

City of Bellingham

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE



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FAIR HOUSING CENTER
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I. Executive Summary

Introduction

The City of Bellingham is a fair housing leader among Washington communities who receive federal housing and community development funding. The City of Bellingham pro-actively assesses fair housing choice in its community and this *Analysis of Impediments to Fair Housing Choice* (AI) builds on the analyses conducted in 1996 and 2002.

The federal Fair Housing Act requires the Secretary of the U.S. Department of Housing and Urban Development (HUD) to administer the Department's housing and community development programs in a manner to affirmatively further fair housing." The Housing and Community Development Act of 1974 and the National Affordable Housing Act, as amended, govern the administration of CDBG and HOME funding and require participating jurisdictions to certify that they will affirmatively further fair housing.

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

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

The City of Bellingham will receive an estimated \$868,381 in CDBG funds and \$635,173 in HOME funds in federal fiscal year 2007.

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 Bellingham contracted with the Fair Housing Center of Washington to conduct this "*Analysis of Impediments to Fair Housing Choice*" that identifies road blocks or "impediments" affecting fair housing choice in Bellingham. Following is the executive summary of this report.

HUD requires that the AI include:

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

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

- Census and other demographic data
- Consolidated Plan and associated planning documents
- Washington State Office of Financial Management
- Fair housing complaint data maintained by HUD
- Fair housing complaint data maintained by the Washington State Human Rights Commission
- 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

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 the following impediments to fair housing choice in Bellingham:

Impediment I: Housing discrimination primarily affects persons of color, the disabled, and families with children. Fair housing complaints based on disability are the most frequent and nearly three-fourths of disability complaints involve failure to provide reasonable accommodation. Between 2001 and 2006, the Fair Housing Center conducted 68 rental tests in Bellingham. 56% of tests indicated instances of differential treatment based on race, national origin or familial status.

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.

Impediment III: The public at large has limited knowledge of protected classes, fair housing laws and the resources available to them.

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

- Recommendation I:*** Expand current education and outreach efforts, especially related to persons with disabilities and families with children and standardize and better integrate fair housing information into programs and on-line resources offered by sub-recipients.
- Recommendation II:*** Continue ongoing enforcement activities and initiate further testing of housing providers to measure their willingness to make reasonable accommodations for prospective disabled residents. Additional Native American and familial status testing is also recommended. Utilize the results of complaint and testing results to inform education and outreach efforts.
- Recommendation III:*** Target homeownership and lending marketing to African American, Native American and Hispanic households by ensuring fair housing is incorporated into homeownership initiatives, engaging real estate organizations, banks and lending institutions to increase marketing to African American and Hispanics homebuyers and ensuring that Bellingham funded first time homebuyer programs track minority involvement in first time homebuyer classes, closure on loans and marketing to African Americans and Hispanics.
- Recommendation IV:*** Ensure implementation of current housing and human services strategies. Continue implementing the housing and human services strategies articulated in the Consolidated Plan and supporting housing and human service programs that affirmatively further fair housing and mitigate identified impediments.

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.”¹

Also in 1968, 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 prohibits discrimination in the provision of housing based on race, color, religion, sex, or national origin. These population groups are known as ‘protected classes’. It authorizes HUD to investigate and attempt to resolve 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 now known as the Fair Housing Act. The new law also 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 in an accessible manner.

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 disability²:

- 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
- 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

¹ United States Commission on Civil Rights, *The Fair Housing Amendments Act of 1988: The Enforcement Report*, (Washington, D.C., 1994), 9

² Federal Register, 24 CFR Part 14 et al., *Implementation of the Fair Housing Amendments Act, 1988: Final Rule*, (Washington, D.C.: United States Government Printing Office, 1989), 3284.

- 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 from coverage three types of housing:

- 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 whose owner does not own more than three single-family homes and does not use the services of a realtor or broker in renting or selling the home. This does not exclude the owner from compliance with the laws pertaining to discriminatory advertising or retaliation.³
- 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 be so designated.

Under the Fair Housing Act, complaints may be conciliated prior to a determination of whether reasonable cause exists to believe that a 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 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.

³ Once a landlord advertises their rental property they are not exempt from Fair Housing Act requirements.

Cases may be administratively closed when the complainant cannot be located, refuses to cooperate or withdraws their complaint with or without resolution.

State and Local Equivalent Protections

States and local governments may adopt fair housing laws. Where those laws are substantially equivalent to the federal law, and where an enforcement agency has been established, HUD can certify the state or local government as a substantially equivalent agency. Absent HUD certification, funding for enforcement of local laws is limited to local sources.

To receive HUD certification, the local agency must demonstrate capacity to enforce fair housing laws that provide the same protections, rights, remedies, and judicial enforcement procedures as the federal law. After certification, the local agency receives HUD referrals of fair housing complaints within its jurisdiction for investigation and processing.

HUD Certified Substantially Equivalent Jurisdiction Protected Classes

Basis	Federal	State	King County	Seattle	Tacoma
Race	X	X	X	X	X
Color	X	X	X	X	X
Creed		X		X	
Religion	X	X	X	X	X
Sex	X	X	X	X	X
Handicap/Disability	X	X	X	X	X
Use of Guide Dog/Service Animal	X	X	X	X	X
Familial status/Parental Status	X	X	X ⁴	X	X
National origin	X	X	X	X	X
Marital status		X	X	X	X
Age			X	X	X
Sexual orientation		X	X	X	X
Gender Identity		X	X	X	X
Section 8 recipient			X	X	
Ancestry				X	X
Political ideology				X	
Veteran or Military Status		X			
Retaliation	X	X	X	X	X

There are four jurisdictions in the State of Washington certified as substantially equivalent known as Fair Housing Assistant Program (FHAP agencies). The laws of all four jurisdictions include prohibitions against discrimination in addition to those in federal law, such as marital status, sexual orientation, or income source:

⁴ King County and the City of Seattle use the term parental status instead of the federal terminology of familial status.

- State of Washington, Washington State Human Rights Commission (WSHRC)
- 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)

Local jurisdictions that pass substantially equivalent fair housing laws may provide for additional protections beyond those enumerated in federal law. In general, the addition of local, non-federal, protected classes will necessitate the allocation of local funds to conduct investigations of the expanded protections.

Protected Classes by Non-Certified Jurisdiction

Basis	Bellingham	Everett	Bremerton	Olympia	Spokane
Race	X	X	X	X	X
Color	X	X	X	X	X
Creed					X
Religion	X	X	X	X	
Sex	X		X	X	X
Handicap/Disability	X			X	X
Familial/Parental Status	X			X	X
National origin	X	X	X	X	X
Marital status	X			X	X
Age	X				
Sexual orientation				X	X
Gender Identity				X	
Section 8 recipient					
Ancestry	X	X	X		
Political ideology					
Retaliation					

Bellingham Municipal Fair Housing Protections

Although not considered substantially equivalent to federal fair housing law, the City of Bellingham proscribes Fair Housing Practices in Section 10 of its municipal code. Last updated in 1998, the City’s code protects citizens from housing discrimination based on race, color, religion, ancestry, national origin, marital status, age, familial status, disability, or sex. Because the state of Washington enforces a fair housing law considered substantially equivalent to federal law, it is not necessary for the City to consider enhancing its fair housing enforcement capacity.

Substantially Equivalent Fair Housing Protections in Bellingham

The State of Washington’s Law Against Discrimination, enumerated at RCW 49.60, provides Bellingham residents substantially equivalent protections to those afforded by the federal Fair Housing Act. In addition to those protections defined in federal law, the State’s Law Against Discrimination protects Bellingham residents from discrimination on

account of marital status, sexual orientation (and gender identity) and veteran or military status as classes protected from housing discrimination.

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's 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.

Protections 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 re-location 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 provided under existing fair housing laws.

III. Fair Housing Complaints

The Complaint Process

Administrative Agencies

A resident of Washington may file housing discrimination complaints with HUD, the Washington State Human Rights Commission (WSHRC), or other FHAP agencies. When individuals file complaints with HUD, they are forwarded to one of the substantially equivalent organizations (listed in Section II of this report)⁵, depending upon where the alleged discriminatory practice occurred. HUD generally refers complaints filed by residents of Bellingham 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 Organizations (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 support a violation of fair housing law. Some complaints will be closed with a 'no-cause'

⁵ Unless the complaints are novel or complex.

determination due to insufficient evidence to support a reasonable cause finding. When reasonable cause finding is determined, the case may be given an administrative hearing or heard in superior or federal court.

Bellingham 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). In addition, individuals claiming discrimination based on non-federally protected classes may seek redress in accordance with specific provisions of the local fair housing ordinance.

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

Bellingham Fair Housing Complaint Data

This analysis considers complaints filed in Bellingham from October 1, 2001 through December 31, 2006. Sixteen (16) complaints with 21 bases⁶ were filed with HUD and the WSHRC. Of 16 cases filed, 13 pertained to rental housing, one involved a shelter and two involved allegations against a subsidized housing provider.

In Bellingham, disability (52%) and national origin (24%)⁷ were the most frequent bases for complaints, followed by race/color (14%) and religion (10%). There were no complaints identified based on familial status, sex, or based on state protected classes, like martial status and sexual orientation.⁸

The Fair Housing Center of Washington filed three complaints based on the results of rental housing testing conducted in Bellingham in 2001 and 2002 (see following section on testing activity in Bellingham). The three complaints alleged discriminatory refusal to rent based on national origin (Hispanic). The WSHRC determined “no reasonable cause” for one complaint and two complaints were settled for \$6500. The settlement included funding for a community fair housing training.

⁶ 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.

⁷ One national origin complaint was filed by a Middle Eastern household; the balance of national origin complaints were Hispanic based.

⁸ The WSHRC did not respond to information requests for fresh data and the analysis of state protected class filings was based on archival records of state complaints maintained by the Fair Housing Center.

The following chart details the distribution of complaints by protected class:

**Bellingham Fair Housing Complaints Filed With HUD and the WSHRC
October 1, 2001 through December 31, 2006⁹**

Date	Protected Classes	Allegation	Status	Outcome	Settlement Terms	Type
10/12/01	Disability	Terms/Conditions, Reasonable Accommodation	Closed	Settled	\$680	Rental
04/26/02	Disability	Reasonable Accommodation	Closed	No reasonable cause	None	Rental
11/08/02	Disability, Religion	Refusal to Rent, Reasonable Accommodation	Closed	Withdrawn	None	Rental
03/16/03	National Origin (Hispanic)	Refusal to Rent, Terms/Conditions	Closed	No reasonable cause	None	Rental
03/16/03	National Origin (Hispanic)	Refusal to Rent, Terms/Conditions	Closed	Settled	\$3,250	Rental
03/16/03	National Origin (Hispanic)	Refusal to Rent, Terms/Conditions	Closed	Settled	\$3,250	Rental
12/01/03	Disability	Reasonable Accommodation	Closed	No reasonable cause	None	Rental
07/23/04	Disability	Refusal To Rent	Closed	No reasonable cause	None	Rental
08/05/04	Disability	Terms/Conditions	Closed	No reasonable cause	None	Rental
01/11/06	Disability	Reasonable Accommodation	Closed	Settled	Subsidy Provided	Subsidized Housing
01/25/06	Disability	Reasonable Accommodation	Closed	Settled	Subsidy Provided	Subsidized Housing
05/04/06	National Origin (Middle Eastern)	Terms/Conditions, Make Housing Unavailable	Closed	Settled	\$30	Rental
05/11/06	Race (Black), National Origin (Hispanic), Disability	Refusal to Rent, Terms/Conditions	Closed	No reasonable cause	None	Rental
07/10/06	Race (Black), Disability, Religion	Refusal to Rent, Terms/Conditions, Reasonable Accommodation	Closed	No reasonable cause	None	Shelter
10/06/06	Disability	Terms/Conditions, Reasonable Accommodation	Closed	No reasonable cause	None	Rental
11/09/06	Race (Black)	Terms/Conditions	Open	Pending	Pending	Rental

⁹ Although the previous AI considered complaints filed through July 17, 2002, this analysis includes two complaints from 2002 because at least one of the two was still open when the last analysis was written.

Allegations

The sixteen complaints alleged 26 discriminatory acts. Of the 26 allegations, 38% alleged discriminatory terms and conditions of application or tenancy, 27% alleged a discriminatory refusal to rent, 4% alleged acts that otherwise made housing unavailable and 31% alleged a discriminatory refusal to rent. As noted, 11 complaints alleged discrimination based on disability. Of the complaints based on disability, 73% alleged a discriminatory refusal to provide reasonable accommodations.

Complaint Outcomes

Of the 16 cases filed between October 1, 2001 and December 31, 2006, 38% were closed through successful settlement or conciliation or withdrawn following a successful resolution. 50% of cases were closed following a determination of “no cause” while another 6% were administratively closed. One complaint remained open at the time this report was prepared.

A total of \$8,610¹⁰ was provided in the course of settling fair housing cases in Bellingham. This included \$680 to settle disability-based complaints and \$7,930 in national origin cases. Though settlements do not necessarily measure the strength of discrimination allegations, settlements merit attention as a variable in considering impediments to fair housing choice.

Bellingham Fair Housing Monetary Settlements by Protected Class 2001-2006	
Disability	\$680
National Origin	\$7930
Total Settlement Awards	\$8610

Non-monetary settlements can be an important source of fair housing redress. While 67% of settled cases resulted in a monetary payment, two cases representing 33% of settled cases were settled without monetary relief. Non-monetary relief can include the provision of various forms of relief like policy changes, subsidized housing, training or accessible parking.

Litigation

The Fair Housing Center of Washington and the Fair Housing Council of Oregon recently settled a lawsuit involving alleged discrimination on the basis of disability in the provision of homeowners insurance. The settlement in *Nevels v. Western World Insurance Company*, filed in the U.S. District Court for the Western District of Washington, provided \$2.0 million in monetary relief and ends nearly four years of litigation and administrative complaints alleging violations of the federal Fair Housing Act. The lawsuit alleged that the company’s practice of terminating and refusing to

¹⁰ Some of the settlement amounts have multiple protected class bases.

renew insurance coverage for adult family homes serving people with mental illnesses, including more than 150 adult family homes in Washington, violated the federal Fair Housing Act.

As part of the settlement, the plaintiffs and Western World agreed to establish a settlement fund for the benefit of all other adult family home operators in Washington and Oregon who received a Notice of Cancellation/Non-Renewal of insurance coverage from Western World between January 1, 2002, and May 7, 2004 that made reference to mental illness or a mental illness designation associated with the insured's adult residential care facility license. The Fair Housing Center identified one adult family home operating in the City of Bellingham that received a Notice of Cancellation/Non-Renewal of insurance coverage from Western World that will benefit from the settlement.

National Trends

An analysis of national trends showed that disability (42.5%) and race (39.3%) represent the most frequent bases for complaints filed with administrative enforcement agencies.

Top Two Protected Classes	National	Bellingham
Disability	42.5% (1 st)	52% (1 st)
Race	39.3% (2 nd)	14% (2 nd)

With respect to national case closures, a determination of reasonable cause was found in 3% of cases, 26% were no cause, 32% were administratively closed, and 37% were either settled or successfully conciliated.

The rate of settlement in Bellingham, at 38% is similar to the national settlement rate of 37%. Unlike national trends, however, Bellingham's rate of no cause findings, at 50%, was higher than the national average.

Closure Type	National	Bellingham
Reasonable Cause	3%	0%
Successful Settlement	37%	38%
No Reasonable Cause	26%	50%

Though per capita complaint data is unavailable at the jurisdictional level, research conducted by the national Housing Assistance Council states that "there were 18.2 fair housing violation complaints per 100,000 households in non-metro areas. By contrast, there were about 25.5 complaints per 100,000 households in metro areas." As a comparator, the Washington State "Analysis of Impediments to Fair Housing Choice" (1996) rates King County with the highest per capita complaints (23) in the State while Whatcom County averaged 13 complaints for every 100,000 residents.

Complaint Statistic Conclusions

1. Fair housing complaints from residents of Bellingham reflect national trends with allegations of discrimination on the basis of disability comprising the most frequently cited protected class.
2. Nearly three-fourths of disability complaints involve failure to provide reasonable accommodations.
3. The rate of successful settlement and resolution of fair housing complaints filed in Bellingham, at 38%, is similar to the national average of 37%.
4. No sales complaints were identified.

IV. Identification of Impediments to Fair Housing Choice

Impediments to Fair Housing Choice in Rental Housing

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 Bellingham 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.¹¹ The following chart highlights statewide FHAP and FHIP-initiated audit testing activities in the past six years:

¹¹ The Northwest Fair Housing Alliance in Spokane conducts complaint and audit testing in Eastern Washington under FHIP contract with HUD.

Non-Profit Fair Housing Agency Audit Testing in Washington State 1998-2006

Fair Housing Center of Washington			
1998	Rental	Disability in Pierce County	30
1999	Rental	National Origin (Hispanic) in Yakima	30
2001-2003	Rental	National Origin (Hispanic & Chinese) - Whatcom/Skagit Counties	30
2003	Sales	Race (Black) & National Origin (Hispanic) Pierce County	30
2004	Rental	Race (Black) and National Origin (Hispanic) Port Angeles	20
2004	Rental/ Sales	Race (Black) and National Origin (Hispanic) Longview/Vancouver	30
2005	Rental/ Sales	Race (Black) and National Origin (Hispanic) Snohomish County	30
2006	Rental	Native American testing for City of Bellingham	21
2006-2007	Rental	Race (Black) and National Origin (Hispanic)	30
2006-2007	Rental	Race (Black) Pierce County	22

Municipal and Enforcement Agency Audit Testing in Washington State 1999-2006

Year	Type	Protected Class	# Tests
City of Bellingham Department of Planning and Community Development			
2006	Rental	Familial Status	10
Seattle Office for Civil Rights			
1999-2000	Rental	Race (Black)	42
1999-2000	Rental	Familial Status	42
2001-2002	Rental	National Origin (Hispanic, Cambodian & Middle Eastern)	105
2003	Rental	Race (Black)	50
2004	Mortgage Lending	Race (Black) and National Origin (Hispanic)	20
City of Tacoma Human Rights and Human Services Department			
2002	Rental	Race (Black) and National Origin (Hispanic)	14
2004	Rental	Familial Status	5
King County Office for Civil Rights			
2002-2003	Rental	National Origin (Hispanic & Cambodian)	30
2005	Rental	Race (Black), National Origin (Hispanic), Familial Status and Disability	39
Washington State Human Rights Commission			
2001-2002	Rental	National Origin (Hispanic) in Thurston County	30

The Fair Housing Center of Washington has conducted over 1,000 complaint based and audit tests in western and central Washington. Testing audits have been conducted in Skagit, Snohomish, King, Pierce, Cowlitz, Clark and Clallam counties.

City of Bellingham 2001/2002 National Origin Audit Testing¹²

Between September 15, 2001 and March 16, 2002, the Fair Housing Center of Washington conducted 27 matched-pair audit tests of housing providers in the City of Bellingham. Funding was provided by the U.S. Department of Housing and Urban Development and was based upon information gathered at a public hearing in the City of Bellingham during the winter of 1996, and reported on in the State of Washington's Analysis of Impediments to Fair Housing Choice (1996).

The apartment complexes were randomly selected through information gathered on real estate web sites, newspapers and by the virtue of driving by available properties. Though the full scope of the national origin audit included properties in Whatcom and Skagit counties, 27 of the properties, comprising 1,752 dwelling units, were located within Bellingham's city limits. Fifteen of the 27 tests utilized Chinese testers and 12 tests used Hispanic testers. The audit showed that 58% of Hispanic home seekers received inferior information when visiting Bellingham rental housing providers. Chinese home seekers received inferior information in 27% of their visits to Bellingham apartment complexes.

Bellingham 2001/2002 National Origin Audit Testing	Tests Indicating Differential Treatment		Tests Without Differential Treatment		Total Tests
	Number	Percent	Number	Percent	
National Origin - Hispanic	7	58%	5	42%	12
National Origin - Chinese	4	27%	11	73%	15
National Origin - All	11	41%	16	59%	27

Differential Treatment in National Origin Audit

The primary difference in treatment between Hispanic/Asian (protected class tester) and white testers (control tester) were in the number of apartments shown. In these tests, the white tester was often shown numerous units while the protected class tester was told that there was no availability or shown one apartment and not told of other availabilities. An additional area of differences was that the protected class and control tester were told of different availability dates. In these situations the control testers were given availability dates that were earlier than that told to the protected class tester. In several tests the white testers were shown apartments and the Hispanic or Asian tester was sent to another apartment complex. More incidental differences in all testing (and not major factors in positive tests) were when rental managers gave application packets, apartment literature and application forms to some and not other testers.

¹² Source: City of Bellingham *Analysis of Impediments to Fair Housing Choice*, 2002.

City of Bellingham 2006 Familial Status Audit Testing

Because the 2001 national origin audit hinted at potential discrimination based upon familial status (the presence of minor children), the City of Bellingham contracted with the Fair Housing Center of Washington to conduct familial status testing in Bellingham. The City-funded audit took place from May 20, 2006 through August 25, 2006 and tested ten properties located within Bellingham city limits containing a total of 1,198 rental units.

The 2006 familial status audit showed that 80% (8 positive tests) of the properties tested indicated differences in the treatment of families with children compared to families without children. Concurrently, 20% (2 negative tests) of the tested properties showed equal treatment of home seekers. The eight properties with indications of familial status discrimination included six sites handled by property management companies and two sites that were owner-managed. Two of the apartment complexes, represented by one management company, had the only two negative tests.

Bellingham 2006 Familial Status Audit Testing	Tests Indicating Differential Treatment		Tests Without Differential Treatment		Total Tests
	Number	Percent	Number	Percent	
Familial Status	8	80%	2	20%	10

Differential Treatment in Familial Status Audit

The primary difference in treatment between testers with children (protected class testers) and testers without children (control testers) was in the number of apartments shown (in 50% of the positive tests). In these tests, non-families were shown and offered more available units than testers with children. An additional area of differences was that the protected class and control testers were told of different availability dates. In these situations (30%), the control testers were given dates that were earlier than those shared with the protected class tester thus providing the control tester an earlier opportunity for the unit. In 30% of the tests the control testers were given better information than the protected testers to include offering to hold the apartment. In one test where the control tester was shown several units and the protected tester was shown one apartment the agent made comments about how quiet the complex was which can infer a desire to not rent to families with children. More incidental differences in all testing (and not major factors in positive tests) were when rental managers gave application packets, apartment literature and application forms to some and not other testers.

City of Bellingham 2006 Native American Audit Testing

Between August and December of 2006, the Fair Housing Center of Washington conducted 21 matched-pair audit tests of housing providers in the City of Bellingham utilizing funding provided by the U.S. Department of Housing and Urban Development. The audit tests utilized Native American and white test teams to visit 21 apartment

complexes containing 1, 703 units of rental housing. This audit was conducted as a follow-up to the national origin testing conducted in 2001.

Bellingham 2006 Native American Audit Testing	Tests Indicating Differential Treatment		Tests Without Differential Treatment		Total Tests
	Number	Percent	Number	Percent	
Race - Native American	13	62%	8	38%	21

The Native American audit results were similar to the 2001 audit findings for Hispanic testers and showed that 62% (13 positive tests) of the properties tested indicated differences in the treatment of Native Americans compared to white testers. Concurrently, 38% (8 negative tests) of the tested properties showed equal treatment of home seekers.

Differential Treatment in Native American Audit

The primary difference in treatment between Native American testers (protected class testers) and white testers (control testers) was in the number of available apartments offered. In 54% of the positive tests, white testers were informed of more available units than Native American testers.

An additional area of differences was that the protected class and control testers were told of different availability dates. In these situations (14% of positive tests), the control testers were given dates that were earlier than those shared with the protected class tester thus providing the control tester an earlier opportunity for the unit. In 14% of the positive tests, the control testers were shown more apartments than the protected testers, including two sites where the agent showed units only to the control tester. At one site, the Native American tester was told the office was closed while the white tester was able to view an available apartment.

At two sites, Native American testers were quoted higher rental amounts ranging from \$5 to \$20 more than the rate quoted to the control tester. One apartment manager discouraged a Native American tester by claiming that “there are other applications ahead of yours.” At another complex, the manager offered to stop showing the unit to other prospective tenants if the white tester wanted the apartment. This same courtesy was not extended to the Native American tester.

More incidental differences in all testing (and not major factors in positive tests) occurred when rental managers gave application packets, approval hints, apartment literature or application forms to white and not Native American testers.

City of Bellingham 2006 Complaint-Based Testing

As a result of complaints received at intake or positive test findings, the Fair Housing Center of Washington conducted 10 matched-pair complaint tests of housing providers in the City of Bellingham utilizing funding provided by the U.S. Department of Housing

and Urban Development. The ten tests occurred at eight unique sites containing 811 units. Eight tests were based on familial status and two were tests utilizing a Native American and white control tester.

Bellingham 2006 Complaint-Based Testing	Tests Indicating Differential Treatment		Tests Without Differential Treatment		Total Tests
	Number	Percent	Number	Percent	
Family Status ¹³	4	50%	4	50%	8
Race - Native American	2	100%	0	0%	2
All Complaint Tests	6	60%	4	40%	10

The complaint test results showed that 60% (6 positive tests) of the properties tested indicated differences in the treatment of protected testers compared to control testers. Concurrently, 40% (4 negative tests) of the tested properties showed equal treatment of home seekers.

Both complaint tests utilizing Native Americans testers revealed differences. At one site, the agency asked the Native American tester to complete a self-guided tour but conducted a personalized tour for the white tester. At another site, unlike the white tester, it was emphasized to the Native American tester that police officers live on-site.

At two familial status test sites, the manager showed more units to control tester than the familial status tester. One manager informed the familial status tester that she had to pre-pay the full deposit to obtain an application. Another manager informed only the control tester than “units go fast.”

Fair Housing Logos 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.”

¹³ One complaint-based familial status involved a sales transaction but the test did not indicate differential treatment.

The *Seattle Times*, *Seattle Post Intelligencer* and *The Bellingham Herald* web sites did not include a digital publisher's notice, an equal opportunity logo, or links to any resources on how to place an advertisement abiding with federal, state or local fair housing laws.¹⁴ Bellingham's local newspaper, *The Bellingham Herald*, coordinates its rental housing advertisements with Apartments.Com and neither provides a fair housing publisher's notice or links to fair housing resources.

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 Seattle "Craigslist" web site for rental housing in Bellingham was conducted to ascertain any instances of discriminatory advertising. A total of two housing listings were identified that, while not explicitly discouraging families with children, implied a preference for single students attending Western Washington University.

Rental and Sales Impediments Summary

1. The 2006 familial status testing audit at 10 complexes containing 1,198 apartments indicated differences in the treatment of families with children compared to families without children.
2. An audit of 21 apartment complexes containing 1,703 units of rental housing was conducted in 2006 utilizing Native American and white test teams. 62% (13 positive tests) of the properties tested indicated differences in the treatment of Native Americans compared to white testers. 38% (8 negative tests) of the tested properties showed equal treatment of home seekers.
3. A review of on-line websites and advertisements for housing in Bellingham revealed some anecdotal advertisements appearing to limit housing choices for families with children.

¹⁴ The newspapers include a publisher's notice about fair housing in their printed editions.

Public Perception of Housing Discrimination in Bellingham

Community and Agency Survey

The Fair Housing Center distributed a fair housing survey to 192 Bellingham residents and human service agencies. Of 192 surveys distributed, 17% (32 surveys) were returned.

Of the 32 survey responses received, 25% were housing providers or landlords, 44% were social service providers, 6% were tenants and other residents comprised the balance of respondents.¹⁵

Survey Results

While knowledge of fair housing protections among consumers is critical to identifying and addressing housing discrimination, knowledge of fair housing protections among housing providers and even social service providers is critical to any pro-active approaches to mitigating impediments to fair housing choice. Although respondents indicated that they “understand the basics” (42%) or had “a thorough knowledge of fair housing laws” (29%), only two of the respondents correctly identified all of the protected classes under the federal, state and local fair housing laws enforced throughout Bellingham.

Knowledge of Federal Fair Housing Protections

As noted above, 25% of survey respondents¹⁶ are housing providers, another 44% of survey respondents provide services to Bellingham residents and 6% are tenants. Over 60% of all survey respondents selected race, color, and sex/gender as protected classes under the federal Fair Housing Act. 58% of respondents selected religion as a protected class, 50% correctly selected national origin as a protected class while only 31% of survey respondents correctly identified familial status as a protected class under the fair housing laws.

Survey respondents clearly are familiar with most federal fair housing protections, especially race, color, religion/creed, gender and disability. Disability, a protected class under the federal Fair Housing Act only after it was amended in 1988, was identified by 58% of respondents, despite its relatively recent addition to the law.

When the Fair Housing Act was amended in 1989, familial status was also added as a protected class. Familial status, sometimes referred to as “family status” protects families with children from discrimination in housing.¹⁷ While fully 58% of respondents identified disability as a protected class, only 31% correctly identified parental/familial status as a protected class, despite the fact that the two classes were added

¹⁵ Respondents were allowed to select more than one role in Bellingham’s housing market.

¹⁶ Excludes 6 respondents who did not make any selections.

¹⁷ Qualified housing for older persons is exempt from the familial status provisions of the Fair Housing Act.

simultaneously to the Fair Housing Act in 1989. The contrast in familiarity with disability and parental/familial status protections merits consideration and action to ensure that Bellingham's families with children are not impeded in their fair housing choices.

Knowledge of State and Local Fair Housing Protections

Survey respondents were less familiar with state and local fair housing protections than federal fair housing protections. 23% of all survey respondents selected marital status as a protected class under state law. In contrast, 35% identified sexual orientation as protected classes though this protected class is a recent addition to state law in 2006.

Incorrect Identification of Fair Housing Protections

Respondents were asked to identify whether age, political ideology, criminal history and/or holders of Section 8 certificates (housing subsidies) constitute protected classes under any of the fair housing laws. While none of these classes are protected under federal or state law, 27% of survey respondents misidentified age as a protected class. Political ideology, Section 8 and criminal history were each misidentified by 12% of survey respondents. While the incorrect identification of protected classes does not necessarily impede fair housing choice, it is clear that on-going education and outreach efforts are essential to improving the community's understanding of fair housing protections.

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 Bellingham residents. Of 32 respondents, 25% correctly identified the Washington State Human Rights Commission, 34% selected the Fair Housing Center and 13% selected HUD. 16% selected the City of Bellingham as a source of fair housing enforcement, 38% selected the Northwest Justice Project, 25% selected the State Attorney General, 13% selected the Tenants Union and 19% selected the Bellingham Housing Authority. Two survey respondents identified the Whatcom Civil Rights Project or the Dispute Resolution Center as fair housing enforcement resources.

Perceptions of the Frequency of Housing Discrimination in Bellingham

Nineteen survey participants responded to a question asking them to indicate the frequency of discrimination in the sale of housing. 63% of the responses indicated sales discrimination was non-existent or rare while 21% indicated discrimination "occasionally" occurs in sales transactions. Another 16% indicated discrimination in sales transactions is common.

Twenty-three survey participants responded to a question asking them to indicate the frequency of discrimination in rental housing. 9% of survey respondents indicated that

discrimination in rental housing is non-existent, 13% indicated housing discrimination is rare, 57% indicated discrimination happens “occasionally” while 22% believe housing discrimination in rental housing is “common.”

Adequacy of Fair Housing Resources

In trying to ascertain whether Bellingham residents believe there are sufficient fair housing resources, of those who answered the questions, 88% expressed a need for more education and outreach on housing discrimination issues, 73% stated that there are not sufficient fair housing resources, 72% expressed a need for more research on whether housing discrimination takes place, 64% felt that non-compliance with fair housing laws takes place in public housing, and 85% felt a need to review zoning laws with an eye for fair housing choice.

Community-Identified Fair Housing Resources

- Respondents indicate fair housing training is provided by social service providers like Womencare (domestic-violence related fair housing training) and the Opportunity Council. One respondent indicated that the Whatcom Dispute Resolution Center provides fair housing mediation services.
- Respondents indicated fair housing information is available from the Bellingham/Whatcom County Housing Authority and Northwest Justice Project.

Community-Identified Impediments

Respondents to the survey provided some comments about fair housing impediments and resources.

Survey respondents identified the following fair housing issues in Bellingham:

- A lack of low-income housing options for low-income families and single people and multiple survey respondents indicated low-income people face higher levels of housing discrimination.
- The Fairhaven, Barkley and Eldridge neighborhoods were identified as having a higher prevalence of discriminatory housing practices. One respondent attributed an increase in discriminatory housing practices to “areas where condos are springing up” downtown and the Cordata and Barkley Village” neighborhoods.
- One respondent stated that “people are not aware of their rights (and) it is unclear who to go to for what.”
- Subsidized housing is located “far away from the community” and renters are “seldom encouraged to participate in neighborhood responsibilities.”

Public Input Conclusions

- Responses to the Bellingham fair housing survey indicate a high degree of community interest in affirmatively furthering fair housing.
- Despite a high level of interest in fair housing, survey responses indicate a lack of knowledge about fair housing protections, including a lack of familiarity with protected classes.
- Survey respondents cite instances of discrimination against families with children and speak to the overlap between affordable housing and fair housing choice.
- Survey responses reflect a demand for more fair housing education and outreach to increase knowledge of fair housing topics and rights.

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 Act

The Community Reinvestment Act (CRA) was enacted by Congress in 1977 (12 U.S.C. § 2901) and is implemented by Regulations 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 that Horizon Bank is the only financial institution headquartered in Bellingham that is subject to the CRA. In addition to a review of Horizon's CRA performance, this analysis will consider CRA information for Peoples Bank given its Lynden home and operations in Bellingham.

Horizon Bank

The most recent Community Reinvestment Act Performance Evaluation for Horizon Bank was issued by the FDIC in October of 2006. The FDIC issued Horizon a "Satisfactory" rating.

The FDIC noted that “Horizon Bank’s level of community development lending is strong. Loans totaling more than \$25 million involving affordable housing, the provision of services to low-and moderate-income persons, and revitalizing areas in decline are evidence of the bank’s commitment to community development.”

The FDIC highlighted Horizon’s provision of seven construction and development loans totaling over \$21 million as part of the City of Bellingham’s central business district revitalization efforts with direct or indirect benefits in three moderate-income census tracts.

Additionally, in early 2006, Horizon became an approved Section 184 lender which enables the bank to provide home purchase, construction and rehabilitation loans to Native Americans residing on tribal land. Given the otherwise high denial rate experienced by Native Americans in the Bellingham MSA overall, Horizon’s participation in the Section 184 program is to be commended.

Horizon Bank participates in the Washington Community Reinvestment Association (WCRA) lending consortium that provides long term financing to support low-income and special needs housing throughout the state of Washington.

According to the FDIC, Horizon Bank “holds several investments targeting affordable housing” throughout its service area which includes Whatcom, Skagit, Snohomish and Pierce Counties.

Horizon Bank actively supports community development initiatives in Bellingham, with bank officers serving the Bellingham Housing Development Fund Loan Review Board and by sponsoring several affordable and first time home buyer events, including the Whatcom County Homeownership Fair.

According to the FDIC, “no evidence of discriminatory or other illegal credit practices inconsistent with helping to meet the needs of the community was identified. Horizon Bank has implemented policies and procedures that prohibit discriminatory acts and conducts periodic internal reviews to assess compliance.”

Peoples Bank

The most recent Community Reinvestment Act Performance Evaluation for Peoples Bank was issued by the FDIC in May of 2004 and resulted in the issuance of a “Satisfactory” rating.

The FDIC noted that “Peoples Bank uses innovative and flexible lending products to serve assessment area credit needs and originated an adequate level of community development loans. The bank’s geographic distribution of loans, however, is poor, due primarily to limited lending within Whatcom County’s moderate-income geographies.”

The FDIC highlighted Peoples provision of a \$1,551,302 loan to redevelop a site in central Bellingham as part of the City of Bellingham's central business district revitalization efforts. The new building includes 24 tax credit apartments that will primarily benefit low-to-moderate income households. Additionally, Peoples Bank provided \$2,975,000 in financing for a new multi-family housing project near Western Washington University.

Peoples Bank actively supports community development initiatives in Bellingham, including establishing a \$10,000 revolving line of credit for a local non-profit organization that serves low-and-moderate income households in Whatcom County. Bank employees taught five classes for potential low-and-moderate income home buyers and the bank's employees volunteer on behalf of various local non-profit agencies that serve low-and-moderate income households in Whatcom County.

According to the FDIC, "no substantive violations of antidiscrimination laws and regulations were detected."

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 in Whatcom County.
2. Although banks headquartered in Whatcom County 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 Bellingham 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 Disclosure Act Data

Federal statutes have been established to promote fair lending practices. The Home Mortgage Disclosure Act (HMDA) seeks to prevent lending discrimination by requiring public disclosure of information about mortgage loan applications.

The tables below are comprised solely of HMDA data for the Bellingham Metropolitan Statistical Area (MSA). It is important to note that there are limitations associated with this data source. HMDA data analysis typically shows that people of color are more likely to be denied mortgage funding than white applicants. This is 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.

The government reports HMDA data on either Metropolitan Division (MD) or Metropolitan Statistical Area (MSA) basis. The data presented herein covers the Bellingham MSA, including Whatcom County. While this analysis may not be specific to Whatcom County outside of Bellingham-proper, the aggregated data provides greater statistical precision to reveal relevant trends.¹⁸

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.

Due to Census Bureau collection standards, the category “Hispanic” potentially includes data from all racial categories and is detailed as a separate ethnic category.

Changing Mortgage Market

Between 2000 and 2005, the number of home mortgage applications in the Bellingham MSA rose an impressive 130.19%, from 8,465 to 19,486 applications. To put this increase in perspective, the Seattle-Bellevue-Everett MD¹⁹ saw mortgage application volume increase by just-over 92% during the same period.

MSA Mortgage Application Volume by Loan Type

Type of Loan	2000	2005	% Increase
Conventional	4027	7653	90.04%
Re-Finance	3367	10158	201.69%
Home Improvement	632	1433	126.74%
Government-Insured	439	242	-44.87%
Total	8465	19486	130.19%

The increase in mortgage loan activity in the Bellingham MSA between 2000 and 2005 reflects the precipitous drop in home mortgage interest rates during the same period. As interest rates begin rising again, mortgage application and origination volume is likely to decrease accordingly.

¹⁸ 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.

¹⁹ The use of the term “metropolitan division” reflects a change in methodology adopted by the Office of Management and Budget. See <http://www.ffiec.gov/hmda/pdf/04news.pdf>. This analysis reviews data for the Seattle-Bellevue-Everett, WA Metropolitan Division number 42644.

The 90% increase in conventional loan applications reflects historically-low interest rate trends and an increase in the use of flexible mortgage lending products, like interest-rate-only, adjustable-rate and subprime mortgages. The increased use of novel mortgage products is highlighted by the nearly 45% decrease in applications for government-insured loans that have traditionally served the mortgage needs of underserved markets.

Mortgage Denial Rates by Race and National Origin

The 2005 HMDA picture for the Bellingham MSA is unique. The denial rate for white and Asian mortgage applications is under 15%, reflecting national trends indicating that Asians and whites have the lowest denial rates. For all groups, the denial rate for conventional mortgages averaged 21%.

2005 HMDA - Denial Rates for Bellingham MSA Home Loans by Product and Race/National Origin of Applicants

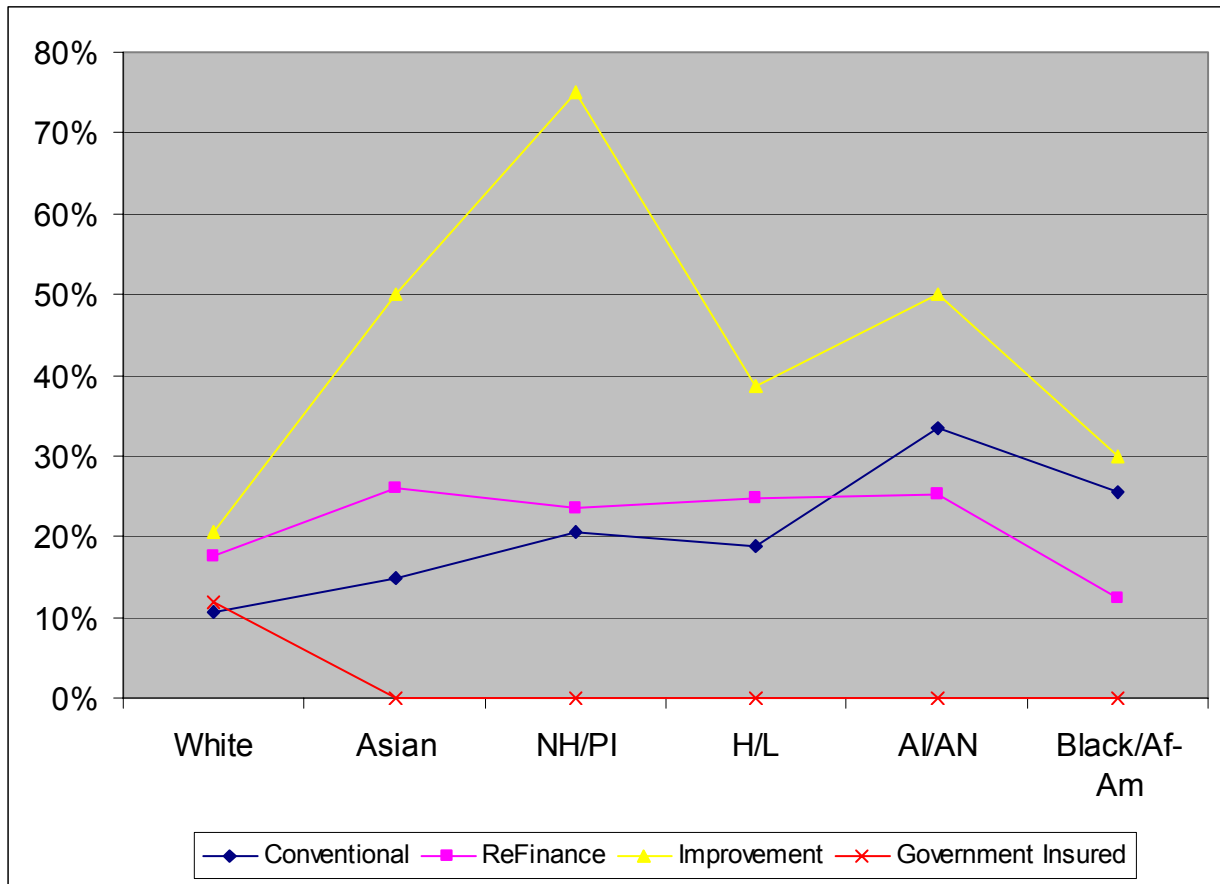
Denied Mortgages	Conventional	Re-Finance	Improvement	Government Insured	Average Denial
White	11%	17%	20%	12%	15%
Asian	15%	26%	50%	0%	21%
Native Hawaiian/ Pacific Islander	21%	24%	75%	0%	27%
Hispanic/Latino	19%	25%	39%	0%	23%
American Indian/Alaskan Native	33%	25%	50%	0%	31%
Black/African-American	26%	13%	30%	0%	20%
Average	21%	22%	44%	2%	15%

In contrast, for refinance mortgage applications, African-Americans experience the lowest denial rates of all groups and Asians have the highest denial rate of all groups. For all groups, the denial rate for re-finance mortgages averaged 22%.

The denial rates for home improvement loans are high across the board, averaging 44%, and range from 20% for whites to 75% for Native Hawaiian and Pacific Islanders.

Denial rates for government-insured mortgages are the most unique of all mortgage products, with an average denial rate of 2%. No applicants of color were denied government-insured mortgages, while 12% of white applicants were denied. The skewed denial rates for home improvement and government-insured mortgages are likely a result of the fact that they represent less than 10% of the Bellingham mortgage market.

2005 Mortgage Denial Rates for Bellingham MSA by Race, National Origin and Loan Type



Source: FFIEC

Conventional Home Mortgages

The last Bellingham AI analyzed denial rates for conventional home mortgage applications made in 2000. In 2000, white applicants for conventional mortgages experienced a 12% denial rate, while Asians applicants for conventional mortgages had a 21% denial rate.²⁰ American Indian and Alaskan Native applicants for conventional mortgages had a 19% denial rate, African-American applicants had a 29% denial rate and Hispanics had a 30% denial rate. In both 2000 and 2005, white applicants had the lowest denial rate of all conventional mortgage applicants.

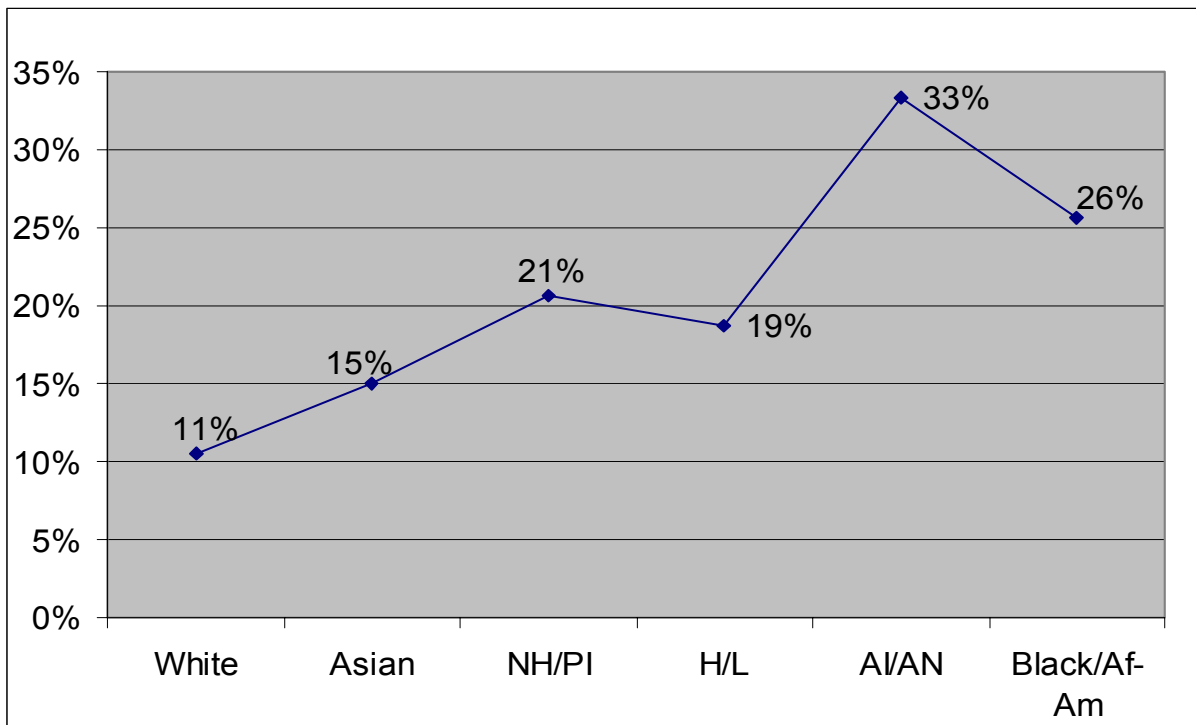
With the exception of American Indians and Alaskan Natives, all applicants for conventional mortgage financing saw a drop in denial rates between 2000 and 2005. In 2005, white applicants for conventional mortgages experienced a denial rate of 11%, the lowest of all groups. While Asian conventional mortgage applicants had a denial rate of 21% in 2000 (the third lowest), Asian applicants in 2005 experienced a 15%

²⁰ In 2000, Native Hawaiian and other Pacific Islanders were counted as Asian.

denial rate, the second lowest denial rate behind white applicants. The denial rate for African-Americans seeking conventional mortgages dropped slightly from 29% to 26%.

The biggest drop in denial rates for conventional mortgages between 2000 and 2005 occurred for Hispanic applicants. In 2000, Hispanic applicants for conventional mortgages experienced a 30% denial rate, the highest of all groups. By 2005, the denial rate for such applicants had dropped to 19%, the third lowest between white and Asian applicants.

**2005 Denial Rates by Race/National Origin for Bellingham MSA
Conventional Home Purchase Loans**



Source: FFIEC

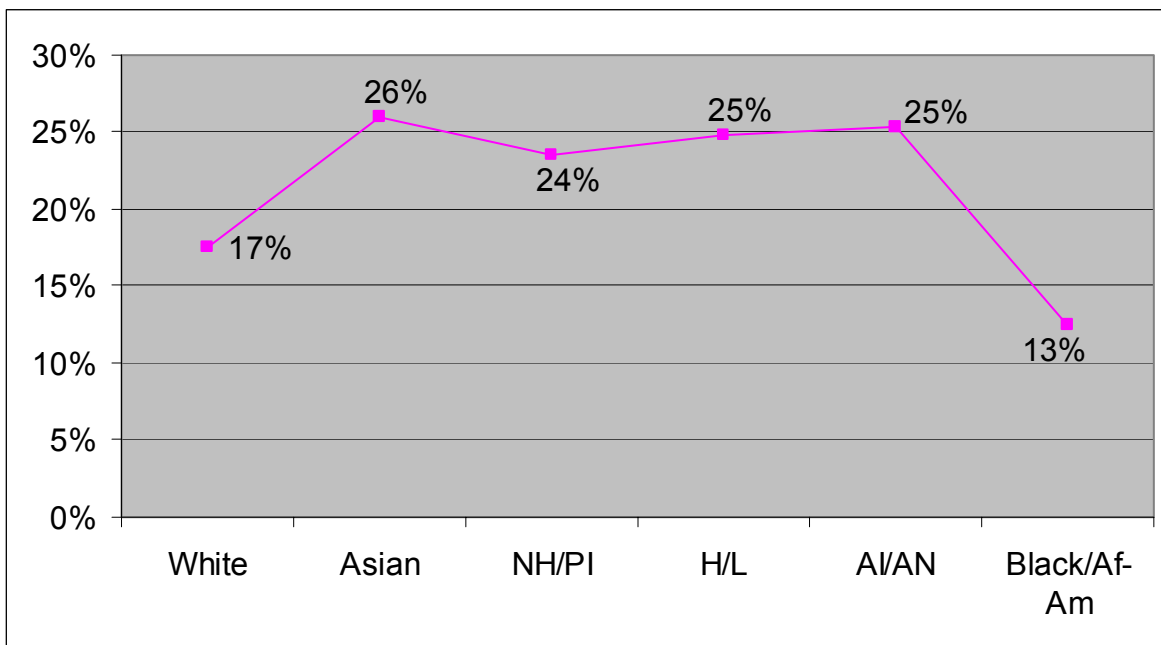
The only group of conventional mortgage applicants to experience an increase in denial rates was Native Americans/Alaskan Natives. In 2000, Native Americans/Alaskan Natives experienced a 19% denial rate for conventional mortgages, the second lowest. By 2005, the denial rate had increased to over 33%, the highest denial rate among applicants for conventional mortgages.

Home Mortgage Re-Financing

Mortgage lenders in the Bellingham MSA processed 3,367 applications for mortgage re-financing in 2000 compared to 10,158 applications for mortgage re-financing in 2005, an increase of nearly 202%.

The last Bellingham AI analyzed denial rates for re-finance home mortgage applications made in 2000. In 2000, white applicants for re-finance mortgages experienced a 23% denial rate, while Asians applicants for re-finance mortgages had a 19% denial rate, the lowest of all groups.²¹ American Indian and Alaskan Native applicants for re-finance mortgages had a 53% denial rate, African-American applicants had a 29% denial rate and Hispanics had a 23% denial rate. In both 2000 and 2005, white re-finance applicants had the second-lowest denial rates, behind Asians and African-Americans, respectively.

2005 Denial Rates by Race/National Origin for Bellingham MSA Home Refinance Loans



Source: FFIEC

With the exception of Asians and Hispanics, all applicants for re-finance mortgage financing saw a drop in denial rates between 2000 and 2005. In 2005, white applicants for re-finance mortgages experienced a denial rate of 17%, the second-lowest of all groups behind African-Americans. In 2005, African-Americans experienced the lowest denial for re-finance mortgages of all applicants.

In 2005, Asian, Native Hawaiian and Other Pacific Islander, Native American/Alaskan Native and Hispanic applicants for re-finance mortgages experienced similar denial rates ranging from 24% to 26%.

The biggest drop in denial rates for re-finance mortgages between 2000 and 2005 occurred for Native Americans/Alaskan Natives. In 2000, Native American/Alaskan Native applicants for re-finance mortgages experienced a 53% denial rate, the highest of all groups. By 2005, the denial rate for such applicants had dropped to 25%.

²¹ In 2000, Native Hawaiian and other Pacific Islanders were counted as Asian.

African-American applicants for re-finance mortgages also experienced a large drop in denial rates. In 2000, African-American applicants for re-finance mortgages experienced a 29% denial rate, the second-highest highest of all groups. By 2005, the denial rate for such applicants had dropped to 13%, the lowest of all groups.

The two groups of re-finance mortgage applicants to experience an increase in denial rates were Asians and Hispanics. In 2000, Asians experienced a 19% denial rate for re-finance mortgages, the lowest of all groups. By 2005, the denial rate had increased to over 26%, the highest denial rate among applicants for re-finance mortgages. The denial rate for Hispanic re-finance applicants increased slightly from 23% in 2000 to 25% in 2005.

Home Improvement Mortgage Loans

Home improvement loans generally entail providing a second mortgage to applicant homeowners. Because home improvement loans are a function of home equity, they are more likely to be denied. The relatively high denial rates for home improvement loans reflect their larger risk. Indeed, all groups experience a home improvement denial rate ranging from just-over 20% to 75%.

Because only 16 home improvement loans were originated in the Bellingham MSA in 2005 for American Indian/Alaskan Natives, Asians, Blacks and Native Hawaiians²² and 692 loans for white borrowers, it is difficult to draw inferences based on such a small sample size. This analysis thus does not assess the relative origination and denial rates for home improvement loans.

Government-Insured Loans

Applicants for government-insured loans are less likely to be denied than applicants for other types of home loans, particularly conventional loan products. Through various programs administered by the U.S. Department of Housing and Urban Development and the Veterans Administration, lower income households, veterans and rural residents may be eligible for government-insured mortgages that provide for lower down payments and alternative qualification criteria. As a result, banks typically are more likely to approve government-insured mortgages for all applicants, regardless of race.

The number of government-insured loan applications submitted in the Bellingham MSA dropped from 439 in 2000 to 242 in 2005, a decrease of nearly 45%. Because only 14 government-insured home loans were originated in 2005 in the Bellingham MSA for American Indian/Alaskan Natives, Asians, Blacks and Native Hawaiians²³ and 140 loans for white borrowers, it is difficult to draw inferences based on such a small sample size.

²² Twenty-six government-insured loans were originated for Hispanic and mixed-Hispanic households and these totals are reflected in the statistics enumerated by race.

²³ Twelve government-insured loans were originated for Hispanic and mixed-Hispanic households and these totals are reflected in the statistics enumerated by race.

An example of the difficulty of relying on such a small sample size is reflected by the curious fact that in the Bellingham MSA, no American Indian/Alaskan Native, Asian, Black, Native Hawaiian or Hispanic applicants for government-insured mortgages were denied in 2005. In contrast, white applicants for government-insured loans experienced the highest (and only) denial rate of 11.88%.

Although the unique distribution of denial rates for government-insured loans, from a low of 0% for minority applicants to a high of 11.88% for white applicants, is most likely confounded by a too-small sample size, it could be construed that government-insured loans are easier to obtain. The near-certainty with which all applicants are approved for government-insured loans compared to other types of mortgages could reflect product-steering, where lenders first try to approve prospective borrowers for private-market conventional financing before turning to the relative certainty of the more complicated government-insured programs.

The decrease in the size of the government-insured mortgage market reflects a number of trends, including fast rising property values throughout the Puget Sound region, which often outstrip annual increases in the FHA and VA home-loan ceilings. More significantly, “the FHA’s loss of market share” is a national phenomenon and is attributed by “some industry participants to more aggressive lending among private sector investors targeted at nonprime and other higher risk borrowers.”²⁴ As private market lenders compete with FHA to finance otherwise higher risk borrowers and property values continue to increase beyond government-insured mortgage loan limits, the volume of government-insured loans, which essentially ensure reasonable terms and conditions for higher-risk borrowers, has decreased rapidly.

The growth of the conventional mortgage market, especially the use of sub-prime loans that compete with government-insured mortgages, has prompted growing concerns that predatory lending practices may impede 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 before. This increased access to credit resulted from a number of factors, including decades of civil rights advocacy, 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

²⁴ “HUD Seeks Ways to Reverse Declining Fortunes of FHA,” *Mortgage Servicing News*, September 2005, Vol 9; No. 8; Pg.2

'credit repair' or 'affordability' products.²⁵ 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. From 1998 to 2006, the subprime share of all mortgage originations climbed from 10% to 23%.²⁶"

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.²⁷

While "responsible high-cost lending serves legitimate credit needs²⁸" and has expanded access to home ownership for people of color, subprime loans erode a homeowner's equity potential, disproportionately impact people of color, especially 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.

²⁵ Department of the Treasury, Federal Reserve System, Federal Deposit Insurance Corporation and National Credit Union Administration - *Joint Statement on Subprime Mortgage Lending*. [Office of the Comptroller of the Currency Docket No, OCC-2007-0005], June 29, 2007, page 2.

²⁶ *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.

²⁷ *Ibid*, page 8.

²⁸ *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.

Subprime Lending In Bellingham

Bellingham'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 Bellingham 299th out of 378 MSAs in the share of subprime mortgages predicted to result in foreclosure.
- Predicts that 15.1% of the subprime mortgages originated in the Bellingham MSA between 1998 and 2001 will result in foreclosure compared to 13% for the state of Washington overall.
- Projected the Bellingham MSA foreclosure rate for subprime mortgages originated in 2006 will decrease to 14.7%. In contrast to the Bellingham MSA, the predicted foreclosure rate for subprime mortgages originated in Washington in 2006 increased to 16.8% compared to the predicted 13% foreclosure rate for such loans originated between 1998 and 2001.

The HMDA data 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.²⁹

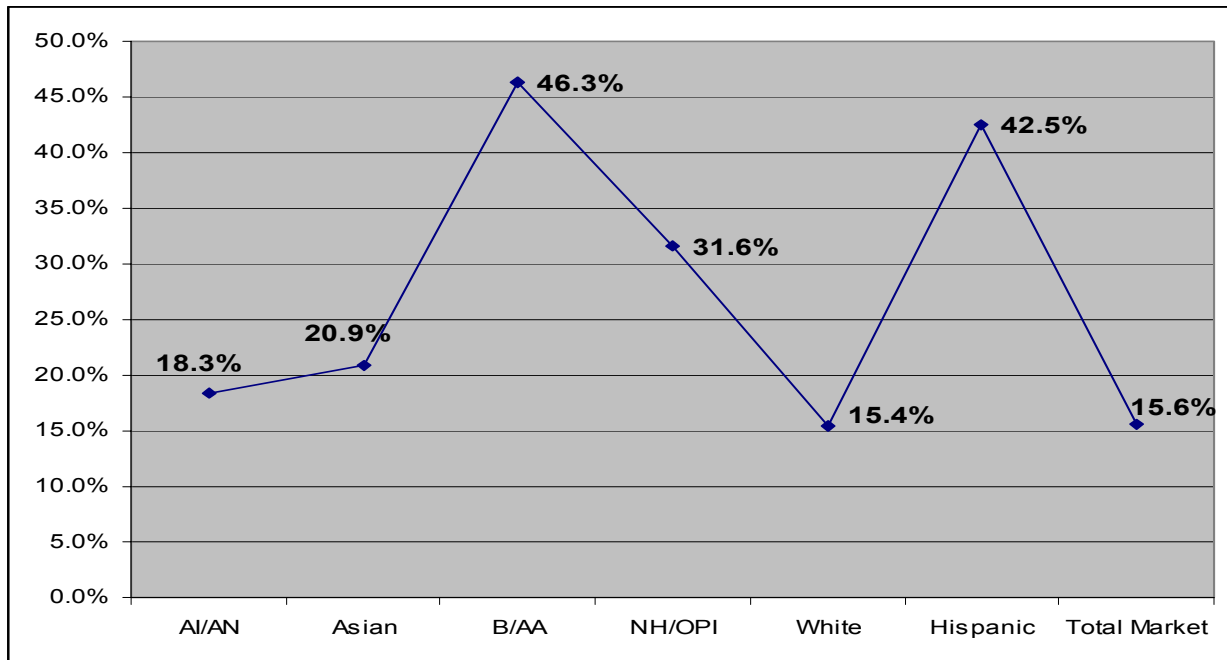
An analysis of 2005 HMDA data for the Bellingham, WA MSA indicates 15.6% (1,849 of 11,885) of all home mortgages were subprime under the criteria established by the Federal Reserve Board.

As detailed in the following chart, in 2005 in the Bellingham, WA MSA, 15.4% of home mortgages originated to whites were subprime, compared to 18.3% of subprime home mortgages originated to American Indian/Alaskan Natives borrowers.³⁰ Just over one in five Asian home mortgage (20.9%) originations were subprime, while nearly half of African-American home mortgage originations (46.3%) were subprime in nature. For Hispanic home mortgage originations, 42.5% were subprime while 31.6% of Native Hawaiian/Other Pacific Islander home mortgages were considered subprime.

²⁹ *Frequently Asked Questions About the New HMDA Data*, Federal Reserve Board, April 3, 2006, <http://www.federalreserve.gov/boarddocs/press/bcreg/2006/20060403/attachment.pdf>.

³⁰ The relative success of Native Americans in avoiding subprime mortgages is explained in part by the greater likelihood that they seek refinancing. While just-under 47% of all home mortgage originations in the MSA refinanced existing mortgages, fully 57% of mortgages originated to Native American/Alaskan Native borrowers were to refinance existing mortgages, the highest share of refinancing among all distinct racial and ethnic categories.

**Bellingham, WA MSA
2005 Distribution of Subprime Home Mortgage
Originations by Race/Ethnicity³¹**



Source: FFIEC

People of color are disproportionately exposed to subprime mortgages

Nationally, for white households, subprime mortgages account for 18% of home purchases and less than 10% of refinances.³² According to the Government Accountability Office (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 market share among white borrowers increased from 1 to 9 percent from 1996 through 2005.³³” In other words, by 2005, subprime loans represented 26% of mortgages originated to minority borrowers and 9% of mortgages originated to white borrowers.

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

³¹ 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.

³² National Council of La Raza Issue Brief, 2005, Number 15, page 3.

³³ *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 19.

- 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 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 level 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.³⁴

Characteristics of Subprime Mortgages

Subprime mortgages often carry 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.

Adjustable Interest Rates (ARMs)

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.

Risky Underwriting Standards

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

Prepayment penalties are designed to deter rapid repayment or refinancing through the imposition of often steep penalties.

Balloon Payments

Balloon payments are generally associated with a short-term, fixed-rate mortgage that requires that the full balance be paid at the end of the term, often as short as five to seven years.³⁵ Balloon payment terms are often utilized on the 20% of the home value

³⁴ *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.

³⁵ National Council of La Raza Issue Brief, 2005, Number 15, page 9.

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

Although subprime mortgages should not be considered inherently predatory, predatory lending practices disproportionately affect the subprime mortgage market. Predatory lending practices can include:

- Equity-Stripping: Equity stripping, also known as “asset-based lending,” occurs when the lender provides financing based on the value of a home rather than the borrower’s ability to re-pay.
- Bait and Switch: Lenders promise certain loan terms but adjust the terms without full disclosure or by obtaining buyer agreement under duress by revealing inferior revised terms at closing.
- Loan Flipping: Loan flipping occurs when a lender refinances a home over and over again, often at a higher interest rate and with increasingly inferior terms, collecting points and fees associated with each refinance.
- Packing: Packing refers to the financing of often excessive fees and costs into the mortgage without full disclosure to the borrower.
- Poor Disclosure: 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.

As home buying demand exploded from 2001 through 2005, subprime mortgages met an unprecedented demand for financing by offering flexible underwriting standards and re-payment terms that allowed even marginal buyers access to home buying opportunities. As home demand and home values have begun to settle or decline, the risks associated with subprime mortgages and predatory marketing practices have become more apparent.

Many subprime borrowers actually qualify for prime loans

The inexperience of so many new home buyers, coupled with the use of predatory practices by some lenders or mortgage brokers, resulted in many home buyers obtaining subprime mortgages rather than “prime” mortgages with more advantageous terms and costs. It is estimated that “as many as one-third to one-half of all subprime borrowers could have qualified for prime credit.³⁶ 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 2001.³⁷” This difference results in as much

³⁶ 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.

³⁷ National Council of La Raza Issue Brief, 2005, Number 15, page 5.

as \$50,000 to \$100,000 in increased costs for a subprime loan compared to a prime loan.³⁸ Given the disproportionately with which people of color obtain prime mortgages relative to their white counterparts, subprime lending engenders disparities in the capacity of families of color to build wealth through homeownership.

Subprime loans that default impose substantial costs on all stakeholders

Subprime loans risk unprecedented levels of foreclosure that can 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.³⁹ It is estimated that:

- Families, on average, lose \$7,200 in net worth during a foreclosure,⁴⁰
- Neighboring homeowners lose 1 percent in property value per foreclosure on their block,⁴¹
- A vacant property can cost local taxpayers \$20,000 in annual maintenance, including lost property taxes, unpaid utility bills, property upkeep and maintenance.⁴²

Housing Finance Impediments Summary

- In both 2000 and 2005, white applicants had the lowest denial rate of all conventional mortgage applicants. While American Indian and Alaskan Native applicants experienced an increase in conventional loan denial rates, between 2000 and 2005 all other conventional mortgage applicants experienced a drop in denial rates.
- Hispanics and Native Hawaiian and Other Pacific Islanders are denied conventional mortgage financing at slightly higher rates than whites and Asians while African-Americans, Native Americans and Alaskan Natives were denied conventional financing at much higher rates than whites and Asians.
- In both 2000 and 2005, white re-finance applicants had the second-lowest denial rates, behind Asians and African-Americans, respectively. In 2005, Asian, Native Hawaiian and Other Pacific Islander, Native American/Alaskan Native and Hispanic applicants for re-finance mortgages experienced similar denial rates ranging from 24% to 26%. The denial rate for African-Americans and American Indian/Alaskan Natives seeking re-finance mortgages dropped substantially between 2000 and 2005.

³⁸ *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.

³⁹ *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.

⁴⁰ National Council of La Raza Issue Brief, 2005, Number 15, page 6.

⁴¹ *Sheltering Neighborhoods from the Subprime Foreclosure Storm*, Fact Sheet, U.S. Senate Joint Economic Committee, June 22, 2007.

⁴² Ibid

- Both nationally and within the Bellingham MSA, the use of subprime mortgages has increased substantially. Nationally and in Bellingham, households of color are disproportionately likely to obtain subprime mortgage financing. While Bellingham's overall exposure to high foreclosure rates as a 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 housing choice in a community. As much as the passage of fair housing ordinances might reflect a municipal commitment to non-discrimination, actual practices with respect to the formulation of zoning regulations, code enforcement and the prioritization of land use are elements in determining a jurisdiction's commitment to furthering fair housing.

The following fair housing cases are presented to demonstrate the importance of pro-actively incorporating fair housing practices into municipal policies.

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 Americans with Disabilities Act (ADA). The Ninth Circuit reversed the district court ruling in favor of the City and held that the plaintiff had adequately pled claims under both the Fair Housing Act and Title II of the ADA.⁴³

City of Edmonds v. Oxford House⁴⁴

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 to ensure the group home's financial viability but the City denied the request. Instead, the City amended its zoning code to allow such facilities in multifamily and commercial zones but continued to prohibit them in single-family residential zones. The United States Supreme Court affirmed the Ninth Circuit's judgment holding that Edmonds' definition of family was not covered by the FHA's absolute exemption for total occupancy limits, because it described who could compose a family unit rather than the number of occupants a dwelling unit could house, and was therefore invalid and unenforceable.⁴⁵ This case firmly established that whether or not municipal zoning regulations exclude group homes in single-family residential settings or limit the number of unrelated occupants, municipalities must consider granting

⁴³ From handout prepared by Ed Johnson, State Support Unit Attorney, Oregon Law Center at the *Fair Housing Law and Practice Conference* at Seattle University, Seattle, WA, March 15-16, 2007. *McGary v. Portland*, 286 F.3d 1259 (9th Cir. 2004).

⁴⁴ 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.

⁴⁵ *City of Edmonds v. Oxford House*, 514 US 725, 115 S. Ct. 1776, 131 L.Ed.2d 801 (1995).

exceptions to such requirements as a reasonable accommodation under the Fair Housing Act.

Sunderland Family Treatment Services v. City of Pasco⁴⁶

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)⁴⁷ 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."⁴⁸ 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.

Children's Alliance v. City of Bellevue⁴⁹

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 Hearings Board because it treated such facilities differently than other similar residential facilities in violation of WA's Growth Management Act (GMA).⁵⁰ 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 GMA⁵¹ 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)⁵² by the United States District Court⁵³ in 1997. Although the ordinance included reasonable accommodation provisions, the court concluded that the ordinance's focus on housing in which staff provided services to residents essentially targeted disabled persons in violation of the fair housing laws.

⁴⁶ 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.

⁴⁷ 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..."

⁴⁸ *Sunderland Family Treatment Services v. City of Pasco*, 107 Wn.App. 109 (2001)(*Sunderland II*).

⁴⁹ 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.

⁵⁰ http://www.gmhb.wa.gov/central/decisions/1995/95-3-0011_children'salliance_finaldecisionandorder.htm The GMA prohibition contains the same language as the WHPA prohibition in n. 3, supra.

⁵¹ http://www.gmhb.wa.gov/central/decisions/1996/96-3-0023_children's_finaldecisionandorder.htm

⁵² RCW 49.60.010 et seq.

⁵³ *Children's Alliance et al v. City of Bellevue*, 950 F.Supp. 1491 (W.D. Wash. 1997).

Low Income Housing Institute et al. v. City of Lakewood⁵⁴

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.⁵⁵ 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 arrangement under the Fair Housing Act, entitlement regions 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."⁵⁶
- "Boarding home means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator." It does not include "independent senior housing,

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 *Low Income Housing Institute et al v. City of Lakewood*, 119 Wash.App. 110 (2003)(*LIHI*).

⁵⁶ Revised Code of Washington, Section 70.128.010

independent living units in continuing care retirement communities, or other similar living situations including those subsidized by (HUD)".⁵⁷

Though group homes for persons with criminal histories are not covered under fair housing laws, those who house and provide services for persons with disabilities or children are offered protection. Municipal restrictions on group 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 protections for group homes.

While responsiveness to community input and actions to proscribe 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 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 defining new 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 "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 faces legal challenges and counter-opposition from disability-rights and other advocates.

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."⁵⁸ The City of Seattle⁵⁹ Municipal Code includes a reasonable accommodations provision and serves as a model for detailing municipal reasonable accommodation procedures related to housing.

Zoning and Land Use Policies

A review of the City of Bellingham's zoning, neighborhood revitalization, property tax, building code and construction policies did not identify any public policies that impede fair housing choice. Bellingham's policies encourage fair housing choice, as follows:

⁵⁷ Washington Administrative Code, Section 388-78A

⁵⁸ 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 http://www.usdoj.gov/crt/housing/final8_1.htm.

⁵⁹ Seattle Municipal Code, Sections 23.44.072 and 23.44.015

- Bellingham’s zoning code is enumerated at Title 20 and accommodates adult family homes (group homes) and facilities serving the disabled. None of the City’s zoning requirements were identified as posing barriers to fair housing choice for families with children or persons with disabilities.
- The City has implemented new policies and procedures to remove or mitigate barriers to the development of affordable housing. The City has developed procedures to provide pre-application permit inspections and created a new Permit Center to streamline the development process and expedite permit review and approval.
- The City offers fee waivers for affordable housing and rehabilitation developments. To-date, six projects have received fee waivers totaling \$1049.
- The City of Bellingham has developed mechanisms through the permitting process to track the number of newly constructed rental dwelling units accessible to persons with disabilities. The project is called the “Multi-Family Development ADA Unit Count.”
- The City of Bellingham has created several incentive programs and development code provisions for the development of affordable housing, including density bonuses under the Subdivision code, the downtown Multifamily Tax Exemption Program, and a Demonstration Program for Permanently Affordable Home Ownership. City planners are in the process of developing a Planned Unit Development Ordinance that will include density bonuses and provisions to encourage the development of affordable housing.
- The City provides reduced rates for water, sewer and garbage services for qualified senior or disabled households who own their own homes or occupy rental units where the owner certifies the savings are passed on to the senior or disabled renter.
- The City provides reduced dog fees for disabled and senior residents. These reduced fees assist residents who utilize service animals.
- Bellingham has completed a Comprehensive Plan under the Growth Management Act.
- Bellingham’s Mayor, Tim Douglas, along with other local elected leaders and housing advocates and developers, have established a Countywide Housing Affordability Taskforce (CHAT) tasked with proposing a strategy to make 11,000 homes affordable for people of modest means by 2022.

Policy Impediments Summary

1. Municipal actions to proscribe land use and enforce health and safety codes can have fair housing implications by failing to incorporate fair housing provisions, like reasonable accommodations, into land use practices.
2. Sweeping solutions to address otherwise legitimate community opposition can implicate fair housing choice if protected classes are indirectly or directly impeded by municipal actions.
3. A review of the City of Bellingham’s zoning, neighborhood revitalization, property tax, building code and construction policies did not identify any public policies that impede fair housing choice.
4. Bellingham’s zoning code accommodates adult family homes (group homes) and facilities serving the disabled.

V. Assessment of Fair Housing Activities

Fair Housing Ordinance

Although not considered substantially equivalent to federal fair housing law, the City of Bellingham proscribes Fair Housing Practices in Section 10 of its municipal code. Last updated in 1998, the City's code protects citizens from housing discrimination based on race, color, religion, ancestry, national origin, marital status, age, familial status, disability, or sex. The State of Washington's Law Against Discrimination, enumerated at RCW 49.60, provides Bellingham residents substantially equivalent protections to those afforded by the federal Fair Housing Act. In addition to those protections defined in federal law, the State's Law Against Discrimination protects Bellingham residents from discrimination on account of marital status, sexual orientation (and gender identity) and veteran or military status as classes protected from housing discrimination.

Bellingham Fair Housing Activities

In 2005, the City of Bellingham and retired-employee Joyce Bennett were recognized by the Fair Housing Center of Washington as the Entitlement Region of the year for their efforts to affirmatively further fair housing.

- The City of Bellingham prepared an *Analysis of Impediments to Fair Housing Choice* in 1996, 2002 and 2007.
- In 2005, the City of Bellingham and the Fair Housing Center co-sponsored a community fair housing forum entitled: "Our Journey to Fair Housing, Inspiring Fairness and Opening Doors." This forum, featuring nationally renowned speaker Bernard J. Kleina, was held in April of 2005 and celebrated Fair Housing Month and the 10th anniversary of the Fair Housing Center.
- The City placed an ad in *The Bellingham Herald* in November of 2005 providing fair housing information related to persons with disabilities and accommodations. The 2" x 6" advertisement reached 68,700 households.
- The City of Bellingham arranged for fair housing ads to run indefinitely on the City's TV station.
- The City of Bellingham participated in the 20th Annual Tacoma Fair Housing Conference and mailed 75 recruitment notices to various community groups.
- City staff presents fair housing information to the Community Development Advisory Board.
- The City of Bellingham provides fair housing information on its website. The City's internet information is thorough and accurate. The website is located at: http://www.cob.org/pcd/cd/housing/hsg_fair_hsg.htm.
- The City of Bellingham has provided extensive information about fair housing to agencies that assist protected classes with housing services, including 700 "Domestic Violence and Your Housing Rights" brochures to Domestic Violence & Sexual Assault Services. The brochures included 500 brochures in English, 100 in Spanish and 25 each in Chinese, Cambodian, Russian and Vietnamese.

- The City of Bellingham encourages fair lending practices and distributed 50 brochures in English and Spanish to four local mortgage companies for distribution to consumers. The brochures included 30 entitled “Fair Housing Fair Loans, Your Guide to Avoiding Predatory Loans” and 20 entitled “Don’t Borrow Trouble, Predatory Lending Practices”.
- The City of Bellingham contracted with the Fair Housing Center of Washington to conduct familial status testing in Bellingham. The City-funded audit took place from May 20, 2006 through August 25, 2006 and tested ten properties located within Bellingham city limits containing a total of 1,198 rental units.

Fair Housing Center of Washington

The Fair Housing Center is a HUD designated nonprofit Qualified Fair Housing Organization⁶⁰ and serves residents of Bellingham. 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 process⁶¹, conducting education and outreach and participate 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.

Education and Outreach

Between 2002 and 2006, the Fair Housing Center of Washington, often in partnership with the City of Bellingham, hosted seven fair housing training sessions for housing providers, community groups like the YWCA and the general public. Outreach included participation in the Northwest Indian College Street Fair on August 19, 2006 and the distribution of hundreds of fair housing brochures in multiple languages. A community fair housing training session in 2004 was funded through a settlement with a local housing provider.

In 2005, the City of Bellingham and the Fair Housing Center co-sponsored a community fair housing forum entitled: “Our Journey to Fair Housing, Inspiring Fairness and Opening Doors.” This forum, featuring nationally renowned speaker Bernard J. Kleina, was held in April of 2005 and celebrated Fair Housing Month and the 10th anniversary of the Fair Housing Center.

⁶⁰ 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.

⁶¹ 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.

The Fair Housing Center has worked with Bellingham and Whatcom Community Colleges to disseminate its ESL curriculum.

Testing in Bellingham

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 68 rental tests in Bellingham at 66 sites containing 5,464 dwelling units. Of 68 tests, 38 tests (56%) indicated instances of differential treatment based on race, national origin or familial status. Another 30 tests (44%) did not indicate differential treatment.

Bellingham Testing Summary	Total Units	# Sites	Total Tests
National Origin Audit	1752	27	27
Familial Status Audit	1198	10	10
Race - Native American Audit	1703	21	21
Complaint Tests	811	8	10
Totals	5464	66	68

Intake and Investigation of Housing Discrimination Complaints

The Fair Housing Center received 20 calls from Bellingham households with fair housing complaints between January 2003 and December 2006. Of the 20 complaints, 17 involved allegations of discrimination on the basis of disability, two pertained to allegations of national origin discrimination and one involved a complaint from a single-mother who alleged she was denied housing because of her infant child. Additionally, the Fair Housing Center assisted three housing providers with fair housing questions.

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 (DOJ). HUD is also required to work on programs of voluntary compliance with the Fair Housing Act⁶². 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

⁶² 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)

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.

Federal Fair Housing Agencies

AGENCY	FUNCTION
HUD/Washington State Fair Housing Enforcement Center (FHEO)	Consumer information Complaints
HUD Program information and Compliance Center	Information on fair housing program requirements, education and outreach, and outreach and compliance reviews
DOJ, Civil Rights Division, Housing and Civil Rights Enforcement	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)

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 Bellingham from October 1, 2001 through December 31, 2006. Sixteen (16) complaints with 21 bases⁶³ were filed with HUD and the WSHRC.

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’s (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.

⁶³ 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 USDA was unable to determine the number of fair housing complaints investigated in Washington state. While the USDA has provided extensive training to rural housing providers throughout Washington state between 1996 and 2006 on topics including fair housing, the number of Bellingham beneficiaries could not be readily identified.

Local Organizations

Whatcom Dispute Resolution Center

The Whatcom Dispute Resolution Center is a nonprofit organization that provides mediation services to Bellingham businesses and residents on a sliding fee basis.

Opportunity Council

The Community Resource Center of the Opportunity Council provides information to Bellingham residents to become self sufficient. Information and referral is provided on a variety of subjects including landlord tenant issues.

The Opportunity Council is a qualified Community Housing Development Organization (CHDO) and is working with the City of Bellingham, the Bellingham Housing Authority and the Whatcom Counseling and Psychiatric Clinic to develop 51 units of low-income and transitional housing at the old Walton Beverage site. In addition to providing CDBG and HOME development funding, the City of Bellingham provides Opportunity Council with HOME funds to administer tenant-based rental assistance. HOME funding provided transitional housing assistance to a total of 16 households containing 52 persons. Twelve of the households were headed by single females and seven households had members who were persons of color.

Whatcom Human Rights Task Force

The Whatcom Human Rights Task Force (Task Force) began in 1994 to address discriminatory incidents against migrant workers in Whatcom County. In June of 2007, the Task Force hosted its 11th annual awards banquet. The Task Force's website provides direct links to the Washington Human Rights Commission.

LAW Advocates

Legal Assistance by Whatcom (LAW) advocates is a nonprofit organization that works closely with Northwest Justice Project to provide free or low-cost civil legal services to low-income Whatcom County residents. LAW refers eligible clients to a panel of local volunteer attorneys to represent clients in family law, civil rights, landlord-tenant, bankruptcy, debtor/creditor foreclosure, consumer protection, guardianship, tort defense, contracts and license revocation matters.

The Whatcom Civil Rights Project

The Whatcom Civil Rights Project is a nonprofit organization founded in 2001 that provides free legal assistance and advocacy to victims of discrimination and civil rights abuse in Whatcom County. The Civil Rights Project is a joint collaboration of the Law and Diversity Program of Fairhaven College at Western Washington University, LAW Advocates and the Whatcom Human Rights Task Force.

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 Bellingham office has 4 attorneys, 1 paralegal and 2 legal assistants. 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-eligible⁶⁴ residents outside of King County every Wednesday from noon to 3:00 pm.

First Time Homebuyer Programs

Homeownership Initiatives

Kulshan Community Land Trust is a community housing development organization (CHDO) "working for permanently affordable access to land and housing in Whatcom County." KulshanCLT uses the community land trust (CLT) approach to create permanently affordable homeownership. As of July, 2007, KulshanCLT has 57 homes in the trust, having partnered with 62 low- and moderate-income homebuyer households including resales. Since July, 2002, KulshanCLT and its member homebuyers have completed over \$9,000,000 in homebuying. The homebuyers' mortgages and downpayments comprise roughly two-thirds of the \$9,000,000, with the balance coming from "mortgage gap financing" sources that include the City of Bellingham HOME funds, the WA Housing Trust Fund, WA State Housing Finance Commission, Federal Home Loan Bank of Seattle, Fannie Mae and other sources.

Kulshan Community Land Trust is a major provider of HomeBuyer Education Courses in partnership with the Washington State Housing Finance Commission, as well as a variety of pre-purchase and post-purchase training workshops.

⁶⁴ Less than 80% of median income.

In its first year of operation, the organization provided first time home buyer training to 62 individuals (17% of whom were persons of color) and successfully assisted five families purchase their first homes in Bellingham (80% of whom were white female heads of household).⁶⁵

Washington State Housing Finance Commission

The Washington State Housing Finance Commission (WSHFC) allocates bond and tax credit financing 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 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.⁶⁶

Other Resources Available to Bellingham residents include:

- Whatcom County Association of Realtors®
- Washington Association of Realtors®
- Rental Housing Association
- Mobile Home Owners of America
- Manufactured Housing Communities of Washington

⁶⁵ Source: City of Bellingham *Analysis of Impediments to Fair Housing Choice*, 2002. More recent data not provided.

⁶⁶ <http://www.homeownership-wa.org/about.htm>

Assessment Conclusions

1. The City of Bellingham successfully and consistently incorporates 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 Bellingham.
3. Bellingham residents benefit from a number of local nonprofit agencies that provide free or affordable legal assistance related to housing and human rights issues.

VI. Identified Impediments and Recommendations

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

Impediments to Fair Housing Choice

Impediment I: Housing discrimination primarily affects persons of color, the disabled, and families with children.

- Fair housing complaints from residents of Bellingham reflect national trends with allegations of discrimination on the basis of disability comprising the most frequently cited protected class. Nearly three-fourths of disability complaints involve failure to provide reasonable accommodation.
- Between 2001 and 2006, the Fair Housing Center conducted 68 rental tests in Bellingham. 56% of tests indicated instances of differential treatment based on race, national origin or familial status.
- The highest rate of differential treatment was identified in the course of familial status testing and indicated that 80% of the sites tested engaged in some form of differential treatment. Race-based Native American testing indicated a differential treatment rate of 62%. National Origin (Hispanic) testing indicated a differential treatment rate of 58% and National Origin (Chinese) testing indicated a differential treatment rate of 27%.

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 both 2000 and 2005, white applicants had the lowest denial rate of all conventional mortgage applicants.
- Hispanics and Native Hawaiian and Other Pacific Islanders are denied conventional mortgage financing at slightly higher rates than whites and Asians while African-Americans and Native Americans and Alaskan Natives were denied conventional financing at much higher rates than whites and Asians.
- In both 2000 and 2005, white re-finance applicants had the second-lowest denial rates, behind Asians and African-Americans, respectively. In 2005, Asian, Native Hawaiian and Other Pacific Islander, Native American/Alaskan Native and Hispanic applicants for re-finance mortgages experienced similar denial rates ranging from 24% to 26%.
- Both nationally and within the Bellingham MSA, the use of subprime mortgages has increased substantially. Nationally and in Bellingham, households of color are disproportionately likely to obtain subprime mortgage financing.

Impediment III: The public at large has limited knowledge of protected classes, fair housing laws and the resources available to them.

- Despite a high level of interest in fair housing, survey responses indicate a lack of knowledge about fair housing protections, including a lack of familiarity with protected classes.
- Survey respondents cite instances of discrimination against families with children and speak to the overlap between affordable housing and fair housing choice.
- Survey responses reflect a demand for more fair housing education and outreach to increase knowledge of fair housing topics and rights.
- The seeming conflict between community input indicating discrimination against families with children and the lack of familial status complaints filed with HUD and the WSHRC likely reflects community concern that a lack of education about fair housing rights impedes fair housing choice.

Recommendations

To address the impediments to fair housing choice identified in this report, it is recommended that the City of Bellingham maintain its commitment to affirmatively further fair housing. Implementation of the following recommendations will strengthen Bellingham'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 Bellingham maintain its momentum and investments in fair housing education and outreach. 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 Bellingham:

- A. Expand on-going education programs and materials for the community.
- B. Develop fair housing educational programs for housing and human services agencies and staff who serve protected classes, especially immigrants, families, persons with disabilities and people of color.
- C. Ensure fair housing informational resources are made available to community partners to facilitate their ability to affirmatively further fair housing.
- D. Ensure that translated fair housing materials are available to immigrant groups.
- E. Increase fair housing information and links to fair housing laws/programs on the City of Bellingham 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.
- F. Increase educational efforts to homeless and transitional shelters to ensure compliance with fair housing laws.

Recommendation II: Continue On-Going Enforcement Activities

Complaint data and testing activities in Bellingham 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 Bellingham:

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

Recommendation III: Target homeownership and lending marketing to African American, Native American and Hispanic households.

- A. Ensure fair housing is incorporated into homeownership initiatives.

- B. Ensure that Bellingham 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 Bellingham's borders.
- D. Work with real estate organizations, banks and lending institutions to increase marketing to African American and Hispanics homebuyers.
- E. Ensure that the Bellingham funded first time homebuyer programs track minority involvement in first time homebuyer classes, closure on loans and marketing to African Americans and Hispanics.
- F. Work with developers and grantees to affirmatively market first time home buyer opportunities to communities of color, especially projects utilizing City assistance.
- G. Continue to actively seek funding for affordable housing in the City as a way to remove some of the economic barriers to housing choice.

Recommendation IV: Ensure implementation of current housing and human services strategies

A review of current housing and human services strategies demonstrates Bellingham's commitment to maximize community benefit from limited and declining federal CDBG resources. It is recommended the City of Bellingham:

- A. Continue implementing the housing and human services strategies articulated in the Consolidated Plan.
- B. Continue supporting housing and human service programs that affirmatively further fair housing and mitigate identified impediments.

Conclusion

The City of Bellingham is a fair housing leader among Washington communities who receive federal housing and community development funding. The City's investments to educate its citizens about fair housing and support for testing to identify market trends merit commendation. The implementation of the recommendations in this AI will enable Bellingham to increase fair housing opportunities and serve as a model for implementing initiatives designed to affirmatively further fair housing.