ANALYSIS OF IMPEDIMENTS TO
FAIR HOUSING CHOICE IN THE
CITY OF ANACORTES

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I. Executive Summary

The Analysis of Impediments to Fair Housing Choice (AI) is required by the US Department of Housing and Urban Development (HUD) of all state and local governments that receive housing and community development funds from the following programs:

- Community Development Block Grant (CDBG)

The City of Anacortes will receive $104,980 in CDBG funds in federal fiscal year 2008.

In addition to identification, each jurisdiction is required to develop approaches to addressing impediments that limit the ability of residents to rent or own housing regardless of their inclusion in a protected class.

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

In order to uphold its commitment to affirmatively further fair housing and meet its federal obligation to engage in fair housing planning, the City of Anacortes contracted with the Fair Housing Center of Washington to conduct this “Analysis of Impediments to Fair Housing Choice” to identify road blocks or “impediments” affecting fair housing choice in Anacortes. Following is the executive summary of this report.

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

- Census and other demographic data
- City of Anacortes 2007 Comprehensive Plan and associated planning documents
- Washington State Office of Financial Management
- Fair housing complaint data maintained by HUD
- Fair housing testing complaint and education/outreach data maintained by Fair Housing Center of Washington
- Internet resources on fair housing
Federal Financial Institutions Examination Council (FFIEC), Home Mortgage Disclosure Act Data and miscellaneous other lending-related reports
- U.S. Department of Treasury, Office of the Comptroller of the Currency, Administrator of National Banks (OCC)
- 2002 Fair Housing Trends Report, National Fair Housing Alliance
- www.goskagit.com and www.craigslist.com

In addition to the identification of impediments, jurisdictions are required to develop methods to address the issues that limit the ability of residents to rent or own housing, regardless of their inclusion in a protected class.

**Identified Impediments**

The AI identifies actions taken in Anacortes that affirmatively further fair housing in the sale and rental of housing within the jurisdiction. The City is committed to eradication of discriminatory practices.

Identified impediments and recommendations are as follows:

**Impediments to Fair Housing Choice**

**Impediment I:** Though complaint data in Anacortes is minimal, housing discrimination primarily affects persons with disabilities. This is supported by Skagit County complaint data.

**Impediment II:** Home mortgage lending data show that Native American, African American, and Hispanic homebuyers are more likely to be denied financing and obtain sub-prime mortgages.

**Impediment III:** Members of the public, especially housing professionals and community service providers, have limited knowledge of protected classes, fair housing laws and the resources available to them.

**Impediment IV:** Zoning and land use decisions can have a discriminatory impact on protected classes under federal and state fair housing laws.

**Recommendations**

To address the impediments to fair housing choice identified in this report, it is recommended that the City of Anacortes maintain its commitment to affirmatively further fair housing. Implementation of the following recommendations will mitigate the impediments to fair housing choice identified in this report.
Recommendation I: Expand Current Education and Outreach Efforts.

Recommendation II: Implement Fair Housing Testing Activities

Recommendation III: Target homeownership and lending marketing to Hispanic households and people of color.

Recommendation IV: Consider policies that encourage inclusion of individuals covered by protected classes under federal and state fair housing laws.

Conclusion

The implementation of the recommendations in this AI will enable the City of Anacortes to increase fair housing opportunities to meet the needs of its increasingly diverse population.
II. The Law

Federal Fair Housing Law

The Civil Rights Act of 1866 states, “All citizens of the United States shall have the same right in every State and Territory, as is enjoyed by White citizens thereof, to inherit, purchase, lease, sell, hold and convey real and personal property.”

Between 1866 and 1968 the law was interpreted only to prohibit racial discrimination in housing by government or public action, such as restrictive zoning and the enforcement of restrictive covenants. In 1968, the Supreme Court ruled that the Act prohibited “all racial discrimination, private as well as public, in the sale or rental of property.”

It was not until 1968 that specific fair housing legislation was enacted in Title VIII of the Civil Rights Act of 1968. With the Supreme Court decisions and passage of Title VIII, the private housing market in the United States was subject to federal laws prohibiting discrimination for the first time.

Title VIII originally prohibited discrimination in the provision of housing based on race, color, religion, or national origin. These population groups are known as ‘protected classes.’ In 1974 sex was added to the law as an additional protected class. Title VIII also authorizes the U.S. Department of Housing and Urban Development (HUD) to investigate and attempt to resolve fair housing complaints. Where a pattern or practice, rather than an individual incident, of discrimination is identified, the U.S. Department of Justice (DOJ) is authorized to file suit in federal court.

The Fair Housing Amendments Act of 1988 amended Title VIII to include people with disabilities and families with children as protected classes. Title VIII, as amended, is referred to as the Fair Housing Act and now requires that people with disabilities be allowed to make “reasonable modifications” to housing at their own expense, that “reasonable accommodations” be made in rules, policies, practices and services to allow people with disabilities access to and use of a dwelling, and that housing intended for occupancy on or after March 13, 1991 be constructed so that it can be made accessible.

Under the Fair Housing Act, the following actions are illegal if based on an individual’s race, color, religion, national origin, sex, familial status, or disability:

- Refusing to rent or sell a dwelling after a bona fide offer has been made
- Refusing to negotiate for the sale or rental of a dwelling

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• Setting different terms, conditions, or privileges related to the sale or rental of a dwelling or to the use of facilities and services provided in conjunction with a dwelling
• Saying a dwelling is unavailable for rent or sale when it is available
• Making a profit by convincing owners to sell or rent properties based on fear of declining property values because members of a protected class are moving into a neighborhood (an action known as 'blockbusting')
• Advertising the availability of a dwelling in a way that implies a preference for a certain type of buyer or renter, or places a limitation on the use of a dwelling for certain groups
• Denying access to or membership in any multiple listing service, real estate brokers association or other organization in the business of selling or renting housing, or setting different terms or conditions for membership in such organizations
• Refusing to make a mortgage loan
• Refusing to give information about loans
• Setting different terms or conditions for loans
• Discriminating in the appraisal of property
• Refusing to purchase a loan or setting different terms for the purchase of a loan
• Interfering in any way with a person’s exercise of their fair housing rights

The Fair Housing Act exempts three types of housing from coverage:

• Religious organizations or private clubs, which own or operate housing (for other than commercial purposes) may give preference to members of the organization in the sale, rental, or occupancy of that housing.
• Dwellings the owners of which do not own more than three single-family homes and do not use the services of a realtor or broker in renting or selling the home. This exemption does not relieve the owner of the obligation to comply with laws pertaining to discriminatory advertising or retaliation.  
• Housing for people aged 62 and older and housing for people aged 55 and older is exempt from the prohibition against discrimination based on familial status. This housing is still subject to the prohibitions against discrimination based on membership in other protected classes and in regard to advertising and must meet specific criteria to qualify for the exemption.

Under the Fair Housing Act, complaints may be conciliated prior to a determination of whether reasonable cause exists to believe that a housing provider (or respondent) has violated the Act. Through conciliation, each party may achieve its objectives in a relatively simple and expeditious manner, and HUD advances the public interest in preventing current and future discriminatory housing practices. The period during which conciliation must be attempted commences with the filing of the complaint, and concludes with the issuance of a charge on behalf of the complainant, or upon dismissal of the complaint. The Fair Housing Act establishes a process for a HUD administrative

3 Once a landlord advertises their rental property they are not exempt from Fair Housing Act requirements.
law judge to review complaints in cases that cannot be resolved by an agreement between the parties and sets financial penalties where a charge of discrimination is substantiated.

Cases may be administratively closed when the complainant cannot be located, refuses to cooperate or withdraws his/her complaint with or without resolution. Complainants can also choose to litigate their allegations of housing discrimination in federal or state court.

**State and Local Equivalent Fair Housing Laws**

When state or local governments enact laws that are substantially equivalent to the federal Fair Housing Act and establish an administrative enforcement process, HUD can certify the state or local government as a "substantially equivalent" Fair Housing Assistance Program (FHAP).

To become certified as a FHAP, the state or local government must establish an administrative agency with the capacity to enforce the substantially equivalent fair housing law. Certification enables HUD to refer fair housing complaints directly to the jurisdiction and to provide federal funding to defray the costs of investigating complaints.

**HUD Certified Substantially Equivalent Jurisdictions in WA- Protected Classes**

<table>
<thead>
<tr>
<th>Basis</th>
<th>Federal</th>
<th>State of Washington</th>
<th>Tacoma</th>
<th>King County</th>
<th>Seattle</th>
</tr>
</thead>
<tbody>
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<td>Race</td>
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<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Color</td>
<td>X</td>
<td>X</td>
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<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Creed</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Religion</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Sex</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Handicap/Disability</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Use of Guide Dog/Service Animal</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<td>X</td>
<td>X^5</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>National origin</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Age</td>
<td></td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Sexual orientation</td>
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<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Gender Identity</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Section 8 recipient</td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Ancestry</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Political ideology</td>
<td></td>
<td></td>
<td></td>
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<td>X</td>
</tr>
<tr>
<td>Veteran or Military Status</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Retaliation</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

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4 Unincorporated King County.
5 King County and the City of Seattle use the term parental status instead of the federal terminology of familial status.
There are four jurisdictions in the State of Washington certified as FHAP agencies:

- King County, King County Office of Civil Rights (KCOCR)
- Seattle, Seattle Office for Civil Rights (SOCR)
- Tacoma, Tacoma Human Rights and Human Services Department (THRHS)

State or local jurisdictions that pass substantially equivalent fair housing laws may also provide coverage for additional protected classes such as marital status or sexual orientation. The addition of non-federal protected classes necessitates the allocation of local funds to conduct investigations of complaints from these additional protected classes. The State of Washington's Law against Discrimination, enumerated at RCW 49.60, provides Anacortes residents substantially equivalent protections to those afforded by the federal Fair Housing Act. In addition to those protections defined in federal law, the state law protects individuals from housing discrimination on account of marital status, sexual orientation (and gender identity) and veteran or military status.

Recent significant amendments to the Washington Law against Discrimination include:

Sexual Orientation and Gender Identity
Engrossed Substitute House Bill (ESHB) 2661, passed in January, 2006 and effective June 7, 2006, amended the Washington Law against Discrimination to include sexual orientation as a class to be protected from discrimination in employment, commerce, real estate transactions, places of public resort, accommodation, or amusement, and insurance and credit transactions. Sexual orientation is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity.

Clarification of Disability Protections
Substitute Senate Bill (SSB) 5340, passed in April of 2007 and effective July 22, 2007, amended the Washington Law Against Discrimination to address the Washington State Supreme Court holding in McClarty v. Totem Electric adopting the definition of disability enumerated by the Americans with Disabilities Act of 1990. According to SSB 5340, the legislature finds that the Supreme Court, in its opinion in McClarty v. Totem Electric, 157 Wn.2d 214, 137 p.3d 844 (2006), failed to recognize that the Law against Discrimination affords to state residents protections that are wholly independent of those afforded by the federal Americans with Disabilities Act of 1990, and that the law against discrimination has provided such protections for many years prior to passage of the federal act. For the purposes of the Washington Law against Discrimination, disability is defined, in part, as the presence of a sensory, mental, or physical impairment that: (i) is medically cognizable or diagnosable; or (ii) exists as a record or history; or (iii) is perceived to exist whether or not it exists in fact. Additionally, a disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.
Veteran and Military Status Protections
Senate Bill (SB) 5123, passed in April of 2007 and effective July 22, 2007, amended the Washington Law Against Discrimination to protect persons with veteran or military status from discrimination in employment, commerce, real estate transactions, places of public resort, accommodation, or amusement, and insurance and credit transactions. Veteran or military status includes any honorably discharged veteran as defined in RCW 41.04.007, and any active or reserve member in any branch of the armed forces of the United States, including the National Guard and Coast Guard.

Protects for Victims of Domestic Violence
A significant amendment to Washington’s Residential Landlord-Tenant Act expanded legal protections for domestic violence victims. House Bill 2EEHB 1645, effective March 15, 2004, amended landlord-tenant law and indirectly expanded fair housing protections for victims of domestic violence. Under certain circumstances, victims of domestic violence can be discharged from rental agreements and obligations to facilitate their relocation and protection. In the last ten years, the failure of housing providers to work with victims of domestic violence had become a fair housing issue and had led to increases in sex discrimination complaints under the fair housing laws. This amendment to state law effectively reinforces the protections afforded domestic violence victims under existing fair housing laws.

Other Non-Equivalent Local Ordinances

Many cities and counties pass ordinances to further and supplement federal fair housing laws such as age, sexual orientation and Section 8 status. Though there are 21 known fair housing ordinances for cities and counties in Washington State outside the FHAP agencies, actual enforcement provisions vary. 6

Protected Classes by Non-Certified Like-Size or Regional Jurisdictions

<table>
<thead>
<tr>
<th>Basis</th>
<th>Everett</th>
<th>Bellingham</th>
<th>Blaine</th>
<th>Olympia</th>
<th>Bremerton</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Color</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Creed</td>
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<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Religion</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Sex</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Handicap/Disability</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Familial/Parental Status</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National origin</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Marital status</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Sexual orientation</td>
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<tr>
<td>Gender Identity</td>
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<tr>
<td>Section 8 recipient</td>
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<tr>
<td>Ancestry</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Political ideology</td>
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</tr>
<tr>
<td>Retaliation</td>
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</tr>
</tbody>
</table>

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6 Full chart of local fair housing ordinances, their protected classes and enforcement provisions is included in the Appendices.
The City of Anacortes does not currently have a local ordinance which includes fair housing protections. If the City were to add protected classes not covered by the federal Fair Housing Act or the Washington Law Against Discrimination, enforcement provision would need to be clearly defined and could result in additional municipal expenditures.
III. Fair Housing Complaints

The Complaint Process

Administrative Agencies

A resident of Anacortes may file housing discrimination complaints with HUD, the Washington State Human Rights Commission (WSHRC), or the Fair Housing Center of Washington. When individuals file complaints with HUD, they are forwarded to one of the substantially equivalent organizations (listed in Section II of this report), depending upon where the alleged discriminatory practice occurred. HUD generally refers complaints filed by residents of Anacortes to the WSHRC. Conversely, complaints filed with the WSHRC will be jointly-filed with HUD when the basis of the alleged discrimination is a protected class covered under the federal Fair Housing Act.

Nonprofit Agencies

To supplement the administrative enforcement mechanisms and assist residents of non-equivalent jurisdictions, HUD established the Fair Housing Initiative Program (FHIP) to establish consistent national standards for non-profit agencies providing fair housing education and enforcement assistance. To qualify for FHIP enforcement funds, agencies must be designated as a Qualified Fair Housing Organization (QFHO) by demonstrating at least two years of history in conducting testing activities and enforcement assistance. FHIP QFHO agencies coordinate with HUD and the certified administrative agencies to provide education and outreach activities, facilitate enforcement and conduct testing.

Individuals who believe that they have been the victims of illegal discrimination in housing may contact the QFHO agency directly for assistance. That agency will evaluate the complaint for substance and, where indicated, conduct an investigation that may include testing. Where an administrative agency has to remain impartial, private fair housing organizations (QFHOs) may also assist and support complainants in preparing and filing complaints with the appropriate administrative (or FHAP) agency or in filing lawsuits. The HUD designated QFHO serving western and central Washington is the Fair Housing Center of Washington (Fair Housing Center).

What Happens When a Complaint is Filed?

Once a complaint is filed with an administrative agency, the parties are encouraged to resolve the complaint by participating in negotiations designed to reach resolution and to protect the public's interest. Nationally and locally, a high percentage of complaints are closed by conciliation or pre-determination settlement. If conciliation cannot be achieved, there is a finding to determine if evidence of "reasonable cause" exists to

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7 Unless the complaints are novel or complex.
support a violation of fair housing law. Some complaints will be closed with a 'no-cause' determination due to insufficient evidence to support a reasonable cause finding. When a reasonable cause finding is determined, the case may be given an administrative hearing or heard in superior or federal court.

Anacortes complaints based on classes protected under state law (such as marital status) that are not covered under federal law are filed with the state agency (WSHRC).

HUD is required to refer certain complaints to the U.S. Department of Justice for enforcement and investigation. These are complaints that involve:
- A pattern of discrimination which is widespread or a practice of discrimination that affects a large number of people
- The legality of local zoning or land use laws
- Issues of general public importance
- Actions of government licensing or supervisory authorities

**Anacortes Fair Housing Complaint Data**

This analysis considers complaints filed with the HUD and WSHRC from October 1, 2001 through September 30, 2007. Due to the size of Anacortes, information is supplemented with complaint data from Skagit County to give a clearer sense of the surrounding community. During this period one complaint was filed within the city limits of Anacortes. This complaint was based on disability, related to a reasonable accommodation in a rental transaction, and was moved out of the administrative process into court.

In Skagit County, fifteen complaints with twenty-two bases were filed. One of the fifteen complaints was in Anacortes. Of the fifteen complaints, ten pertained to rental housing, one involved a sales transaction, and one involved allegations against a subsidized housing provider. The Anacortes complaint related to rental housing.

County wide, the fifteen housing discrimination complaints, which included one in Anacortes, alleged twenty-four discriminatory acts. Of the twenty-four allegations, 42% alleged discriminatory terms and conditions of application or tenancy, 33% alleged a discriminatory refusal to rent and 4% alleged discriminatory coercion or harassment. Eight complaints alleged discrimination based on disability; 25% of these alleged a discriminatory refusal to provide reasonable accommodation. The Anacortes complaint alleged discrimination in terms/conditions/privileges or services and facilities and failure to make reasonable accommodations.

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8 The City of Anacortes is not responsible for complaint data and information outside its city limits.
9 Michael Adam Assenberg et al v. Anacortes Housing Authority. See litigation page 15.
10 This means that a single complainant can, for example, allege discrimination based on national origin and familial status (or other protected classes) in the same complaint.
The following chart details the distribution of complaints by protected class, comparing complaints filed in Anacortes, Skagit County, Washington State and the United States:

**Skagit County Fair Housing Complaint Comparisons**

**By Protected Class**

<table>
<thead>
<tr>
<th>Protected Class</th>
<th>Fair Housing Act Complaints Filed in Skagit County 10/01/01 – 09/30/07</th>
<th>Fair Housing Act Complaints Filed in Washington 10/01/01 – 09/30/02</th>
<th>Fair Housing Act Complaints Filed Throughout U.S. FY 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Disability</td>
<td>53.3%</td>
<td>45%</td>
<td>40%</td>
</tr>
<tr>
<td>Race</td>
<td>13.3%</td>
<td>29%</td>
<td>39%</td>
</tr>
<tr>
<td>Familial Status</td>
<td>13.3%</td>
<td>15%</td>
<td>14%</td>
</tr>
<tr>
<td>Sex&lt;sup&gt;11&lt;/sup&gt;</td>
<td>33.3%</td>
<td>9%</td>
<td>10%</td>
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<tr>
<td>National Origin (all)</td>
<td>33.3%</td>
<td>15%</td>
<td>14%</td>
</tr>
<tr>
<td>National Origin – Hispanic/Latino</td>
<td>33.3%</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>Religion</td>
<td>0%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>Color</td>
<td>0%</td>
<td>1%</td>
<td>1%</td>
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<tr>
<td>Retaliation</td>
<td>0%</td>
<td>10%</td>
<td>6%</td>
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</tbody>
</table>

These data show the highest percentage of the fair housing complaints filed in Skagit Valley were based on disability. The surrounding Skagit Valley experienced more frequent fair housing complaints based on national origin (33%) than the state (15%) or the United States (14%). All national origin complaints in and around Skagit Valley were Hispanic/Latino based complaints which is higher than the state (10%) or national (9%) averages.

**By Housing Transaction**

<table>
<thead>
<tr>
<th>Housing Transaction</th>
<th>% of Skagit County Complaints</th>
<th>% of Washington Complaints</th>
<th>% of U.S Complaints&lt;sup&gt;12&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental</td>
<td>60.0%</td>
<td>70.4%</td>
<td>81.9%</td>
</tr>
<tr>
<td>Real Estate Purchase</td>
<td>6.7%</td>
<td>8.9%</td>
<td>4.1%</td>
</tr>
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<td>Federal Housing Subsidy</td>
<td>6.7%</td>
<td>8.5%</td>
<td>Not available</td>
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<td>Mobile Home Park</td>
<td>6.7%</td>
<td>4.6%</td>
<td>Not available</td>
</tr>
<tr>
<td>Other/Unknown</td>
<td>0%</td>
<td>3.1%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Homeowner's Association</td>
<td>0%</td>
<td>1.5%</td>
<td>Not available</td>
</tr>
<tr>
<td>Insurance</td>
<td>20.0%</td>
<td>1.2%</td>
<td>0.4%</td>
</tr>
<tr>
<td>Mortgage Finance</td>
<td>0%</td>
<td>1.0%</td>
<td>5.9%</td>
</tr>
<tr>
<td>Homeless Shelter</td>
<td>0%</td>
<td>0.4%</td>
<td>Not available</td>
</tr>
<tr>
<td>Municipal Land Use</td>
<td>0%</td>
<td>0.3%</td>
<td>Not available</td>
</tr>
<tr>
<td>Transitional Housing</td>
<td>0%</td>
<td>0.2%</td>
<td>Not available</td>
</tr>
</tbody>
</table>

<sup>11</sup> Sum of complaints based on sex, which may include domestic violence, and sexual harassment.

Litigation

In addition to pursuing administrative complaints with HUD and/or WSHRC, allegations of housing discrimination can also be addressed through civil lawsuits. The aforementioned analysis of complaint data only encompassed individual administrative complaints, not civil lawsuits.

Michael Adam Assenberg, et al v. Anacortes Housing Authority

On October 7, 2005 an administrative complaint was filed with HUD against the Anacortes Housing Authority based upon disability. Plaintiffs charged discrimination based on discriminatory terms/conditions/privileges relating to rental and failure to make a reasonable accommodation regarding their use of snakes as service animals and use of marijuana for medicinal purposes. The case was transferred to United States District Court in a motion, by the Anacortes Housing Authority, for summary judgment on all claims. On May 25, 2006, the Court decided in favor of the Anacortes Housing Authority.

Nevels et al v. Western World

In 2006, the Fair Housing Center of Washington (joined by the Fair Housing Council of Oregon and individual complainants) settled a class action lawsuit involving alleged discrimination on the basis of disability involving group homes and homeowners insurance. The settlement in Nevels v. Western World Insurance Company provided $2.0 million in monetary relief. The lawsuit alleged that the company's practice of terminating and refusing to renew insurance coverage for adult family homes serving people with mental illnesses, including 166 adult family homes in Washington, violated the federal Fair Housing Act. One of the group homes which benefited from the lawsuit and settlement was in Skagit County.

Complaint Statistic Conclusions

1. 53% of the fair housing complaints from residents of Skagit County were filed based on disability. These statistics are higher than the state and national statistics. Of these, one disability complaint was filed within the city limits of Anacortes.
2. The rate of national origin complaints in the surrounding Skagit County was considerably higher than state and national figures. No national origin complaints were filed in Anacortes.
IV. Identification of Impediments to Fair Housing Choice

Impediments to Fair Housing Choice - Rental Testing Data

Introduction to Testing

Testing refers to the use of individuals who, without a bona fide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective renters or purchasers to obtain information for the purpose of evaluating the compliance of housing providers with fair housing laws. In the landmark case, *Havens v. Coleman*, the United States Supreme Court recognized the importance, legality and power of testing as a mechanism for measuring and correcting discriminatory housing practices.

Fair housing testing utilizes rigorous protocols to ensure that any discrepancies identified in the course of testing can be attributed to differential treatment. Because of the multiple variables involved in a housing transaction, testing results are not definitive measures of discriminatory conduct in the rental housing market. Nonetheless, the aggregate results of testing conducted in Anacortes provide an objective opportunity to identify geographical and protected class trends critical to the identification of impediments to fair housing choice.

For the purposes of this report, testing results are defined as either “positive” or “negative.” A test will be defined as “positive” when one or more adverse differences are identified in the information provided to the protected class tester compared to their non-protected counterpart. For example, if a protected class tester is provided a higher quote for security deposit than the control tester, the test will be defined as “positive” because of its evidence of differential treatment. Tests are defined as negative when testers are provided equivalent information (or given equal treatment) regarding housing opportunities (no differential treatment). Overall, while testing may provide an objective means to identify differential practices, the presence of differences does not necessarily mean that a housing provider is engaging in housing discrimination. Likewise, the lack of observed differences at a particular site does not preclude the existence of discriminatory practices.

Testing in Washington State

Testing has taken place throughout the State of Washington since the mid-1990s as evidence for complaints and for audit testing, the latter of which is to gain perspective on housing practices in a given area. All enforcement agencies in the state have contracted with the Fair Housing Center to conduct audit and/or complaint testing.\(^\text{13}\) The following chart highlights statewide FHAP and FHIP-initiated audit testing activities in the past nine years:

\(^{13}\) The Northwest Fair Housing Alliance in Spokane conducts complaint and audit testing in Eastern Washington under FHIP contract with HUD.
<table>
<thead>
<tr>
<th>Year</th>
<th>Type</th>
<th>Protected Class</th>
<th># Tests</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>Rental</td>
<td>Disability in Pierce County</td>
<td>30</td>
</tr>
<tr>
<td>1999</td>
<td>Rental</td>
<td>National Origin (Hispanic) in Yakima</td>
<td>30</td>
</tr>
<tr>
<td>2001-2003</td>
<td>Rental</td>
<td>National Origin (Hispanic &amp; Chinese) - Whatcom/Skagit Counties</td>
<td>30</td>
</tr>
<tr>
<td>2003</td>
<td>Sales</td>
<td>Race (Black) &amp; National Origin (Hispanic) Pierce County</td>
<td>30</td>
</tr>
<tr>
<td>2004</td>
<td>Rental</td>
<td>Race (Black) and National Origin (Hispanic) Port Angeles</td>
<td>20</td>
</tr>
<tr>
<td>2004</td>
<td>Rental/Sales</td>
<td>Race (Black) and National Origin (Hispanic) Longview/Vancouver</td>
<td>30</td>
</tr>
<tr>
<td>2005</td>
<td>Rental/Sales</td>
<td>Race (Black) and National Origin (Hispanic) Snohomish County</td>
<td>30</td>
</tr>
<tr>
<td>2006</td>
<td>Rental</td>
<td>Native American testing for Skagit &amp; Whatcom Counties</td>
<td>30</td>
</tr>
<tr>
<td>2006-2007</td>
<td>Rental</td>
<td>Race (Black) and National Origin (Hispanic) Kitsap County</td>
<td>30</td>
</tr>
<tr>
<td>2006-2007</td>
<td>Rental</td>
<td>Race (Black) Pierce County</td>
<td>22</td>
</tr>
</tbody>
</table>

**Northwest Fair Housing Alliance**

<table>
<thead>
<tr>
<th>Year</th>
<th>Type</th>
<th>Protected Class</th>
<th># Tests</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999-2001</td>
<td>Rental</td>
<td>National Origin (Hispanic) in Spokane/Eastern Washington (includes complaint-based tests)</td>
<td>159</td>
</tr>
<tr>
<td>1999-2001</td>
<td>Sales</td>
<td>National Origin (Hispanic) in Spokane/Eastern Washington (includes complaint-based tests)</td>
<td>20</td>
</tr>
<tr>
<td>2001-2003</td>
<td>Rental</td>
<td>National Origin (Hispanic &amp; Middle Eastern) &amp; Race (Black) in Spokane/Eastern Washington (includes complaint-based tests)</td>
<td>115</td>
</tr>
<tr>
<td>2001-2003</td>
<td>Sales</td>
<td>National Origin (Hispanic &amp; Middle Eastern) &amp; Race (Black) in Spokane/Eastern Washington (includes complaint-based tests)</td>
<td>48</td>
</tr>
<tr>
<td>2003-2004</td>
<td>Sales</td>
<td>National Origin (Hispanic) in Spokane/Eastern Washington</td>
<td>32</td>
</tr>
<tr>
<td>2004-2005</td>
<td>Rental</td>
<td>National Origin (Hispanic) and Race (Black) in Spokane/E. WA</td>
<td>56</td>
</tr>
<tr>
<td>2004-2005</td>
<td>Sales</td>
<td>National Origin (Hispanic) and Race (Black) in Spokane/E. WA</td>
<td>30</td>
</tr>
<tr>
<td>2005-2006</td>
<td>Rental</td>
<td>National Origin and Race (Black) in Spokane/Eastern Washington</td>
<td>83</td>
</tr>
<tr>
<td>2005-2006</td>
<td>Sales</td>
<td>National Origin (Hispanic) and Race (Black)</td>
<td>20</td>
</tr>
<tr>
<td>2005-2006</td>
<td>Mortgage</td>
<td>National Origin (Hispanic) and Race (Black) in Spokane/Eastern Washington</td>
<td>16</td>
</tr>
<tr>
<td>2006-2007</td>
<td>Rental</td>
<td>National Origin (Hispanic, Ukrainian and Middle Eastern), Familial Status, Disability, Race (Black) in Spokane/Eastern WA</td>
<td>50</td>
</tr>
<tr>
<td>2006-2007</td>
<td>Rental</td>
<td>National Origin (Hispanic accent) and disability (TYY System) in Eastern/Central Washington</td>
<td>40</td>
</tr>
<tr>
<td>2006-2007</td>
<td>Sales</td>
<td>National Origin (Hispanic) in Spokane/Eastern Washington</td>
<td>5</td>
</tr>
<tr>
<td>Year</td>
<td>Type</td>
<td>Protected Class</td>
<td># Tests</td>
</tr>
<tr>
<td>-----------</td>
<td>----------</td>
<td>----------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>Seattle Office for Civil Rights</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999-2000</td>
<td>Rental</td>
<td>Race (Black)</td>
<td>42</td>
</tr>
<tr>
<td>1999-2000</td>
<td>Rental</td>
<td>Familial Status</td>
<td>42</td>
</tr>
<tr>
<td>2001-2002</td>
<td>Rental</td>
<td>National Origin (Hispanic, Cambodian &amp; Middle Eastern)</td>
<td>105</td>
</tr>
<tr>
<td>2003</td>
<td>Rental</td>
<td>Race (Black)</td>
<td>50</td>
</tr>
<tr>
<td>2004</td>
<td>Mortgage</td>
<td>Race (Black) and National Origin (Hispanic)</td>
<td>20</td>
</tr>
<tr>
<td>City of Tacoma Human Rights and Human Services Department</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>Rental</td>
<td>Race (Black) and National Origin (Hispanic)</td>
<td>14</td>
</tr>
<tr>
<td>2004</td>
<td>Rental</td>
<td>Familial Status</td>
<td>5</td>
</tr>
<tr>
<td>King County Office for Civil Rights</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2002-2003</td>
<td>Rental</td>
<td>National Origin (Hispanic &amp; Cambodian)</td>
<td>30</td>
</tr>
<tr>
<td>2005</td>
<td>Rental</td>
<td>Race (Black), National Origin (Hispanic), Familial Status and Disability</td>
<td>39</td>
</tr>
<tr>
<td>Washington State Human Rights Commission</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2001-2002</td>
<td>Rental</td>
<td>National Origin (Hispanic) in Thurston County</td>
<td>30</td>
</tr>
<tr>
<td>City of Bellingham Department of Planning and Community Development</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>Rental</td>
<td>Familial Status</td>
<td>10</td>
</tr>
<tr>
<td>2008</td>
<td>Rental</td>
<td>Disability</td>
<td>7</td>
</tr>
</tbody>
</table>

The Fair Housing Center of Washington initiated its fair housing testing program in 1995 and completed over 1,300 match-paired tests as of August 31, 2008. Of the 1,166 tests conducted by the Fair Housing Center since 1995, 781 tests were conducted as audit-based tests. Testing audits have been conducted in Skagit, Snohomish, King, Pierce, Kitsap, Cowlitz, Thurston, Whatcom, Clark and Clallam counties.

**Skagit County/Anacortes Audit Testing in 2002 and 2006**

In 2002 the Fair Housing Center of Washington conducted ten matched-pair national origin audit tests of housing providers in Skagit County. Nine of these tests paired white and Hispanic testers; one paired a white tester with a Chinese tester. In 2006, seven matched-pair white/Native American tests were completed in Skagit County, three of which took place in Anacortes. Four of the Skagit County tests or 57% showed differential treatment, including one test conducted at an Anacortes property. Although these testing data are limited, they do indicate that discriminatory practices against both Hispanic and Native American applicants for rental housing have been occurring in Skagit County as a whole.

The apartment complexes were randomly selected through information gathered on real estate web sites, newspapers and by the virtue of driving by available properties.

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14 The Fair Housing Center conducted the majority of the municipal and enforcement agency testing.
Skagit County Testing Summary

<table>
<thead>
<tr>
<th>Skagit County Testing</th>
<th>Tests Indicating Differential Treatment</th>
<th>Tests Without Differential Treatment</th>
<th>Total Tests</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
</tr>
<tr>
<td>National Origin - Hispanic</td>
<td>4</td>
<td>44%</td>
<td>5</td>
</tr>
<tr>
<td>National Origin - Chinese</td>
<td>0</td>
<td>0%</td>
<td>1</td>
</tr>
<tr>
<td>National Origin - All</td>
<td>4</td>
<td>40%</td>
<td>6</td>
</tr>
<tr>
<td>Race - Native American</td>
<td>4</td>
<td>57%</td>
<td>3</td>
</tr>
<tr>
<td>Total Tests by Outcome</td>
<td>8</td>
<td>47%</td>
<td>9</td>
</tr>
</tbody>
</table>

Differential Treatment in National Origin Audit

The primary difference in treatment between Hispanic (protected class tester) and white (control tester) testers was in the number of available units offered and the number of apartments shown. In these tests, the white tester was shown a unit or told of available units while the protected class tester did not see an apartment or was not told about all available units. In some tests there were differences in the terms and conditions of rental, such as a move-in special being offered to the white tester but not to the protected class tester or a higher rental amount quoted to the Hispanic tester.

Differential Treatment in Native American Audit

The primary difference in treatment between the Native American testers (protected class testers) and the white testers (control testers) in the overall Skagit County audit was in the number of apartments shown and the number of available units offered. In one instance the white tester was told about two available units and shown both of these, while the Native American tester was told that nothing was available and that there were two applicants ahead of her. In addition, the control and protected class testers also experienced different terms and conditions of rental, such as the white tester being offered an application and an opportunity to be placed on a waiting list while these same offers were not made to the Native American.

Impediments to Fair Housing Choice – Advertising Data

Fair Housing Logics and Advertisements

Fair housing laws include provisions to address discrimination in the advertising of available rental and sales property. It is illegal to advertise any preference, limitation, or otherwise encourage discrimination because of the classes protected under federal and state laws. As an example, advertising in local media sources should not show preference for adults or dissuade families with children. Most newspapers include HUD’s Equal Housing Opportunity logo and include a disclaimer stating that:

"All real estate advertising in this newspaper is subject to the Fair Housing Act which makes it illegal to advertise any preference limitation or discrimination based on
race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation or discrimination. Familial status includes children under 18 living with parents or legal custodians; pregnant women and people securing custody of children under 18. This newspaper will not knowingly accept any advertising for real estate, which is in violation of the law. Our readers are hereby informed that all dwellings advertised in this newspaper are available on an equal opportunity basis. To complain of discrimination call HUD Toll-free 1-800-669-9777. Toll-free hearing impaired 1-800-927-9275.”

The Anacortes American and Skagit Valley Herald web site includes little information on fair housing. Though it includes a small equal opportunity logo with a link to the HUD website this relates only to federal law. The website does not include any information on state or local fair housing protected classes or the related resources. The web site does not include the publisher’s notice or user friendly information on fair housing advertising guidelines.

The Internet has exponentially increased the number of sites that contain advertisements for rental housing. While the sheer volume of web sites containing advertisements for rental housing precludes a complete evaluation of housing advertisements for fair housing compliance, major web sites such as ForRent.com and Apartments.com have established mechanisms for preventing the publication of discriminatory advertisements.

A review of advertisements posted on the “Craigslist” web site for rental housing in Skagit County for Anacortes properties was conducted to ascertain any instances of discriminatory advertising. Recent periodic review of these listings did not show any discriminatory ads for properties in Anacortes or Skagit County. Craigslist has added a disclaimer to their web site “Stating a discriminatory preference in a housing post is illegal - please flag discriminatory posts as prohibited” and has added a fair housing reference page to the national site.

Testing and Advertising Impediments Summary

1. The 2002 and 2006 Hispanic and Native American testing audits at five Skagit County complexes indicated differences in the treatment of Hispanics and Native Americans as compared to whites.

2. A review of on-line websites and advertisements for housing in Anacortes and Skagit County revealed that the local papers, The Anacortes American and The Skagit Valley Herald, do not include a digital publisher’s notice or links to adequate resources on how to place an advertisement abiding with state or local fair housing laws. Though the fair housing logo provides a link to HUD’s website this is not adequate to include information on state or local protected classes.

15 See Seattle listings to find Skagit County or Anacortes listings.
Public Perception of Housing Discrimination in Anacortes

Community and Agency Survey

In August 2008 the Fair Housing Center distributed a fair housing survey to 48 individuals and organizations in and around Anacortes.\textsuperscript{16} Of 48 surveys distributed, 8% (4 surveys) were returned.

Of the 4 survey responses received, one was a housing provider/landlord (housing authority), two were social service providers, and one was a government lender. One was a homeowner and one was a tenant.

Survey Results

Knowledge of Federal and State Fair Housing Protections

Though the survey response was small, respondents were unclear on fair housing protected classes. Though all respondents stated that they understood the basics of fair housing, none correctly identified all of the protected classes under the federal and state fair housing laws that apply in Anacortes.

Knowledge of Fair Housing Enforcement Options

Respondents were provided a list of eight human service and government agencies and asked to identify up to three agencies responsible for providing fair housing enforcement assistance to Anacortes residents. Though three out of four respondents correctly identified the U.S. Department of Housing and Urban Development, no one identified the Washington State Human Rights Commission. Half incorrectly selected the Skagit County Housing Authority as a source of fair housing enforcement, three out of four selected the Northwest Justice Project,\textsuperscript{17} and one person selected the City of Anacortes.

Community-Identified Impediments

Though a small survey sample, three out of the four respondents identified the following areas to be true:

- The community needs more accessible units for persons with disabilities
- There is a lack of available decent rental units in affordable price ranges
- Community members don’t know how to file a fair housing complaint

\textsuperscript{16} Copy of survey instrument with results in Appendix.
\textsuperscript{17} Northwest Justice Project currently refers fair housing intakes to the Fair Housing Center of Washington.
There is insufficient outreach and education on housing discrimination issues
- The community needs more housing discrimination resources
- More research is needed on whether housing discrimination takes place
- The attitude of neighbors have impeded the development of affordable housing

Identification of Areas Where Discrimination Is More Common

One survey respondent affirmed areas in and around Anacortes where discrimination is more common. Though there was a lack of clarification on what kind of discrimination took place, these areas were described as follows:

- "Skyline"
- "R. Ridge"

Public Input Conclusions

- Despite a low response level, survey responses indicate a lack of knowledge about fair housing protections, including a lack of familiarity with protected classes covered under federal law.
- Survey responses reflect an interest in more fair housing education, outreach and resources to increase knowledge of fair housing laws and the agencies that can assist them.

Impediments to Fair Housing Choice in Housing Finance

Banking and Lending Regulatory Structure

Banks are regulated by one of four federal agencies responsible for ensuring compliance with the fair lending provisions of the Fair Housing Act, the Equal Credit Opportunity Act, and the Community Reinvestment Act. The four agencies include:

- Federal Deposit Insurance Corporation (FDIC)
- Office of Thrift Supervision (OTS)
- Office of Comptroller of the Currency (OCC)
- Federal Reserve System (FRB)

These regulators monitor lenders to determine disparity in loans to members of protected classes and suspected violations are referred to HUD for investigation.

Community Reinvestment in Anacortes

The Community Reinvestment Act (CRA) was enacted by Congress in 1977 (12 U.S.C. § 2901) and is implemented by regulations enumerated at 12 CFR parts 25, 228, 345 and 563e. The regulation was also revised in 1995. The CRA is designed to evaluate lender commitment to and investment in low and moderate-income neighborhoods. Unreasonable banking practices can have a disparate impact on people of color
because disproportionate numbers of minorities live in low to moderate-income neighborhoods.

A lending institution’s CRA rating considers an institution’s commitment to its local “assessment area” as measured in part by lending to small businesses (under $1,000,000) and in low and moderate income census tracts.

CRA evaluations also consider community reinvestment complaints filed with lenders and compliance with antidiscrimination laws. Copies of CRA evaluations are publicly available by request from each of the lenders noted. Substantive information about the history and requirements of the CRA is available from the website of the FFIEC at http://www.ffiec.gov/cra/default.htm.

Research indicates eight banks in Anacortes that are subject to the CRA.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>EXAM DATE</th>
<th>BANK NAME</th>
<th>CRA RATING</th>
<th>CITY/ STATE</th>
<th>EXAM METHOD</th>
</tr>
</thead>
<tbody>
<tr>
<td>FDIC</td>
<td>7/1/2007</td>
<td>Whidbey Island Bank</td>
<td>Satisfactory</td>
<td>Coupeville, WA</td>
<td>Intermediate Small Institution</td>
</tr>
<tr>
<td>FDIC</td>
<td>7/1/2005</td>
<td>Skagit State Bank</td>
<td>Satisfactory</td>
<td>Burlington, WA</td>
<td>Large Bank</td>
</tr>
<tr>
<td>FDIC</td>
<td>2/5/2008</td>
<td>Bank of the Pacific</td>
<td>Satisfactory</td>
<td>Aberdeen, WA</td>
<td>Intermediate Small Institution</td>
</tr>
<tr>
<td>OTS</td>
<td>4/8/1997</td>
<td>U.S. Bank</td>
<td>Outstanding</td>
<td>Seattle, WA</td>
<td>Large Bank</td>
</tr>
<tr>
<td>FDIC</td>
<td>12/1/2007</td>
<td>People’s Bank</td>
<td>Satisfactory</td>
<td>Lyndon, WA</td>
<td>Large Bank</td>
</tr>
<tr>
<td>FDIC</td>
<td>10/1/1999</td>
<td>Horizon Bank</td>
<td>Satisfactory</td>
<td>Bellingham, WA</td>
<td>Large Bank</td>
</tr>
<tr>
<td>OCC</td>
<td>6/30/2006</td>
<td>Wells Fargo</td>
<td>Outstanding</td>
<td>San Francisco, CA</td>
<td>Small Bank</td>
</tr>
</tbody>
</table>

**Community Reinvestment Act Conclusions**

1. None of the regulatory compliance agencies noted any instances of substantive violations of the Equal Credit Opportunity Act, the Fair Housing Act, or any other federal nondiscrimination regulations by lending institutions headquartered in Anacortes.

2. Although banks headquartered in Anacortes received satisfactory ratings in their most recent CRA evaluations, the ratings reflect a bank’s performance on multiple community lending tests. To the extent that the City of Anacortes requires competition for the deposit of public funds, CRA performance merits consideration as a variable in which banks are selected for the deposit of municipal funds.
Home Mortgage Lending Trends in Anacortes

The Home Mortgage Disclosure Act (HMDA) is a federal law enacted to promote fair lending practices. HMDA seeks to prevent lending discrimination by requiring public disclosure of demographic and origination information for home mortgage applications. Since the inception of HMDA, research has consistently shown disparities in the racial and ethnic distribution of home mortgage credit. While the rates at which minority applicants have been denied financing has continued to fall over time, white and Asian applicants are more likely to be approved for financing compared to African-American and Hispanic mortgage applicants. For example, in reviewing HMDA data for various municipalities throughout Washington, the Fair Housing Center has consistently found that Asian applicants are as likely, if not more likely, than whites to obtain mortgage financing.

Because data are not readily available and may be limited in scope at the jurisdictional level, the tables below are comprised solely of HMDA data for the Anacortes Mt. Vernon Metropolitan Statistical Area (MSA). It is important to note that there are limitations associated with this data source. Because analyses of HMDA data typically show that people of color are more likely to be denied mortgage funding than white applicants, such disparities are often interpreted as evidence of racial discrimination in mortgage lending. However, many financial and economic factors are taken into consideration by financial institutions in reaching a loan decision and these are not always adequately represented in HMDA data. For that reason, it is difficult to determine from the data alone whether identified disparities result more from the application of standard underwriting criteria or discrimination. Determinations must be made using a variety of information, including public forums, interviews, and complaint data in addition to the information below.

This analysis does not consider the following categories utilized by lending institutions to report HMDA data: a) Two or More Minority Races, b) Joint (White/Minority Race), c) Race Not Available. Although data for these categories may appear in various tables presented herein, the data is not considered for the purposes of this analysis. Additionally, this analysis excludes loans made to investors. Finally, due to Census Bureau collection standards, the category “Hispanic” potentially includes data from all racial categories and is detailed as a separate ethnic category.

The relative distribution of mortgage lending in the Anacortes Mount Vernon MSA must be interpreted cautiously because except for Hispanics, very few mortgages are originated to non-white borrowers. Indeed, American Indian/Alaskan Native, Asian, Black or African-American, and Native Hawaiian borrowers originated just 2.2% of all mortgages in the Anacortes Mount Vernon MSA in 2005. The volume of lending to

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18 According to the General Accounting Office, HMDA captures approximately 80% of all U.S. mortgage activity. 19 Changes in HMDA requirements have decreased the number of small depository lending institutions required to report HMDA data. According to http://www.ffiec.gov/hmda/history2.htm, the asset threshold for depository institutions required to report HMDA data was raised to $33 million for data collection in 2004, $34 million for data collection in 2005 and $35 million for data collection in 2006.
Hispanics, in contrast, is relatively significant and represented 5.5% of all mortgage originations.

1. Overall Mortgage Origination Rates by Race and Ethnicity

In Anacortes, the highest number of originations is for white applicants (55.5%). Of applications submitted by Asians, 54.3% are originated; essentially the same origination rate as white applicants. Native Hawaiian/Other Pacific Islander mortgage applicants have the lowest rate, with 28.2% of applications resulting in origination.

<table>
<thead>
<tr>
<th>Race/National Origin</th>
<th>All Mortgage Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Indian/Alaskan Native</td>
<td>40.5%</td>
</tr>
<tr>
<td>Asian</td>
<td>54.3%</td>
</tr>
<tr>
<td>Black or African-American</td>
<td>37.0%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>28.2%</td>
</tr>
<tr>
<td>White</td>
<td>55.5%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>42.4%</td>
</tr>
</tbody>
</table>

The origination rate of 37% for African-American mortgage applicants is the second lowest of all groups. Just over 40% of American Indian/Alaskan Native mortgage applications result in origination. Similarly, 42.4% of Hispanic applications result in mortgage origination.

2. Conventional Home Mortgages

Whites and Asians have the highest origination rates for conventional home mortgages, at 67.3% and 65.2% respectively. Except for Native Hawaiian/Other Pacific Islander mortgage applicants, the conventional origination rates among minority applicants are relatively similar. American Indian/Alaskan Native, African-American and Hispanic applicants for conventional home financing experience similar origination rates, ranging from 47.8% for American Indians/Alaskan Natives to 52.1% for Hispanics. Native Hawaiian/Other Pacific Islander conventional mortgage applications are originated at a rate of 33.3%.
Anacortes Mount Vernon 2005 Home Mortgage Disclosure Act
Percent of Applications for Conventional Mortgage Products Resulting in Mortgage Originations by Race and National Origin

<table>
<thead>
<tr>
<th>Race/National Origin</th>
<th>Conventional Originations</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Indian/Alaskan Native</td>
<td>47.8%</td>
</tr>
<tr>
<td>Asian</td>
<td>65.2%</td>
</tr>
<tr>
<td>Black or African-American</td>
<td>50.0%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>33.3%</td>
</tr>
<tr>
<td>White</td>
<td>67.3%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>52.1%</td>
</tr>
</tbody>
</table>

The percentage of mortgages not originated constitutes an effective denial rate that measures the attrition of mortgage applications submitted by prospective borrowers as a result of adverse lender decisions, application withdrawals and incomplete applications. White conventional mortgage applicants experienced an effective denial rate of 32.7% while Asian conventional mortgage applicants had an effective denial rate of 34.8%.

American Indian/Alaskan Native, African-American and Hispanic applicants for conventional home financing experience similar effective denial rates, ranging from 47.9% for Hispanics to 52.2% for American Indians/Alaskan Natives. Native Hawaiian/Other Pacific Islander conventional mortgage applications experienced an effective denial rate of 66.7%.

3. Home Mortgage Re-Financing

Compared to applications for conventional mortgages, applications for mortgage refinancing are not as readily originated. Refinance applications from whites are the most successful, with 48.3% resulting in origination. American Indian/Alaskan Native applicants experience a 42.9% origination rate, higher than Asians who experience an origination rate of 34.9%. Hispanic refinance applications result in an origination rate of 32.7%. African-American and Native Hawaiian/Other Pacific Islander applicants for home refinancing experience similar origination rates, ranging from 24% to 26.3%, respectively.

Anacortes Mount Vernon 2005 Home Mortgage Disclosure Act
Percent of Refinace Applications Resulting in Mortgage Originations by Race and National Origin

<table>
<thead>
<tr>
<th>Race/National Origin</th>
<th>Refinance Originations</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Indian/Alaskan Native</td>
<td>42.9%</td>
</tr>
<tr>
<td>Asian</td>
<td>34.9%</td>
</tr>
<tr>
<td>Black or African-American</td>
<td>26.3%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>24.0%</td>
</tr>
<tr>
<td>White</td>
<td>48.3%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>32.7%</td>
</tr>
</tbody>
</table>
Applications for mortgage refinancing tend to have fairly high effective denial rates across the board. White refinance mortgage applicants in the Anacortes Mount Vernon MSA experienced an effective denial of 41.5%, the lowest in the State of Washington in 2005.

American Indian/Alaskan Native applicants experience an effective denial rate of 57.1% compared to 65.1% for Asian refinance applicants. Hispanic refinance applicants result in an effective denial rate of 67.3%. African-American and Native Hawaiian/Other Pacific Islander applicants for home refinancing experience similar effective rates, at 73.7% and 76%, respectively.

4. Home Improvement Loans

Applications for home improvement financing are the least readily originated. Asians have the highest origination rates for home improvement mortgages, at 60%, followed by Native Hawaiians at 50% and whites at 46.5%. Just-over 30% of Hispanic home improvement loan applications result in origination. In contrast, approximately 15% of American Indian/Alaskan Native and African-American applications for home improvement loans are originated. Analysis of home improvement loan trends is limited herein because of the extremely low volume of originations.

| Anacortes Mount Vernon 2005 Home Mortgage Disclosure Act                                      |
| Percent of Home Improvement Applications Resulting in                                         |
| Mortgage Originations by Race and National Origin                                              |
| Race/National Origin       | Home Improvement Originations |
| American Indian/Alaskan Native | 15.4%                     |
| Asian              | 60.0%                      |
| Black or African-American | 14.3%                     |
| Native Hawaiian/Other Pacific Islander           | 50.0%                     |
| White              | 46.5%                      |
| Hispanic            | 30.8%                      |

5. Government-insured Loans

One of the most significant developments in home mortgage lending is the decline of the government-insured mortgage market and commensurate growth in subprime mortgage lending. Government-insured mortgages are provided by three federal programs administered by HUD’s Federal Housing Administration (FHA), the Department of Agriculture’s Rural Housing Service (RHA) and the Department of Veterans Affairs (VA). The insurance program administered by FHA is the largest federal program guaranteeing single-family mortgages originated by private mortgage lenders.

According to the federal General Accounting Office (GAO), FHA in the past has played a particularly large role among minority, lower-income, and first-time homebuyers and
generally is thought to promote stability in the market by helping to ensure the availability of mortgage credit in areas that may be underserved by the private sector during economic downturns. FHA is a major part of the market segment comprising loans with government insurance or guarantees, which primarily served borrowers who would have difficulty obtaining conventional prime mortgages.\footnote{Federal Housing Administration: Decline in the Agency’s Market Share Was Associated with Product and Process Developments of Other Mortgage Market Participants, Report to Congressional Requesters, General Accounting Office, GAO-07-645, June 2007, page 1 and 2.}

Between 1996 and 2005, the national market share of government-insured mortgages dropped precipitously, especially for FHA mortgages. According to the GAO, “FHA’s market share in terms of numbers of loans fell from 19 percent in 1996 to 6 percent in 2005, with almost all of the decline occurring since 2001.”\footnote{Ibid, page 4.} The national decline in FHA lending also has occurred in Washington where FHA market share dropped from 17.2% in 1996 to 4.2% in 2005.

\begin{figure}[h]
\centering
\caption{FHA Share of U.S. and Washington Mortgage Market 1996 - 2005\footnote{Ibid, page 35 and 37.}}
\end{figure}

Of particular concern is the decline in FHA lending among persons of color, especially because FHA loans to minorities are increasingly being replaced by subprime mortgages. According to the GAO, “among minorities, FHA’s market share fell by 25 percentage points (from 32 percent to 7 percent), while conventional prime and subprime shares rose 6 and 24 percentage points, respectively.”\footnote{Ibid, page 4.}
The decline in FHA lending results from a number of factors, including FHA underwriting restrictions, lack of improvements in administrative processing, the development of innovative and expanded conventional market financing options and perceptions that FHA loans are cumbersome. According to research conducted by Freddie Mac, most lenders and sellers perceive government-backed, subsidized loans negatively, believing them to be too document intensive, slow to process, and financially disadvantageous and invasive for sellers. The increased use of flexible underwriting standards in the conventional market and growth in subprime lending undermined the competitiveness of FHA mortgages, despite the fact that subprime mortgages have "higher ultimate costs."

In Anacortes, the relatively high FHA mortgage origination rates merit extreme caution. In 2005, only 300 FHA mortgage applications were submitted, 40 of which were submitted by minority households. FHA mortgage originations to white borrowers represented approximately 3% of all mortgages originated while FHA originations to minority households, including Hispanics, represented less than 1% of all mortgage originated in the Anacortes Mount Vernon MSA in 2005.

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24 Ibid, page 35.
26 Homeward Bound: an In-Depth Look at Asian Homebuyers in the United States, Freddie Mac, Corporate Relations and Housing Outreach, Publication Number 601, November 2005.
28 Excludes multiracial and multiethnic households and borrowers for whom no demographic data were available.
Anacortes Mount Vernon 2005 Home Mortgage Disclosure Act
Percent of Applications Resulting in
Government-insured Mortgage Originations by Race and National Origin

<table>
<thead>
<tr>
<th>Race/National Origin</th>
<th>Government-insured Originations</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Indian/Alaskan Native</td>
<td>100.0%</td>
</tr>
<tr>
<td>Asian</td>
<td>100.0%</td>
</tr>
<tr>
<td>Black or African-American</td>
<td>75.0%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
<td>No applications</td>
</tr>
<tr>
<td>White</td>
<td>64.6%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>54.5%</td>
</tr>
</tbody>
</table>

The importance of government-insured mortgages for minority borrowers is reflected by the fact that minorities are more likely to obtain FHA mortgage financing. While African-American applicants for conventional mortgages experienced an effective denial rate of 50%, African-American applicants for government-insured mortgages experienced an effective denial rate of only 25%.

Interestingly, effective denial rates for Hispanic applicants for conventional and FHA are essentially similar. While 47.9% of Hispanic applicants for conventional financing are effectively denied, 45.5% of FHA applications are effectively denied. The divergent experiences of African-Americans and Hispanics seeking FHA loans may reflect the disproportionate share of subprime lending to Hispanic borrowers noted in the following section of this report. Given these differences, but keeping in mind the small volume of loans from which to extrapolate, it is possible that Hispanic borrowers are more likely to be steered toward conventional subprime mortgages while African-Americans are more likely to be steered toward government-insured mortgages.

The decline in FHA mortgage lending in general and in Washington specifically has important fair housing implications. According to the GAO, “FHA’s market share dropped 25 percentage points (from 32 percent to 7 percent) among minority borrowers, but declined most sharply among black and Hispanic borrowers (by 27 and 35 percentage points, respectively). FHA’s market share among white borrowers decreased from 16 percent to 7 percent during the 10-year period.” Given that minority borrowers are more likely to be approved for government-insured mortgages and that subprime loans have higher ultimate costs, the growth in subprime lending among minority borrowers may constitute an impediment to fair housing choice.

Subprime Home Mortgages

The ability to obtain a mortgage to finance a home purchase is a key factor in a family’s ability to realize the American dream. While for much of the 20th century people of color faced substantial institutional barriers to accessing the credit necessary to buy a home, the great housing boom that began in 2001 increased minority access to credit as never

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29 FHA mortgages are heavily regulated and less likely to contain subprime loan terms.
before. This increased access to credit resulted from a number of factors, including decades of civil rights advocacy, government initiatives to increase homeownership levels, historically low long-term interest rates and the escalating use of "subprime lending."

Subprime mortgage products "originally were extended to customers as a temporary accommodation in anticipation of early sale of the property or in expectation of future earnings growth (but) more recently (have) been offered to subprime borrowers as 'credit repair' or 'affordability' products."\textsuperscript{31} It is estimated that "from 1994 to 2005, the subprime home loan market grew from $35 billion to $665 billion, and is on pace to match 2005's record level in 2006."\textsuperscript{32} According to the General Accounting Office, the share of subprime mortgage originations increased from 1.6% of the overall U.S. mortgage market to 14.5% between 1996 and 2005.\textsuperscript{33}

The emergence of the subprime mortgage market simultaneously expands and impedes fair housing choice. The Center for Responsible Lending captures this contradiction in its December 2006 report, Losing Ground:

"Some have heralded the growth in subprime lending as a positive break-through in extending credit. Former Federal Reserve Chairman Alan Greenspan referred to subprime lending as the 'democratization of credit,' a dramatic change that enables borrowers with less-than-perfect credit to receive access to home loans that would have been denied in the past.

To be sure, the community reinvestment movement, civil rights activists, and others have fought for years to bring investment to communities that have lacked access to vital capital.

Yet this increased access has come at great cost to many families, since the highest rate of home foreclosures occurs among subprime home loans. In many communities, the pressing issue today is less the availability of home-secured credit than the terms on which the credit is offered."\textsuperscript{34}

While "responsible high-cost lending serves legitimate credit needs"\textsuperscript{35} and has expanded access to homeownership for people of color, subprime loans erode a homeowner's equity potential, disproportionately impact people of color, especially


\textsuperscript{32} Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners, Schloemer, E, Li, We, et al., Center for Responsible Living, December 2006, page 7.


\textsuperscript{34} Ibid, page 8.

\textsuperscript{35} Income is No Shield Against Racial Differences in Lending: A Comparison of High-Cost Lending In America's Metropolitan Areas, National Community Reinvestment Coalition, July 2007.
African-American and Hispanic households, and are more likely to result in foreclosure, with commensurately negative implications for community vitality and municipal capacity to provide essential services.

1. Characteristics of Subprime Mortgages

Subprime mortgages entail higher risks and costs than traditional mortgage products through the use of certain features that initially yield lower up-front monthly repayment terms for the borrower. Subprime loans entail a higher risk of foreclosure as a result of the higher incidence of adjustable interest rates (ARMs), prepayment penalties, balloon payments and weaker underwriting standards.

ARM loans generally provide an initially low, fixed interest rate for a certain period of time. After the initial term expires, interest rates become variable and can adjust every 6-months or yearly thereafter for the remaining term of the loan. ARM loans may also include interest-only payment provisions.

Subprime mortgage loans sometimes minimize required documentation by not verifying applicant income or employment or dispense with escrow accounts used to ensure payment of taxes and insurance.

Prepayment penalties are designed to deter rapid repayment or refinancing through the imposition of often steep penalties, while balloon payments require that the full balance be paid at the end of the term, often as short as five to seven years. Balloon payment terms are often utilized on 20% of the home value financed through "80/20" loans which allow a borrower to finance 100% of the home through two mortgages to avoid monthly mortgage insurance premiums.

Predatory lending occurs when borrowers are not fully and promptly informed of the terms of the mortgage, including balloon payments, prepayment penalties, costs associated with the loan to reflect the increased risk of no documentation, mandatory arbitration clauses, or the lack of escrow accounts for property taxes and insurance.

2. Demographic Disparities in Subprime Lending

According to the GAO, between 1996 and 2005, "subprime market share increased 24 percentage points (from 2 to 26 percent) among minorities, but especially among black and Hispanic borrowers (29 percentage points for each group). Subprime mortgage share among white borrowers increased from 1 to 9 percent from 1996 through 2005." In other words, by 2005, subprime loans represented 26% of mortgages originated to minority borrowers and 9% of mortgages originated to white borrowers.

Nearly all of the growth in home mortgage lending to minorities was comprised of subprime mortgages. As the market share of subprime mortgage originations grew from 2% in 1996 to 26% in 2005, the share of FHA home purchase loans to minorities decreased from 32% to less than 7% in the same period. The share of minority home purchase mortgages comprised of prime loans increased 6.1%, from 58.6% to 64.7%, between 1996 and 2005.

Research conducted by the National Community Reinvestment Coalition (NCRC) indicates that racial differences in lending increase as income levels increase, even after controlling for creditworthiness and other factors. After surveying 2005 HMDA data\textsuperscript{39} for 251 Metropolitan Statistical Areas (MSA), NCRC found:

- Moderate-and-upper income African-Americans were twice or more than twice as likely as moderate-and-upper income whites to receive high-cost loans in 167 MSAs. In contrast, low-and-moderate income African-Americans were twice as likely or


\textsuperscript{39} HMDA requires lenders to report a first-lien home mortgage loan's rate spread if the annual percentage interest rate (APR) exceeds the yield on comparable Treasury securities by three or more percentage points. The Federal Reserve Board believes this HMDA reporting requirement allows the identification of the vast majority of subprime-rate loans. See Frequently Asked Questions About the New HMDA Data, Federal Reserve Board, April 3, 2006, \url{http://www.federalreserve.gov/boarddocs/press/bcreg/2006/20060403/attachment.pdf}. 

33
more than twice as likely as low-and-moderate income whites to receive high-cost loans in 70 MSAs.

- Moderate-and-upper income Hispanics were twice or more than twice as likely as moderate-and-upper income whites to receive high-cost loans in 75 MSAs. Low-and-moderate income Hispanics were twice or more than twice as likely as low-and-moderate income whites to receive high-cost loans in 10 MSAs.

- Asians generally experienced fewer disparities in high-cost lending than African-Americans and Hispanics, but even for Asians, disparities increased as income levels increased. For example, low-and-moderate income Asians were between 1.0 to 1.5 times more likely than low-and-moderate income whites to receive high-cost loans in 8.5% of the MSAs. In contrast, moderate-and-upper income Asians received high-cost loans 1.0 to 1.5 times greater than moderate-and-upper income whites in 20.9% of the MSAs.\footnote{Income is No Shield Against Racial Differences in Lending: A Comparison of High-Cost Lending In America’s Metropolitan Areas, National Community Reinvestment Coalition, July 2007.}

It is estimated that "as many as one-third to one-half of all subprime borrowers could have qualified for prime credit."\footnote{National Council of La Raza Issue Brief, 2005, Number 15, page 3; original source material Carr, James H. and Lopa Kolluri, Predatory Lending: An Overview, Washington D.C.} The Federal Reserve found there was a 3.8 percentage point difference between the typical mortgage rate charged on a prime loan and a subprime loan between 1998 and 2001.\footnote{National Council of La Raza Issue Brief, 2005, Number 15, page 5.} This difference results in as much as $50,000 to $100,000 in increased costs for a subprime loan compared to a prime loan.\footnote{Income is No Shield Against Racial Differences in Lending: A Comparison of High-Cost Lending In America’s Metropolitan Areas, National Community Reinvestment Coalition, July 2007.}

Given the difference with which people of color obtain subprime mortgages relative to their white counterparts, subprime lending engenders disparities in the capacity of families of color to build wealth through homeownership.

3. **Subprime Lending in Anacortes**

Anacortes’s exposure to subprime mortgage risks is low relative to many other municipalities across the nation. A 2007 report by the Center for Responsible Lending analyzed HMDA data to predict home foreclosure rates in 378 MSAs. The Center for Responsible Lending’s analysis:

- Ranked Anacortes Mount Vernon 357th out of 378 MSAs in the share of subprime mortgages predicted to result in foreclosure;
- Predicts that 15.6% of the subprime mortgages originated in the Anacortes Mount Vernon MSA between 1998 and 2001 will result in foreclosure;
- Projected the Anacortes Mount Vernon MSA foreclosure rate for subprime mortgages originated in 2006 will decrease to 13.9%.

In contrast to the Anacortes Mount Vernon MSA, the predicted foreclosure rate for subprime mortgages originated in the State of Washington in 2006 increased to 16.8%
compared to the predicted 13% foreclosure rate for such loans originated between 1998 and 2001.

To identify subprime mortgages, HMDA requires lenders to report a first-lien home mortgage loan's rate spread if the annual percentage interest rate (APR) exceeds the yield on comparable Treasury securities by three or more percentage points. The Federal Reserve Board believes this HMDA reporting requirement allows the identification of the vast majority of subprime-rate loans.\(^{44}\)

\textbf{Anacortes Mount Vernon MSA 2005 Distribution of Subprime Home Mortgage Originations by Race/Ethnicity}^{45}\)

An analysis of 2005 HMDA data for the Anacortes Mount Vernon MSA indicates 21.5\% (1,194 of 5,547) of all home mortgages were subprime under the criteria established by the Federal Reserve Board. For all racial/ethnic groups, except for Hispanics and Native Americans, less than 30\% of mortgage originations were subprime.

Hispanic and Native American borrowers who originated home mortgages in 2005 in the Anacortes Mount Vernon MSA were the most likely to face subprime interest rates, defined as exceeding the yield on comparable Treasury securities by three or more


\(^{45}\) AI/AN = American Indian/Alaskan Native, B/AA = Black or African-American, NH/OPI = Native Hawaiian/Other Pacific Islander; note that this analysis excludes multi-racial and other categories for clarity.
percentage points. In 2005, 37.5% of home mortgages originated to American Indian/Alaskan Natives borrowers were subprime. Significantly, over one-half of home mortgages originated in 2005 to Hispanic borrowers in the Anacortes Mount Vernon MSA contained subprime interest rates.

The relative incidence of subprime mortgage lending in the Anacortes Mount Vernon MSA must consider that, except for Hispanics, very few mortgages are originated overall to non-white borrowers. Indeed, American Indian/Alaskan Native, Asian, Black or African-American, and Native Hawaiian borrowers originated just 123 mortgages in the Anacortes MSA in 2005. In contrast, Hispanics originated 305 mortgages during the same period.

Thus, Hispanics and whites generate a greater share of mortgage originations in Anacortes compared to other racial or ethnic groups. The relative prevalence of Hispanic mortgage borrowing in the Anacortes Mount Vernon MSA lends significance to the high rate of subprime lending to Hispanics. To the extent that subprime lending is a predictor of foreclosure, Hispanic homeowners are likely to comprise a disproportionate share of homeowners losing their homes to foreclosure in Anacortes.

Home foreclosures imperil community vitality and challenge municipal financial forecasting. It is predicted that 2.2 million subprime loans made from 1998 to 2006 will fail and end in foreclosure.\textsuperscript{46} It is estimated that:

- Families, on average, lose $7,200 in net worth during a foreclosure.\textsuperscript{47}
- Neighboring homeowners lose 1 percent in property value per foreclosure on their block.\textsuperscript{48}
- A vacant property can cost local taxpayers $20,000 in annual maintenance, including lost property taxes, unpaid utility bills, property upkeep and maintenance.\textsuperscript{49}

**Housing Finance Impediments Summary**

- Compared to other minority groups, Hispanic applications for mortgage financing are more likely to result in origination.
- Compared to all other groups, Hispanic applications for mortgage financing are more likely to result in the origination of a loan with subprime terms.
- Both nationally and within the Anacortes Mount Vernon MSA, the use of subprime mortgages has increased substantially. Nationally and in Anacortes, households of color are disproportionately likely to obtain subprime mortgage financing. While Anacortes's overall exposure to high foreclosure rates as a

\textsuperscript{46} *Losing Ground: Foreclosures in the Subprime Market and Their Cost to Homeowners*, Schloemer, E, Li, We, et al., Center for Responsible Living, December 2006, page 3.

\textsuperscript{47} National Council of La Raza Issue Brief, 2005, Number 15, page 6.


\textsuperscript{49} Ibid
result of the growth in subprime lending is relatively low, the costs of foreclosure hurt the entire community. It is essential that foreclosure rates be monitored to mitigate the community's exposure and to identify the impact of subprime and predatory lending practices on the prevalence of foreclosure.

**Impediments to Housing Choice Created by Public Policies**

Public policies and practices can impede or further equal housing opportunity in a community. As much as the passage of fair housing ordinances might reflect a governmental commitment to non-discrimination, actual practices with respect to the formulation of zoning regulations, code enforcement and the prioritization of land use are essential elements in determining a jurisdiction's commitment to affirmatively furthering fair housing.

**Legal Cases**

The following fair housing cases are presented to demonstrate the importance of proactively incorporating fair housing practices into governmental policy decisions.

1. **McGary v. City of Portland**

The plaintiff in this case was a low-income homeowner hospitalized with complications from AIDS. The City of Portland posted a warning for him to clean debris from his yard as a code enforcement matter. An advocate for the plaintiff contacted the City to request more time as a reasonable accommodation for the homeowner's disability. The City stated that they don't make accommodations in their nuisance abatement programs and the district court ruled in favor of the City after the plaintiff sued under the Fair Housing Act and the ADA. The Ninth Circuit reversed the district court ruling and held that the plaintiff had adequately pled claims under both the Fair Housing Act and Title II of the ADA.50

2. **City of Edmonds v. Oxford House**51

In 1990, the City of Edmonds, Washington cited an Oxford House group home for recovering alcoholics and drug addicts for violating the City's zoning ordinance which defined "family" as not more than 5 unrelated persons. Without challenging the underlying ordinance, Oxford House requested a reasonable accommodation to allow up to 12 unrelated residents. Although the requested accommodation was essential to ensuring the group home's financial viability, the City denied the request and amended its zoning code to allow such facilities in multifamily and commercial zones and to prohibit them in single-family residential zones. The United States Supreme Court


51 Source: John Purbaugh, Attorney, Northwest Justice Project, Tacoma, WA; used with permission; original material from *Fair Housing Law and Practice Conference* at Seattle University, Seattle, WA, March 15-16, 2007.
affirmed the Ninth Circuit’s judgment holding that Edmonds’ definition of family was invalid and unenforceable. This case firmly established that municipalities must consider granting exceptions to such requirements as a reasonable accommodation under the Fair Housing Act.

3. Sunderland Family Treatment Services v. City of Pasco

Sunderland Family Treatment Services applied for a supplemental use permit (SUP) to operate a state-licensed group home serving mentally ill youth in a facility with at least 3 staff on premises. The City of Pasco, Washington denied Sutherland’s SUP application on the grounds that it was not a subordinate use as required for the conduct of a home occupation in a residential zone. On appeal, the court concluded that Pasco violated the Washington Housing Policy Act (WHPA) by defining “family” in a way which imposed additional burdens on residential care facilities for the handicapped, by allowing a family to immediately occupy a residential structure but requiring a group home facility to obtain a SUP before occupying a similar structure. It is essential that municipal actions, like defining “family,” fully consider the various classes protected by the fair housing laws to avoid differential land use requirements that can violate the fair housing laws.

4. Children’s Alliance v. City of Bellevue

In 1994, Bellevue adopted an ordinance prohibiting group housing for children in residential areas. This ordinance was invalidated by the Central Puget Sound Growth Management Board because it treated such facilities differently than other similar residential facilities in violation of Washington’s Growth Management Act (GMA). Bellevue’s replacement ordinance removed the outright ban on group homes for children in residential areas but replaced it with a scheme which distinguished group facilities from families based on the presence of staff providing care and assistance to residents, imposed occupancy limits, and mandated a 1000’ separation between group facilities of the same type. This ordinance was held not to violate the GMA but was nevertheless found to be discriminatory on its face and declared invalid under the Fair Housing Act (FHA) and Washington Law Against Discrimination (WLAD) by the United States District Court in 1997. Although the ordinance included reasonable accommodation provisions, the court concluded that the ordinance’s focus on housing

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54 Source: John Purbaugh, Attorney, Northwest Justice Project, Tacoma, WA; used with permission; original material from Fair Housing Law and Practice Conference at Seattle University, Seattle, WA, March 15-16, 2007.
55 RCW 35A.63.240. “No city may enact...an ordinance...which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family...”
57 Source: John Purbaugh, Attorney, Northwest Justice Project, Tacoma, WA; used with permission; original material from Fair Housing Law and Practice Conference at Seattle University, Seattle, WA, March 15-16, 2007.
60 RCW 49.60.010 et seq.
in which staff provided services to residents essentially targeted disabled persons in violation of the fair housing laws.

5. Low Income Housing Institute et al. v. City of Lakewood

In the summer of 2000, the City of Lakewood began work to develop a theme park in a low-income neighborhood with high minority density. The Low Income Housing Institute, two residents and a non-profit agency challenged aspects of the City’s plan because it re-designated two low-income residential neighborhoods for industrial purposes and failed to demonstrate how the City of Lakewood would meet their responsibility to ensure affordable housing and mitigate the loss of 800+ existing affordable housing units. On September 9, 2003, Division II of the Court of Appeals in Tacoma issued an opinion in Low Income Housing Institute v. City of Lakewood, reversing a decision of the Central Puget Sound Growth Management Hearings Board which upheld the City’s Comprehensive Land Use Plan against challenges based on affordable housing provisions of the Growth Management Act (GMA). The Court of Appeals concluded that the Board had failed to decide the housing requirements. The Court also held that the Board erred as a matter of law when it evaluated Lakewood’s consistency with Pierce County’s standards by only reviewing whether the City had adequately identified its affordable housing needs without also evaluating whether the City had complied with the County’s requirement that it also actually addressed the need for such housing. The case was remanded to the GMA for further proceedings. On remand the city settled by restoring some of the low income neighborhoods to high density residential use, adopting an incentive-based inclusionary zoning scheme, and allocating additional CDBG funds to low income housing preservation programs. This case reflects that municipal actions impacting the supply of affordable housing can have fair housing implications.

Group Homes

Despite judicial precedents protecting group home arrangements under the Fair Housing Act, local governments throughout the United States continue to struggle to balance group home needs with neighborhood opposition. The State of Washington defines group homes as:

"Adult family home means a regular family abode in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services." 

Group homes providing services for persons with disabilities or children are offered protection under federal and state fair housing laws. Municipal restrictions on group

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61 Source: John Purbaugh, Attorney, Northwest Justice Project, Tacoma, WA; used with permission; original material from Fair Housing Law and Practice Conference at Seattle University, Seattle, WA, March 15-16, 2007.
63 Revised Code of Washington, Section 70.128.010
64 The definition of disability includes persons recovering from substance abuse.
home placement in residential neighborhoods in response to "Not in My Back Yard," or "NIMBY" attitudes, can be construed as potential violations of fair housing laws when municipalities fail to balance neighborhood concerns with fair housing obligations.

1. Examples of Community Opposition

On July 29, 2004, Triumph Treatment Services\textsuperscript{65} submitted an application to the City of Yakima requesting approval to establish a day care center, a group home and a commercial kitchen on the site of a former nursing home. Triumph's proposed group home sought to provide housing for up to 19 women and their children for up to 18-months. The proposed residents would occupy the group home after completing the first phase of a chemical dependency recovery program.

After the City of Yakima approved Triumph's proposal in November of 2004, a group of local neighbors appealed the decision on December 1, 2004 and again in March of 2005 following the Hearing Examiner's decision to conditionally approve the proposal. The Hearing Examiner's final decision on March 30, 2005 noted that 31 letters and three petitions opposed Triumph's proposal for a number of reasons related to increased traffic, noise and odors. Neighbors also expressed concerns that the group home could pose a threat to community safety due to the high recidivism rate of chemically dependent persons; because of increased crime, vandalism and possible injury or loss of life due to an element of society involved in drug trafficking that would be drawn to the area...(and)... because of lower property values that would result from all of said negative impacts to the area.\textsuperscript{66}

The Hearing Examiner's analysis highlighted the following:

- The Washington Supreme Court..."has refused to allow unsubstantiated subjective fears as to an adverse effect on property values or the lack of safety to constitute a basis for denial of a special use permit for a group home...Sunderland Family Treatment Services v. The City of Pasco, 127 Wn.2d 782, 903 P.2d 986 (1995).\textsuperscript{67}

- Washington's Growth Management Act provides as follows in Section 36.70A.410 of the Revised Code of Washington: "No county or city that plans or elects to plan under this chapter may enact or maintain an ordinance, development regulation, zoning regulation or official control, policy or administrative practice which treats a residential structure occupied by persons with handicaps differently than a similar residential structure occupied by a family or other unrelated individuals. As used in this section, 'handicaps' are as defined in the federal fair housing amendments act of 1988 (42 U.S.C. Sec. 3602).\textsuperscript{68}

\textsuperscript{65} City of Yakima, Washington, Hearing Examiner's Final Revised Decision, In the Matter of Class (3) Review Of an Application for Two Cass (2) Uses, for an Unclassified Use And for Environmental Review Submitted by: Triumph Treatment Services, UAZO CL (3) #7-04, INTERP #1-04, EC #27-04, March 30, 2005.

\textsuperscript{66} Ibid

\textsuperscript{67} Ibid

\textsuperscript{68} Ibid
After discussing the standards established by *Sunderland Family Treatment Services v. The City of Pasco*, the Growth Management Act and fair housing cases related to group homes, the City of Yakima Hearing Examiner held that “there is an affirmative obligation on the part of the City to reasonably accommodate the establishment of group homes in residential areas in order to facilitate the total and permanent recovery of the residents of such homes.” The record indicates that Triumph’s proposal was modified and approved to include residents other than women.

During the summer of 2008, a conditional use permit was denied by a City of Sedro-Woolley hearing examiner to Secret Harbor, a proposed group home for children who are victims of abuse and neglect and “suffer from at least one or more specific psychological and learning disorders.” On appeal, the City Council overturned the decision on August 13 when the City attorney advised council members of the Washington Housing Policy Act’s provisions “which makes it illegal for a city to mandate any additional requirements on residential structures that will be occupied by individuals who are legally handicapped.” When Secret Harbor announced plans to relocate a group home on South Fidalgo Island and to close its Cypress Island facility, the Anacortes School District made proactive plans to incorporate the behavior challenged students into their own programs.

2. Moratoriums

While responsiveness to community input and the implementation of policies proscribing land use are essential municipal functions, overly broad solutions to narrow concerns can implicate fair housing choice. In response to neighborhood outrage over a proposed transitional housing facility for released felons, the City of Tacoma adopted a city-wide moratorium on any new or expanded “special needs” housing, including dwellings for “high risk/high needs” persons. The City’s moratorium on special needs housing limited not just the initial transitional housing facility, but all types of group homes, including housing for persons with disabilities. The moratorium, first imposed in 2005, was extended twice, for a total of 18 months. During the moratorium, city staff proposed a comprehensive new ordinance redefining categories of group and other housing in which services were provided, requiring a 600’ separation zone between such facilities, prohibiting any additional special needs housing facilities in an overlay zone covering many residential districts, and requiring conditional use permits under which a developer must show that the “need for the [special needs housing] facility arises from within the community.” As a result of the City’s sweeping actions to address a narrow issue, the City of Tacoma faced legal challenges and counter-opposition from disability-rights and other advocates.

Community opposition to group homes, like that in Tacoma and Yakima, has begun to emerge at the legislative level. In January of 2007, State Senator Mike Carrell, R-Lakewood, introduced Senate Bill 5211 proposing to require DSHS to regulate the

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number of adult family homes in a given area to prevent over concentration. Officials from the City of Lakewood and the City of Vancouver testified in favor of the proposed bill while DSHS and AFH advocates opposed the bill. The staff report noted that "the line between provisions in this bill and the Federal Fair Housing Act are not clear. This (bill) would have a disproportionate impact on people with disabilities."\textsuperscript{72} The legislation was not passed but the issue is likely to re-emerge in future legislative sessions.

C. Zoning and Land Use Policies

In crafting and implementing locally defined land use priorities, it is essential to consider fair housing protections as a component of a local government’s land use determinations. Guidance issued by the U.S. Department of Justice encourages local governments “to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to insure that the availability of such mechanisms is well known within the community.”\textsuperscript{73}

County and municipal zoning ordinances throughout the state were reviewed to assess requirements related to group homes. The review indicates that most ordinances exempt disabled households and state-defined group homes from zoning requirements otherwise limiting the number of occupants residing in single-family homes.

Some zoning ordinances explicitly provide a reasonable accommodation process for housing for persons with disabilities. Municipalities with accommodation provisions include Mercer Island, Federal Way, Shoreline, Edmonds, Issaquah, Port Townsend and Puyallup. The City of Seattle\textsuperscript{74} Municipal Code includes a reasonable accommodations provision and serves as a model for detailing municipal reasonable accommodation procedures related to housing. The City of Anacortes does not have such an ordinance.

D. Policy Summary

- Municipal actions to proscribe land use and enforce health and safety codes have impeded fair housing choice in Washington by failing to incorporate fair housing provisions, like reasonable accommodations, in to land use practices.

- Sweeping solutions to address otherwise legitimate community opposition can implicate fair housing choice if protected classes are indirectly or directly impeded by municipal actions.

\textsuperscript{72} Senate Bill Report 5211, 2007-2008 Legislative session, \url{http://www.leg.wa.gov/pub/billinfo/2007-08/Pdf/Bill%20Reports/Senate/5211_SBR.pdf}

\textsuperscript{73} Joint Statements of the Department of Justice and the Department of Housing and Urban Development, Group Homes, Local Land Use, And the Fair Housing Act, See \url{http://www.usdoj.gov/crt/housing/final8_1.htm}.

\textsuperscript{74} Seattle Municipal Code Sections 23.44.072 and 23.44.015
V. Assessment of Fair Housing Activities

Anacortes Fair Housing Activities

Fair Housing Ordinance

The City of Anacortes does not have its own fair housing ordinance. In addition to protections defined in federal law, the State’s Law Against Discrimination, enumerated at RCW 49.60, protects Anacortes residents from discrimination on account of marital status, sexual orientation (and gender identity) and veteran or military status.

Other Local Fair Housing Activities

In the Anacortes 2007 and 2008 Action Plan, the City listed the following proposed fair housing activities:

- Publish one article or notice per year about fair housing in the Anacortes American.
- Collaborate to provide educational information within a fair housing event.
- Distribute posters and hand-outs translated into other languages common to the area that educate the public about fair housing.
- Maintain a list of volunteer interpreters willing to present to non-English-speaking groups to increase awareness of fair housing laws, what constitutes a violation, and where to file a complaint.
- Maintain an Internet website that provides information for citizens about fair housing practices.\(^{75}\)

As of this writing, there is no evidence that the proposed activities have been completed. Both action plans state that “[t]he City collaborated with and allocated funding to the Skagit County Community Action Agency to further fair housing practices,” but the Consolidated Plan Listing of Projects funding for this agency is for “[provision of] emergency shelter and family support services to homeless families and individuals.”\(^{76}\) The Skagit County Community Action Agency’s web site and most recent annual report provide information on their emergency family shelter, transitional housing and homeless prevention services. Nothing is provided which relates to eradicating housing discrimination.\(^{77}\)

The City’s new 2008 Action Plan includes the above activities and adds additional tasks of:

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\(^{75}\) Anacortes 2007 (page 43) & 2008 (page 4) Consolidated Plan Action Plan
\(^{76}\) Anacortes 2008 Action Plan, attachments
\(^{77}\) Examples of fair housing services include intake and investigation of housing discrimination complaints based upon protected classes, education and outreach initiatives to assist in filing of discrimination complaints and/or proactive efforts to educate housing providers so that discrimination does not takes place, fair housing testing and policy efforts to ensure compliance with federal, state and local fair housing laws.
Provide information for citizens about fair housing practices on a City Internet website.

Contracting with the Fair Housing Center of Washington to complete this *Analysis of Impediments to Fair Housing Choice*.

The *City of Anacortes*’ 2008 Action Plan also includes a goal to “Aid in the establishment of a Community Land Trust for the development of home ownership for low to moderately low income individuals and families” and strategy to “Provide funding to Community Land Trust for the establishment of a home ownership program for low to moderately low income individuals and families who are employed within the City of Anacortes and are unable to purchase market priced homes close to work.”

Community Land Trusts (CLT) are a new affordable housing strategy throughout the United States. By federal definition, CLT are “a means of restricting use of land and housing through not-for-profit ownership ... with leases to the land users...often used to protect low-income housing from speculation.” Though CLTs can be a great benefit to preserving affordable housing they can also be controversial. *Shared Equity Homeownership: The Changing Landscape of Resale-Restricted, Owner Occupied Housing*, an extensive document supported by the National Housing Institute in 2006 points out:

- Though the perception is that low income individual’s personal assets can be increased through homeownership, the restrictions on re-sale via a CLT can actually be a poor investment, in fact “[o]ccupants [will] build relatively little wealth.” Purchasing a home through a CLT could be considered better than renting a home.

- City of Anacortes restrictions, stated in the 2008 Action Plan, limiting participation to “low to moderately low income individuals and families who are employed within the City of Anacortes” may have fair housing implications due to the population demographics within the Anacortes city limits. Though, for example, Hispanic residents (or other individuals protected by classes under federal and state fair housing laws) may have lived in the City and enrolled their children in the Anacortes public schools for years, their place of employment outside the city limits would bar them from participating in purchasing a home at the CLT.

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75 www.housingjustice.org/beta/resources/affordable_housing_glossary&print
81 U.S. Census, www.census.gov, 7.3% of the Anacortes population is represented by non-Whites (Caucasians represent 92.7% of the population), Hispanics at 3.2%.
Finally, the placement of CLTs sometimes encounter community opposition in the same degree as group homes though fair housing laws would provide some protections.

The City of Anacortes will need to carefully consider the costs and benefits of a CLT as opposed to other affordable housing and first time home buyer opportunities and, though no policies are in place, will need to consider verbiage in municipal documents that limit participation requirements to employment within the City.

Fair Housing Center of Washington

The Fair Housing Center is a HUD designated nonprofit Qualified Fair Housing Organization and serves residents of Anacortes. The Fair Housing Center is the only HUD-qualified nonprofit fair housing organization serving western Washington. Nonprofit fair housing agencies have the ability to act as advocates for individuals that have experienced discrimination in housing by supporting them through the complaint process, conducting education and outreach and participating in HUD approved enforcement activities.

The agency provides intake and investigation of housing discrimination claims, conducts testing, education and outreach programs and contracts for other related services. The agency has award-winning English as a Second Language programs and has a contract with Language Line, a phone based interpreter service.

Testing in Skagit County and Anacortes

The Fair Housing Center is the only entity in Western Washington that conducts fair housing testing. Between 2001 and 2006, the Fair Housing Center conducted 17 rental tests in Skagit County, 10 based on national origin and 7 based on Native American.

Intake and Investigation of Housing Discrimination Complaints

During the 2008 fiscal year the Fair Housing Center received 2 fair housing complaints from Anacortes citizens. One complaint regarded race (African American) and the other related to disability.

U.S. Department of Housing and Urban Development

The US Department of Housing and Urban Development (HUD) administers the Fair Housing Act. In certain cases, HUD refers complaints to the Department of Justice

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82 Qualified Fair Housing Organization (QFHO) is HUD’s designation for nonprofit fair housing organizations that investigate and file cases of housing discrimination and perform testing activities for more than two years.

83 HUD and the Washington State Human Rights Commission must maintain an impartial role with complainants and cannot support them through the filing or conciliation process. Nonprofit fair housing organizations can serve as advocates.
(DOJ). HUD is also required to work on programs of voluntary compliance with the Fair Housing Act. To do so, HUD enters into voluntary compliance agreements with housing industry organizations. These organizations pledge to inform the public of equal housing opportunity and the law to ensure that services are rendered equally to all clients, to publish their commitment to fair housing, and to monitor and report on the effectiveness of the agreement.

The agreements for the real estate industry are called Voluntary Affirmative Marketing Agreements (VAMA) and for others, Best Practice Agreements. Agreements exist with such organizations as the National Association of Realtors, National Association of Home Builders, Apartment Managers Association, and the Mortgage Bankers Association of America. Once an agreement is in effect with the national organization, state and local chapters may sign on as parties to the agreement.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>FUNCTION</th>
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<tbody>
<tr>
<td>HUD/Washington State Fair Housing Enforcement Center (FHEO)</td>
<td>Consumer information Complaints</td>
</tr>
<tr>
<td>HUD Program information and Compliance Center</td>
<td>Information on fair housing program requirements, education and outreach, and outreach and compliance reviews</td>
</tr>
<tr>
<td>DOJ, Civil Rights Division, Housing and Civil Rights Enforcement</td>
<td>Pattern and practice complaints (denial of rights to a group of persons where it is of general public importance, or a pattern and practice of resistance to fair housing rights by a person or group)</td>
</tr>
</tbody>
</table>

The Northwest/Alaska Region Office of Fair Housing and Equal Opportunities in Seattle is responsible for investigating fair housing complaints and working on programs to further fair housing compliance. HUD collaborates with other organizations to provide quarterly fair housing training (located in Seattle), provides Fair Housing and Equal Opportunity Compliance Review Training, and Consolidated Annual Performance Evaluation Reports (CAPER) training.

This analysis considers complaints filed in Skagit County from October 1, 2001 through September 30, 2007. Fifteen (15) complaints with 22 bases were filed with HUD and the WSHRC. One complaint was in Anacortes.

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84 US Congress, Title VIII, Civil Rights Act of 1968 (42 US C. 3600-3620); sec 7(D), Department of Housing and Urban Development Act, 42 US C. 3535 (d)

85 This means that a single complainant can, for example, allege discrimination based on national origin and familial status (or other protected classes) in the same complaint.
Washington State Human Rights Commission

HUD certifies state and local organizations to process fair housing complaints within their jurisdictions. As discussed earlier in this report, there are four such entities certified as ‘substantially equivalent’ in Washington State. These agencies bear the designation “Fair Housing Assistance Programs” (FHAP) and are entitled to federal funding to support activities. HUD provides funding to these agencies in two categories: capacity building grants for new agencies and support for costs associated with case processing, education, and special projects.

U.S. Department of Agriculture

The U.S. Department of Agriculture (USDA) provides housing assistance in rural communities, including Whatcom County, through the Rural Development program. The USDA Office of Civil Rights is responsible for enforcing certain fair housing obligations of housing provided under Rural Development.

The USDA was unable to determine the number of fair housing complaints investigated in Washington State. While the USDA has provided training to rural housing providers throughout Washington State between 1996 and 2006 on topics including fair housing, the number of Skagit County or Anacortes beneficiaries could not be readily identified.

Legal and/or Landlord-Tenant Services

Northwest Justice Project (NJP), a statewide legal services agency, assists income eligible clients with non-criminal legal issues. NJP’s work furthers fair housing and staff has recently been working with community partners to plan for individual representation and system improvements in Whatcom, Skagit and Island Counties for domestic violence victims. NJP refers clients wishing to file fair housing claims to the Fair Housing Center.

Columbia Legal Services (CLS), a statewide legal services agency, represents indigent clients in civil cases. CLS has a solid, long-standing reputation representing clients in fair housing cases in the State of Washington.

The Tenant’s Union (TU), provides landlord tenant information by phone to income-eligible\(^6\) residents outside of King County every Wednesday from noon to 3:00 pm.

Washington State Housing Finance Commission (WSHFC), allocates bond and tax credit financing to housing providers who provide low income housing along with education and financing programs for first time homebuyers. Along with this distribution of funds come requirements relating to adherence to fair housing laws. The WSHFC co-sponsors fair housing training for tax credit/bond financed property managers with

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\(^6\) Less than 80% of median income.
Spectrum Seminars, a national compliance trainer, and offers first time homebuyer classes throughout the state. Fair housing materials from HUD and the Fair Housing Center of Washington are included in the seminars. There was no data readily available identifying the race, color, gender, national origin, familial status or disability of the recipients of homeowner assistance provided through the WSHFC.

**Washington Homeownership Center**

The Washington Home Ownership Center (WHC) offers a free, statewide Homeownership Hotline for first-time homebuyers who often face multiple barriers to homeownership. According to the Center, clients who contact WHC receive a home ownership readiness assessment, including a review of household size and income, credit history, housing and location requirements, and other factors used to determine eligibility for a variety of first time buyer programs. Clients are then referred to the appropriate resources and encouraged to call back throughout the process for further assistance. Generally everyone gets a homebuyer class schedule, a packet of information on agencies that work on: credit, budgeting, housing development, homebuyer education, fair housing — along with information on down payment assistance programs and government loan programs. For the last several years, clients also get a brochure on predatory lending.\(^{87}\)

**Other Resources Available to Anacortes residents include:**

- North Puget Sound Association of Realtors®
- Washington Association of Realtors®
- Rental Housing Association
- Mobile Home Owners of America
- Manufactured Housing Communities of Washington

**Assessment Conclusions**

1. The City of Anacortes has begun planning some fair housing activities and is committed to completing this analysis in order to determine how to successfully and consistently incorporate fair housing education, outreach and enforcement into its federally-funded activities.

2. The Fair Housing Center of Washington, HUD and the WSHRC are the primary agencies providing fair housing enforcement and education services in Anacortes.

3. As the City of Anacortes considers promotion and development of a Community Land Trust and other affordable housing, it should consider the costs and benefits of the specific programs and the 2008 Action Plan wording that participants work within the city limits.

\(^{87}\) [http://www.homeownership-wa.org/about.htm](http://www.homeownership-wa.org/about.htm)
VI. Identified Impediments and Recommendations

To assist the City of Anacortes in ensuring fair housing protection, the following issues are submitted as areas of consideration for focus:

Impediment I: Though complaint data in Anacortes is minimal, housing discrimination primarily affects persons with disabilities. This is supported by Skagit County complaint data.

- Fair housing complaints from residents of Anacortes and surrounding Skagit County reflect national trends with allegations of discrimination on the basis of disability comprising the most frequently cited protected class. An increasing number of these disability complaints involve failure to provide reasonable accommodation.
- Between 2001 and 2007, the Fair Housing Center conducted 17 rental tests in Skagit County. 47% of tests indicated instances of differential treatment based on race (Native American) or national origin (Hispanic).
- Race-based Native American testing indicated a differential treatment rate of 57%. National Origin (Hispanic) testing indicated a differential treatment rate of 44%.

Impediment II: Home Mortgage Lending data shows Native Americans, African Americans and Hispanics are more likely to be denied financing or obtain sub-prime mortgages.

- In 2005, white applicants had the lowest denial rate of all conventional mortgage applicants.
- Native Hawaiian and Other Pacific Islanders are denied conventional mortgage financing at much higher rates than whites and Asians, while African-Americans, Hispanics, Native Americans and Alaskan Natives were also denied conventional financing at higher rates than whites and Asians.
- In 2005, white re-finance applicants had the lowest denial rates. American Indians had the second lowest denial rates and Asians and Hispanics were the next lowest. The highest denial rates were experienced by Native Hawaiian and Other Pacific Islanders and Blacks or African Americans.
- Both nationally and within the Anacortes Mount Vernon MSA, the use of subprime mortgages has increased substantially. Nationally and in this MSA, households of color are disproportionately likely to obtain subprime mortgage financing.

Impediment III: Members of the public, especially housing professionals and community service providers, have limited knowledge of protected classes, fair housing laws and the resources available to them.
• Survey responses indicate a lack of knowledge about fair housing protections, including a lack of familiarity with protected classes.
• Survey responses reflect an interest in more fair housing education and outreach to increase knowledge of fair housing topics and rights.

Impediment IV: Zoning and land use decisions can have a discriminatory impact on protected classes under federal and state fair housing laws.

• Evidence of community opposition to group home placement in Skagit County can have far reaching impact in local cities.
• The City of Anacortes's wording in its 2008 Action Plan to limit participation in Community Land Trust housing to persons employed within the city limits may have an impact on persons covered under federal and state fair housing laws.

Recommendations

To address the impediments to fair housing choice identified in this report, it is recommended that the City of Anacortes strengthen its commitment to affirmatively further fair housing. Implementation of the following recommendations will enhance Anacortes's interest in fair housing activities and alleviate remaining impediments to fair housing choice:

Recommendation I: Expand Current Education and Outreach Efforts.

It is critical that the City of Anacortes take steps to ensure that fair housing is fully integrated into its housing and human services strategies to better reach the community, especially those most affected by housing discrimination. It is recommended that the City of Anacortes:

A. Expand education programs and materials for the community.
B. Promote fair housing educational programs for local housing providers.
C. Develop fair housing educational programs for housing and human services agencies and staff who serve protected classes, especially immigrants, families, persons with disabilities and Native Americans.
D. Ensure fair housing informational resources are made available to community partners to facilitate their ability to affirmatively further fair housing.
E. Ensure that translated fair housing materials are available to immigrant groups.
F. Increase fair housing information and expand inks to fair housing laws/programs on the City of Anacortes web site. Advocate with newspapers, real estate organizations, and housing providers to increase accessibility to fair housing internet resources on their web sites and to display fair housing information/resources in their offices. Advocate for inclusion of the publisher's non-discrimination statement in local print media and including links or information that pertain specifically to state and local protected classes.
Recommendation II: Implement Fair Housing Testing Activities

Complaint data and testing activities in Anacortes and Skagit County demonstrate that protected classes encounter differential treatment when seeking housing. To alleviate such impediments and to measure progress in correcting discrimination, it is recommended that the City of Anacortes:

A. Initiate testing of housing providers to measure their willingness to make reasonable accommodations for prospective disabled residents. Additional Native American and Hispanic testing is also recommended.
B. Utilize complaint and testing results to inform education and outreach efforts.

Recommendation III: Target homeownership and lending marketing to Hispanic households and people of color.

A. Ensure fair housing is incorporated into homeownership initiatives.
B. Ensure that Anacortes funded housing programs are working with banks with favorable Community Reinvestment Act (CRA) ratings.
C. Work with banks to promote high CRA ratings and to invest in Anacortes’s borders.
D. Work with real estate organizations, banks and lending institutions to increase marketing to Native American and Hispanic homebuyers.
E. Work with developers and grantees to affirmatively market first time home buyer opportunities to communities of color, especially projects utilizing City assistance.
F. With the foreclosure crisis, educate communities of color on sub-prime loans.

Recommendation IV: Consider policies that encourage inclusion of individuals covered by protected classes under federal and state fair housing laws.

A. Consider land use policy revision to ensure a mechanism for requesting reasonable accommodations and include opportunities to publicize the new provisions.
B. Carefully consider the costs and benefits to low-income individuals of Community Land Trusts and the City’s wording in the 2008 Action Plan that participants work within the city limits.

Conclusion

The City of Anacortes is committed to incorporating fair housing into its programs and activities. The City’s investments to educate its citizens about fair housing and support for testing to identify impediments to fair housing will enable Anacortes to increase fair housing opportunities and to serve as a model for implementing initiatives designed to affirmatively further fair housing.
Appendices
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Protected Classes</th>
<th>Complaint Filing / Investigative Process</th>
<th>Penalty</th>
<th>Potential Problems with Ordinance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>X X X X X X X X</td>
<td>File with HUD.</td>
<td>Up to $110,000 per violation.</td>
<td></td>
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<tr>
<td>Washington State</td>
<td>X X X X X X X X X</td>
<td>File with WSHRC.</td>
<td>Up to $50,000 fine.</td>
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<tr>
<td>King County (Unincorporated)</td>
<td>X X X X X X X X X</td>
<td>File with KCCOR.</td>
<td></td>
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<tr>
<td>Pierce County</td>
<td>X X X X X X X</td>
<td>File with City of Tacoma or investigation. If reasonable cause, city will attempt to conciliate. If conciliation is unsuccessful, city can recommend case be heard by county hearing examiner for final determination.</td>
<td>Up to $1000 fine.</td>
<td>No contract executed with Tacoma as ordinance specifies.</td>
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<tr>
<td>Thurston County</td>
<td>X X X X X X X X X</td>
<td>All referred to WSHRC except sexual orientation. Sexual orientation complaints may be filed with Chief Admin Officer. Either party may request mediation, which will be referred to the Thurston County Dispute Resolution Center. If mediation fails, party may elect for arbitration. If arbitration fails, complaint may file civil suit.</td>
<td>None prescribed.</td>
<td>WSHRC does not cover ago.</td>
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<tr>
<td>Bellevue</td>
<td>X X X X X X X X X</td>
<td>According to ordinance: File with city compliance officer for investigation. If no reasonable cause, complainant may appeal to WSHRC. If reasonable cause, compliance officer will seek conciliation. If conciliation fails, complaint will be forwarded to city attorney. According to code enforcement supervisor, all complaints except housing subsidy referred to WSHRC. Housing subsidy complaints handled in manner prescribed by ordinance.</td>
<td>Up to $500 fine per day.</td>
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<tr>
<td>Bellingham</td>
<td>X X X X X X X X X</td>
<td>None prescribed.</td>
<td>Misdemeanor penalties.</td>
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<tr>
<td>Blaine</td>
<td>X X X X X X X</td>
<td>None prescribed.</td>
<td>Up to $500 fine and/or 90 days imprisonment.</td>
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<tr>
<td>Bremerton</td>
<td>X X X X X X X X X</td>
<td>None prescribed.</td>
<td>Up to $1,000 and/or 90 days imprisonment.</td>
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<tr>
<td>Burien</td>
<td>X X X X X X X X X</td>
<td>File with city clerk and assigned to city appointed mediator. If the dispute is unable to be resolved through mediation the issue is referred to arbitration. All expenses shall be borne by both parties.</td>
<td>None prescribed.</td>
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<tr>
<td>Everett</td>
<td>X X X X X X X</td>
<td>None prescribed.</td>
<td>Up to $500 fine and/or 6 months imprisonment.</td>
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<tr>
<td>Kirkland</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td></td>
<td>File with city council for investigation. Council attempts conciliation. If conciliation fails and reasonable cause exists, council forwards to city manager for &quot;appropriate enforcement action,&quot; which could be prosecution.</td>
<td>None prescribed.</td>
<td></td>
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</table>
MEMORANDUM FOR: Community Planning and Development Field Directors  
Fair Housing and Equal Opportunity Regional Directors  
Community Development Block Grant and State Recipients  
Fair Housing Initiatives Program Recipients  
Fair Housing Assistance Program Recipients  

FROM:  
Damaela H. Patenaude, Assistant Secretary for Community Planning and Development, D  
Kim Kendrick, Assistant Secretary for Fair Housing and Equal Opportunity, E  

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

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

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

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

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

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

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

RECORDKEEPING:

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

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

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

FROM: Kim Kendrick, Assistant Secretary for Fair Housing and  
Equal Opportunity, E  
Nelson Bregen, General Deputy Assistant Secretary for  
Community Planning and Development, D

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

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

BACKGROUND:

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

The Consolidated Plan regulations at 24 CFR 91.225 and 91.325 and the AFFH  
certification require the grantee to engage in fair housing planning by conducting an analysis to  
identify impediments to fair housing choice within its jurisdiction, take appropriate actions to  
overcome the effects of identified impediments, and maintain records to document the analysis  
and the actions taken. The regulation at 24 CFR 570.205(a)(vii) makes eligible, as a planning
activity, developing an analysis of impediments to fair housing choice, while the use of CDBG to provide fair housing services may be eligible as a program administration cost in accordance with 24 CFR 570.206 or as a public service in accordance with 24 CFR 570.201(e). Eligible fair housing costs designed to AFFH are detailed in 24 CFR 570.206(c) and include making all persons aware of the range of housing options available, enforcement, education, outreach, avoiding undue concentrations of assisted persons in areas with many low- and moderate-income persons, and other appropriate activities, including testing. States may use the entitlement regulations referenced above for interpretive guidance.

DEFINITIONS OF FAIR HOUSING ORGANIZATIONS:

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

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

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

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

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

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