

**LOUDOUN COUNTY
FIVE YEAR FAIR HOUSING PLAN
with
ANALYSIS OF IMPEDIMENTS
For the 2009-2013 Consolidated Plan**



**EFFORTS TO AFFIRMATIVELY FURTHER
FAIR HOUSING**

May 2009

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Virginia Fair Housing Law	

1. GENERAL BACKGROUND

Section 104(b) (2) and 106(d) 5 of the Housing and Community Development Act of 1974, as amended, specifically require Community Development Block Grant (CDBG) program grantees to certify to “affirmatively further fair housing choice”. Congress reiterated this obligation in Section 105(b) (13) of the National Affordable Housing Act of 1990.

Congress made it clear that one of the Act’s principal objectives was to improve housing opportunities for all qualified people, particularly members of the protected classes on a non-discriminatory basis.

In order to comply with the above requirement to “affirmatively further fair housing choice,” the U.S. Department of Housing and Urban Development (HUD) mandated States and Entitlement CDBG jurisdictions to certify, in their local Consolidated Housing and Community Development Plan, compliance to further fair housing choice. However, Congress decided that more than a certification was needed. Therefore, the Fair Housing Planning Process was developed. This process requires CDBG program grantees to develop a local Fair Housing Plan (FHP) and a detailed Analysis of Impediments (AI) that prevent or hinder fair housing choice.

HUD requires jurisdictions to annually monitor progress and submit an annual performance summary report to HUD as part of the Consolidated Plan and Performance Report submissions.

The AI is a comprehensive review of a state’s or local community’s laws, regulations, administrative policies, procedures and practices. It requires an analysis of how these laws, policies, procedures and practices affect the location, availability and accessibility of housing, as well as an assessment of private and public conditions affecting housing choice. The following areas were reviewed for Loudoun County.

i. Socio-Demographics - such as census tract data, racial group concentrations, population size and anticipated growth or decline, economic status and income mix of the population, employment opportunities and availability of transportation;

ii. Housing Profiles - such as location (rural vs. urban areas of the County) new construction, population growth rates, age and condition of existing housing stock, costs and affordability, racial/ethnic mix of housing occupants, segregated areas, barrier or clustering of low-cost or affordable housing in certain areas, familial status, as well as accessibility for disabled persons;

iii. Political, Public, Private and Community Support or Lack of Support for Promoting Housing Choice - such as County ordinances and other regulations, policies, practices or procedures that might discourage housing choice, landlords, banking and lending institutions, citizen participation and education regarding rights to fair housing choice and other related activities;

iv. Physical Characteristics and Infrastructures - such as road conditions and/or existence of water, sewer and other utility availability.

2. INTRODUCTION AND JURISDICTIONAL BACKGROUND DATA

HUD requires jurisdictions to provide background data and other information that serve as the basis for identifying impediments to fair-housing choice and reviewing fair-housing performance. The following are highlights of the most current available data on Loudoun County's population, employment, transportation and housing resources.

A. Community Profile Overview

For more than two centuries following its founding in 1757, agriculture was the dominant way of life in Loudoun County. That profile and the County's relatively constant population of about 20,000 began to change in the early 1960s when Washington Dulles International Airport began operations in the southeastern part of the County. The airport brought public water and sewer to the eastern part of the County and attracted scores of new businesses, workers and their families to the area.

At the same time, neighboring Fairfax County and the rest of the Washington, D.C., metropolitan area began a period of rapid growth. Major road improvements made commuting to and from the County much easier, attracting more and more residents to the eastern part of the County. In the past decade the population of the County has more than doubled, and today it is a growing and dynamic community of about 270,000 residents.

The County continues to be in transition, with rates of population and job growth that substantially exceed those of the other counties in Virginia and the rest of the nation. Over the past five years, the County led the Northern Virginia region with a population growth of 52 percent. In FY 2006 nearly 8,000 jobs were added to the local economy.

Location

Loudoun County is located approximately 25 miles north and west of Washington, D.C., and is considered part of the Washington, DC-VA-MD-WV metropolitan area. The County is bordered by Fairfax County and the Potomac River to the east, the Potomac River to the north, Clarke County and Jefferson County, WV to the west, and Prince William County and Fauquier County to the south. It includes seven independent towns: Hamilton, Hillsboro, Leesburg, Lovettsville, Middleburg, Purcellville and Round Hill. Leesburg, the county seat, is the largest town with a 2006 population of approximately 38,000 people.

Geography

Loudoun County encompasses 520 square miles and is physically diverse. Much of the western two-thirds of the County is rural, while the eastern part of the county is more densely populated and developed. In 2000, more than three-quarters of the population was centered in Leesburg and in the rapidly growing areas between it and the Fairfax County line. The County's land use and housing development policies are based on rural, transitional and suburban designations for planning purposes.

B. Demographic Profile

Population Growth

Loudoun County has experienced rapid population growth. The County's household population grew from 169,599 in 2000 to an estimated 278,591 in 2008¹, an increase of 64 percent. The County was recognized by the U.S. Census Bureau as the second fastest growing county in the nation between 2000 and 2007 among counties with a population greater than 100,000². It accounted for 33 percent of the population growth of the Northern Virginia region from 2000 to 2007². The County's population is forecasted to grow to more than 314,000 persons by 2014¹.

Household Size and Composition

In 2007 there were an estimated 95,659 households in the County, 79,259 owner-occupied (83%) and 16,400 renter occupied (17%)³. The average household size was 2.84¹ people. Household composition was 31 percent non-family and 69 percent family and. This figure includes both married-couple families (60 percent) and other families (9 percent).

Income

The median income of households in the County in 2007 was the highest in the nation at \$107,207, more than double the national median. Ninety-one percent of the households received wage and other earnings and 12 percent received retirement income other than Social Security. In 2007, three percent of people were in poverty. One percent of all families and 4 percent of families with a female householder and no husband present had incomes below the poverty level.⁴

Population by Race and Ethnicity

The Census Bureau reports that the percentage of the County's population that is minority increased from 20 percent in 2000 to 33 percent of the population in 2007, reflecting national and regional trends in which minorities have followed jobs to suburban and exurban locations. Approximately 20 percent of the County's population in 2007 was foreign born. From 2000 to 2007, the white population had the largest amount of growth, and the Asian population had the fastest rate of growth.⁴

The most recent estimates of the racial and ethnic composition of the County's population for people of one race based on 2007 data are as follows: 77% White, 8% Black or African American, 12% Asian, and 3% Other. Ten percent of the people in Loudoun were Hispanic. (Note: "Hispanic" is a designation of ethnicity; people of Hispanic origin can be of any race).²

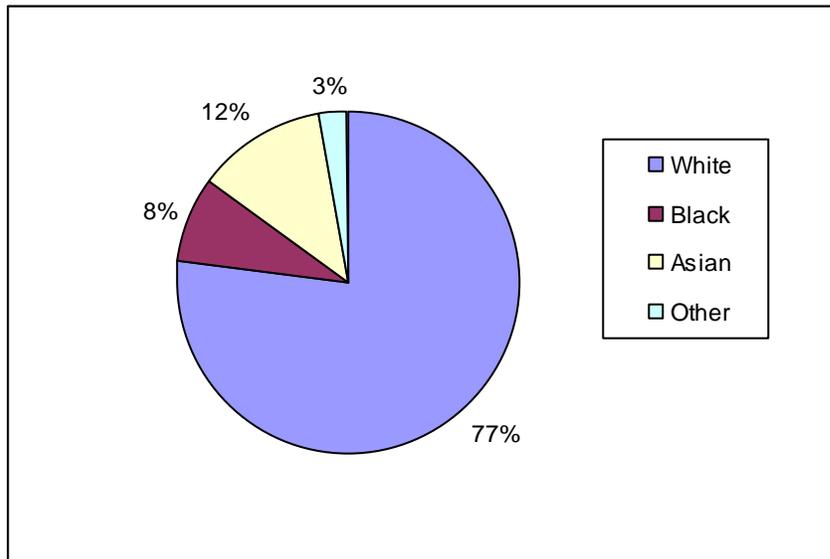
¹ Loudoun County Department of Management and Financial Services

² U.S. Census Bureau, *2007 Time Series Estimates*

³ U.S. Census Bureau, *2007 American Community Survey; Loudoun County Department of Management and Financial Services.*

⁴ U.S. Census Bureau, *2007 American Community Survey*

Population by Race – Percentage Distribution



Population by Age

The County’s population is relatively young. The median age of County residents in 2007 was 32.8 years, compared to 36.7 for the nation⁴. Approximately 32 percent of the population is 19 years or younger and 6 percent is 65 years and older².

Population by Disability Status

A recent report by the County Disability Services Board found that the incidence of disabilities approximates the estimates compiled by the National Center for Health Statistics for hearing, visual and other impairments. The Census Bureau reported that in 2007, 6 percent of County residents above the age of 5 reported a disability⁴.

C. Economic Development, Employment and Transportation

According to the County’s 2006 Annual Report, the County experienced dramatic job growth of more than 130 percent in the past decade. Nearly 8,000 new jobs were added to the local economy in 2006. The County’s employment base is diverse, with construction, retail trade and services each representing a ten percent or greater share of employment. Transportation and technology-related employment also comprise a significant share of the County’s major businesses. America Online, Loudoun Hospital Center, M.C. Dean, Inc., Orbital Sciences, Verizon Business, and United Airlines are among the largest employers in the County. According to the Virginia Employment Commission, the County’s unemployment rate for August 2007 was 2.2 percent, tying Fairfax County and Greene Counties and the City of Alexandria for the third-lowest unemployment rate in Virginia. From the fourth quarter of 2005 to the fourth quarter of 2006, employment rose by 3 percent in the County, nearly double the employment growth for the Northern Virginia region during the same period.

Public Transportation

Public transportation is available but is limited. Virginia Regional Transit, a non-profit organization, provides local bus service within the County on weekdays. It provides regular, fixed-route bus service as well as limited on-demand transportation within the County. All buses are wheelchair accessible.

Loudoun County Transit operates express rush hour commuter service from several park and ride lots in the County to the West Falls Church Metrorail station, the Pentagon and employment centers in Arlington, VA and Washington, D.C. Loudoun County Transit also provides reverse-commute bus service from the West Falls Church Metro to employment sites in the Loudoun communities of Ashburn, Sterling, Lansdowne and Leesburg.

D. Housing Profile

Housing Characteristics and Development Patterns

The housing stock in the County is diverse and is in good condition. Ninety-nine (99.9) percent of the occupied housing units in the County are suitable for habitation. According to data from the Department of Management and Financial Services, in 2007 the County had an estimated total of 101,000 housing units, 8.1 percent of which were vacant. Of the total housing units, 54 percent were in single-family detached units, 29 percent in single-family attached units, and 16 percent were in multi-unit structures. Sixty-eight percent of the housing units were built since 1990.

Much of the western three-quarters of the County is rural, while the eastern part of the county which borders Fairfax County is the most densely populated and most highly developed. Most of the population and housing stock are centered in the older established neighborhoods in Leesburg and in the rapidly growing areas between it and the Fairfax County line.

Housing Tenure and Homeownership Rates

Loudoun County has a lower percentage of renters and a higher percentage of owners than the national average. In 2007, the County had the lowest percentage of renters (17%) and the highest percentage of owners (83%) of all the jurisdictions in Northern Virginia. Housing in the County is expensive

Housing Costs

Housing in the County is expensive. According to the County's Monthly Economic Indicators for 2007, the average sale price in July 2007 was \$535,717 for all categories of residential development. The average was \$666,822 for single-family detached homes; \$421,480 for single-family attached homes and \$285,391 for units in multi-family dwellings. Real estate values and development have stabilized recently at a level consistent with other jurisdictions in Northern Virginia, but they remain among the highest and fastest growing in the nation.

Housing Affordability

A 2006 report prepared for the Housing Advisory Board appointed by the County Board of Supervisors examined housing demand and supply. It found that there is a shortage of rental and owner-occupied units available for low and moderate income workers in the County,

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especially those employed in retailing, local government, warehousing, transportation and construction.

In 2006, based on indicators in the American Community Survey, about 43 percent of Loudoun County households overall had housing costs exceeding the 30 percent monthly housing cost standard, as compared to 23 percent in 2000; about 42 percent of County homeowners in 2006 had monthly housing costs that exceed 30 percent household income, as compared to 21 percent in 2000; and approximately 48 percent of the renters in the county in 2006 spent 30 percent or more of household income on gross rental costs, as compared to 31 percent in 2000. The lack of affordable housing is a serious problem for low-and-moderate income families in the County and the entire Washington metropolitan area. As of July 2007, the waiting list for the housing choice voucher rental program was closed to new applicants. The County's efforts to address the need for affordable housing are addressed in the Consolidated Plan for the Community Development Block Grant Program. On September 18, 2007 the County adopted an amendment to the Comprehensive Plan to broaden and update county-wide housing policies. The amendment includes policy revisions that clarify the County's ongoing need for affordable housing and provides program initiatives to address the need.

Homelessness

Statistics from the 2007 Loudoun County Homeless Enumeration Report indicate that the County saw a 15 percent increase in the overall homeless count from 2006 to 2007 (from 184 to 211). While the number of homeless individuals counted remained relatively the same (82 in 2006 and 81 in 2007), the number of family units increased by 22 percent (31 families in 2006 and 38 in 2007). Although the overall number was not a huge increase, there were some significant changes in specific categories within the survey.

Housing Assistance Programs

The County's Department of Family Services oversees a number of housing programs designed to assist low-and-moderate income families. These programs include:

- Housing Choice Voucher Rental Program (Section 8 Rental Assistance)
- Family Self-Sufficiency
- Affordable Dwelling Unit (ADU) For-Sale Housing Opportunity Program
- Affordable Dwelling Unit (ADU) Rental Program
- Down payment/Closing Cost Assistance Program
- Eastern Loudoun Revitalization Program
- Loudoun County Home Improvement Program
- Sponsoring Partnerships and Revitalizing Communities (SPARC)
- Homeless Intervention Program
- Homeless assistance programs for emergency and transitional housing
- Virginia Initiative for Employment Not Welfare (VIEW)

The County uses federal, state and local funds to operate these programs. It recently established a Housing Advisory Board and a Housing Fund and created two positions of Housing Policy Manager and Housing Development Manager to address affordable housing

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needs. See the County's Consolidated Plan for additional discussion of these and other programs.

3. ANALYSIS OF IMPEDIMENTS

Based on the County's Five Year Fair Housing Planning Document and after agreement with County staff, six areas were identified which present impediments to fair housing choice. In addition to the specific impediments, background information and recommended actions for overcoming the impediments are included.

The actions to be considered to implement the County's overall strategy to "affirmatively further fair housing" include monitoring housing affordability and County policies, practices and procedures that might create impediments to fair housing choice. The County will regularly evaluate its progress during the next several years in addressing the identified needs and objectives listed below.

The general thrust of the County's remediation efforts under the AI for addressing and/or correcting perceived or real impediments will focus on analysis, information gathering and dissemination, community support, investigation and educational programs and outreach.

The County will coordinate remediation efforts undertaken with the State of Virginia and federal agencies.

Impediment 1: Lack of Fair Housing Enforcement Authority through a Human Rights Commission or other Entity.

The County does not have a Human Rights Commission or other entity in place to enforce fair housing rights and remedies on behalf of its residents. As a result, there is no enforcement mechanism for residents who are victims of housing discrimination which may create an impediment to fair housing. Also, there is no way to quantify the rate or basis of housing discrimination that may be occurring in the County.

Recent nationwide HUD research shows that the number of housing discrimination complaints filed with HUD and state and local government Fair Housing Assistance Program (FHAP) agencies increased steadily between fiscal years (FY) 1998 and 2006, with an increase of 12 percent from FY 2005 to FY 2006, reaching a record high in FY2006. (*See The State of Fair Housing, FY 2006 Annual Report on Fair Housing.*) It is not clear what caused the increase in complaints but, despite the rise, studies released by HUD also suggest that only a small fraction of individuals who believe they have experienced discrimination file a fair housing complaint with a government agency. It is, therefore, likely that the number of complaints filed fall short of the actual instances of housing discrimination that occur. There are various reasons for why individual instances of housing discrimination go unreported. They include the difficulty victims have recognizing more subtle forms of discrimination, cynicism about a positive outcome for filing a complaint and lack of knowledge by members of the public about fair housing rights and the complaint process. The HUD housing discrimination studies suggest that such underreporting is a major obstacle to achieving equal opportunity in housing.

According to estimates provided by HUD, nationally, 70 percent of fair housing complaints relate to a rental transaction. While, traditionally, the primary basis of discrimination

complaints received by HUD and FHAP agencies were based on race, in recent years, the percentage of fair housing complaints based on disability has steadily increased. In fact, in FY 2006 there were approximately equal numbers of complaints based on race and disability. Disability related complaints alleging failure to make a reasonable accommodation showed a 14 percent increase between FY 2005 and FY 2006. A reasonable accommodation is a change in a rule, policy, practice or service that a housing provider makes to enable a person with a disability to use and enjoy a dwelling.

The General Assembly enacted Virginia's first fair housing law in 1972. (Attachment 1). The Virginia Fair Housing Law mirrors the federal Fair Housing Act and contains the additional protected class of elderliness. The federal law authorizes HUD to review local and state fair housing laws to make a determination of whether these laws contain rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under the Fair Housing Act. Once a local or state enforcement agency has been certified, HUD will refer complaints of housing discrimination received at the federal level to the certified agency for investigation and resolution. HUD has made a determination that the Virginia Fair Housing Law is substantially equivalent to the federal law. The Virginia Fair Housing Office (VFHO) is authorized to enforce the State's Fair Housing Law. The VFHO investigates complaints that are filed within one year of the termination of the alleged discriminatory act. The VFHO may mediate a complaint by informal conciliation.

The VFHO is an arm of the Virginia Real Estate Board. The Virginia Real Estate Board has the power to revoke, suspend or fail to renew real estate licenses.

Impediment 2: Lack of Knowledge by the General Public of Fair Housing Rights and Responsibilities under Federal and State Fair Housing Laws:

As mentioned above, HUD reports indicate that not only housing providers but also a large percentage of the public are not familiar with fair housing laws. That being said, a large percentage of the public also does not know how to recognize housing discrimination. In addition, those who experience housing bias may not know what recourse they have or who to contact to file a complaint and some may be skeptical about the process. The results of a survey included in HUD's 2006 Annual Report on Fair Housing reveals that only a small fraction of individuals who believe they have experienced housing discrimination file a fair housing complaint. The report also provides results from a survey showing that members of the public who were better informed were much more likely than less well informed individuals to take some kind of action when faced with perceived housing discrimination.

As HUD reports indicate, a large percentage of housing providers are unfamiliar with their responsibilities under fair housing laws. Some regulated industries mandate fair housing instruction as part of continuing education requirements. The Virginia Fair Housing Office offers a free training seminar that provides continuing education credits to real estate licensees and certification credits to property management professionals. However, other housing industry persons, for example, mom and pop landlords, trailer park owners and homeowner association boards, do not have easy access to fair housing information.

Impediment 3: Lack of a Fair Housing Ordinance.

The County does not have a Fair Housing Ordinance that establishes a mechanism for filing, investigating and conciliating housing discrimination complaints. Enacting a Fair Housing Ordinance is a major component in establishing a Human Rights Commission or other enforcement entity to resolve discrimination complaints on behalf of County residents. The absence of a process provided by the County diminishes its ability to affirmatively further fair housing. The mechanism for filing, investigating and resolving housing discrimination complaints is commonly offered to residents and to home seekers by county governments who seek to serve those who seek to buy or rent housing. A County process facilitates successful home purchases and rentals while minimizing misconduct when discrimination is being practiced in the housing market.

The cooperative working-sharing relationship between federal, state and local anti-bias agencies has evolved in accordance with the federal Fair Housing Act to shift protection against housing discrimination to local authorities. While federal efforts continue to offer protection, the rationale behind this legislation recognizes that local hands-on intervention can maximize housing choice and minimize the obstacles which may unlawfully obstruct the marketplace. The cooperative partnership also supports local anti-bias efforts by increasing the ability of local government to serve those who seek to exercise housing choice.

As mentioned above, the federal law authorizes HUD to determine whether a local or state government's fair housing laws contain rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under the federal law. Once a local or state enforcement agency has been certified as substantially equivalent, HUD will refer complaints of housing discrimination to the certified agency for investigation and resolution. The advantage of the complaint referrals will be to aid the County in assessing the extent to which housing discrimination is being practiced within the jurisdiction. Moreover, the referrals offer the County a hands-on capacity to facilitate resolution of a housing dispute efficiently. The referrals also convey to residents and to home seekers that the County has the first-responder status to help them in their housing search when obstacles obstruct choice. This is especially important in addressing population influx and is a demonstrable method of affirmatively furthering fair housing.

Substantially equivalent agencies are eligible to participate in the Fair Housing Assistance Program (FHAP). FHAP permits HUD to use the services of substantially equivalent local and state agencies in the enforcement of fair housing laws, and to reimburse these agencies using a variety of FHAP funds. The FHAP funding available includes contributions funding for complaint processing, training and administrative costs. One of the benefits of substantial equivalency is FHAP funding which can help defray costs of fair housing enforcement at a local level. County staff would also be eligible to participate in HUD sponsored regional and national FHAP fair housing training programs.

FHAP participation offers the County a process underwritten by the federal government to enhance knowledge and professionalism to residents and to home seekers who call the County for housing help. The availability of FHAP funding for training would serve to enhance the ability of the County to address housing discrimination issues and affirmatively further fair housing because it underwrites the cost of training County employees assigned to

assist in responding to inquiries concerning housing discrimination once HUD determines that the County has a substantially equivalent agency meeting the governing standards for intake, investigation and resolution of housing bias cases.

Impediment 4: Lack of a Comprehensive Testing Program to uncover Discrimination by Housing and Housing-Related Service Providers.

HUD discrimination studies have uncovered relatively few instances of blatant discrimination, in which housing providers told individuals they would not rent or sell to them because of their race or other protected class characteristic; the discrimination was much more subtle and therefore much harder to detect. HUD studies using paired testers, in which testers were matched on personal and financial characteristics and differed only on the attribute being tested, such as a person's race, national origin, were more likely to uncover differences in treatment between white and minority testers.

In 1979, HUD conducted a comprehensive testing study that examined housing discrimination in forty (40) metropolitan cities throughout the United States. The study documented the pervasiveness of discrimination experienced by minorities in obtaining housing. Among other things, the results of the study showed that an African American was likely to experience discrimination 72% of the time he or she searches for rental housing. Discrimination in the sales market was equally pervasive, although the study showed a higher incidence of discrimination in the rental market than in the sales market.

HUD conducted a similar study a decade later. As in the earlier study, the results of the study reported in 1989 showed that African Americans and Hispanics were likely to experience discrimination 50% of the time they searched for rental housing. Again, the study showed a higher incidence of discrimination in the rental housing market than in the sales housing market.

Two decades later, HUD conducted a third national testing study utilizing similar methodology. The study results issued by HUD in 2003 showed that African Americans were likely to experience discrimination nearly 21% of the time and Hispanics nearly 25% of the time they searched for rental housing. The study once again showed a higher incidence of discrimination in the rental housing market than in the sales housing market.

A study conducted in 2005 in the Chicago area, found that hearing impaired individuals experienced discriminatory treatment nearly one-half of the time when using a telephone relay to search for rental housing. The same study also found that individuals using wheelchairs experienced adverse treatment one-third of the time while looking for rental housing.

In 2006, utilizing the services of a consultant, a limited sample of tests were conducted at apartment complexes, new construction sales offices and lending institutions located in Loudoun County based on race and national origin (Hispanic). Only a small sample of testing was completed in each housing provider testing category. This preliminary testing was designed to provide guidance on how to proceed with future testing in the County. The

test results from this small sample showed that there were no differences in treatment found in the rental, sales or lending tests based on race or national origin.

Impediment 5: Lack of County Review Concerning Compliance with the Design and Construction Provisions under the Federal and State Fair Housing Laws.

The federal Fair Housing Act provides for design and construction requirements of covered multifamily dwellings first occupied on or after March 13, 1991. Covered multifamily dwellings are defined as “buildings consisting of four or more units if such buildings have one or more elevators: and ground floor units in other buildings consisting of four or more units.” 42 U.S.C. Sections 3604(f)(7)(A)and(B). Federal law states that discrimination includes a failure to design and construct multifamily buildings in such a manner that, for example, the public and common use areas of the buildings are readily accessible to and usable by disabled persons. The Virginia Fair Housing Law has similar provisions.

State and local governments can incorporate the design and construction requirements into law, for example, through building codes, to meet compliance with the federal law. The federal law permits State and local governments to review and approve newly constructed covered multifamily buildings to determine whether the design and construction requirements have been met. 42 U.S.C. Section 3604(C)5(B).

The absence of County intervention concerning these issues can result not only in the deprivation of the rights of residents, but can place substantial economic burden on development because of unawareness of design and construction requirements. It can lead to costly litigation, including substantial government fines and retrofitting of units authorized under the federal Fair Housing Act.

Impediment 6: Overcrowding, Zoning and a Shortage of Affordable Housing.

Loudoun County is one of the highest cost areas for housing in the nation. The average sale price in July 2007 was \$535,717 for all categories of residential development as set forth in the Housing Profile Section of the AI. Recently released census data show high median household incomes that extend across racial groups in 2006 for the Washington metropolitan area. Fairfax County is the most affluent large county in the country followed by Loudoun County which has the second highest median household income among large counties at \$99,371.

Even though the County has ongoing and diverse affordable housing programs, as mentioned in the Introduction and Jurisdictional Background Data Section of this AI, a 2006 report prepared by the Housing Advisory Board found that there is a shortage of rental and owner-occupied units available for low and moderate income workers in the County. The plight faced by low and moderate income home seekers continues to plague the County as well as the entire Washington metropolitan area, which struggles to achieve meeting those housing needs.

A factor in the County’s progress in this respect has been the recent designation by HUD as an Urban Entitlement County. This designation entitles the County to receive annual

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allocations of federal housing and community development funds for use within the County. With the receipt of Community Development Block Grant (CDBG) funds in July, 2004, the County has the resources to increase housing opportunities and expand housing choice. The County's affordable housing programs, including the ADU and Housing Trust Fund programs, provide housing choice assistance to low and moderate income residents of the County.

As stated above, the rapid increase in population growth and substantial rise in housing costs has resulted in an insufficient number of affordable housing units available to low and moderate income residents. As a result of these economic conditions, some residents are pooling resources and sharing housing costs. The County has seen houses being rented to a large number of adults in some neighborhoods in possible violation of zoning, code and health and safety laws. The converse is also true of homes being purchased for the purpose of renting out rooms to numerous occupants raising overcrowding issues. This situation has led to an increase in complaints to local officials and demands for stricter enforcement of zoning laws. There are concerns that the situation has intensified inter-group tensions in some communities. The 2006 HUD report previously mentioned indicates that fair housing problems can occur when, for example, minority homes are targeted for enforcement of overcrowding ordinances. The issue of overcrowding in housing is a problem shared by many jurisdictions in the Washington metropolitan area. Neighboring Fairfax County, for example, has established cross-functional teams to address issues of overcrowding.

Loudoun County has responded by adopting the Virginia Uniform Statewide Building Code/International Property Maintenance Code in September, 2004. The Residential Overcrowding Section of the Virginia Code is enforced by the Enforcement Section of the Zoning Administration Division, Department of Building and Development. A full time bilingual (Spanish) inspector has been dedicated to investigating residential overcrowding complaints for the County since January, 2005. The County received 224 excessive residential occupancy (overcrowding) complaints between July 1, 2006 and June 30, 2007. Between July 1, 2007 and September 6, 2007, the County received 143 complaints of overcrowded homes. The Zoning Enforcement staff prepared a brochure, *Loudoun County Residential Occupancy Ordinances*, in an effort to educate residents about zoning requirements. The brochure sets forth standards for residential units and is available in both English and Spanish on the County website.

Regulation of land use and housing falls within the function of local and regional government as a proper exercise of its police power and its efforts to regulate density issues attached to its presumed validity. *Warth v. Seldin*, 422 U.S. 490 (1975). The Virginia Supreme Court has also held that the power to regulate the use of land by zoning is a legislative power that is presumed valid and reasonable. *Board of Supervisors v. Southland Corp.*, 224 Va. 514, 521, 297 S.E. 2d 718, 721 (1982). The federal Fair Housing Act applies to local government zoning and housing regulation. A city or local government can be liable if it selectively enforces its zoning or housing ordinances. *Walker v. Crigler*, 976, F.2d 900 (4th Cir. 1992). Enforcement of zoning codes must be uniform and responded to in the same manner in order to comply with federal fair housing law.

4. PROJECTED AND RECOMMENDED ACTIONS

Impediment 1: Lack of Fair Housing Enforcement Authority through a Human Rights Commission or other Entity.

The County should establish a centralized office and/or telephone information line within the County government where residents can obtain information about how to file a complaint with the Virginia Fair Housing Office (VFHO). The County should also obtain available fair housing materials from the VFHO to distribute to residents who seek information about filing a discrimination complaint. The County may serve residents better with an understanding of the function and breadth of the VFHO. The County can aid both residents and home seekers about how the VFHO can assist them in the event they encounter perceived housing discrimination. By increased familiarity with the VFHO, the County's ability to affirmatively further fair housing can be manifested by providing information to various groups of home seekers and residents by expanding knowledge to these groups concerning their fair housing rights. Additionally, the County's ability to affirmatively further fair housing can be achieved by responding to these inquiries and making referrals to the VFHO.

The practicality of complaint referrals is evident because those who seek to buy or rent within the County may be unaware of resources outside the County's borders to aid them in addressing hurdles they face in seeking a home. Fair housing is affirmatively furthered because the nature of housing bias is often subtle. Aid offered by outside agencies, staffed with housing specialists familiar with discrimination practices, serve knowing or unwitting victims of housing bias which necessarily restricts housing choice. Fair housing is therefore advanced when an awareness of outside agencies can be utilized by the County for the benefits of its citizens and for those who seek to reside in the County.

The County should establish a working group within the government that would include relevant agencies and others to study the feasibility of establishing a Human Rights Commission or other enforcement entity. With increasing population and a developing housing market, experience has shown that housing choice limitations commonly trigger concerns by home seekers that the denial of housing may be for reasons not permitted by law. The County becomes the natural first-responder agency and must be equipped to receive and to respond to those concerns. The working group can examine area agencies which could lead to enhancing the ability of the County to affirmatively further fair housing by authorizing the County to investigate housing discrimination complaints and to seek their resolution by conciliation or by other methods.

The working group can further examine how the creation of a Human Rights Commission or other enforcement entity can benefit County services and the County's ability to be responsive to inquiries concerning perceived housing discrimination. The Human Rights Commission or other enforcement entity would have the power to receive and investigate complaints of housing discrimination. The working committee would make recommendations about the establishment of a Human Rights Commission or other enforcement entity within the County.

The existence and operation of a Human Rights Commission or other enforcement entity affirmatively furthers fair housing by providing the County the means to quantify the extent to which, if at all, persons seeking to live within the County experience unlawful housing practices. Moreover, to the extent housing bias complaints are received, fair housing is affirmatively furthered through the investigatory process and resolution mechanism established by the County. Where unlawful housing practices are identified, fair housing for the County, its residents and its home seekers is advanced because agency operation facilitates resolution. Finally, the existence of a process provided by the County creates a deterrence for those inclined to engage in unfair housing practices.

Some Northern Virginia jurisdictions, for example, have established Fair Housing Boards or Housing Commissions that serve by appointment. These Boards or Housing Commissions meet monthly or quarterly and are supported by a part-time or full-time staff person.

Recommended Time Line: One year beginning in 2009 for the implementation of a centralized office or telephone line for information about the VFHO and two years (2009-2011) for the working group to study creating a Human Rights Commission or other enforcement entity and making recommendations to the County.

Impediment 2: Lack of Knowledge by the General Public of Fair Housing Rights and Responsibilities under Federal and State Fair Housing Laws:

The County should plan to provide and promote information on housing discrimination to the general public, particularly to those groups most affected and to social service agencies and community and neighborhood groups that serve those constituents. Examples of some of the information the County should plan to provide includes information on:

- (a) state and federal fair housing laws;
- (b) rights and responsibilities protected under fair housing laws;
- (c) legal options available to victims of housing bias;
- (d) the consequences and costs of violating fair housing laws.

As previously mentioned, the County should plan to establish a centralized office and/or telephone information line within the County government where residents can get information about how to file a complaint with the Virginia Fair Housing Office. The County should get information about this service to the public through public service announcements, the County website and through informational notices posted, for example, at libraries, schools, social service and community service offices and other government offices and agencies. The County should plan to obtain and distribute fair housing brochures available from HUD or the VFHO to the public.

The County should explore ways to sponsor fair housing training seminars with professional housing industry associations located in the County and the VFHO that will enable, landlords and other housing providers who are not members of professional associations, to participate and learn about fair housing rights and responsibilities. The County should explore ways to make fair housing training an annual event in celebration of April, which has been designated by the federal government as Fair Housing Month. Additionally, the County should offer

and promote education and outreach services to housing providers, their employees and related associations.

The County should continue to explore ways to raise awareness of fair housing in the community through, for example, public service announcement, fair housing facts and updates on the County website, fair housing poster contests in the schools and outreach to citizens groups.

Recommended Time Line: On-going for five years beginning in 2009.

Impediment 3: Lack of a Fair Housing Ordinance.

Loudoun County should establish a working group to study the development and implementation of a fair housing ordinance. The working group would study the feasibility of pursuing substantial equivalency certification with HUD. Eligibility to underwrite the cost of operation may be available through legislative enactment which empowers the Human Rights Commission or other enforcement authority to accept and investigate housing discrimination complaints which would depend on HUD approval in the event the County enacts legislation substantially equivalent to the federal Fair Housing Act. This could be an additional function of the working group which would assist the County in understanding the process by which eligibility might be established. The working group would make recommendations that would be coordinated with relevant County agencies. The County is benefited by being an effective first-responder to unlawful housing practices through a process of application to HUD once it determines the value of a fair housing ordinance substantially equivalent to HUD standards. It will benefit the County as a hands-on resource to those seeking housing and, if granted substantial equivalency status, will secure the economic benefits of federally funded underwriting for training and for complaint processing.

Recommended Time Line: Two years (2009 – 2010).

Impediment 4: Lack of a Comprehensive Testing Program to uncover Discrimination by Housing and Housing-Related Service Providers.

Fair housing testing is an invaluable tool in assisting the County in reaching its goal to insure that all home seekers are free from housing bias. The County should plan to continue monitoring compliance with fair housing laws through its fair housing testing program. A comprehensive testing program combined with enforcement efforts provides a powerful incentive for local housing providers to comply with fair housing laws.

Fair housing testing also assists the County in assessing the extent to which housing bias is practiced within the County. If coupled with enforcement capacity, it can have first-responder capacity in (a) facilitating housing choice for those seeking to reside in the County and (b) curbing housing bias when confronted by home seekers seeking to reside in the County. Moreover, testing is the substantive informational basis on considering an array of responses in order to affirmatively further fair housing.

Loudoun County Five Year Fair Housing Plan with Analysis of Impediments

The County should plan to continue and broaden its testing efforts, for example, to include disability and families with children. The County is committed to insuring that all home seekers are treated fairly and a broader examination of housing practices would benefit the County and the people it serves. The County should contract under the Northern Virginia Regional Fair Housing contract for testing services. Costs for testing will be based on the number and type of tests. It is projected that the source of the funds will be from the Community Development Block Grant (CDBG) funds. The County should conduct the following testing over a five year period:

Phase 1. - Rental Tests – Race and National Origin – July 2009

Phase 2. - Rental Tests – Familial Status and Accessibility – July, 2010

Phase 3. - Real Estate and New Construction Sales – July 2011

Phase 4. - Lending/HMDA Study – July, 2012

Phase 5. - Rental Tests – Comprehensive (all inclusive) – July, 2013

Final Consolidated Report of all Testing – 2013

The results of each phase of testing will be reported to the County and made available on the County website. The County also has the option of meeting with housing providers who were tested and where a difference in treatment was reported in the test results. Such a meeting provides the opportunity for the County to inform the housing provider of testing discrepancies and to monitor future compliance (i.e. creation of fair housing policies by the housing provider and staff training).

Recommended Time Line: Annually based on the above or a similar schedule.

Impediment 5: Lack of County Review Concerning Compliance with the Design and Construction Provisions under the Federal and State Fair Housing Laws.

The above demonstrates the value of constructive intervention and suggests that the County may need to consider new approaches to deal with any compliance issues. One way to achieve this would be to convene a special task force comprised of officials from relevant County agencies, representatives of the disabled community, developers, architects and other interested parties. The task force would be charged with developing intervention strategies to:

- i. Develop new approaches to ensure compliance with fair housing design and construction requirements, including ways to strengthen contacts between architects, developers and County building inspectors, as well as representatives of the disabled community and interested parties.

- ii. Explore ways to monitor design and construction within the County by possibly utilizing pre-construction mechanisms such as a check list (setting forth design and construction requirements), permit review and inspections.
- iii. Advance ways to better coordinate and deliver education and outreach efforts to participants in design, construction and oversight of all new multifamily developments and to members of the disabled community.

The County should plan to develop ways to provide education and outreach services to members and representatives of the disabled community regarding their rights with respect to design and construction requirements, including various legal options available if violations are encountered. The County should also explore efforts to educate developers and others involved in the design and construction of multifamily building about their legal obligations and responsibilities with respect to fair housing laws and the financial costs and consequences of failure to comply.

In addition, the County should emphasize to builders and other housing industry professionals the business advantages of complying with fair housing laws. Demand for accessible units is not limited to members of the disabled community. The increasing costs of single-family homes and the aging population will also increase demand for multifamily housing in the future. The more accessible units a property has, the more likely it is to hold a competitive advantage in the market place.

The County should also monitor compliance with design and construction requirements by developing an accessibility testing program as part of its comprehensive testing program discussed above.

Recommended Time Line: On-going for five years beginning in 2009.

Impediment 6: Overcrowding, Zoning and a Shortage of Affordable Housing.

Preservation of affordable housing has been a concern of the Board of Supervisors which commissioned a study in 2006 and recently adopted housing policies. The County has ongoing and diverse affordable housing programs as mentioned above. The County should plan to persist in efforts to strengthen the cooperative relationships with non-profit service providers and the business community to initiate and maintain effective housing and community development efforts. The County should continue to identify affordable housing opportunities and programs in the Consolidated Plan. Neighboring jurisdictions, for example, have initiated funding programs that dedicate one penny of the real estate tax rate to the preservation and production of affordable housing. The County should review and study the creation of innovative programs as well as other options to help alleviate the shortfall of affordable housing stock.

While overcrowding is an appropriate area of control by local governments, the County should continue to ensure that the enforcement of overcrowding in violation of zoning and health and safety laws is enforced uniformly to avoid fair housing issues. The County should continue to enforce code requirements on a countywide basis. Land use and density issues continue to be critical elements in addressing overcrowding and related matters. Uniformity

of enforcement by the County advances fair housing and equal opportunity through non-discriminatory treatment of its residents.

Recommended Time Line: On-going for five years beginning in 2009 .

5. MONITORING AND REPORTING

CDBG grantees are required to maintain records and source data used to create the original AI as well as to retain copies of all amendments to the original document.

Further, HUD requires that a least annually, the original AI be monitored to include the status of actions and accomplishments completed, or the need to amend the analysis of impediments.

The AI is to be incorporated in the overall Consolidated Plan with a status report submitted to HUD annually as a part of the Consolidated Plan's Annual Performance Reporting requirement. HUD suggests that the AI be updated every three to five years consistent with the Consolidated Plan cycle.

6. CONCLUSION

Consistent with "affirmatively furthering fair housing", the County has examined in detail potential obstructions which might impede the fullest opportunities for housing choice throughout the County. The County has a candid recognition that, with rapid population and housing development growth, it remains a challenge to create and maintain a sufficient number of affordable housing units to meet the greatest need of those who are least able to afford conventional housing within the County. The County should continue to explore avenues to offer home seekers a broad choice of housing opportunities.

Continued monitoring of the housing market using a comprehensive, focused and effective testing program provides a powerful incentive for local housing providers to comply with fair housing laws. Testing also allows the County to more accurately measure compliance and act on any related enforcement issues. Ongoing testing, coupled with effective outreach and education programs on fair housing compliance issues are essential components of the County's efforts to minimize housing bias in the housing market and ensure that equal opportunity is a reality in the County.

The County should focus attention on design and construction of new housing to insure full compliance with fair housing laws. Additional involvement by the County through inspection, along with testing, should enhance compliance in order to maximize housing opportunities for the disabled. Communication between County officials, architects, builders, developers and real estate professionals on fair housing compliance issues when constructing multi-family dwellings will also enhance housing availability for the disabled residents.

Loudoun County Five Year Fair Housing Plan with Analysis of Impediments

The County should commit to study the establishment of a Human Rights Commission or other enforcement entity and enactment of a corresponding fair housing ordinance in order to affirmatively further fair housing.

The County should commit to address the impediments to fair housing addressed above.

Appendix

Virginia Fair Housing Law