

## **Analysis of Impediments to Fair Housing (AI)**

MAY 2010

### **Introduction:**

The U.S. Department of Housing and Urban Development (HUD) requires that recipients of federal housing funding conduct, submit and update an Analysis of Impediments to Fair Housing Choice (AI). In addition, HUD's Consolidated Plan regulations (24 CFR 91) require participating states and localities to annually certify that the governing body is affirmatively furthering fair housing. Pursuant to these regulations, states and localities must (1) conduct an analysis of impediments to fair housing choice; (2) take appropriate actions to overcome the effects of impediments identified through that analysis; (3) maintain records reflecting the analysis and actions; and (4) review and update the AI in preparation of the Consolidated Plan to validate the certification of affirmatively furthering fair housing choice.

Fair housing choice is the ability of persons of similar income levels to have the same housing choices available to them regardless of race, color, religion, sex, handicap, familial status, or national origin. In Alexandria, the City's Human Rights Ordinance adds marital status, sexual preference and elderliness as protected classes.

The AI is an assessment of how a government's laws, policies, practices and conditions impact housing choice in a state or locality through the availability and accessibility of its housing. The AI serves to identify and correct any negative impacts on availability or accessibility which are under the control of the government through the analysis of impediments and barriers to fair housing choice. HUD Guidance prescribes review and identification of impediments and barriers in both public and private sector practices.

An impediment to fair housing choice is any action, omission, or decision which is intended to or has the effect of restricting a person's choice of housing on the basis of race, color, religion, sex, disability, familial status or national origin. Such a limitation to fair housing choice constitutes housing discrimination.

Barriers to housing choice are factors that limit a person's choice of housing, such as housing supply and location, or physical. Barriers can also include limiting factors like a homeseeker's source of income, ability to access financing, or limited English proficiency.

### **The AI Process:**

#### **AI Review and Update – An Ongoing Process:**

The preparation of the 2010 AI will include a thorough review and evaluation of current conditions. This draft includes available information and data, and after release to the public, will incorporate public comment, resulting changes and responses. To enhance the evaluation, staff will maximize collaboration and public input by coordinating the analysis with studies and efforts currently in progress including the preparation of the City's Consolidated Plan.

## Demographic Profile

The City of Alexandria is a diverse community and its citizens value that diversity. Data from the U.S. Census Bureau, 2006-2008 American Community Survey indicate that the percentage of minority households exceeds national averages, as indicated in the table below.

Racial and Ethnic Profile			
Source: U.S. Census Bureau, 2006-2008 American Community Survey			
		Alexandria	National
Total population	140,657		
One race	137,085	97.5	97.8%
White	92,693	65.9	74.3%
Black or African American	29,040	20.6	12.3%
American Indian and Alaska Native	381	0.3	0.8%
Asian	7,929	5.6	4.4%
Native Hawaiian and Other Pacific Islander	73	0.1	0.1%
Some other race	6,969	5.0	5.8%
Two or more races	3,572	2.5	2.2%
Hispanic or Latino (of any race)	18,473	13.1	15.1%

A map illustrating the racial and ethnic distribution of the City's population using data from the 2000 US Census can be seen at Appendix I. The 2006 – 2008 American Community Survey does not contain updated information on the geographic distribution of racial and ethnic populations within the City.

Alexandria values diversity and the Alexandria City Council's Strategic Plan illustrates this. Council's statement and objectives for Goal 7 of the Strategic Plan place high priority on maintaining and improving diversity and housing choice, especially for low-income Alexandrians, and includes a variety of objectives to protect and increase housing choice.

### Goal 7 Statement (Released March 4, 2010)

*Alexandria is a caring and inclusive community that values its rich diversity, history and culture, and promotes affordability.*

In preserving diversity, the City recognizes the need to preserve affordable housing. A report prepared for the Brookings Institution Center on Urban and Metropolitan Policy entitled "*Dealing with Neighborhood Change: A Primer on Gentrification and Policy Choices*" offers the following analysis:

"The issue of gentrification has historically included a strong racial component—lower income African American residents are replaced by higher income white residents. In fact, in most (but not all) gentrifying neighborhoods examined in the case studies, minority households (African American as well as Latino) have predominated in recent decades, and some argue that this residential segregation occurs with the tacit support of public and private sector institutions and traditions. As a result, *an influx of higher*

*income households inevitably will put pressure primarily on historically minority communities.” (emphasis added) <sup>1</sup>*

The first of three objectives included in Goal 7 of Council’s Strategic Plan reflects Council’s understanding of the direct effect of availability of affordable housing on the housing choice of individuals and families protected by fair housing laws. The supply of affordable housing impacts the housing choice of racial and ethnic minorities, families with children, persons with disabilities and other special populations. The City’s commitment to diversity seeks to include households and individuals at all income ranges and in all circumstances.

Incentives developed to accomplish Object 1 of Goal 7 of include the following:

**Objective 1:** Promote a continuum of affordable housing opportunities for all residents, especially those most in need.

**Initiatives:**

- 1) Achieve a net increase in the number of dedicated affordable rental and ownership units in the City by 2015, through the development and implementation of sustainable and adequately funded development and preservation strategies, including seeking any state legislative changes that may be necessary.
- 2) Create and plan for livable communities that are accessible and affordable to persons of all ages and abilities, including strategies to enable seniors and persons with disabilities to age or remain in place, by 2015.
- 3) Increase opportunities (funding and/or units) for City and ACPS employees to live (own or rent) affordably in Alexandria, and increase employee awareness of such opportunities, by 2015.
- 4) Provide increased housing choices for low and moderate income households of three or more persons, by 2015.
- 5) Offer a diversity of housing choices for households and individuals covering the entire range from 0 to 50% of median, with special attention to households with extremely low-incomes (30% of median and below), including households with special needs, by 2015.
- 6) Identify zoning and land use tools and strategies to incorporate affordable housing in development and redevelopment efforts in the City and to locate such opportunities strategically with regard to employment centers and transportation, and subsequently begin implementation of those strategies, through the Housing Master Plan, by 2015.

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<sup>1</sup> Maureen Kennedy and Paul Leonard, “Dealing with Neighborhood Change: A Primer on Gentrification and Policy Choices,” A Discussion Paper Prepared for The Brookings Institution Center on Urban and Metropolitan Policy, April 2001.

## **Location of Affordable Housing**

A map of public and privately owned assisted housing is included at Appendix II. These properties are generally dispersed throughout the City, but with concentrations around the City's perimeter.

## **Waiting Lists**

In its October 9, 2009, Public Housing Agency Plan, ARHA reported that the Housing Choice Voucher (HCV) program (Section 8) waiting list was closed at the time of the submission, and had not been opened for six years. There were 749 households on the list, and average annual turnover was estimated to be approximately 49 households per year. ARHA did not anticipate that the waiting list would reopen in FY2010.

ARHA reported that households on the HCV program waiting list included 89.3% households at or below 30% AMI (Extremely Low-Income), 7.3% between 31% and 50% AMI (Very Low-Income), and 3.4% between 51% and 80% AMI (Low-Income). The waiting list for Chatham Square and BWR is also closed with 25 households waiting, and an average annual turnover of four units. Households include 2.5% Extremely Low-Income, 40% Very Low-Income, and 57% Low-Income households. The elderly/disabled waiting list is closed and includes 1965 households, 93.2% of which are Extremely Low-Income, 6.6% Very Low-Income, and .2% Low-Income.

## **Complaint Data**

In addition to the federally protected classes, the City's Human Rights Ordinance adds marital status, age and sexual orientation. The City's ordinance provides a range of fair housing protections and enforcement options. Although the City's Human Rights Ordinance has not been recognized by HUD as being substantially equivalent to the Federal law, staff is exploring the possibility of seeking a HUD designation of the ordinance as substantially equivalent.

A person who believes he or she is a victim of housing discrimination can file a fair housing complaint with HUD the Virginia Fair Housing Office, and the Alexandria Human Rights Office. Human Rights Office staff estimate that housing questions and complaints comprise about 10% of all contacts and inquiries made to the Alexandria Human Rights Office, and between 5% and 10% of the formal complaints filed under the Human Rights Code. However, staff notes that many complaints are related to public housing waiting lists or alleged lease violations, and it is often difficult to tie those to protected status. Staff responds to many inquiries concerning accessibility that do not result in formal complaints. Human Rights staff estimates that approximately 2500 contacts are tracked during each City fiscal year.

Human Rights complaints are tracked by federal fiscal year to use the same case management system for EEOC employment cases. Housing complaints and status/determination are summarized below.

**FFY 2008** (Oct 1, 2007 - Sept 30, 2008)

*6 Housing Complaints (of 58 Total)*

3 Race/Retaliation - No Cause (all 3 same Complainant)

1 Race - No Cause

1 Age/Disability - No Cause

1 National Origin - No Cause

**FFY 2009** (Oct 1, 2008 - Sept 30, 2009)

*5 Housing Complaints (of 73 Total)*

1 Disability - No Cause

1 Familial Status/Retaliation - No Cause

1 Sexual Orientation/Retaliation - Settled w/Benefits

2 Marital Status/Familial Status - Open

**FFY 2010** (Oct 1, 2009 - Sept 30, 2010)

*1 to date*

1 Color/Disability – Open

### **Needs of Special Populations**

A Residential Needs Assessment conducted by the Alexandria Community Services Board (ACSB) indicated that while existing programs generally are meeting needs of current consumers, there are on going wait lists for ACSB residential services. The data indicate that the CSB is not meeting all of the demand for residential support services for Alexandrians with mental health or substance abuse disorders. Approximately 65% of the unaccompanied homeless individuals counted in the point-in-time survey were identified as having a serious mental illness and/or substance abuse disorder. (For all practical purposes, residential wait lists did not exist in our ID residential program, suggesting that, to our knowledge, our current services are adequate to meet current needs).

Some survey data and much anecdotal information indicate that many individuals leaving state hospitals as well as some current residential consumers need medical support and have highly intensive residential support and supervision needs. It is unlikely that these individuals will be able to move on to greater independence and are not likely to be effectively or efficiently served in the best practice model of residential service.

In addition to the need for housing with support services, the study found that there are Board consumers who *do not need* residential supportive services, but who *do need* affordable housing without supports. Market rate housing is not accessible to the vast majority of Board consumers. The lack of affordable housing alternatives also means that current residents of Board residential programs, who may no longer require supportive services, have no choice but to remain in Board residential programs because of the lack of affordable alternatives. The inability of current residents to move on into their own homes prevents others in need of Board residential programs from being served.

In conclusion, the Needs Determination Study found significant congruence between what individuals served by the Board want, what staff believe they need and what the research literature says actually works and is effective.<sup>2</sup>

## **IMPEDIMENTS AND BARRIERS TO HOUSING CHOICE**

Location, supply and accessibility of affordable housing in Alexandria constitute the greatest barriers to housing choice.

### **Impediment: High Cost of Housing**

One of the greatest challenges to Alexandria in affirmatively furthering fair housing choice is its highly desirable location and the high cost of land. The City's proximity to Washington, DC, job opportunities, public transportation, and excellent government services, has created high demand for housing and an extremely strong housing market.

Apartment vacancy fluctuates, but remains very low in Alexandria and regionally in the Washington D.C. area rental market. Alexandria's rental apartment conditions are extremely strong when compared to national trends. "U.S. Census Bureau News," reported that the national vacancy rate for rental housing was 10.7 percent in the fourth quarter of 2009. Vacancy in January

City-wide average rents increased 4.7% from January 2008 to January 2009. From 2000 to 2009, average rents increased 52.6% Citywide, an average of 5.8% per year, with the highest annual increase during this period from 2001 and 2002, when rents increased 13.3%.

### **Impediment: Diminishing Supply of Affordable Housing**

There are great disparities between salary levels and the number of affordable housing opportunities for people living in our city; for example, over 40% of Alexandria jobs provide salaries within 60% of the area median income but less than 15% of our market rate rental stock is affordable to residents at this income level.<sup>3</sup> The City's commitment to producing and preserving affordable housing is challenged by a dwindling pool of available resources at the federal, state and local levels, along with the current turmoil in the financial markets.

Of the 3,722 publicly-assisted units in the City, only 1,150 are protected by a preservation/replacement Policy (Resolution 830). 1,580 publicly-assisted units face potential loss of subsidy during the next Five-Year Consolidated Plan period (FY 2011 – 2015).

From 2000 to 2009, Alexandria lost nearly 10 thousand privately owned, non-assisted affordable rental housing units because of increases in rents or, to a limited extent (109 units), conversion to condominium ownership.

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<sup>2</sup> Alexandria Community Services Board, Department of Mental Health, Mental Retardation and Substance Abuse, "Residential Needs Determination," March 2008.

<sup>3</sup> Job information is based on the average salary of each industry; affordability calculation reflects income level for a three-person household. It is acknowledged that salary does not necessarily equate to household income as many households have income from more than one job.

Tenant-based subsidies (Housing Choice Vouchers) are hamstrung by federal funding and rising rents. The ARHA-administered housing choice voucher program suffers from inadequate HUD funding, and because of a decline in the available affordable rentals in Alexandria, voucher recipients at times experience increased difficulty using vouchers within the city. In some cases, housing choice vouchers are used in some publicly-assisted units to make units affordable to households that cannot afford rent levels targeted to households at 50% or 60% of median.

From 2000 to 2008, Alexandria lost more than 15,800 affordable ownership units due to increases in ownership home values.

### **Impediment: Foreclosures and Sub-prime Loans**

Residential foreclosures in the City increased from only 21 in 2006 to 364 in 2008. Although the rate of foreclosures has declined to 157 in 2009, HUD foreclosure risk scores indicate that indicate that areas of the City with greater minority concentrations are at greatest risk for foreclosure. These risk scores were applied to U.S. Census tracts to identify concentrated areas of recent sub-prime lending (more than 26% of all loans) between 2004 and 2008.

HUD data indicated a high risk of foreclosure in Hume Springs, resulting in NSP I funding. Staff research revealed that from January 2008, through December 2009, 25 of the 152 homes (16.4%) in Hume Springs (Mark Drive, Edison Street, and Dale Street) were foreclosed, listed as short sales, or withdrawn from sale and soon to be undergoing foreclosure. Thirteen of these properties were re-sold with the remaining 12 units being listed as Real Estate Owned (REOs) and short sales.

High foreclosure risk scores were applied to two Census tracts in the City's West End (1.03 and 4.01) in an analysis prepared for NSP II funding target areas. Data indicate that in Census Tract 1.03 83% of borrowers with high cost loans (i.e. sub-prime loans) issued between 2004 and 2007 were Hispanic. In addition, 89% of these borrowers earned less than 80% of the Area Median Income. Data for Tract 1.04 reflect that 55% of borrowers with high cost loans were Black and 30% were Hispanic.

### **Impediment: Regulatory Constraints**

In May 2009, the final report of the City's Affordable Housing Initiatives Work Group included two key findings indicating potential barriers, resulting in recommendations for further review and actions. These two findings (summarized below), as well as other potential regulatory barriers are currently being considered in a citywide Housing Master Plan, discussed further in the following section.

#### **AHIWG Key Findings**

1. Under the existing system, affordable housing competes with many other community benefits requested of developers (e.g., underground parking, open space and upgrades to utilities and infrastructure). The City's ability to secure or fund new affordable units is accomplished largely through developer willingness and ability to offer a contribution of money and/or units in accordance with a voluntary, tiered formula drafted in 2005. In the absence of legislative authority to mandate the provision of affordable housing on site (except in cases where bonus

density is requested), only a small number of units result from the City's negotiations with developers, relative to overall project size.

2. Constraints in the City's Master Plan, including constrained density and requirements for consistency with existing patterns of development, are sometimes barriers to affordable housing development. The City's common practice of limiting density also limits opportunities for efficient creation of new affordable housing. The lack of a comprehensive citywide plan for the quantity, type, ownership and preservation of affordable housing is also a challenge. Community opposition can compound this problem as developments which propose substantial components of new affordable housing often face neighborhood resistance.

### **Impediment: Inadequate Supply of Housing for Extremely Low-Income Households with Special Needs**

The limited number of affordable housing units for extremely low-income households creates a barrier to housing choice for households with special needs by limiting opportunities for movement through shelter and supported housing programs.

The ACSB Needs Assessment reports that individuals with a mental illness or co-occurring disorder are disproportionately represented in the homeless population. The shortage of affordable housing places individuals with a mental illness or substance abuse disorder at higher risk of homelessness and seriously undermines the effectiveness of any treatment or rehabilitation services that are provided. People with disabilities are often very poor or have very low incomes. In fact in FY 07, 90% of ACSB consumers reported an income below \$24,999 and 42% had incomes of less than \$5,000. In addition to low income, stigma of having a mental illness and income has been found to be a major barrier to affordable housing for individuals with a mental illness

Most ACSB consumers are disabled and have very low incomes. While we know that stable housing and effective community integration are associated with individuals having housing choice, board consumers simply do not have choice available to them due to non-affordability. Despite the long wait lists at ARHA, the MHSA residential program has had access to a supply of Housing Choice Vouchers through an ARHA set aside for individuals with a disability. However, individuals with substance use disorders are not eligible for these Vouchers, which further limits access to affordable housing alternatives.

In addition, when individuals and families in transitional and supported residential housing are stabilized and able to move on, there are few units available to them given the financial limitations of these households. This creates an impasse, causing delayed access for households waiting for supportive and transitional housing that could otherwise be served.

### **EFFORTS TO AFFIRMATIVELY FURTHER FAIR HOUSING CHOICE AND ELIMINATE DISCRIMINATION IN ALEXANDRIA**

#### **Fair Housing Testing**

The Office of Housing operates a Fair Housing Testing Program designed to identify discriminatory practices in the rental housing, real estate sales and mortgage lending markets. The program is monitored by the City Council-appointed Fair Housing Testing Program

Advisory Committee. The City trains and provides stipends to pairs of testers who conduct tests to identify evidence of discrimination in the provision of housing. Where testing has found some evidence of discrimination, a formal complaint of discrimination can be filed with the City's Human Rights Office. Following further investigation, the Human Rights Office prepares a decision determining whether discrimination occurred. The Human Rights Office then attempts to conciliate the case between the Fair Housing Testing Program and the respondent. The City's Human Rights Commission could ultimately be called upon to hold a public hearing on the case and make a final decision of discrimination.

Since the Fair Housing Testing Program started in 1990, the Office of Housing has conducted a series of tests to identify discriminatory housing practices in real estate sales, lending, and rental housing based on race, national origin, familial status, disability, and sexual orientation. A summary of the test results of all categories tested since the program was initiated in 1990 follows below. These data allow for comparison of the test results to measure progress in industry compliance with fair housing laws. This information is also helpful in evaluating the effectiveness of City programs, including testing, fair housing education, outreach, and enforcement activities.

<b>Fiscal Year</b>	<b>Market/TestType</b>	<b>Protected Class</b>	<b>Sites</b>	<b>% Problem</b>	<b>Action</b>
1990	Rental Apts	Race/NatOrg (Hisp)	79	20%	1 Complaint \$10,000 Settlement
1991	Rental (Realtors)	Race/NatOrg (Hisp)	21	13%	Remedial Action
1992	Rental Apts	Familial Status	71	11%	1 Complaint \$4000 Settlement
1993/1994	Rental Apts	Disability	78	10%	3 Complaints \$2500 Settlement
1996	Rental Apts	Race	20	0	No Problems Found
1997	Rental Apts	Sexual Orientation	75	5%	Remedial Action
1998	Sales	Race/NatOrg (Hisp)	16	23%	3 Complaints \$10,000 Settlement
1999	Rental Apts	Disability	70	3%	Remedial Action
2000	Lending	Race/NatOrg (Hisp)	13	7%	Remedial Action
2000	Rental Apts	Race/NatOrg (Hisp)	72	4%	Remedial Action
2001/2002	Rental Apts	Familial Status	85	2%	Remedial Action
2003/2004	Rental Apts	Multiple Bases	83	1%	Remedial Action
2005/2006	Sales	Race/NatOrg (Hisp)	12	0	No Problems Found
2006	Lending	Race/NatOrg (Hisp)	11	0	No Problems Found
2007	Rental Apts	Race/NatOrg MidEast/Asian	73	4%	Remedial Action
2008	Rental Apts	Race/NatOrg (Hisp)	64	3%	Remedial Action
2009	Lending	Race	8	0	No Problems Found

### **Fair Housing Education**

The Alexandria Office of Housing provides on-going fair housing training through seminars industry professionals and on-site fair housing training for individual companies. The Alexandria Office of Housing and the Landlord-Tenant Relations Board host an annual seminar

for Apartment Managers, and this training includes fair housing training. On-site training is provided to real estate offices, lending firms, and property managers or owners of rental housing upon request. Fair Housing training is provided as part of remedial action responses in cases where problems occur in fair housing tests.

In addition, Landlord-Tenant Relations Division staff is available to answer questions from the public and housing industry professional regarding fair housing and housing discrimination. Staff responds to inquiries from homeseekers who believe they have experienced discrimination, and frequently from property managers seeking to avoid actions that could be considered discriminatory.

### **Voluntary Rent Guidelines**

Since 1950, the Code of Virginia has prohibited localities from enacting rent control. However, for over 20 years, the City has encouraged landlords to limit rent increases in accordance with the City's Voluntary Rent Guidelines. The City's Voluntary Rent Guidelines are suggested maximum rent increases for existing tenants, but they provide no authority to the City to enforce the guidelines against landlords who fail to comply with them. Under current Virginia law, the City's rent guidelines must remain voluntary, as the City has no authority to mandate that rent increases be held to any recommended percentage.

The Landlord-Tenant Relations Board reviews the City's Voluntary Rent Guidelines and makes annual recommendations to City Council regarding the adequacy of the Voluntary Rent Guidelines. In preparing its recommendations, the Board considers rent data, market forecasts and vacancy surveys by Delta Associates, a national real estate consulting firm. The Board also considers market rent and vacancy data prepared by the Office of Housing in its annual apartment survey, as well as data compiled by Real Estate Assessments. In reviewing these data, the Landlord-Tenant Relations Board attempts to set the guidelines at a level that will account for inflation and property owners' increases in cost, without unduly burdening tenants. The 2009 resolution adopted by City Council recommended increases of no more than 5.5% if the tenant pays utilities and no more than 7.5% if the landlord pays utilities.

### **Foreclosure Prevention and Neighborhood Stabilization**

The City has taken steps to assist Alexandrians in avoiding foreclosure and to stabilize its neighborhoods. City staff includes trained foreclosure prevention counselors, and the City contracts with Housing Counseling Services to provide both classroom and individual counseling for homeowners at risk of foreclosure.

Recognizing the destabilizing influences of vacant and foreclosed properties in Alexandria, particularly in Hume Springs, the City sought and obtained Neighborhood Stabilization Program (NSP) funding. NSP funds are being used to stabilize communities by acquiring, rehabilitating and reselling homes to low and moderate income City residents and workers. The City partnered with Rebuilding Together Alexandria and the Alexandria Housing Development Corporation, nonprofit housing providers to implement the program. The NSP partnership also included businesses and financial institutions. Commonwealth One Federal Credit Union, the owners of the first property sold under the NSP, partnered with the City to provide the property at a price

that met the guidelines of the program. Long and Foster of Old Town and Union Mortgage Group donated significant time and expertise to the NSP program as well.

### **The Housing Master Plan**

The Housing Master Plan process, which began April 1, 2010 and will conclude around June 2011, is being managed by an Advisory Group comprised of the Alexandria Affordable Housing Advisory Committee plus an additional six appointees. All meetings are open to the public and participation by the entire community is actively encouraged and widely advertised.

The goals of the Housing Master Plan process include:

- To make recommendations to ensure a more balanced geographic distribution of affordable, workforce and public housing throughout the City;
- Define and/or establish goals for mixed-income housing;
- Enhance community understanding of housing choice as a critical component of Alexandria's economic sustainability strategy;
- Develop strategies for affordable, workforce and public housing preservation and production through development and zoning tools and resources; and
- Consider a proposed Priority Housing Unit Policy designed to enhance/broaden the quantity and range of housing identified for preservation.

### **RECOMMENDATIONS**

Evaluate all barriers identified and establish strategies for addressing impediments.

Develop a strategy for effective testing to include current issues and potentially discriminatory trends in the housing market.

Continue and enhance current efforts to affirmatively further fair housing choice and identify any new initiatives through the AI and Housing Master Plan processes.



