of the San Fernando Valley	Los Angeles County, primarily in the San Fernando Valley	14621 Titus St., Ste. 100 Panorama City, CA 91402	818-373-1185	<a href="http://www.fhcsfv.com/">http://www.fhcsfv.com/</a>
Fair Housing Foundation	Aliso Viejo, Bellflower, Buena Park, Compton, Costa Mesa, Downey, Fullerton, Garden Grove, Garden, Huntington Beach, Huntington Park, Irvine, La Habra, Long Beach, Lynwood, Mission Viejo, Newport Beach, Norwalk, Orange, Paramount, San Clemente, South Gate, Tustin, Westminster	3605 Long Beach Blvd., Ste 302 Long Beach, CA 90807	(800) 446 - FAIR (3247) Deaf or hard of Hearing TTY (800) 855-7100	<a href="https://fhfca.org/">https://fhfca.org/</a>
		2300 E Katella Ave., Ste 405 Anaheim, CA 92806		
Fair housing Napa Valley	Napa County, CA	1804 Soscol Avenue, Ste. 203, Napa, CA 94559	707-224-9720	<a href="https://napafairhousing.org/">https://napafairhousing.org/</a>
Fair Housing of Sonoma County at Petaluma	Petaluma	1500 Petaluma Blvd., South Ste A Petaluma, CA 94952	707-765-8488	<a href="https://petalumapeople.org/housing/">https://petalumapeople.org/housing/</a>

Name	Service Area	Address	Phone	Website
Housing Equity Law Project	Northern California	180 S. Spruce Ave., Ste. 250 San Francisco, CA 94080	415-434-9400	<a href="http://www.housingequality.org/">http://www.housingequality.org/</a>
Housing Rights Center	Los Angeles County, Antelope Valley, & Ventura County	3255 Wilshire Blvd. 1150 Los Angeles, CA 90010	213-387-8400	<a href="https://www.housingrightscenter.org/">https://www.housingrightscenter.org/</a>
		6320 Van Nuys Blvd., Ste. 311 Van Nuys, CA 91402		
		Jackie Robinson Center 1020 N. Fair Oaks Ave. Pasadena, CA 91103		
		1015 N. Lake Ave., Ste. 100 Pasadena, CA 91104		
Inland Fair Housing and Mediation Board	San Bernardino, Riverside, and Imperial Counties	1500 S. Haven Ave., Ste. 100 Ontario, CA 91761	800-321-0911	<a href="https://www.ifhmb.com/">https://www.ifhmb.com/</a>
		225 W. Hospitality Ln., Ste. #207 San Bernardino, CA 92408		
		15248 Civic Dr., Ste. #225 Victorville, CA 92392		
		82921 Indo Blvd. Indio, CA 92201		
		444 S. 8th St., Ste. #C-1A El Centro, CA 92243		
Legal Aid Society of San Diego	San Diego County, CA	110 S. Euclid Ave. San Diego, CA 92114	1-844-449-3500	<a href="https://www.lasds.org/">https://www.lasds.org/</a>
		1764 San Diego Ave., Ste. 100 San Diego, CA 92110		
		216 S. Tremont St. Oceanside, CA 92054		
Project Sentinel	Northern California	1490 El Camino Real, Santa Clara, CA 95050	408-470-3739	<a href="https://www.housing.org/">https://www.housing.org/</a>

# Bibliography

## AFFH Rule and Assessments

### [Assembly Bill 686](#)

California State Legislature. September 30, 2018 Bill text for California’s Affirmatively Furthering Fair Housing law. HCD AB 686 Summary of Requirements in Housing Element Law Memorandum (April 2020)

### [Affirmatively Furthering Fair Housing: California’s New Law \(PDF\)](#)

National Housing Law Project. 2019. 2 pp.

Summarizes Assembly Bill 686, California’s Affirmatively Furthering Fair Housing Law.

### [Affirmatively Furthering Fair Housing Final Rule \(PDF\)](#)

Federal Register. 2015. 101 pp.

### [AFFH Rule Guidebook \(PDF\)](#)

U.S. Dept of Housing and Urban Development (HUD). 2015. 222 pp.

### [California Department of Housing and Community Development Final 2020 Analysis of Impediments to Fair Housing Choice \(PDF\)](#)

Executive Summary. June 2020. 10 pp.

### [California Department of Housing and Community Development Final 2020 Analysis of Impediments to Fair Housing Choice – Final AI 425 Chapter 13: Impediments to Fair Housing Choice \(PDF\)](#)

June 2020. 9 pp.

### [Furthering Fair Housing](#)

National Fair Housing Alliance

Summarizes the Obama administration’s AFFH Rule and provides update on the rule change.

### [Furthering Fair Housing](#)

Massachusetts Institute of Technology, Department of Urban Studies and Planning. This website provides a clearinghouse of assessments of fair housing completed during the implementation of the HUD AFFH Rule, sample goals, and articles detailing research on implementation of the HUD AFFH Rule and related topics.

### [Policy Objective: Affirmatively Furthering Fair Housing](#)

Local Housing Solutions.

This web article provides suggestions for improving access to opportunity through place-based strategies, mobility strategies (including inclusionary zoning), and specific policies detailed in a housing policy toolkit.

### [National Housing Law Project \(NHLP\)](#)

These resources provide context regarding the Obama administration’s implementation of the 2015 federal AFFH rule.

- [AFFH Implementation: An Update for Advocates \(PDF\) 2016.](#)
- [AFFH Glossary \(PDF\) 2016.](#)
- [Assessment of Fair Housing Advocate Participation Checklist \(PDF\) 2016.](#)

### **Assessment of Fair Housing Plan (PDF)**

City of Los Angeles & The Housing Authority of the City of Los Angeles.

Prepared by Enterprise Community Partners and the Lawyers Committee. Nov. 6, 2017. 434 pp.

### **NLIHC: Assessment Tools**

National Low-Income Housing Coalition.

NLIHC makes available assessment tools from the Obama administration's AFFH rule. Included are Assessment Tools for Localities and PHAs as well as a Proposed Assessment Tool for States.

### **PRRAC: Affirmatively Furthering Fair Housing**

Poverty & Race Research Action Council (PRRAC) provides multiple samples and tools for conducting an Analysis of Impediments/Assessment to Fair Housing Choice. Also includes background information on AFFH plus comment letters and news stories regarding the termination of the rule.

### **Preserving Community and Neighborhood Choice (PDF)**

HUD. 2020. 57 pp.

This presents HUD's new rule, which replaces the 2015 Affirmatively Furthering Fair Housing rule, terminated by HUD in 2020.

## **Federal Guidance**

### **Joint Statement of HUD and DOJ on State and Local Land Use Laws and Practices and the Application of the Fair Housing Act (PDF)**

U.S. Dept. of Justice (DOJ). November 10, 2016. 20pp.

### **Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions (PDF)**

HUD. April 4, 2016. 10 pp.

### **Joint Statement of HUD and DOJ on Reasonable Accommodations Under the Fair Housing Act (PDF)**

HUD. May 17, 2004. 15 pp.

### **Fair Housing Enforcement – Occupancy Standards; Notice of Statement of Policy (PDF)**

Federal Register. December 22, 1998. 7 pp.

### **Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency (PDF)**

HUD. September 15, 2016. 9 pp.

The guidance clarifies that discrimination against people in housing transactions based on the language they speak can be considered discrimination under the Fair Housing Act.

### **Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs; Final Rule**

Federal Register. September 21, 2016.

### **Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity; Final Rule**

Federal Register. February 3, 2012.

### **Olmstead: Community Integration for Everyone**

DOJ, Civil Rights Division. Information and Technical Assistance on the Americans with Disabilities Act

This is an overview of the 1999 Supreme Court decision regarding Title II of the Americans with Disabilities Act. The decision requires states to place qualified people with mental disabilities in community settings rather than institutional ones.

### **Joint Statement of HUD and DOJ on Reasonable Modifications Under the Fair Housing Act (PDF)**

HUD. March 5, 2008. 18 pp.

### **Joint Letter to Local Colleagues (PDF)**

U.S. Departments of Education; Transportation; and Housing and Urban Development. June 3, 2016. 3 pp.

This joint letter calls on “local education, transportation, and housing leaders to work together on issues at the intersection of our respective missions in helping to guarantee full access to opportunity across the country.” It lays out the original vision of the AFFH rule as being one of coordination among agencies that provide access to opportunity.

## **Data & Maps**

### **CalEnviroScreen**

California Office of Environmental Health Hazard Assessment.

This mapping tool helps identify California communities that are most affected by several sources of pollution.

### **California Health Interview Survey**

University of California, Los Angeles, Center for Health Policy Research.

“The California Health Interview Survey (CHIS) is the nation’s largest state health survey and a critical source of data on Californians as well as on the state’s various racial and ethnic groups.”

### **California Healthy Places Index**

This site maps by zip code the following conditions: economic, education, housing, healthcare access, neighborhood, and clean environment.

### **California Neighborhood Change Maps**

Urban Displacement Project. Text, data, and color-coded maps.

- [Mapping Displacement, Gentrification, and Exclusion in the San Francisco Bay Area](#) Updated in 2018.
- [Mapping Neighborhood Change in Southern California: Los Angeles, Orange, and San Diego Counties](#) Updated in 2020 with new layers reflecting COVID-19 vulnerabilities.

### **Data and Tools for Fair Housing Planning**

Urban Institute. July 2020.

Provides downloadable files of Affirmatively Furthering Fair Housing data and guidelines pertaining to the 2015 rule, thus offering assistance for states still pursuing these goals.

### **Mapping Inequality: Redlining in New Deal America**

University of Richmond Digital Scholarship Lab.

Provides historic Home Owners Loan Corporation (HOLC) maps that were color coded to reflect the mortgage security potential of various neighborhoods. These maps and their coding provided a tool for redlining that made it difficult or impossible for people in certain areas to access mortgage financing to become homeowners. The maps “allow and encourage you to grapple with this history of government policies contributing to inequality.”

### **National Equity Atlas**

“America's most detailed report card on racial and economic equity. We equip movement leaders and policymakers with actionable data and strategies to advance racial equity and shared prosperity.”

### **Opportunity Insights: The Economic Tracker**

Harvard University.

Data, research, and policy recommendations. “Our mission is to identify barriers to economic opportunity and develop scalable solutions that will empower people throughout the United States to rise out of poverty and achieve better life outcomes.” This data is currently focused on the economic impacts of the COVID-19 pandemic.

### **TCAC/HCD Opportunity Maps - California**

HCD, Treasurer of the State of California | California Tax Credit Allocation Committee, and The Institute of Othing and Belonging, U.C. Berkeley.

### **PolicyMap**

PolicyLink. 2017.

Uses 2010 Census to map a variety of measurements, including demographics, income, and housing.

### **Race Counts**

Race Counts measures the overall performance, amount of racial disparity, and impact by population size of counties and cities in California.

### **Urban Displacement Project**

Articles, reports, and policy briefs; gentrification and displacement maps of several metropolitan areas; UCLA and UC Berkeley case studies of Los Angeles and San Francisco Bay Area neighborhoods.



**Using Data to Assess Fair Housing and Improve Access to Opportunity: A Guidebook for Community Organizations (PDF)**

L. Hendey & M. Cohen. Urban Institute. 2017. 64 pp.

## Videos

**Affirmatively Furthering Fair Housing in California: Prioritizing Fair Housing Goals in Planning for the State's Housing Needs**

(Opens to page with embedded recording of Webinar. Run time: 1 hour 27 min.)

Terner Center for Housing Innovation, U.C. Berkeley. 2020.

Webinar panel discussion featuring Gillian Adams, Arthur Gales, and Annelise Osterberg, moderated by Terner Center Managing Director Ben Metcalf, with opening remarks by HCD's Director, Gustavo Velasquez.

**Segregated by Design**

M. Lopez, Director. Silkwood Studios. 2019. Run time: 17 min. 42 sec.

This animated video, narrated by Richard Rothstein, "examines the forgotten history of how our federal, state and local governments unconstitutionally segregated every major metropolitan area in America through law and policy."

## Books

**The Color of Law: A Forgotten History of How Our Government Segregated America**

R. Rothstein. New York: Liveright Publishing Corp., 2017. 345 pp.

Examines the historical segregation of housing due to governmental policies and real estate and mortgage industry practices. Analyzes the impact this has on neighborhoods today regarding environmental justice and access to quality schools, public transportation, jobs, parks, and other opportunities.

**The One-way Street of Integration: Fair Housing and the Pursuit of Racial Justice in American Cities.**

E.G. Goetz. Ithaca, NY: Cornell University Press, 2018. 228 pp.

From the bookseller's website: "Goetz traces the tensions involved in housing integration and policy to show why he doesn't see the solution to racial injustice as the government moving poor and nonwhite people out of their communities."

**Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership**

Keeanga-Yamahtta Taylor. Chapel Hill: University of North Carolina Press, 2019. 368 pp.

From the publisher's website: "Race for Profit uncovers how exploitative real estate practices continued well after housing discrimination was banned. The same racist structures and individuals remained intact after redlining's end, and close relationships between regulators and the industry created incentives to ignore improprieties."

### **Segregation by Design: Local Politics and Inequality in American Cities**

J. Trounstein. Cambridge: Cambridge University Press, 2018. 277 pp.

From the publisher's website: "Segregation by Design draws on more than 100 years of quantitative and qualitative data from thousands of American cities to explore how local governments generate race and class segregation."

## **Research Articles & Reports**

### **Affirmatively Furthering Fair Housing: A Reckoning with Government-Sponsored Segregation in the 21st Century**

(Links to page with free PDF download.)

S. Menendian. National Civic Review 106(3): 20-27. 2017.

### **Affirmatively Furthering Fair Housing for People with Disabilities: Recommendations and Best Practices for Municipalities (PDF)**

A. Ballard. Access Living of Metropolitan Chicago. n.d.

This 18-slide presentation defines barriers to housing for people with disabilities and provides solutions.

### **"Affirmatively Further Fair Housing: California's Response to a Changing Federal Landscape"**

R. Williams. Journal of Affordable Housing & Community Development Law 28(3): 387-396. 2019.

### **America's Formerly Redlined Neighborhoods Have Changed, and So Must Solutions to Rectify Them**

(Links to page with button for free PDF download.)

A.M. Perry & D. Harshbarger. Brookings. 2019. 20 pp.

The population currently living in what were once HOLC "redlined" neighborhoods is majority-BI-POC but not majority-Black, and, contrary to conventional perceptions, Black residents also do not form a plurality in these areas overall.

### **Antisubordination Planning**

(Links to page with full-text download.)

J. Steil. Journal of Planning Education and Research. 2018.

### **"Beyond People Versus Place: A Place-Conscious Framework for Investing in Housing and Neighborhoods"**

M.A. Turner. Housing Policy Debate 27(2), 306-314. 2017.

This paper offers five principles for ongoing experimentation and knowledge building: (a) develop citywide strategies that promote both inclusion and redevelopment; (b) anticipate and plan for residential mobility and neighborhood change; (c) connect residents of poor neighborhoods to city and regional opportunities; (d) capitalize on the coming rental housing boom; and (e) use data for continuous learning and accountability.

### **Building a National Narrative of Anti-Displacement Strategies: Key Takeaways From SPARC-CC Regions**

Cash, Anna, et al. Urban Displacement Project. University of California, Berkeley.

This article reviews recent gentrification and displacement literature, outlines the need for a broader neighborhood change narrative that acknowledges the role of cultural and political displacement as well as neighborhood decline in perpetuating diverse impacts in vulnerable communities. The article presents cross-site themes that emerged during site visits in dialogue with recent literature and policy initiatives focused on investment and disinvestment driven displacement, race and displacement, access to resources in communities receiving displaced residents, and the impact of climate change on neighborhoods. Finally, the article draws upon lessons from the sites to offer a national narrative of anti-displacement approaches for action across local, regional, state, and national levels.

### **Creating Moves to Opportunity: Experimental Evidence on Barriers to Neighborhood Choice (PDF)**

P. Bergman, R. Chetty, S. DeLuca, N. Hendren, L. F. Katz, & C. Palmer. 2020. 97 pp.

The authors conclude that redesigning affordable housing policies to provide customized assistance in a housing search could reduce residential segregation and increase upward mobility substantially.

### **Developing Opportunity: Innovative Models for Strategic Housing Acquisition (PDF)**

P. Kye, M. Mouton & M. Haberle. Poverty & Race Research Action Council. 2018. 26 pp.

New initiatives provide pathways to mobility and create affordable housing by acquiring existing market-rate housing in areas of high opportunity. Authors detail programs and provide examples from Baltimore, Dallas, Chicago, and King County, Washington.

### **Disparate Impact and an Antisubordination Approach to Civil Rights and Urban Policy (PDF)**

J. Steil. Poverty & Race 28(2). 2019.

### **The Effects of the 1930s HOLC "Redlining" Maps**

D. Aaronson, D. Hartley & B. Mazumder. Federal Reserve Bank of Chicago. 2020. 100 pp.

This working paper, begun in 2017 and revised in 2020, examines "the effects of the 1930s-era HOLC 'redlining' maps on the long-run trajectories of neighborhoods."

### **Fair Housing in Jeopardy: Trump Administration Undermines Critical Tools for Achieving Racial Equity (PDF)**

National Fair Housing Alliance. 2020. 87 pp.

Annual Fair Housing Trends report.

### **Forced Relocation and Residential Instability Among Urban Renters.**

Desmond, M., Gershenson, C., & B. Kiviat. Social Science Review 89(2). 237-262. 2015.

From the abstract: This article reveals mechanisms of residential mobility among low-income renters, identifies previously undocumented consequences of forced displacement, and develops a more comprehensive model of residential instability and urban inequality.

**The Geography of Inequality: How Land Use Regulation Produces Segregation (PDF)**

J. Trounstein. American Political Science Review 114(2): 443-455. 2020.

From the abstract: "I provide evidence that more stringent land use regulations are supported by whiter communities and that they preserve racial homogeneity."

**Home Equity: A Vision of Housing Security, Health and Opportunity (PDF)**

Colorado Health Institute. 2019. 56 pp.

This paper explores the interdependence of health outcomes; healthful, quality housing; and access to better schools, jobs, and other opportunities. It offers multiple strategies for change.

**HUD's Affirmatively Furthering Fair Housing Rule: A Contribution and Challenge to Equity Planning for Mixed Income Communities (PDF)**

K.M. O'Regan & K. Zimmerman. Case Western Reserve University. 2020. 23 pp.

From the abstract: "This essay explains the framework and theory behind the rule, and how a rule aimed at overcoming racial segregation can support the creation and preservation of mixed-income communities. ...We conclude with a discussion of implications for action (or at least attention) with respect to the rule, particularly with respect to mixed-income strategies."

**Making Every Neighborhood a Place of Opportunity: 2018 Fair Housing Trends Report (PDF)**

Shanti Abdein et al. National Fair Housing Alliance. 2018. 100 pp.

From the abstract: "If everyone had access to affordable housing, fair credit, a good school, healthy food, a decent job, green space, and quality health care, how would our nation and our economy look then? How do we ensure that future generations of all backgrounds live in neighborhoods rich with opportunity? Fair housing."

**Neighborhoods for All: Expanding Housing Opportunity in Seattle's Single-Family Zones (PDF)**

City of Seattle, Planning Commission. 2018. 52 pp.

This white paper presents Seattle's strategies for increasing access to affordable housing, transportation, and jobs for those living outside of the urban core.

**A Place-Conscious Approach Can Strengthen Integrated Strategies in Poor Neighborhoods**

M.A. Turner. Brookings. 2015. 7 pp.

This short article is the forerunner of Turner's Housing Policy Debate piece, above.

**Place and Opportunity: Using Federal Fair Housing Data to Examine Opportunity across US Regions and Populations (PDF)**

R. Gourevitch, S. Greene, and R. Pendall. Urban Institute. 2018. 24 pp.

This research brief highlights new connections between place and access to opportunity across regions and populations. The authors analyze data on neighborhood-level exposure to opportunity that the U.S. Department of Housing and Urban Development originally released in 2015 to help local communities reduce segregation and comply with the Fair Housing Act.

**Pricing Roads, Advancing Equity (PDF)**

TransForm. 2019. 64 pp.

Fair housing and access to opportunity are advanced when efficient, affordable transportation is available.

### **Promoting Opportunity through Equitable Transit-Oriented Development (eTOD): Navigating Federal Transportation Policy (PDF)**

A. Abu-Khalaf. Enterprise Community Partners. 2018. 28 pp.

This report provides stakeholders involved in achieving eTOD guidance on understanding and benefitting from federal transportation policies and programs.

### **Promoting Opportunity through Equitable Transit-Oriented Development (eTOD): Barriers to Success and Best Practices for Implementation**

(Links to page where full-text article is available via the Open Resource button.)

M. Spotts. Enterprise Community Partners. 2015. 74 pp.

This report demonstrates that numerous barriers inhibit low- and moderate-income families' ability to find housing in communities with access to robust, multi-modal transportation options. The report also makes recommendations for overcoming those barriers and highlights numerous best practices from regions across the U.S.

### **Promoting Opportunity through Equitable Transit-Oriented Development (eTOD): Making the Case**

(Links to page where full-text article is available via the Open Resource button.)

J. Hersey & M. Spotts. Enterprise Community Partners. 2015. 21 pp.

Equitable transit-oriented development (eTOD) is one tool to ensure that high-opportunity neighborhoods are inclusive despite the property value increases that often result from such investments.

### **Racial Disparities in Home Appreciation: Implications of the Racially Segmented Housing Market for African Americans' Equity Building and the Enforcement of Fair Housing Policies**

M. Zonta. Center for American Progress. 2019. 39 pp.

"Segregation and racial disparities in home appreciation put African Americans at a disadvantage in their ability to build equity and accumulate wealth."

### **Removing Barriers to Accessing High-Productivity Places (PDF)**

D. Shoag. The Hamilton Project: Policy Proposal 2019-02. 2019. 30 pp.

Workers without a college education are moving away from the places that offer them the highest wages and their children the best later-life outcomes. The author offers strategies that policymakers at various levels of government can use to combat this relatively new problem, including case studies of cities that have successfully expanded access at the local level.

### **Segregation and Neighborhood Health**

J. Richardson et al. NCRC. 2020. 50 pp.

"This report examined [historically] redlined areas and how they are associated with adverse public health outcomes for a range of diseases and conditions that make people particularly susceptible to the worst effects of COVID-19."

### **Supply Skepticism: Housing Supply and Affordability**

Been, V., Ingrid, E., & K. O'Regan. Housing Policy Debate 29(1), 25-40. 2019.

From the abstract: "Growing numbers of affordable housing advocates and community members are questioning the premise that increasing the supply of market-rate housing will result in housing that is more affordable. This article is meant to bridge the divide, addressing each of the key arguments supply skeptics make and reviewing what research has shown about housing supply and its effect on affordability."

### **"Survival of the Fairest: Examining HUD Reviews of Assessments of Fair Housing"**

J.P. Steil & N. Kelly. Housing Policy Debate 29(5), 736-751. 2019.

From the abstract: "Our analysis shows that HUD engaged in detailed reviews of municipalities' Assessments of Fair Housing and provided constructive feedback. The most common issues with which municipalities struggled were setting realistic goals that would actually advance fair housing and creating measurable metrics and milestones to gauge progress."

### **What Would It Take to Ensure Quality, Affordable Housing for All in Communities of Opportunity? (PDF)**

M.A. Turner, S. Greene, C. P. Scally, K. Reynolds & J. Choi. Urban Institute. 2019. 40 pp.

If everyone could afford quality housing, and every neighborhood offered a diversity of housing options, people up and down the income ladder could enjoy housing security and build wealth through homeownership. Achieving this calls for bold action at all levels of government and in the private and nonprofit sectors.





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