

The Economics of Land Use



Final Report

Analysis of Impediments to Fair Housing Choice

Prepared for:

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EXECUTIVE SUMMARY

Introduction

This Analysis of Impediments to Fair Housing Choice has been undertaken through a partnership of three local jurisdictions: Kane County, the City of Aurora, and the City of Elgin. All three jurisdictions are recipients of federal funding from the U.S. Department of Housing and Urban Development (HUD), including the Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) programs. Kane County and the City of Elgin participate in a HOME program Consortium in which Kane County acts as the lead agency. The City of Aurora is a direct recipient of both HOME and CDBG funding.

As HUD Entitlement communities, all three governmental jurisdictions are obligated to certify to HUD that they will "affirmatively further fair housing" as part of implementing their funded programs as well as through their Consolidated Planning and community outreach efforts. Specifically, HUD has delineated those fair housing planning responsibilities to include:

- Conducting an Analysis of Impediments to Fair Housing Choice (AI);
- Developing actions to overcome the effects of identified impediments to fair housing; and
- Maintaining records to support the jurisdictions' initiatives to affirmatively further fair housing.

The AI is a review of impediments to fair housing choice in the public and private sector. Generally, the contents of the AI will include:

- A comprehensive review of an Entitlement jurisdiction's laws, regulations, and administrative policies, procedures, and practices;
- An assessment of how those laws, etc. affect the location, availability, and accessibility of housing;
- An assessment of conditions, both public and private, affecting fair housing choice for all protected classes; and
- An assessment of the availability of affordable, accessible housing in a range of unit sizes.

HUD defines an impediment to fair housing as any actions, omissions, or decisions that restrict, or have the effect of restricting, the availability of housing choices based on race, color, religion, sex, disability, familial status, or national origin. In Illinois, protection under state fair housing law is extended to include discrimination based on ancestry, age, marital status, military status, sexual orientation, or unfavorable discharge from military service and persons with an order of protection.

Summary of Findings

The following is a summary of observations, issues, impediments (both real and perceived), and proposed actions identified through the process of research, data collection, and outreach. The two major themes of this section and the Analysis of Impediments report are:

- **Programs & Activities**—It is important to remember that all of the activities that Kane County and the Cities of Aurora and Elgin fund under their Consolidated Plan, both housing and non-housing activities, are intended to improve the overall quality of life for low- and moderate-income individuals and families and to create more balanced, inclusive, and sustainable communities. The study took into account all funded programs and activities, in addition to housing-specific programming, to consider a wider perspective on the community's fair housing environment.
- **Fair versus Affordable Housing**—There is a distinction between activities that further fair housing and those that promote access to quality affordable housing. While these two priorities are linked by the need for local jurisdictions to realize truly sustainable communities, they have different implications for local jurisdictions particularly as they relate to HUD reporting requirements under the Consolidated Plan. As such, this analysis took both the differences between the two priority areas into account, as well as their linkages, when developing the findings of this analysis.

Impediments

A more detailed description of impediments and recommended actions is contained in the Action Plan, Chapter 6, of this report. The following, however, are an overview of the major impediments noted through the study.

1. There is a perceived lack of handicapped accessible housing in the community.
2. Testing data for fair housing compliance in the homebuyer and renter private markets is outdated.
3. There is a need to strengthen planning and communication among the local jurisdictions and the two housing authorities regarding community housing goals and priorities.
4. Based upon feedback from the community survey and housing complaint data, there may be some existence of discriminatory practices, either intentional or unintentional among rental housing providers or property managers toward low-income minority renters, and in particular those households with disabilities.
5. There is a general lack of awareness among community stakeholders of fair housing laws, roles and responsibilities, e.g., who to contact, what are legal rights, etc.
6. There is a general lack of awareness of existing affordable housing and supportive service resources.
7. While there have been good coordination efforts among the three jurisdictions in the past on a variety of housing-related issues and programs, there are currently no formal collaborative efforts regarding ongoing fair housing efforts. Cooperation on this plan as well as a selection

of other initiatives, such as the Continuum of Care, is emblematic of renewed interest in inter-jurisdictional cooperation.

8. There is a lack of coordination with the private sector pertaining to access to affordable housing and fair housing awareness.

Actions to Address Impediments

The following suggested actions to affirmatively further fair housing choice are generalized strategies that pertain to all three Entitlement jurisdictions. The Action Plan contains specific actions (including some that are not listed in this overview) that are delineated for each community.

1. Develop an inter-jurisdictional, coordinated, and collaborative educational strategy for affordable housing, supportive service resource, and referral and fair housing information.
2. Continue providing training to apartment owners and managers to ensure that fair housing laws and appropriate practices are included as part of the curriculum.
3. Identify opportunities to increase educational programming that specifically identifies fair housing issues relating to the needs of handicapped or disabled households.
4. Investigate the need to update fair housing testing for the lending, real estate, and rental communities.
5. Utilize existing community-based provider networks or forums for an on-going discussion of fair housing awareness and outreach.
6. Continue to support, as resources are available, programs or services that provide housing, credit counseling and foreclosure and tenant-based counseling.
7. Develop Language Accessibility Plans for each jurisdiction, and ensure sufficient training for appropriate staff.
8. Continue to provide housing resources that maintain the supply of affordable housing and develop new housing that addresses the greatest needs within the community, including low-income families, the disabled and senior households.

BACKGROUND

Purpose of the Study

Kane County, in partnership with the Cities of Elgin and Aurora has taken the role of lead agency in the development of this AI. As previously stated, all three jurisdictions are mandated to affirmatively further fair housing choice within the communities as part of their obligation of receiving and administering HUD funding. HUD's intention of requiring the development of the AI is to:

- Serve as the substantive, logical basis for fair housing planning and the development and administration of programming that affirmatively furthers fair housing choice within the community;
- Provide essential and detailed information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates; and
- Assist in building public support for fair housing efforts both within the Entitlement jurisdictions' boundaries and beyond.

Fair Housing Act

The federal Fair Housing Act (FHA), passed in 1968 and amended in 1988, prohibits discrimination in housing on the basis of race, color, national origin, religion, gender, familial status, and disability. The FHA covers most types of housing including rental housing, home sales, mortgage and home improvement lending, as well as land use and zoning. Excluded from the FHA are owner-occupied buildings with no more than four units, single family housing sold or rented without the use of a real estate agent or broker, housing operated by organizations and private clubs that limit occupancy to members, and housing for older persons. According to HUD, impediments to fair housing choice are:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status or national origin that restrict housing choices or the availability of housing choices.
- Any actions, omissions, or decisions that have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.

In addition to the Housing and Community Development Act of 1974, the Civil Rights Act of 1968 (CRA) also directs HUD's review of fair housing practices. An amendment to Title VIII of the CRA was passed in 1988. The amendment, known as the Fair Housing Act of 1988, expanded the scope of coverage of the law to include families with children and persons with disabilities as protected classes. Enforcement powers for HUD, including a monetary penalty for discrimination, were also added.

Prohibitions in the Sale and Rental of Housing

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to rent or sell housing;
- Refuse to negotiate for housing;
- Make housing unavailable;
- Deny a dwelling;
- Set different terms, conditions or privileges for the sale or rental of a dwelling;
- Provide different housing services or facilities;
- Falsely deny that housing is available for inspection, sale, or rental-for-profit;
- Persuade owners to sell or rent (blockbusting); or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

Prohibitions in Mortgage Lending

No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or disability:

- Refuse to make a mortgage loan;
- Refuse to provide information regarding loans;
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees;
- Discriminate in appraising property; or
- Refuse to purchase a loan or set different terms or conditions for purchasing a loan.

Other Prohibitions

It is illegal for anyone to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right; or
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single family and owner-occupied housing that is otherwise exempt from the FHA.

Additional Protections for the Disabled

If an individual has a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, or mental retardation) that substantially limits one or more major life activities, has a record of such a disability, or is regarded as having such a disability, a landlord may not:

- Refuse to let the disabled person make reasonable modifications to a dwelling or common use areas, at the disabled person's expense, if necessary for the disabled person to use the

housing. Where reasonable, the landlord may permit changes only if the disabled person agrees to restore the property to its original condition when he or she moves; or

- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

The Housing for Older Persons Act (HOPA) amended the housing for older persons exemption against familial status discrimination. The HOPA modified the statutory definition of housing for older persons as housing intended and operated for occupancy by at least one person 55 years of age or older per unit. It eliminated the requirement that housing for older persons have significant services and facilities specifically designed for its elderly residents. It required that facilities or communities claiming the exemption establish age verification procedures. It established a good faith reliance defense or exemption against monetary damages for persons who illegally act in good faith to exclude children based on a legitimate belief that the housing facility or community was entitled to the exemption.

Illinois Human Rights Act

The State of Illinois has a fair housing law (Title 41, Article 7) similar to the Federal Fair Housing Act, with some enhanced protections specifically addressing familial status and disability. These enhanced protections are included in the law as follows:

Illinois Human Rights Act, Article 1 Protected Classes Public Act 93-1078

This amendment, initiated in the 2004 session of the General Assembly becomes effective January 1, 2006 (SB 3186). The new law amends the Illinois Human Rights Act to add sexual orientation to the listing of protected classes. Discrimination against a person because of his or her sexual orientation will now constitute unlawful discrimination under Illinois law.

Illinois Human Rights Act, Article 3 Real Estate Transactions

It shall be unlawful:

To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unfavorable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin;

To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, color, religion, sex, familial status, or national origin.

To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates 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.

To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

For profit, to induce or attempt to induce any person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

Approach

The methodology in undertaking this AI, in part, followed the recommended methodology in the Fair Housing Planning Guide Vol. 1 (HUD Office of Fair Housing and Equal Opportunity) in addition to guidance provided by staff from Kane County and the Cities of Aurora and Elgin. This AI was conducted via the following project tasks.

Project Initiation

The team met with the project managers from Kane County and both cities to refine the overall project and the project schedule and review expectations of the project. The team collected relevant data; identified potential candidates for key person interviews to ensure that input from housing providers, service agencies, fair housing advocates and other critical stakeholders was captured during the process; and discussed the public participation components of the study. The consultant then began creation of the survey instruments.

Community Data Collection and Analysis

The team reviewed existing demographic, economic, employment and housing market information for the community using the U.S. Census American Community Survey; foreclosure data; housing and program information contained in each jurisdiction's Consolidated Plan; and Comprehensive Plans.

Regulatory and Compliance Data Review

The team researched and collected information regarding relevant jurisdictional development regulations, development fees, housing policies and programs that influence fair housing choice and impediments, through a review of the City's policies and interviews with government and relevant agency staff.

The team collected and analyzed all applicable available data regarding compliance with local, state and federal Fair Housing Law, including the Home Mortgage Disclosure Act (HMDA), the Fair Housing Act, and the Community Reinvestment Act (CRA). In addition, EPS collected and analyzed complaint data compiled by the regional HUD offices.

Surveys, Focus Groups and Interviews

In May of 2011, the consultant conducted an online survey available to all Kane County residents and interested stakeholders. The survey asked respondents about their experiences and perceptions of fair housing related issues, their knowledge of fair housing laws and rights, and their awareness and utilization of the participating jurisdictions' housing and community development programs. In addition to being distributed to County stakeholders for their participation, the survey was announced during the Quality of Kane series of open houses that were held during April and May of 2011. The survey fielded a total of 246 responses. In addition to the on-line survey and two focus groups, the consultant conducted key person interviews with local city and County jurisdiction staff.

Identification of Impediments

The consultant then analyzed the findings from the first five tasks in order to determine what impediments to fair housing choice within Kane County and the Cities of Elgin and Aurora.

Action Plan

In consultation with city and County staff, EPS developed a recommended Action Plan for addressing the identified impediments. Suggested actions were broken out by community, with some overlap of strategies to take advantage of shared expertise, resources, and the opportunity to collaborate on affirmative policies and actions.

COMMUNITY OVERVIEW

This section provides background demographic information relevant to understanding the context of Kane County and its municipalities' fair housing issues and environment. This chapter details demographic trends and conditions related to overall population, households by race, and special needs populations. Other information presented includes information on minority concentrations, an overview of the housing profile of the County and trends in cost-burden households.

Demographic Profile

As a supplement to the Five-Year Consolidated Plan completed in 2010, this AI provides information presented in that document that is relevant to the evaluation of fair housing issues. The following is an overview of those relevant demographic conditions.

The population of Kane County, as illustrated in **Figure 1**, grew from approximately 404,000 in 2000 to nearly 564,000 by 2009, as shown in **Table 1**. Annually, the Hispanic population grew fastest, although not as quickly as persons identifying themselves as "other." The African-American population accounts for approximately five percent of the total population, but did not substantially grow over the time period. By contrast, the Asian population, only two percent of the population in 2000, doubled in size by 2009. In general, the proportions of race/ethnicity remained the same in the County while their numbers grew. The racial composition of the community remained white at 67 percent, Hispanic at 24 percent, approximately five percent African-American, three percent Asian, and one percent identifying themselves as two or more races.

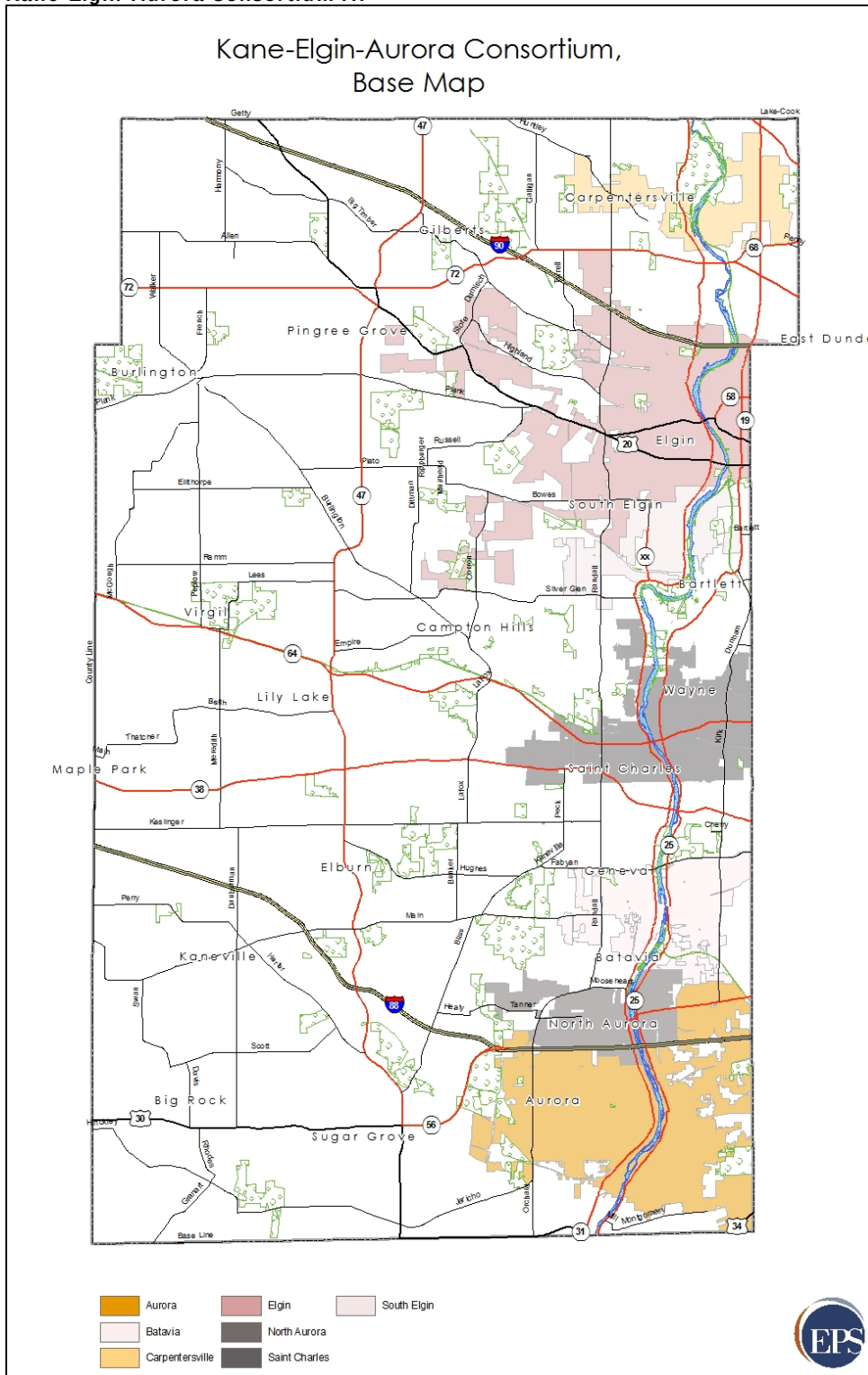
Table 1
Population by Race, 2009
Kane-Elgin-Aurora Consortium AI

	Total Population		as % of Total		Change 2000-2009	
	2000	2009	2000	2009	Total	Ann. %
Race / Ethnicity						
White	273,390	379,696	68%	67%	106,306	3.7%
Hispanic or Latino	95,924	136,844	24%	24%	40,920	4.0%
African American	22,477	26,104	6%	5%	3,627	1.7%
American Indian and Alaska Native	536	465	0%	0%	-71	-1.6%
Asian	7,142	14,653	2%	3%	7,511	8.3%
Native Hawaiian and Other Pacific Islander	57	55	0%	0%	-2	-0.4%
Some Other Race	338	960	0%	0%	622	12.3%
Two or More Races	4,255	5,163	1%	1%	908	2.2%
Total	404,119	563,940	100%	100%	159,821	3.8%

Source: U.S. Census, American Community Survey 5-Year Estimates; Economic & Planning Systems

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Figure 1
Kane County Geography
Kane-Elgin-Aurora Consortium AI



The County has several areas of minority household racial concentration, particularly in the larger municipalities of Aurora and Elgin, as shown in **Figure 2**. By Census tract, a few areas of southeast Elgin have concentrations of African Americans that exceed the County-level proportion of five percent. Similarly, several areas throughout the City of Aurora have higher than average concentrations of African Americans.

There are also many areas of the County in which Hispanics are highly concentrated, as shown in **Figure 3**. These concentrations in a few tracts overlap areas with high concentrations of African Americans. In many tracts, however, Hispanics comprise a larger than average proportion of the population than at the County level.

Figure 2
Kane County Concentration of African American Households, 2000
Kane-Elgin-Aurora Consortium AI

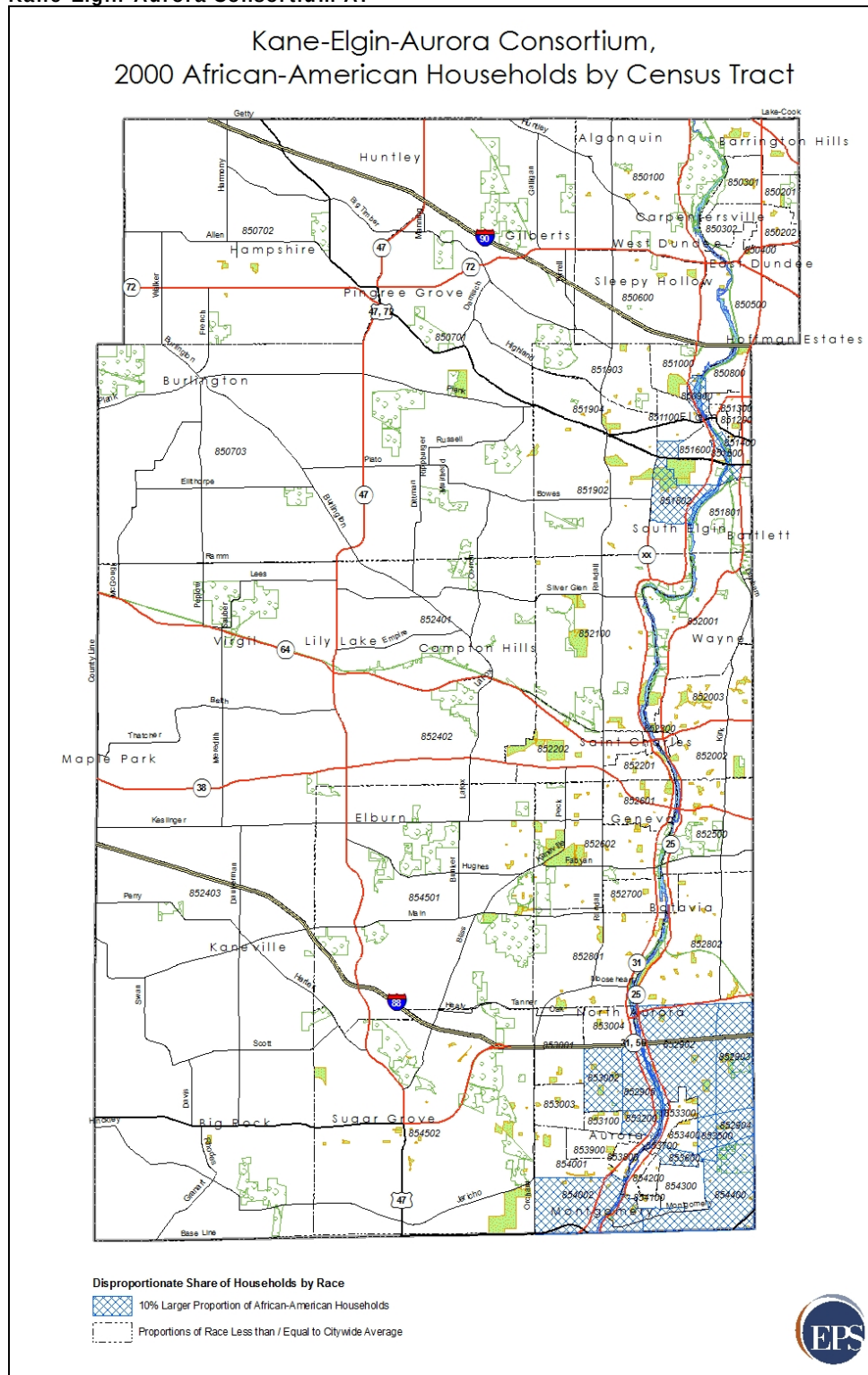
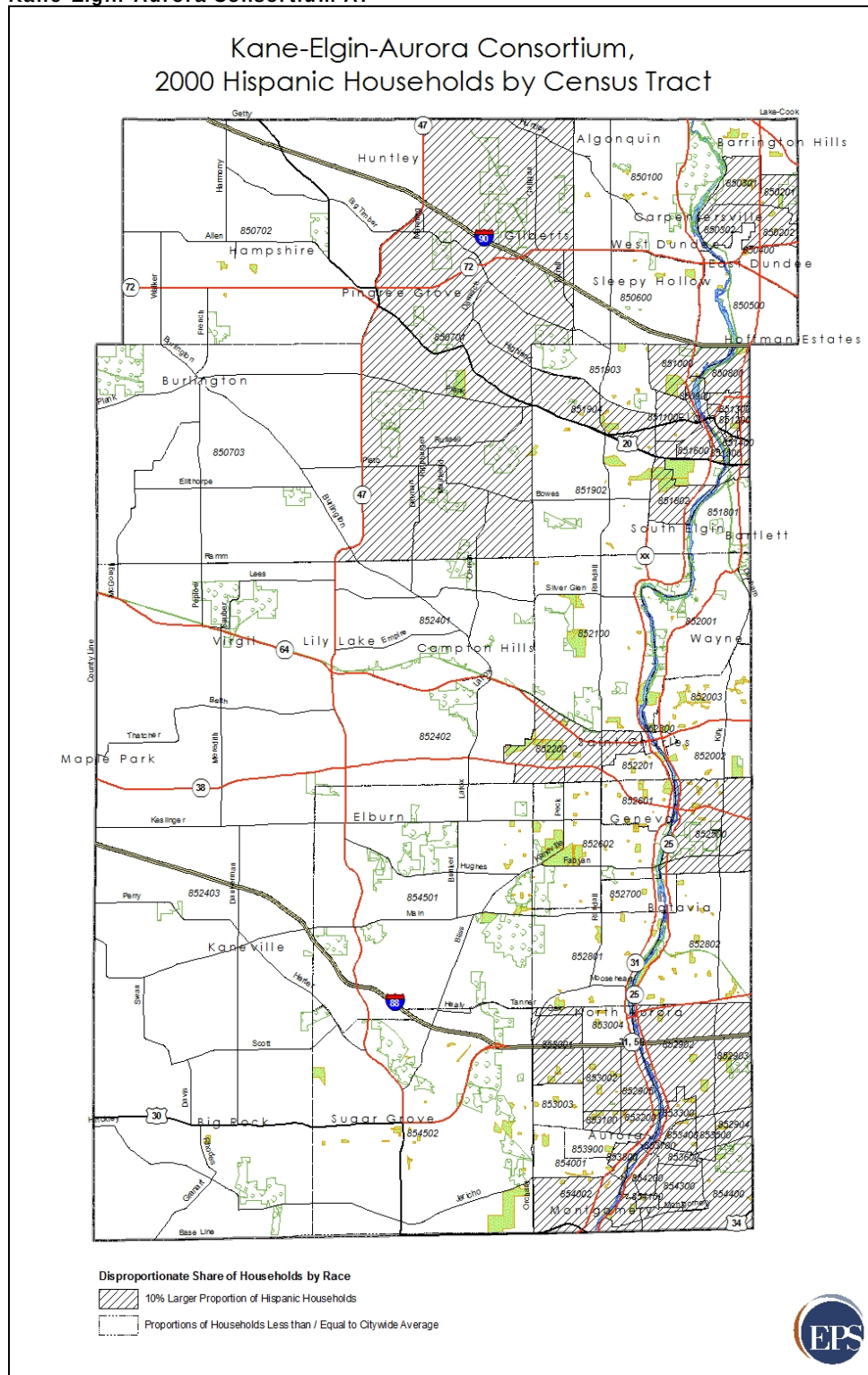


Figure 3
Kane County Concentration of Hispanic Households, 2000
Kane-Elgin-Aurora Consortium AI



As detailed later in this report, fair housing concerns and access to suitable housing related for disabled households are a significant issue in Kane County. As shown in **Table 2**, approximately eight percent of the County's population is disabled (which can include mental or cognitive disability, physical disability such as mobility, etc.). Physical disability naturally increases with age, thus the higher rates of disability in the elderly populations. Nevertheless, as the population ages, it becomes increasingly important for the housing industry to make provisions for mobility needs, such as ensuring adequate handicapped accessibility. By contrast, the rates of disability in the Chicago Metro Area and at the state level exceed Kane County's.

Table 2
Disabled Population
Kane-Elgin-Aurora Consortium AI

	2008			2008		
	Disabled	Not Disabled	Total	Disabled	Not Disabled	Total
Kane County						
Under 18	4,331	144,586	148,917	3%	97%	100%
18 to 34 Years	3,928	116,235	120,163	3%	97%	100%
35 to 64 Years	14,595	175,840	190,435	8%	92%	100%
65 to 74 Years	5,137	13,946	19,083	27%	73%	100%
75 Years and Over	<u>9,843</u>	<u>8,236</u>	<u>18,079</u>	<u>54%</u>	<u>46%</u>	<u>100%</u>
Subtotal	37,834	458,843	496,677	8%	92%	100%
Chicago Metro Area [1]						
Under 18	60,916	2,156,135	2,217,051	3%	97%	100%
18 to 34 Years	77,832	1,939,300	2,017,132	4%	96%	100%
35 to 64 Years	324,382	3,104,348	3,428,730	9%	91%	100%
65 to 74 Years	122,869	302,806	425,675	29%	71%	100%
75 Years and Over	<u>205,172</u>	<u>203,089</u>	<u>408,261</u>	<u>50%</u>	<u>50%</u>	<u>100%</u>
Subtotal	791,171	7,705,678	8,496,849	9%	91%	100%
State of Illinois						
Under 18	101,083	3,074,435	3,175,518	3%	97%	100%
18 to 34 Years	130,088	2,899,470	3,029,558	4%	96%	100%
35 to 64 Years	530,549	4,478,317	5,008,866	11%	89%	100%
65 to 74 Years	200,726	496,755	697,481	29%	71%	100%
75 Years and Over	<u>346,278</u>	<u>350,067</u>	<u>696,345</u>	<u>50%</u>	<u>50%</u>	<u>100%</u>
Subtotal	1,308,724	11,299,044	12,607,768	10%	90%	100%

[1] Defined as the sum of Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, and Will counties.

Source: Census 2000; U.S. Census Bureau, 2008 American Community Survey; Economic & Planning Systems

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Similarly, Kane County's population also contains a generally lower proportion of persons with cognitive difficulty than the Chicago Metro Area or the state. As shown in **Table 3**, while four percent of Illinois' population has a cognitive difficulty and four percent of the Chicago Metro Area's population has a cognitive difficulty, Kane County's rate is three percent.

Table 3
Population with Cognitive Difficulty
Kane-Elgin-Aurora Consortium AI

Population with Cognitive Difficulty	2008 Population			as % of Total		
	Male	Female	Total	Male	Female	Total
State of Illinois						
Cognitive Difficulty	231,293	235,125	466,418	4%	4%	4%
No Cognitive Difficulty	<u>5,549,625</u>	<u>5,798,838</u>	<u>11,348,463</u>	<u>96%</u>	<u>96%</u>	<u>96%</u>
Total	5,780,918	6,033,963	11,814,881	100%	100%	100%
Chicago Metro Area						
Cognitive Difficulty	138,276	144,485	282,761	4%	4%	4%
No Cognitive Difficulty	<u>3,760,836</u>	<u>3,898,281</u>	<u>7,659,117</u>	<u>96%</u>	<u>96%</u>	<u>96%</u>
Total	3,899,112	4,042,766	7,941,878	100%	100%	100%
Kane County						
Cognitive Difficulty	7,218	5,914	13,132	3%	3%	3%
No Cognitive Difficulty	<u>223,799</u>	<u>220,692</u>	<u>444,491</u>	<u>97%</u>	<u>97%</u>	<u>97%</u>
Total	231,017	226,606	457,623	100%	100%	100%

Source: U.S. Census Bureau, 2008 American Community Survey; Economic & Planning Systems

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By comparison to the State of Illinois and the Chicago Metro Area, the portion of Kane County's population that is elderly, defined as over 65, is lower by several percentage points, as shown in **Table 4**. Whereas 12 percent of Illinois' population is elderly and 10 percent of the Chicago Metro Area's population is elderly, Kane County's is eight percent.

Table 4
Elderly Population Comparisons
Kane-Elgin-Aurora Consortium AI

	2008			2008		
	Male	Female	Total	Male	Female	Total
State of Illinois						
Under 65	5,704,895	5,624,341	11,329,236	90%	86%	88%
Over 65	648,779	923,549	1,572,328	10%	14%	12%
Total	6,353,674	6,547,890	12,901,564	100%	100%	100%
Chicago Metropolitan Area [1]						
Under 65	3,879,167	3,833,351	7,712,518	91%	87%	89%
Over 65	389,966	552,259	942,225	9%	13%	11%
Total	4,269,133	4,385,610	8,654,743	100%	100%	100%
Kane County						
Under 65	237,819	226,903	464,722	93%	90%	92%
Over 65	18,695	24,162	42,857	7%	10%	8%
Total	256,514	251,065	507,579	100%	100%	100%

[1] Defined as the sum of Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, and Will counties.

Source: U.S. Census Bureau, 2008 American Community Survey; Economic & Planning Systems

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Cost burden is defined by HUD as when a household spends more than 30 percent of its income on housing, excluding the cost of utilities. As shown in **Table 5**, it is becoming increasingly a problem. In Illinois, the percent of cost-burdened households has increased from 29 to 36 percent; in the Chicago Metro Area, this rate has increased from 33 to 41 percent; and in Kane County, the it has increased from 31 to 43 percent. In the City of Aurora, it has increased from 34 to 45 percent, and has reached 50 percent from 33 in Elgin.

Table 5
Cost Burden Households, 2000-2008
Kane-Elgin-Aurora Consortium AI

	2000		2008	
	Non Cost-Burdened	Cost-Burdened	Non Cost-Burdened	Cost-Burdened
Geography				
State of Illinois	71%	29%	61%	36%
Chicago Metropolitan Area [1]	67%	33%	56%	41%
Kane County	69%	31%	56%	43%
City of Elgin	67%	33%	50%	50%
City of Aurora	66%	34%	55%	45%

[1] Defined as the sum of Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, and Will counties.

Source: U.S. Census, 2008 American Community Survey; SOCDs (CHAS) 2000 Census; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 1- Consolidated Plan\20836-Demographics-ACS.xls]Cost Burden

In 2000, cost burden by race for households varied widely, as shown in **Table 6**. At the state level, the most cost-burdened households are Hispanic at 53 percent, followed by African-American, Asian, and Pacific Islander. In the Chicago Metro Area, 55 percent of Hispanic households were cost-burdened, followed by 45 percent of Pacific Islanders, and 43 percent of African-American households. Similarly, in Kane County, the households with the highest portion of cost burden were Hispanic, followed by African-American. In the City of Aurora, cost burden was more pronounced for American Indians at 61 percent. In the City of Elgin, nearly 60 percent of Hispanic households were cost-burdened and a larger portion of African-American households.

While Comprehensive Housing Affordability Strategy (CHAS) data for 2010 on cost-burden by race have not been released, given the overall increase in cost-burdened households reported in **Table 4** previously, it is reasonable to anticipate that cost burden levels in various race/ethnicities have increased commensurately.

Table 6
Cost Burden Households by Race, 2000
Kane-Elgin-Aurora Consortium AI

	Percent Cost Burdened Households (2000)				
	State of Illinois	Chicago Metro	Kane County	City of Aurora	City of Elgin
Race / Ethnicity					
White (Non-Hispanic)	23%	26%	25%	25%	26%
Black or African American (Non-Hispanic)	42%	43%	41%	41%	44%
American Indian or Alaskan Native	35%	36%	34%	61%	8%
Asian	41%	41%	31%	30%	35%
Pacific Islander	41%	45%	33%	50%	n/a
Two or more races	39%	42%	27%	28%	31%
Hispanic or Latino	<u>53%</u>	<u>55%</u>	<u>56%</u>	<u>54%</u>	<u>58%</u>
Total	29%	33%	31%	34%	33%

Source: SOCDS (CHAS) 2000 Census; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 1- Consolidated Plan\20836-Demographics-CHAS.xls\Cost Burden Summary

In 2000, approximately half of all households in Kane County were defined as small families, as shown in **Table 7**. Large family households and other non-family households comprised another 33 percent collectively. Elderly households accounted for nine percent, of which 92 percent were homeowners. Large family households, however, account for the largest portion of cost-burdened households. Nearly 50 percent of these households are cost-burdened, and more than 70 percent of those renting are defined as cost-burdened. Approximately 40 percent elderly non-family households were also substantially cost-burdened, and more than half of those households renting were also cost-burdened.

As with the larger cost burden trends cited previously, the trend toward increased prevalence of cost burden in Kane County suggests that the households that were cost burdened in 2000 are likely to have become more cost burdened today.

Table 7
Cost Burden Households by Family Type, 2000
Kane-Elgin-Aurora Consortium AI

	Owners		Renters		All Households	
	#	%	#	%	#	%
All Households						
Elderly	10,959	92%	946	8%	11,905	9%
Small Family	52,656	80%	12,781	20%	65,437	51%
Large Family	17,193	80%	4,312	20%	21,505	17%
Elderly Non-Family	6,638	68%	3,180	32%	9,818	8%
Other Non-Family	<u>10,994</u>	<u>53%</u>	<u>9,744</u>	<u>47%</u>	<u>20,738</u>	<u>16%</u>
Total	98,440	76%	30,963	24%	129,403	100%
Cost-Burdened Households						
Elderly	1,955	18%	261	28%	2,216	19%
Small Family	11,409	22%	4,855	38%	16,264	25%
Large Family	7,144	42%	3,064	71%	10,208	47%
Elderly Non-Family	2,303	35%	1,722	54%	4,025	41%
Other Non-Family	<u>4,107</u>	<u>37%</u>	<u>3,027</u>	<u>31%</u>	<u>7,134</u>	<u>34%</u>
Total	26,918	27%	12,929	42%	39,847	31%

Source: SOCDS (CHAS) 2000 Census; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 1- Consolidated Plan\20836-Demographics-CHAS.xls]Cost Burden by HH Type County

Housing Characteristics

This section also provides an evaluation of the current ownership housing costs by jurisdiction, as well as an inventory of the rental units and associated rental rates. The analysis presents a cross-section of for-sale and rental housing available during an 18-month period from January 2009 to June 2010 at various area median income (AMI) levels.

Supply of Housing

Nearly half of Kane County's housing inventory was constructed after 1980, representing more than 83,000 units, as shown in **Table 8**. The County's supply of housing accounts for approximately five percent of the Chicago Metro Area's housing, and of units built after 2005, Kane County's housing stock represents approximately 11 percent, indicating that a greater share of the Chicago Metro Area's housing stock built after 2005 was built in Kane County and its municipalities, particularly the City of Elgin. Growth pressure and housing demand in Kane County have continued to build as the Chicago Metro Area population continues to expand westward. As further indication of these growth pressures on Kane County, nearly 20 percent of the housing stock has been built between 2000 and 2008 compared to ten percent at the State and Chicago Metro level.

Table 8
Housing Inventory, 2008
Kane-Elgin-Aurora Consortium AI

	State of Illinois		Metro Area [1]		Kane County		City of Elgin		City of Aurora	
	#	%	#	%	#	%	#	%	#	%
Housing Units										
Built 2005 or later	162,275	3%	106,843	3%	11,704	7%	2,951	8%	2,119	3%
Built 2000 to 2004	362,300	7%	248,552	7%	22,982	13%	1,754	5%	10,300	16%
Built 1990 to 1999	559,565	11%	348,385	10%	30,756	18%	5,087	13%	14,722	23%
Built 1980 to 1989	463,553	9%	305,021	9%	17,873	10%	4,975	13%	6,351	10%
Built 1970 to 1979	764,657	14%	471,074	14%	21,445	12%	4,610	12%	7,522	12%
Built 1960 to 1969	648,363	12%	420,306	12%	15,769	9%	4,846	13%	3,775	6%
Built 1950 to 1959	696,757	13%	456,400	13%	17,102	10%	3,369	9%	5,530	9%
Built 1940 to 1949	386,179	7%	239,349	7%	7,787	4%	1,515	4%	2,469	4%
Built 1939 or earlier	<u>1,232,433</u>	<u>23%</u>	<u>799,291</u>	<u>24%</u>	<u>28,878</u>	<u>17%</u>	<u>8,652</u>	<u>23%</u>	<u>11,569</u>	<u>18%</u>
Total	5,276,082	100%	3,395,221	100%	174,296	100%	37,759	100%	64,357	100%

[1] Defined as the sum of Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, and Will counties.

Source: U.S. Census Bureau, 2008 American Community Survey 1-year Estimates; Economic & Planning Systems

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Cost of Housing

This section details the supply of ownership and rental housing in Kane County and its municipalities and quantifies the portion of housing units available at various AMI levels. This information uses sales and leasing data available from the regional Multiple Listing Service (MLS) on the sale of for-sale single-family detached, attached, and multi-family housing products. Data, while limited, were also available from the MLS on rental housing supply and cost in Kane County.

The volume of housing market activity in the past several years has contracted by comparison to previous years. As such, data from the past year and a half are used to quantify the activity in Kane County's housing market. In 2009 and 2010, the average sales price of a single-family detached, attached and multi-family housing was approximately \$116,000, as shown in **Table 9**. A breakdown of sales by AMI by category illustrates a distribution of sales of units affordable to households at low- and moderate-income levels. As discussed later, these low prices are more likely an indication of the transactions occurring related to foreclosure than they are units that are available in the free market. As such, of the 1,250 sales that occurred between the beginning of 2009 and the middle of 2010, nearly 40 percent of units sold were affordable to households of four earning between 50 and 80 percent AMI.

Table 9
Cost of For Sale Housing, 2009 / 2010
Kane-Elgin-Aurora Consortium Consolidated Plan

	2009/2010 For Sale Sample		
	# Sales	% Sales	Average \$
Kane County			
Less than 30% AMI	278	22%	\$52,267
30 - 50% AMI	410	33%	\$92,240
50 - 80% AMI	479	38%	\$147,746
80 - 95% AMI	55	4%	\$213,380
Greater than 95% AMI	<u>28</u>	<u>2%</u>	<u>\$347,250</u>
Total	1,250	100%	\$115,662

Source: connectMLS; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 1- Consolidated Plan\[20836-MLS.xls]For Sale Supply Report

A sample of rental leasing data from Kane County indicates that average rents in Kane County are approximately \$1,500, which is approximately 93 percent of AMI. This analysis assumes, as HUD does to estimate cost burden, that a household spends no more than 30 percent of its income on housing, excluding the cost of utilities. A breakdown of the rental units by AMI level, as shown in **Table 10**, indicates that nearly 40 percent of all units are affordable only to households earning above 95 percent AMI. Approximately one-quarter of rental units are affordable to households within the 80 to 95 percent AMI range, and more than one-third of units are affordable to households in the 50 to 80 percent AMI range. However, only six percent of the rental units in the data collected were affordable to households with an AMI less than 50 percent.

Table 10
Cost of Rental Housing, 2009 / 2010
Kane-Elgin-Aurora Consortium Consolidated Plan

	2009/2010 Rental Sample		
	# Units	% Rentals	Average \$
Kane County			
Less than 30% AMI	2	1%	\$250
30 - 50% AMI	13	5%	\$646
50 - 80% AMI	88	31%	\$1,095
80 - 95% AMI	75	26%	\$1,422
Greater than 95% AMI	<u>107</u>	<u>38%</u>	<u>\$2,040</u>
Total	285	100%	\$1,509

Source: connectMLS; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 1- Consolidated Plan\[20836-MLS.xls]Rental Supply Report

FAIR HOUSING ENVIRONMENT

This section provides an overview of the fair housing planning environment and the prevalence of fair housing complaints, violations, and other incidents during the previous five years.

It should be noted that the low number of fair housing complaints, violations, or cases filed do not necessarily indicate an absence of fair housing problems. In some cases, people who are discriminated against may not be aware of their fair housing rights or that there are mechanisms in place for filing a complaint. As will be described in greater detail in the following chapter on the survey results, many of the respondents, particularly residents, were not only unaware of how to file a complaint, but also unaware of fair housing issues and uncertain about where to go to get assistance.

Private Sector Overview

This section provides an overview of some key indicators that provide insight on the performance of the local housing industry as it relates to fair housing concerns. It is important to note that agencies which are tasked with administering HUD funding at the local level often have very little influence or authority over the private sector with respect to ensuring that fair housing policies and practices are being followed to the letter of the law. Many local jurisdictions have no formal role in overseeing and enforcing fair housing issues, and in communities such as Kane County, the City of Elgin, and the City of Aurora, these responsibilities fall within the purview of the State of Illinois and with HUD. Given that lack of enforcement capability over the private sector, specifically the real estate and lending community, local government entities like Kane County, the City of Elgin, and the City of Aurora are more likely to play a support or partner role to the promotion of fair housing principles and practices.

In the specific cases where the three jurisdictions directly fund programs or projects with HUD funding, they will play a role in ensuring that the sub-grantees or developers and managers of affordable housing receiving HUD funding are promoting fair housing awareness and marketing their programs or properties affirmatively.

Another issue that could be considered an impediment to furthering fair housing in Kane County, the City of Elgin, and the City of Aurora, is the lack of current “real-time” data relating to local real estate or lending policies and practices, specifically current testing data. This data has been collected in the past; however, it may be beneficial for the three jurisdictions to consider updating it in order to gain more information on whether local real estate agents and mortgage brokers are following fair housing laws.

Community Reinvestment Act (CRA)

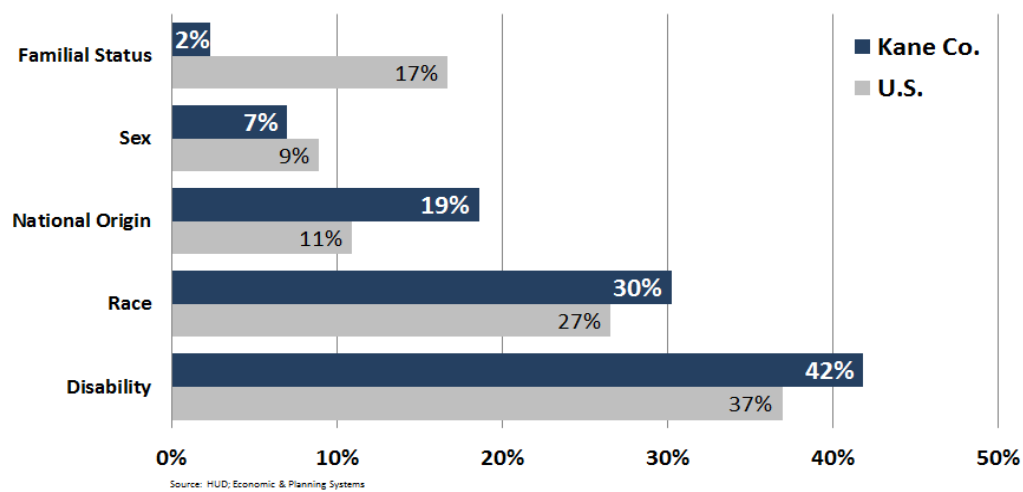
The Community Reinvestment Act, enacted in 1977, was created to require banks to invest in individuals and businesses in low-income neighborhoods. Banks are evaluated on their record of lending in low-income communities and receive scores based upon that evaluation. When a lending institution is found to be deficient or non-compliant under CRA requirements, it can receive some specific sanctions. In a review of CRA records for Kane County, Aurora and Elgin,

there were no institutions that were found to be currently in non-compliance with these requirements.

Housing Complaints

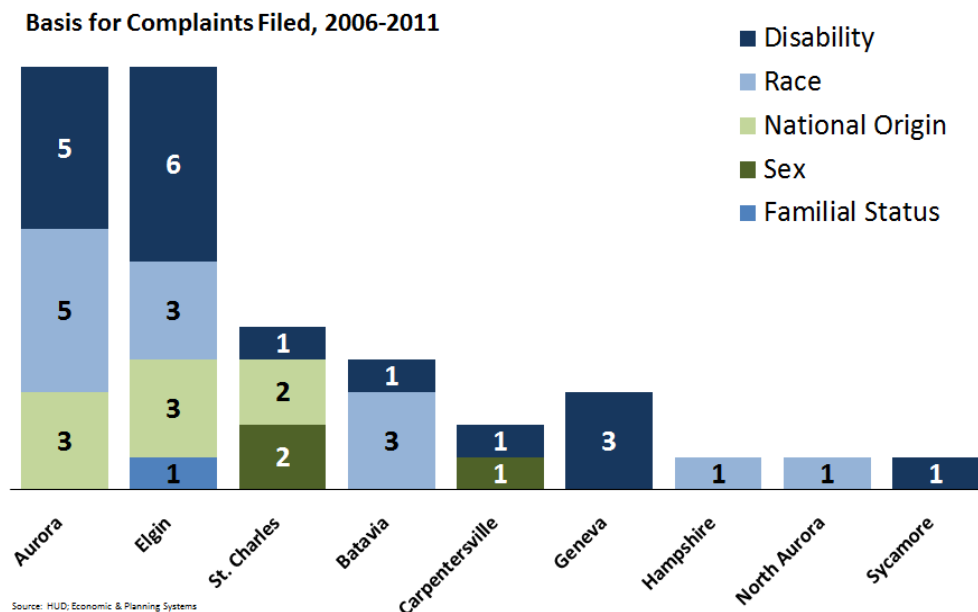
Of five categories identified by HUD for the basis of fair housing complaints, HUD retains records that at the national level. As shown in **Figure 4**, nearly two-fifths of all complaints are filed on the basis of disability. In Kane County, the City of Elgin, and the City of Aurora, more than two-fifths of complaints filed were on this basis as well. The basis of race and national origin similarly were higher than the national average, but the basis of sex and particularly familial status were lower than the national averages.

Figure 4
County v U.S. Basis of HUD Complaints
Analysis of Impediments



Kane County's largest cities, Aurora and Elgin, each had equal numbers of complaints filed, as shown in **Figure 5**. As indicated previously, complaints were filed in each of these communities pertaining to the top bases: disability, race, and national origin. Other communities in the County contain records of fewer than five complaints each, while the smaller communities have fewer complaints.

Figure 5
Sub-County Basis of HUD Complaints
Analysis of Impediments

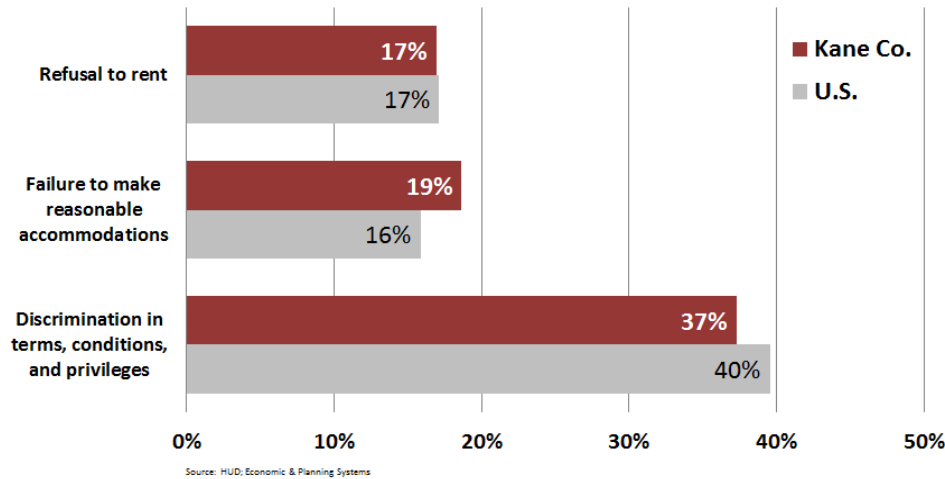


In addition to the basis for the complaint, there are multiple reasons why a person files, as shown in **Figure 6**. Among the reasons given are:

- Discrimination in terms, conditions, privileges relating to rental;
- Failure to make reasonable accommodation;
- Discriminatory terms, conditions, privileges, or services and facilities;
- Discriminatory refusal to rent;
- Discriminatory acts under Section 818 (coercion, etc.);
- Discriminatory advertising, statements, and notices;
- Discriminatory refusal to rent and negotiate for rental;
- Discrimination in the making of loans;
- Discrimination in services and facilities related to rental;
- Discriminatory refusal to negotiate for rental;
- Noncompliance with design and construction requirements (handicapped);
- Failure to provide accessible and usable public and common user areas; or
- Failure to provide usable kitchens and bathrooms.

Nationwide, approximately two-fifths of all reasons cited concern discrimination in terms, conditions, and privileges, followed by failure to make reasonable accommodations, and refusal to rent. In Kane County, the City of Elgin, and the City of Aurora, the proportion of reasons given as the basis for filing complaints conforms to the proportions at the national level.

Figure 6
Count v. U.S. Reasons for HUD Complaints
Analysis of Impediments



Home Mortgage Disclosure Act

The Home Mortgage Disclosure Act (HMDA) requires that lending institutions report all residential loan activity to the Federal Reserve Bank. HMDA also requires institutions to comply with and report information on loans denied, withdrawn, or incomplete on the basis of race, sex, and income of the applicant. These data help to identify whether discrimination on the basis of any of these is occurring.

Data are presented for conventional, FHA, and VA loan applications and denials from the Woodstock Institute in the Chicago Metro Area, from 2005 through 2009, shown in **Table 11**. The national-level housing bubble that reached its peak between 2006 and 2008 for most of the country was largely attributable to lenient underwriting standards by lending institutions, yet the denial rates indicate that conventional loan applications were denied at a higher rate during those years peaking in 2008 and declining in 2009.

Table 11
Chicago Metro Area Conventional Loan Applications & Denials, 2005-2009
Kane-Elgin-Aurora Consortium AI

	2005	2006	2007	2008	2009	Total
Conventional Loan Applications						
Asian	1,616	1,688	1,241	783	410	5,738
African American	1,962	1,841	1,251	498	115	5,667
Latino	14,170	13,369	8,975	3,778	1,114	41,406
White	29,636	27,128	22,050	14,049	9,712	102,575
Other	301	226	167	93	46	833
Not Reported	<u>5,890</u>	<u>5,471</u>	<u>3,550</u>	<u>1,876</u>	<u>1,172</u>	<u>17,959</u>
Total	53,575	49,723	37,234	21,077	12,569	174,178
Denials						
Asian	311	311	280	189	78	1,169
African American	564	540	417	226	42	1,789
Latino	3,410	3,824	3,028	1,493	429	12,184
White	4,302	4,395	3,911	2,640	1,276	16,524
Other	45	47	52	26	6	176
Not Reported	<u>1,559</u>	<u>1,266</u>	<u>899</u>	<u>458</u>	<u>207</u>	<u>4,389</u>
Total	10,191	10,383	8,587	5,032	2,038	36,231
Denial Rates						
Asian	19%	18%	23%	24%	19%	20%
African American	29%	29%	33%	45%	37%	32%
Latino	24%	29%	34%	40%	39%	29%
White	15%	16%	18%	19%	13%	16%
Other	15%	21%	31%	28%	13%	21%
Not Reported	<u>26%</u>	<u>23%</u>	<u>25%</u>	<u>24%</u>	<u>18%</u>	<u>24%</u>
Total	19%	21%	23%	24%	16%	21%

Source: Home Mortgage Disclosure Act data; Woodstock Institute; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 3 - Analysis of Impediments\20836-HMDA.xls\Table 1-Conv Loan

Similarly, denial rates for FHA and VA loans, as shown in **Table 12**, increased from 16 to 24 percent from 2006 to 2008. Overall, the data available do not contain information specific to denial reasons. Additionally, because the previous AI (2000) did not provide data for Kane County (only for the Chicago Metro Area) it was difficult to offer a trend analysis specific to the local community.

Table 12
Chicago Metro Area FHA Loan Applications & Denials, 2005-2009
Kane-Elgin-Aurora Consortium AI

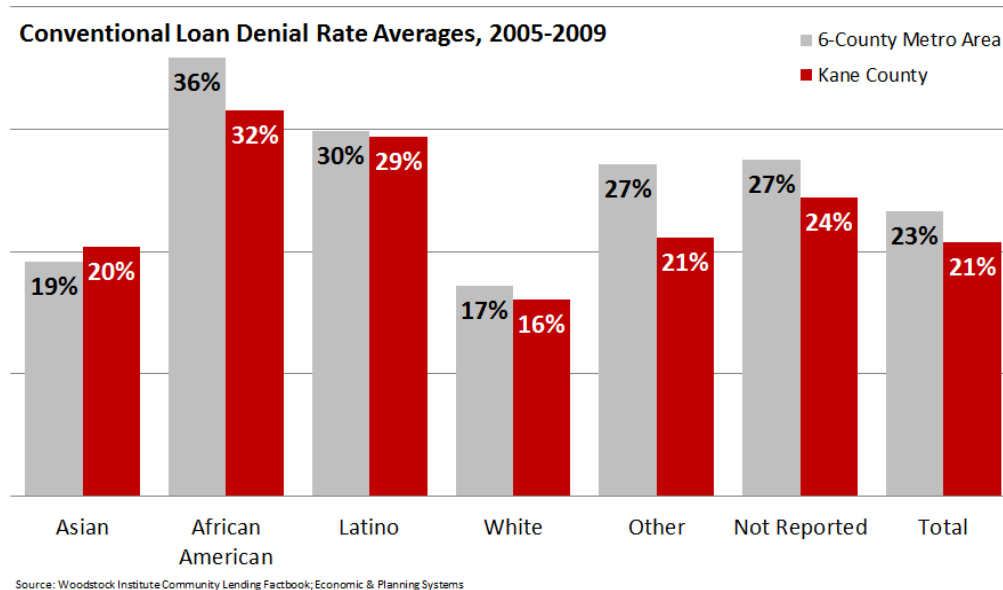
	2005	2006	2007	2008	2009	Total
FHA / VA Loan Applications						
Asian	23	27	49	128	144	371
African American	126	102	143	342	179	892
Latino	657	458	593	1,560	1,037	4,305
White	951	643	919	3,034	2,673	8,220
Other	11	2	8	29	29	79
Not Reported	<u>112</u>	<u>84</u>	<u>93</u>	<u>442</u>	<u>364</u>	<u>1,095</u>
Total	1,880	1,316	1,805	5,535	4,426	14,962
Denials						
Asian	4	3	8	23	14	52
African American	10	20	35	87	24	176
Latino	87	93	168	468	194	1,010
White	65	76	176	592	332	1,241
Other	4	0	2	6	3	15
Not Reported	<u>35</u>	<u>19</u>	<u>21</u>	<u>148</u>	<u>70</u>	<u>293</u>
Total	205	211	410	1,324	637	2,787
Denial Rates						
Asian	17%	11%	16%	18%	10%	14%
African American	8%	20%	24%	25%	13%	20%
Latino	13%	20%	28%	30%	19%	23%
White	7%	12%	19%	20%	12%	15%
Other	36%	0%	25%	21%	10%	19%
Not Reported	<u>31%</u>	<u>23%</u>	<u>23%</u>	<u>33%</u>	<u>19%</u>	<u>27%</u>
Total	11%	16%	23%	24%	14%	19%

Source: Home Mortgage Disclosure Act data; Woodstock Institute; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 3 - Analysis of Impediments\[20836-HMDA.xls]Table 2-FHA VA Loans

By comparison to the Chicago Metro Area, denial rates for conventional mortgages in Kane County are generally lower, as shown in **Figure 7**. Overall, the denial rate in the County is 21 percent compared to 23 percent in the Chicago Metro Area. The most pronounced difference is the denial rate of African-Americans and the “other” category.

Figure 7
Conventional Loan Denial Rates, 2005-2009
Analysis of Impediments



Public Sector Overview & Analysis

This section provides an overview of the three communities’ overall fair housing environment and describes what each is actively doing to achieve those goals. As part of the Analysis of Impediments, communities are encouraged to examine the local public sector environment that has an impact on fair housing, such as local policy and planning efforts related to affordable housing, to determine if there are any gaps or obstacles that exist that may impede the promotion of fair housing. In addition, it is useful to analyze the performance of programs or activities that are intended to broaden access to affordable housing, and any local initiatives that promote and support diversity.

Local Planning, Policies and Community Engagement

Upon review of existing planning and policy documents and strategies, it is evident that all three jurisdictions have embraced the vision of creating inclusive and sustainable neighborhoods. The Comprehensive Plans for each community contain provisions pertaining to housing and its relationship to other community priorities, such as transportation, open space, and other issues related to quality of life.

While there are differences between the three Comprehensive Plans, the City of Elgin’s goes the furthest with respect to supporting diversity and balanced communities. It contains language that promotes diversity as an asset to the community, as shown in excerpts from the Plan:

“Cultural Diversity – Elgin has long been a culturally diverse community. Citizens view this as an asset to be admired and respected.”

“A community that identifies and changes social and economic structures which limit equal participation or access on the basis of race, ethnicity, culture, age, religion, gender, sexual orientation, disability, or socio-economic background.”

With respect to Kane County, its *2040 Conceptual Land Use Strategy* was grounded in the “smart growth” principles, which supports a range of housing choices, and highlighted the challenges of maintaining an adequate supply of workforce housing as the demand rises with growth in Kane County. Especially noteworthy is the intent of the plan to work from vision already developed as part of the *Healthy Kids, Healthy Communities project - Making Kane County Fit for Kids*. That project, which promotes healthier communities and focuses on programming for children, is County-wide in scope, but includes both Aurora and Elgin as target areas due to their share of minority residents, including Latino and African-American.

Both Elgin and Aurora have undertaken sustainable planning efforts within their respective communities, which seek to achieve a new vision of future development and redevelopment that incorporates healthy living strategies and conservation practices. Each of these initiatives has implemented a comprehensive and transparent process to engage meaningful participation of the entire community.

All three jurisdictions have made an effort to ensure that information about local policies, programs, resources, and initiatives are made available to the entire community, given the constraints of local capacity and resources to apply toward outreach. A few examples of initiatives and ongoing community engagement that the three jurisdictions have implemented which support the needs of a diverse community are as follows:

- ‘Quality of Kane’ County Initiative
- Healthy Place Coalition
- City of Aurora Neighborhood Planning Initiative
- City of Aurora Citizen Commissions, including the Human Relations Commission, the Hispanic Heritage Advisory Board, and the African-American Advisory Board
- Elgin Community Network
- Community Engagement Committee
- Elgin’s Mayor’s Community Listening Sessions
- Elgin Sustainable Action Plan

One aspect of local planning where there may be an opportunity to strengthen the promotion of inclusive and balanced communities is in local Comprehensive Planning efforts. As previously mentioned, the City of Elgin’s language in their Comprehensive Plan was well articulated and could be utilized as an example for other communities to implement.

Programming and Community Investment

Each jurisdiction has funded a wide array of programs and projects that directly benefit low-income and underserved residents. Programs have been funded through use of Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Homelessness and Rapid re-housing Program (HPRP), Healthy Homes/Lead-based Paint, and Neighborhood Stabilization Program (NSP), as well as activities supported by Kane County Riverboat funds.

Kane County, Elgin, and Aurora all administer comprehensive housing programs as part of the implementation of their Consolidated Plans. Some of these activities include: single family housing rehabilitation, foreclosure counseling, first-time homebuyer down payment assistance and counseling, emergency repairs, lead abatement, and a handicapped accessibility modification program. In an analysis of the year-end Consolidated Annual Performance and Evaluation Reports (CAPER) from each jurisdiction, minority recipients are well represented as beneficiaries of CDBG and HOME funding.

Table 13 shows the beneficiary distribution by minority household for CDBG and HOME-funded housing programs compared to each jurisdiction's demographic profile. The objective is to illustrate the extent to which programs' beneficiaries are representative of the actual resident population and whether targets are being met. Information from each jurisdiction's CAPER indicates that minority beneficiaries of CDBG and HOME resources are well represented for each community. With respect to the City of Elgin, the percentage of Hispanic household program beneficiaries is slightly below the actual proportion. This may indicate a need for more targeted outreach to the Hispanic community about existing programs and resources, or it may be valuable to analyze how programs are marketed to that population.

Table 13
Beneficiaries of CDBG Funding by Racial Composition
Kane-Elgin-Aurora Consortium AI

	Racial Composition	Beneficiary Distribution
Kane County		
White	90%	78%
Black/African American	1%	7%
Two or more races	1%	4%
Hispanic	8%	12%
City of Aurora		
White	52%	36%
Black/African American	13%	24%
Two or more races	1%	22%
Hispanic	29%	18%
City of Elgin		
White	56%	60%
Black/African American	6%	19%
Two or more races	1%	0%
Hispanic	32%	19%

Source: City of Aurora; City of Elgin; Kane County; Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 3 - Analysis of Impediments\20836-CDBGBeneficiaries.xlsx Summary

In addition to housing programs directly administered or funded by the three governmental jurisdictions, a number of non-profit housing and service providers are funded by all three jurisdictions as sub-recipients. These jurisdictions provide vital services to low-income and minority households, victims of domestic violence, individuals with physical and mental disabilities, the chronically homeless, and senior households throughout the County. These partner agencies include:

- Habitat for Humanity of Northern Fox Valley and Fox Valley Habitat for Humanity
- Joseph Corporation
- Association for Individual Development
- Community Contacts/Housing Continuum
- Family Counseling Service
- Fox River Valley Center for Independent Living Accessibility Rehab
- Neighborhood Housing Services of Elgin (NHS)
- Rebuilding Together
- Hope for Tomorrow
- Quad County Urban League
- Prairie States Legal Services
- Hesed House
- Mutual Ground

The range of housing programs and supportive services that these organizations provide is comprehensive and address primary areas of need identified in each jurisdiction's Consolidated Plan. As would be expected, the overall community need far outpaces the availability for resources for each community to address its concerns. Given the current economic downturn, demand for affordable housing and pressure on supportive services has grown considerably.

Rental property licensing programs are another program area that Aurora and Elgin have developed and are administering in support of local multi-family housing code enforcement and public safety priorities. Both entities require mandatory landlord or manager training along with the licensing process to ensure that rental properties are safe places to live and have a positive contribution to the surrounding community. These programs, which include fair housing as part of the curriculum, help to ensure that rental housing is safe, sanitary, and decent for low-income rental households.

Limited English Proficiency

One of the challenges many Entitlement jurisdictions face is how to ensure that information regarding local programming and resources are made accessible to the broadest audience possible, most notably to those residents with limited English-speaking capability. Discussion with staff from each jurisdiction revealed the lack of a formalized Language Assistance Plan (LAP) for residents who have a limited English proficiency. The development of a LAP is required by the Department of Justice's Executive Order 13166 and covers all federal and federally-assisted programs and activities. It is also an opportunity for all three jurisdictions to collaborate and eliminate duplication of effort.

Coordination

Based on individual interviews, feedback from the focus groups, and through review of each jurisdiction's Consolidated Plans and CAPER reports, staff from Kane County and the cities of Elgin and Aurora make efforts to collaborate on programs, planning, and other initiatives that positively affect the quality of life for residents in the County.

A good example of inter-jurisdictional coordination is found in which representatives from each jurisdiction participate within the Continuum of Care for Kane County and coordinate planning and program efforts and developing strategies for emergency, transitional, and permanent housing for the homeless in the County. Kane County staff provides the lead role in the ongoing administration of the homeless continuum. As this is an ongoing forum that brings together government and non-profit agency providers, it may serve as a ready-made public forum to engage in discussions pertaining to fair housing without needing to develop a new collaborative body.

PUBLIC OUTREACH

This chapter outlines the primary data collection and public outreach efforts of this process. HUD does not require entitlement jurisdictions to commence in any data collection efforts (beyond existing datasets available from HUD and other federal agencies) to complete the AI. The consultant team and the Kane-Elgin-Aurora Consortium, however, believed that the effort would be valuable not only to complement and corroborate the existing data and research, but also to be consistent with the outreach goals of the recommendations.

As such, there were two public outreach efforts and individual conversations and interviews conducted in this analysis: an online survey, two focus groups, and stakeholder interviews.

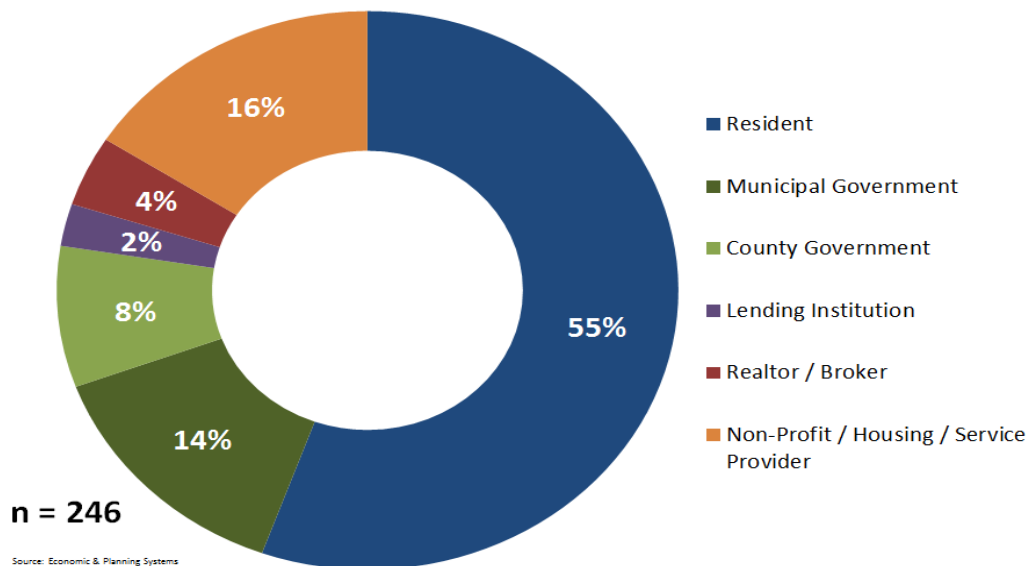
Survey

The online survey was fielded for three weeks during May 2011, during which time a URL was posted to the County's website as well as the City of Aurora's website, emails were sent to contacts of the County, City of Elgin, the City of Aurora, and multiple non-profits, services providers, lending institutions, brokers and real estate agents, and County residents. Announcements were made publicly at 'Quality of Kane' events.

The survey produced an excellent response rate of 246 completed surveys, or an approximately 25 percent of the estimated 1,000 notices that were sent. As shown in **Figure 8**, the resident response rate was significant and represented more than half of all responses.

Figure 8
Respondent Types
Analysis of Impediments

Survey Respondent Summary

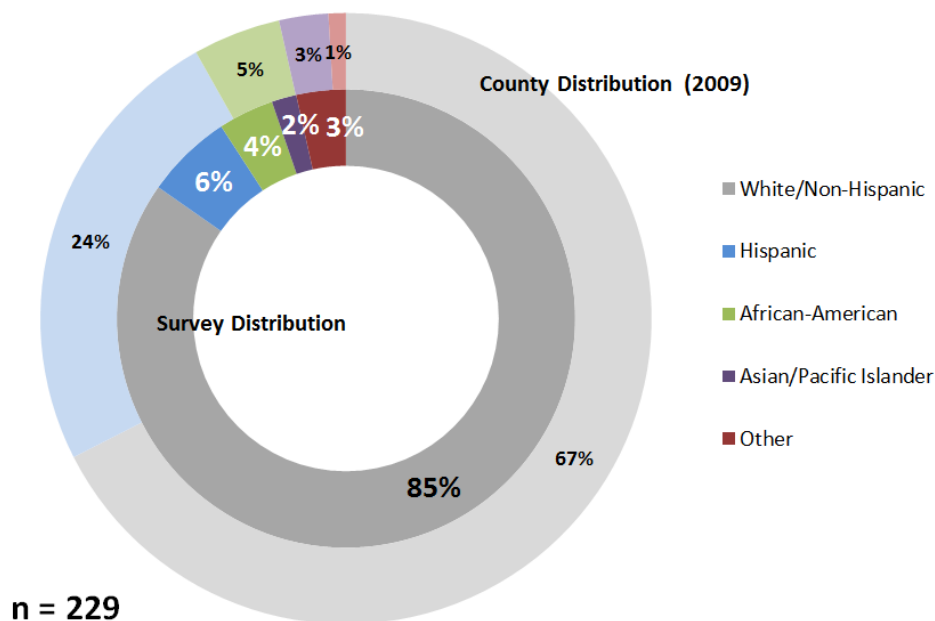


Participation rates by race/ethnicity generally corresponded to the actual County race/ethnicity distribution except for the representation of Hispanic respondents in the survey. In Kane

County, nearly one-quarter of the population is Hispanic, but Hispanic respondents accounted for just six percent of survey-takers. As shown in **Figure 9**, whereas 85 percent of the survey respondents were white, two-thirds of the Kane County population (including the City of Elgin and the City of Aurora) was white in 2009. By contrast, the response rate among African-Americans, Asians, and Pacific Islanders corresponded generally to the County's 2009 distribution.

Figure 9
Race / Ethnicity
Analysis of Impediments

Race / Ethnicity



Source: U.S. Census American Community Survey 5-Year Estimates; Economic & Planning Systems

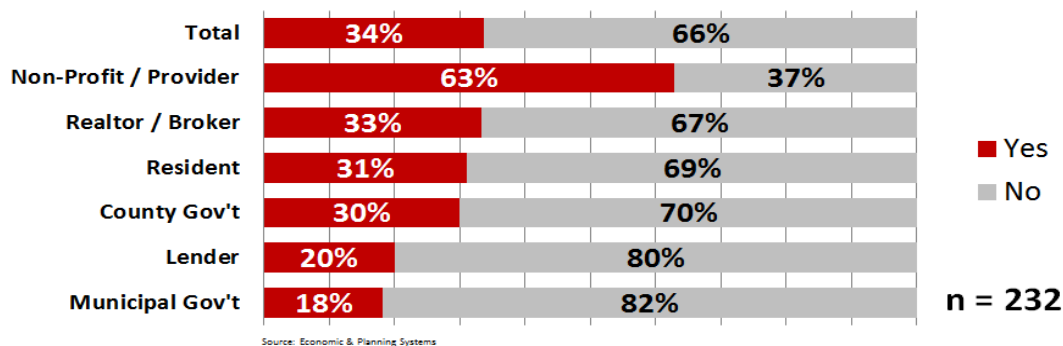
General Perceptions

Survey respondents were asked about their general perceptions regarding fair housing impediments in Kane County. Because perception often guides the reality, this process revealed and confirmed or denied the existence of certain problems.

Respondents were first asked whether they believed significant impediments to fair housing existed in Kane County. As shown in **Figure 10**, approximately one-third believed that there are significant impediments, but approximately two-thirds did not. Disaggregating the results by respondent type revealed that the strongest believers in the existence of impediments are the non-profits, housing, and service providers. In general, less than one-third of other groups responding indicated that there were significant impediments to housing.

Figure 10
Significant Barriers
Analysis of Impediments

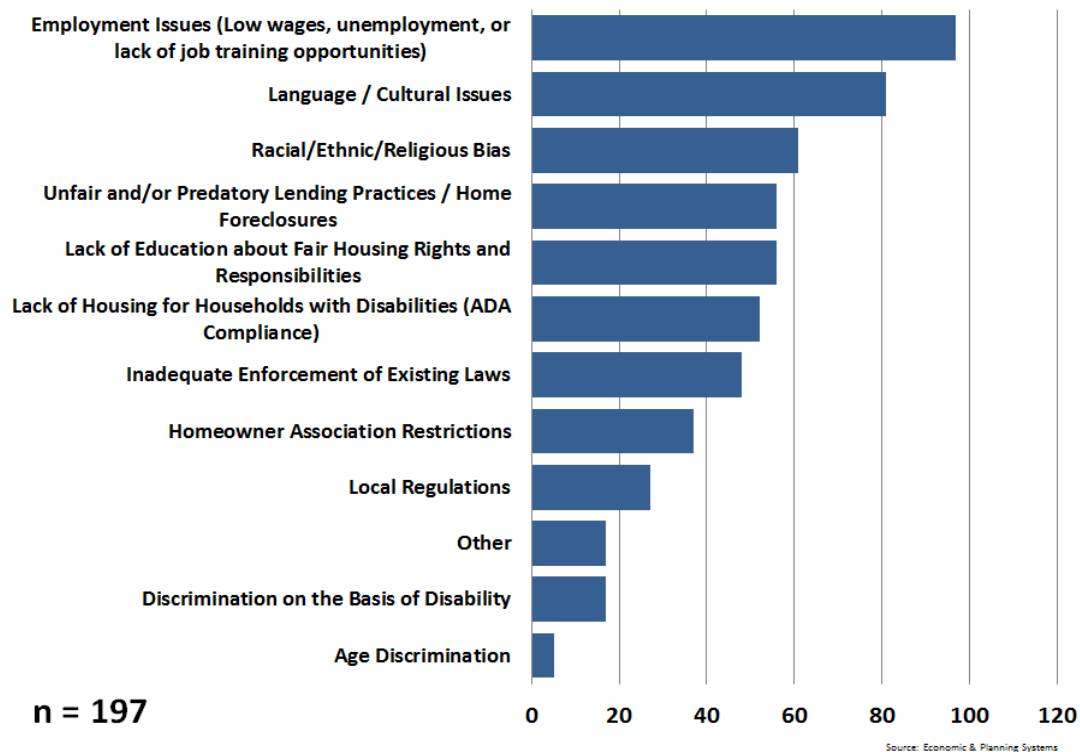
Do significant barriers to housing choice exist?



When asked what they believe to be the main causes of impediments to fair housing, the most frequently indicated response was employment issues, as shown in **Figure 11**. As employment issues are at the forefront for most people these days, they are also present in perceptions in Kane County regarding fair housing issues. Receiving similarly high attention from respondents were language or cultural issues, race, lending practices, and lack of education on fair housing issues. As described previously (section on complaints), race and national origin are two of the more significant issues in Kane County. Lending practices, which have been evolving nationally as a result of reactions to the housing bubble and ensuing financial crisis and recession, and lack of education about fair housing issues received the same level of response.

Lack of housing for households with disabilities was also high among major causes. Discrimination on the basis of disability, however, was not high among these issues. Disability, on the other hand, appears higher on the list of issues in fair housing complaints nationally and locally (see **Figure 4**).

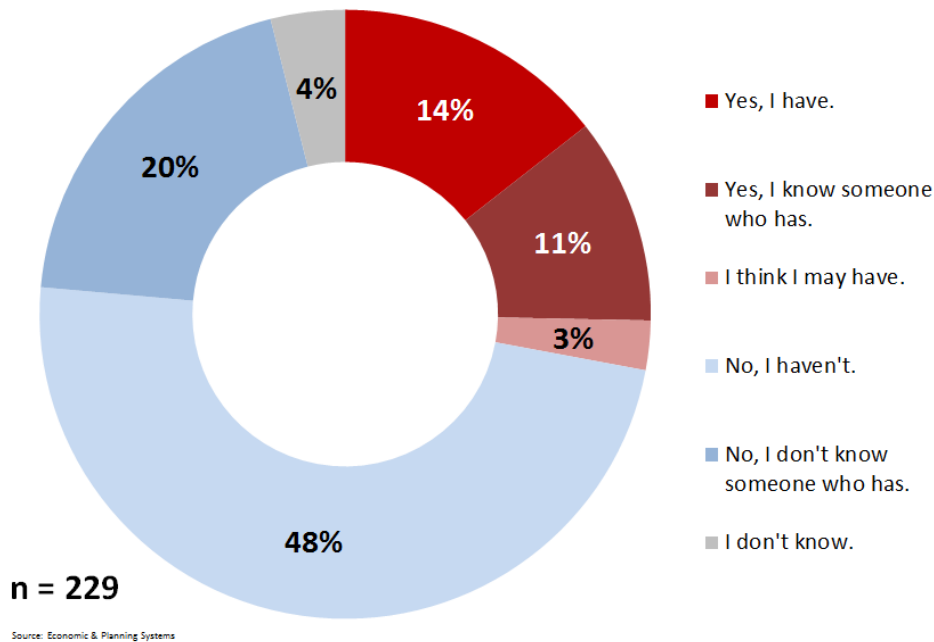
Figure 11
Major Causes
Analysis of Impediments



Of the 246 responses, 14 percent claim they have personally encountered housing discrimination, and 11 percent claim they know someone who has. Most respondents (68 percent), however, have not or do not know anyone who has encountered discrimination, as illustrated in **Figure 12**.

Figure 12
Encountering Housing Discrimination
Analysis of Impediments

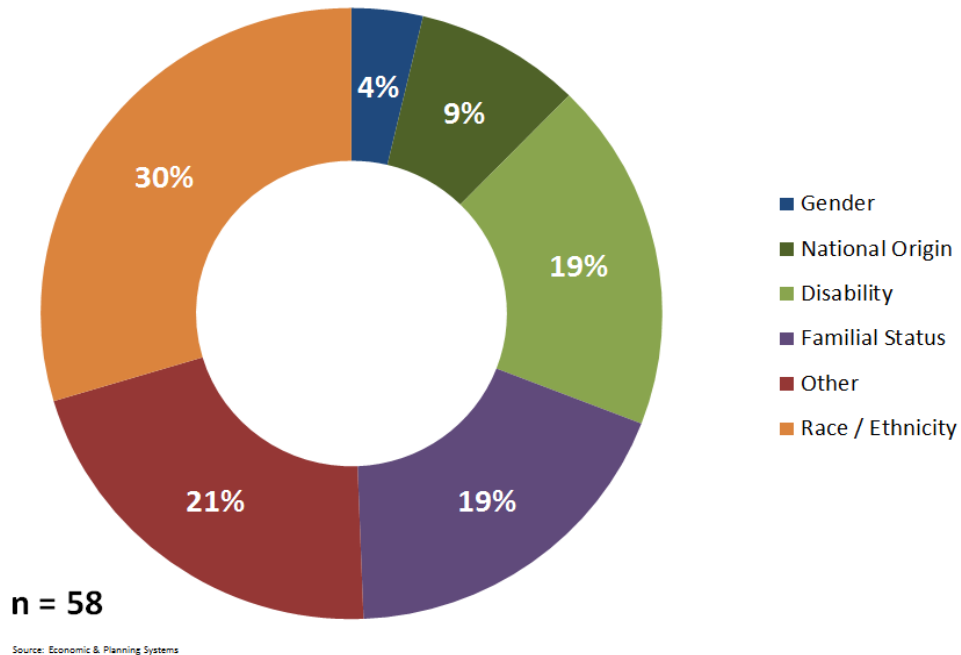
Have you or someone you knowed encountered housing discrimination?



For the 25 percent of respondents who indicated that they have or know someone who has encountered discrimination, race and ethnicity was believed to be the most common basis of discrimination. As illustrated in **Figure 13**, familial status and disability were also indicated. Among those replies that indicated some other basis, the most commonly indicated in the open-ended remarks were lack of education and income or wages.

Figure 13
Basis of Discrimination
Analysis of Impediments

What do you believe was the basis of housing discrimination?

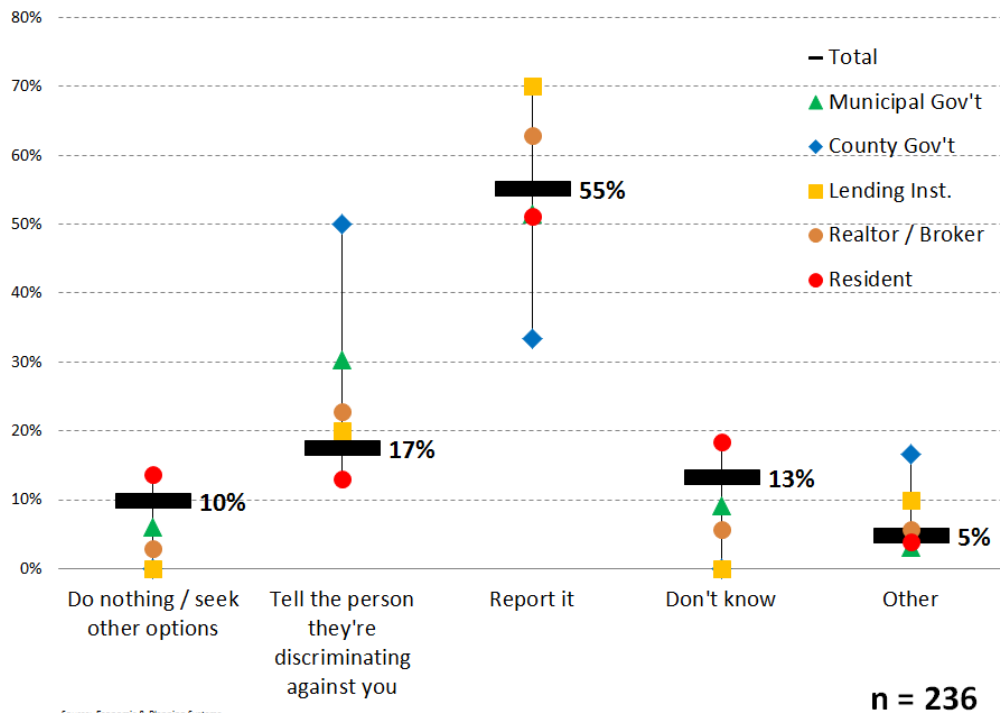


Most respondents (55 percent on average) indicated that they would report an incident if they suspected they were being discriminated against. As illustrated in **Figure 14**, the differences between respondent types illuminates gaps in knowledge of fair housing issues. The lending institutions that responded, who are required to understand fair housing issues, had the highest response rate for reporting an incident of discrimination. Because of their awareness, none of them indicated they would do nothing or not know what to do.

By contrast, a higher than average portion of residents indicated they would do nothing and seek other options or simply not know what to do. While not a significant problem, it illustrates a need for filling in the gap of education and knowledge on fair housing issues.

County and municipal staff response rates for reporting an incident were slightly lower than the overall average yet higher for telling the person that he/she is experiencing discrimination. As for reporting an instance of personal discrimination, there is no question whether or not the County would do so. The County and municipalities typically do not find themselves in a situation where they are the subject of discrimination. Rather, staff may be counseling individuals seeking advice on how to deal with perceived discrimination.

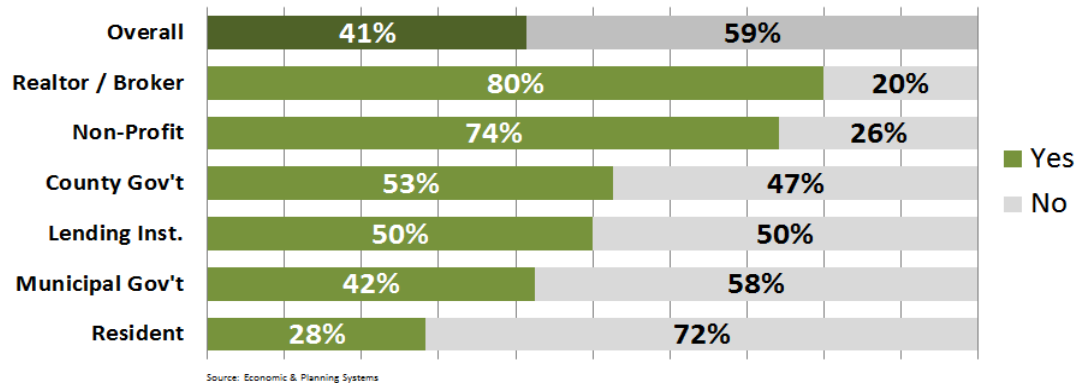
Figure 14
Encountering Discrimination
Analysis of Impediments



While a majority of people indicate that they would report an incident where they suspected they were encountering discrimination, a majority of respondents do not know where they would go to get assistance with fair housing questions, concerns, or complaints, as illustrated in **Figure 15**.

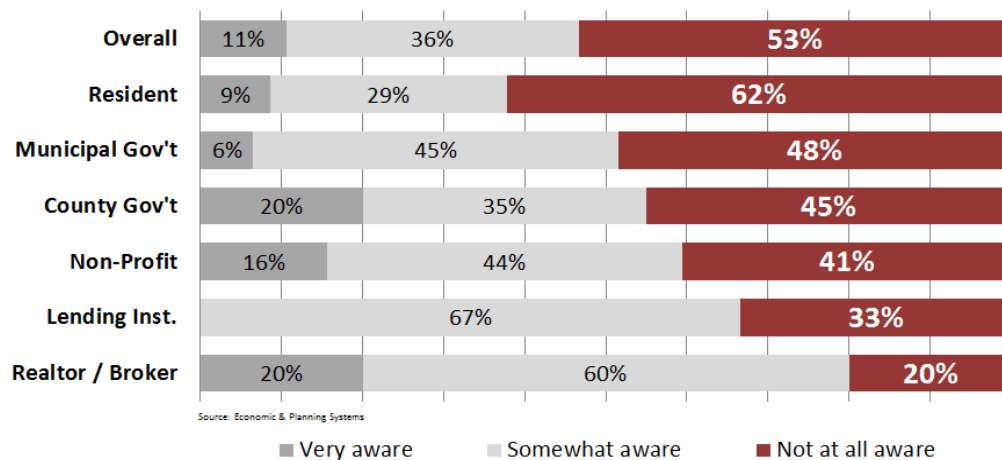
Again, the real estate and broker community, being educated on fair housing issues, does know where to go, as 80 percent of them responding indicated. Non-profit organizations also predominantly indicated they know where to go to get assistance. Fewer than one-third of residents indicated they know where to take a complaint.

Figure 15
Getting Assistance
Analysis of Impediments



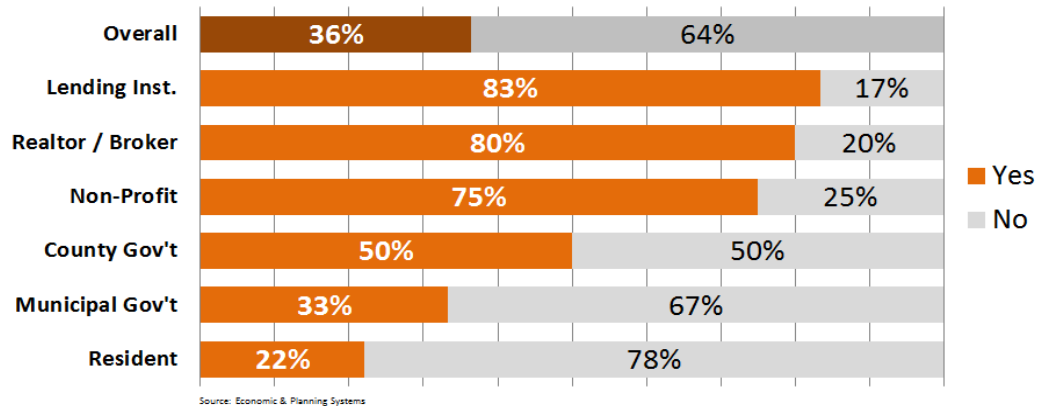
Respondents were also asked about their familiarity with a loan program in the County for making housing handicapped accessible. Overall, most were not aware (53 percent), as illustrated by **Figure 16**. For the most part, real estate agents were most aware, followed by lending institutions, non-profits, and County and municipal governments. Residents were largely unaware of the program.

Figure 16
Awareness of Accessibility Loan
Analysis of Impediments



Approximately one-third of respondents indicated that they or someone in their institution was proficient in languages other than English, as shown in **Figure 17**. Lending institutions, real estate agents and brokers, and non-profits had the highest rates of multi-lingual skills. Half of all County government respondents indicated proficiency in other languages, but only approximately one-third of municipal staff did so. On par with the composition of the community, however, approximately one-fifth of the residents who responded to the survey indicated they were proficient in a language other than English.

Figure 17
English Proficiency
Analysis of Impediments



Open-Ended Comments

The survey gave each respondent an opportunity to share open-ended comments in multiple instances, including the option to share any additional information at the conclusion of the survey. The following is a brief overview of the number of comments received and a general description of their contents.

Out of 246 surveys taken, 50 respondents contributed additional thoughts on various issues pertaining to fair housing in Kane County, the City of Aurora, and the City of Elgin. The comments have been categorized accordingly.

Outreach/Education

A small number identified public outreach and education as integral parts to ensuring fair housing. Educating the public is valuable in a manner that is conducive to authentic learning, i.e., not merely “lectures” as one respondent indicated, but presumably in the form of “educational seminars” or workshops. Another respondent articulated an important point that while outreach is valuable, many people do not reach out until they need it, implying that by such time it is generally not soon enough or even too late. Another respondent indicated that enough is not being done in Kane County to educate the community and its people about the available assistance.

ADA Accessibility

Many comments were made about the lack of and need for handicap-accessibility of housing in the County. Comments were made concerning the lack of volume of ADA housing needed, the

inaccessibility of affordable housing inventories, and the lack of accessible housing options for various household types (e.g., families with or without children).

Affordability

Comments were made regarding the Housing Authority of Elgin's lack of participation in the Section 8 homeownership program and the size of wait lists for Section 8 rental vouchers. The respondent suggested that were HAE to participate in the homeownership program as well, renters might theoretically be converted into buyers, thereby freeing up the rental inventory and decreasing the size of the waitlist.

Collaboration

Several respondents remarked on the need for more collaborative efforts in the community. They encouraged efforts by multiple jurisdictions to work together more than they have been to 'get everyone at the table' so that buy-in is possible.

ACTION PLAN

This section provides a more detailed description of the impediments found during the course of this analysis and the recommended steps that the jurisdictions can pursue to address those impediments. Each impediment and the source(s) documenting them are shown in **Figure 18**.

Impediments

1. **Community awareness of fair housing issues.** From the results from the community survey, it is evident there is a general lack of awareness among community stakeholders of fair housing laws, roles and responsibilities, e.g., who to contact, legal rights, etc.
2. **Stakeholder awareness of existing community resources and programs.** Also based on the results of the community survey and through conversations generated in the focus groups, it appears that there is a general lack of awareness of existing housing and supportive service resources, such as Loans for Making Housing Handicapped Accessible.
3. **Rental community discriminatory practices.** Based on feedback on the community survey and from HUD complaint data, there may be some existence of rental property discriminatory practices by apartment owners or managers toward low-income minority renters, and in particular those households with disabilities. This local indicator, which tracks very closely to the national average, may be due to a number of issues, intentional or unintentional.
4. **Fair housing activity coordination among the three local jurisdictions.** While it is very apparent that the three local Entitlement jurisdictions have a positive and supportive working relationship, there could be more formalized collaborative efforts regarding fair housing among the three jurisdictions.
5. **Formal planning and coordination linkages with local housing authorities.** From the feedback received during the focus groups and from interviews, it appears that planning and communication between the local jurisdictions and the housing authorities regarding community housing goals and priorities is in need of improvement and formalization. Lack of formalized and transparent communication and coordination between these entities places a significant impediment on the ability of any community or jurisdiction to effectively plan, set goals and priorities, and make strategic, well-informed comprehensive programmatic decisions toward a balanced, integrated, and sustainable housing environment.
6. **Affirmative linkages between Consolidated Planning and Comprehensive Planning strategies.** In order to more effectively promote the development of integrated and diverse living patterns, communities need to continue and/or maintain and improve strategies that link their Consolidated Plans with their local Comprehensive Plans. Among the three entities, there are varying degrees of these affirmative commitments toward visions of balanced, sustainable and integrated communities in their Comprehensive Plans.
7. **Lack of current data relating to fair housing practices.** Data related to fair housing compliance, beneficiaries, and knowledge in the private homebuyer and rental markets is outdated. This lack of current “real-time” data inhibits the ability of local jurisdictions to: gain an accurate picture of local housing industry practices; and make affirmative and credible actions regarding fair housing issues, for example, ensuring the appropriate alignment of beneficiaries of CDBG funding or programs by ethnicity/disability/socio-economic/demographic cohort and need, or identifying industries (e.g. real estate, lending,

etc.) to target for educational outreach regarding fair housing issues, practices, or programs.

8. Lack of Communication Framework for Limited English Proficient Residents

As this has been mandated for recipients of federal funds, each jurisdiction should have a Language Assistance Plan established and in use by all appropriate staff.

Figure 18
Impediments
Analysis of Impediments

Impediments	Primary Research - Community Survey	Secondary Research - Data Collection	Focus Groups	Stakeholder Interviews
1) Community awareness of fair housing issues.	X		X	
2) Stakeholder awareness of existing community resources and programs.	X		X	
3) Rental community discriminatory practices.		X	X	
4) Fair housing policy coordination among the three local jurisdictions.	X		X	X
5) Formal planning and coordination linkages with local housing authorities.			X	X
6) Affirmative linkages between Consolidated Planning and Comprehensive Planning strategies.		X		
7) Lack of current data relating to fair housing practices.		X		
8) Lack of communication framework for Limited English Proficient residents.		X		X

Source: Economic & Planning Systems

H:\20836-Kane-Elgin-Aurora Consortium Comprehensive Housing Study\Data\Phase 3 - Analysis of Impediments\20836-Impediments Action Items.xlsx|Impediments

Suggested Actions to Address Impediments – General

The suggested actions to address impediments to fair housing are listed for each of the three jurisdictions. It should be noted that some of the suggested actions are contained in the section for each entity as the need for those actions were noted for each community, and also presents an opportunity for all three jurisdictions to work collaboratively on those issues. The suggested actions or approaches to promote fair housing choice in all three jurisdictions are based upon the following general observations and overall guiding principles:

- That the actions be realistic, transparent, and achievable within the next five years.
- That the need for all three jurisdictions to collaborate, when appropriate, will aid in overcoming inherent challenges, such as staff capacity and available financial resources. That is, collaboration will allow for leveraging of resources and should result in efficiencies that may not result from the independent efforts of individual jurisdictions to the exclusion of the others. Furthermore, such efficiency may facilitate a more expeditious monitoring and

review process by HUD where it is evident that the jurisdictions are developing and administering fair housing activities jointly.

- That the activities relating to affirmatively furthering fair housing choice be programmatically linked to activities that seek to promote access to affordable housing, and that they are intended to achieve an improved quality of life and a more inclusive, balanced, and sustainable community.
- That all three entities, as expressed in their Consolidated Plans, have identified the need to sustain and develop affordable housing for vulnerable populations in their communities. This AI presumes that all three jurisdictions will continue to utilize their local, state and federal resources in the manner outlined in their plans and to expand housing choices, economic opportunities and an improved quality of life for low-/moderate-income residents.

Suggested Actions - Kane County

1. ***In a collaborative effort between the three jurisdictions, initiate a website page that provides a clearinghouse of information on access to housing, services, and fair housing.*** County staff should develop a web page or enhance an existing web page to provide fair housing information, clear referral information, and tips for residents who think they may be experiencing housing discrimination. In addition, residents who experience fair housing impediments are also likely to encounter problems pertaining to employment, job skills training, day care needs, etc. Any community events that are held to educate organizations and residents on fair housing should include either information regarding these related issues or information on where to gain access to these services.
2. ***Encourage the private and non-profit sectors to become the primary face of fair housing education and promotion.*** This will allow for leveraging of resources and expertise, and place an appropriate amount of responsibility of furthering fair housing on the shoulders of the private sector, which is most often the source of fair housing issues or concerns.
3. ***Identify opportunities to enhance educational outreach that targets fair housing issues relating to the needs of specific protected classes, e.g., handicapped or disabled households.*** Based upon feedback received from the community survey and from housing complaint data, this is an action that each jurisdiction could target for additional educational outreach.
4. ***Investigate the need to update data related to fair housing practices, including testing for the lending, real estate and rental communities.*** Local capacity for testing or data collection of this sort may be limited; however, this may be an area where inter-jurisdictional planning and collaboration might be effective, in addition to pooling of resources.
5. ***Utilize existing community-based provider network or forum (e.g., the Continuum of Care) for an ongoing discussion of fair housing awareness and outreach.*** This will provide an opportunity for participant agencies to share information and resources, identify educational or training needs, and potentially identify additional outreach opportunities.
6. ***Continue to support programs or services that provide foreclosure counseling and tenant rights education.*** These activities, to the extent resources are available, should continue to be an outlet for residents to learn about fair housing laws and their rights.

7. ***Develop a Language Accessibility Plan for the County and ensure for sufficient training to appropriate staff.*** This can be an inter-jurisdictional collaborative effort and will ensure that all applicable agencies are compliant with the federal mandate.
8. ***Survey CDBG and HOME beneficiaries.*** Currently, the City of Aurora surveys its CDBG sub-recipients, and Kane County is in the process of developing a survey of its recipients. The effort should be centralized and coordinated to produce consistent results so that data may be analyzed for the next Analysis of Impediments. The survey of recipients should assess general demographic and socioeconomic characteristics, and should assess their quality of life—i.e., how services have affected them. Contracts between the County and sub-recipients (e.g., non-profits and municipalities) should stipulate that this survey be a prerequisite to the beneficiaries' receiving of the services.
9. ***Survey the community in future years to assess any change in general knowledge and familiarity with fair housing issues.*** Efforts to improve outreach and education on fair housing issues are anticipated to result in more, not fewer, housing complaints. Such a metric, when viewed from the Analysis of Impediments that must be completed periodically, will give the appearance that conditions have deteriorated, not improved. Therefore, surveying the community with similar questions to those asked for in the survey conducted for this effort, will allow for an accurate comparison of perceptions and level of knowledge regarding fair housing issues.

Actions to Address Impediments – City of Aurora

1. ***Implement a City website page that provides a clearinghouse of information on access to housing, services, fair housing and the like.*** The website, as part of an overall fair housing strategy, could be built from an existing web resource and should include information regarding existing housing resources, fair housing referral information with links, and tips for residents who think they might be experiencing housing discrimination.
2. ***Continue providing training to apartment owners and managers and ensure that fair housing laws and appropriate practices are disseminated to this community and to ensure for safer and more inclusive rental properties.*** This educational training is a natural forum to ensure that fair housing information and awareness is provided to the rental community, particularly to those properties that house low-income households.
3. ***Develop a Language Accessibility Plan.*** Ensure for sufficient training to appropriate staff. This will broaden the City's ability to communicate with residents about City programs and services and ensure that the City is in compliance with the federal requirements.
4. ***Continue to support programs or services that provide foreclosure counseling and tenant rights education.*** These activities, to the extent resources are available, should continue to be an outlet for residents to learn about fair housing laws and their rights.
5. ***Seek to establish strategic relationships with the private and non-profit sectors so that they become the primary face of fair housing education and promotion.*** The private sector, including lenders and real estate agents, should be a primary source for information pertaining to fair housing and fair lending information. As government resources become more limited, this will have impact on how much of a lead local jurisdictions can play in this arena.
6. ***Affirmatively support the efforts of the Mayor's Blue Ribbon Affordable Housing Task Force, which has been established to convene and facilitate the development of an Affordable Housing Study, which is, for example, developing strategies to***

address the loss of units at Jericho Circle and the inventory of foreclosed units.

This effort presents a considerable opportunity for the City to engage all affected community stakeholders on the subject of affordable housing and will result in a fact-based, affordable housing community needs baseline analysis. As the City is committed to maintaining an adequate supply of affordable housing, affirmative support of Blue Ribbon Task Force and its efforts will ensure maintenance of a fair housing environment.

7. ***Evaluate the role of the Human Relations Commission as it relates to promoting fair housing issues.*** If there is an opportunity to appropriately utilize a City commission to promote fair housing, this may be a good resource.
8. ***Survey CDBG and HOME beneficiaries.*** Aurora has employed surveys of this nature before. This process could present another opportunity to partner with Kane County and the City of Elgin with respect to the structure of the survey, methodology, and analysis.
9. ***Survey the community in future years to assess any change in general knowledge and familiarity of fair housing issues.*** This will provide the City an insight on whether outreach efforts, marketing and educational activities have had a positive impact and identify areas in need of improvement.

Actions to Address Impediments – City of Elgin

1. ***Implement a City website page that provides a clearinghouse of information on access to housing, services, fair housing and the like.*** The website, as part of an overall fair housing strategy, could be built from an existing web resource, and should include information regarding existing housing resources, fair housing referral information with links, and tips for residents who think they might be experiencing housing discrimination.
2. ***Continue providing training to apartment owners and managers and ensure that fair housing laws and appropriate practices are appropriately disseminated to this community and to ensure for safer and more inclusive rental properties.*** This educational training is a natural forum to ensure that fair housing information and awareness is provided to the rental community, particularly to those properties that house low-income households.
3. ***Continue to support programs or services that provide foreclosure counseling and tenant rights education.*** These activities, to the extent resources are available, should continue to be an outlet for residents to learn about fair housing laws and their rights.
4. ***Seek to improve formalized communication and strategic planning between the City and the Elgin Housing Authority on affordable and sustainable housing matters that is ongoing, strategic, and transparent.***
5. ***Seek to establish strategic relationships with the private and non-profit sectors so that they become the primary face of fair housing education and promotion.*** The private sector, including lenders and real estate agents, should be a primary source for information pertaining to fair housing and fair lending information. As government resources become more limited, this will have impact on how much of a lead local jurisdictions can play in this arena.
6. ***Develop a Language Accessibility Plan.*** Ensure for sufficient training to appropriate staff. This will broaden the City's ability to communicate with residents about City programs and services and ensure that the City is in compliance with the federal requirements.
7. ***Seek to establish strategic relationships with the private and non-profit sectors so that they become the primary face of fair housing education and promotion.***

8. **Survey CDBG and HOME beneficiaries.** Elgin has employed surveys of this nature before. This process could present another opportunity to partner with Kane County and the City of Aurora with respect to the structure of the survey, methodology, and analysis.
9. **Survey the community in future years to assess any change in general knowledge and familiarity of fair housing issues.** This will provide the City an insight on whether outreach efforts, marketing, and educational activities have had a positive impact and identify areas in need of improvement.

Exhibit A

Kane County and the Cities of Aurora and Elgin received three written comments by electronic mail on the draft of the Analysis of Impediments to Fair Housing. These comments are included in this document as Exhibit A in the version that is to be submitted to the Department of Housing and Urban Development.

Upon receiving the comments the jurisdictions reviewed the report using the comments as a guide and have determined that the document does meet the requirements of the Fair Housing Planning Guide.

CITY OF AURORA – RESPONSE ADDENDUM

In an ongoing effort to engage in regional collaboration efforts, the City joined the governments of Kane County, Illinois and Elgin, Illinois to commission a joint Analysis of Impediments to Fair Housing Choice in the region. In accordance with the generally accepted practice, these governments hired an outside consulting company (Economic & Planning Systems, Inc. or EPS) to create an objective and independent analysis in accordance with the “Fair Housing Planning Guide” from HUD’s Office of Fair Housing and Equal Opportunity.

At the close of the public comment period for this document, copies of three comment letters were submitted to the City of Aurora and other partners, which conveyed a belief that the joint Analysis of Impediments was inadequate. As a result, a thorough review was conducted by Economic & Planning Systems, Inc., using the comments as a guide, and EPS concluded that, in their professional opinion, the Analysis of Impediments to Fair Housing Choice being jointly submitted does in fact meet all of the guidelines of HUD’s Fair Housing Planning Guide.

However, in light of the fact that at least two of the letters singled out the City of Aurora, this response and its attachments are being provided to counter some of the unfair and inaccurate accusations leveled at the City.

First, with respect to the most serious and ill-founded accusation that the City of Aurora is somehow “fomenting race and familial status discrimination” due to its opposition to the Aurora Housing Authority’s current tax-credit application¹, it is important to point out that the City’s opposition is itself entirely based on substantial and extensive concerns related to Fair Housing Choice. These concerns are outlined in significant detail in the *attached* letter from Aurora Mayor Tom Weisner to Mary Kenney, the Executive Director of the Illinois Housing Development Authority (IHDA). In addition to the Mayor’s concerns about re-establishing a racially isolated development in perhaps the most stigmatized and isolated location in the entire city, the letter points out that the AHA itself had initially described the physical site location to HUD as being located “*in an area of Aurora where there are no stores or shopping opportunities, few, if any employment opportunities, [and a] lack of social service providers willing to deliver services...*” resulting in “*an island of poverty, despair and hopelessness, isolated from... activities designed to promote economic self-sufficiency and independence.*”²

While it is unclear why the advocacy agencies criticizing the City of Aurora seem particularly unconcerned about the undisputed, undesirable nature of the Jericho Circle site—especially for an overwhelmingly very-low income population, what is clear is that the City has gone far beyond merely objecting to the AHA’s proposal. The City has gone to great lengths to pro-actively identify solutions to the affordable housing need and further fair housing choice for many of its lower-income residents. This priority has been reflected in recent hiring decisions

¹ Letter from Sargent Shriver National Center on Poverty Law to Kane Co. Office of Community Reinvestment, Neighborhood Redevelopment Division of Aurora; and the Community Development Dept. of Elgin dated 3/2/12.

² Aurora Housing Authority “Evidence of Obsolescence of a Severely Distressed Public Housing Development” submitted as an attachment to Exhibit A: Reason for Removal of the AHA’s application to demolish Jericho Circle.

CITY OF AURORA – RESPONSE ADDENDUM

and the substantial amount of time and energy poured in to convening, funding and organizing the Mayor’s Blue Ribbon Task Force on Affordable Housing.

The following description of the City of Aurora’s extensive efforts to pursue affordable housing development, in response to the fair housing concerns that have been raised, was included in the City’s annual Consolidated Annual Performance Evaluation Report (CAPER) submitted to HUD on March 31, 2012:

“As a response to current housing issues, the Mayor’s Blue Ribbon Task Force on Affordable Housing was created and held its first meeting in early October of 2011. While the scope of the Task Force is city-wide, the Task Force was also designed to facilitate community dialogue on several pressing issues. Some of those more pressing issues included the growing inventory of foreclosed homes and the need to address the loss of 146 public housing units (being demolished at Jericho Circle) amidst growing concern from community stakeholders about the Aurora Housing Authority’s plans to rebuild on the highly unpopular and stigmatized Jericho Circle site, which is located far from the city center at the very edge of town. Community Planning and Development Advisors LLC (CPDA) was hired by the City of Aurora to serve as facilitators of the Task Force—as well as to undertake a comprehensive study of affordable housing. This process will result in a final report including data, resources, inventories of existing housing and potential sites and recommendations for future actions designed to address the affordable housing needs of the residents of the City of Aurora to improve their standard of living and benefit the city as a whole. The study was commissioned and approved by the Aurora City Council in September, 2011 and is expected to be delivered in the early Spring of 2012. The overall process includes an educational component for both stakeholders and the public to explain both fair and affordable housing in order to further the recommendations of the Task Force/Affordable Housing Study.”

The Mayor’s Affordable Housing Task Force has kept an aggressive schedule meeting nine times in just over six months and the first draft of the its final report was presented and reviewed by the Task Force on May 2, 2012. The participation level of the 30+ Task Force members (which includes the 7 Board members of the Aurora Housing Authority) has been impressive and sustained throughout the entire process. A series of public forums is planned during the month of May 2012 with the final action plan slated to be considered at the final Task Force meeting scheduled for June 6, 2012.

While still in draft form, the comprehensive affordable housing study and final Task Force report contain dozens of additional recommendations and action items related to both fair housing choice, through the development of additional affordable housing options, as well as ways to overcome and combat fair housing discrimination. Importantly, it should be noted that *the recommendations of the Task Force report have already been incorporated into the City of Aurora’s reporting to HUD via its inclusion in the 2011 CAPER (above) and this Analysis of Impediments document* (under the “Actions to Address Impediments – City of Aurora” section). Any analysis of the City’s efforts on Fair Housing is therefore incomplete—and any criticism premature—without first acknowledging this considerable undertaking that the City has been

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advancing to create substantial community buy-in and investment in many of the very same areas noted in the comment letters received by the City of Aurora.

As an example, one of the primary criticisms of this Analysis of Impediments conducted by EPS is the failure to “*specif[y] the number of racially and/or ethnically concentrated census tracts in the county overall or in either municipality... [and] recommend any strategy to address existing patterns of residential segregation and... identify existing areas of opportunity... that will be targeted for future development of housing that is affordable and accessible to protected classes.*” And while this analysis of impediments document may not contain the desired level of specificity for some commenters, it is once again inappropriate to criticize the City of Aurora’s efforts when a plan to conduct such an analysis and strategy is already underway through the Mayor’s Affordable Housing Task Force.

In cooperation with the consultants conducting the comprehensive affordable housing study for Aurora, the City has undertaken a review of every developable tract of land within the city limits that is over 2.5 acres and supplied it to the consultants who are planning to recommend that the City adopt a definition of “opportunity area” (that is in line with HUD-accepted principals and guidelines). The Task Force and city staff will be working to build on this work and create an overlay map showing developable parcels within “opportunity areas.” This effort, combined with the Task Force’s other recommendations on fair and affordable housing, will collectively form a strategy to begin to address the very housing patterns described above.

Finally, there are a couple of additional criticisms from the comment letters that warrant a specific response. Each of the letters site concerns related to racially and/or ethnically concentrated census tracts within the County and each respective city. The suggestion is made more than once that local government policies—including “*affordable housing siting decisions, and/or opposition to new affordable housing development [may] have contributed to segregated housing patterns.*” While this may be true of the housing siting decisions of decades past, this concern is *precisely* why the City of Aurora has been so careful and involved in the affordable housing siting decisions of today. This concern is a very large part of why the Mayor’s Affordable Housing Task Force was formed and why there was such a high level of participation and interest from the City’s civic, school, non-profit, business and advocacy organizations. And while most serious advocates know that other forces are driving racially segregated housing patterns—such as private market forces and/or state-level policy decisions such as the way that Illinois schools are funded in the most property-tax-reliant formula in the nation—this has not meant that the City of Aurora has not sought to be proactive in its advocacy and outreach efforts.

In 2008, the City revamped and reconstituted its Human Relations Commission, and as we speak, the City is expanding the Authority of that Commission to advance both outreach *and* enforcement procedures to eliminate discrimination in housing whether it be at the hands of public or private sources.

The City of Aurora’s Neighborhood Redevelopment Division has been partnering with banks to sponsor home-ownership expos to open up greater lending opportunities within minority communities. And the issue of “*decent, safe, and sanitary*” housing is being addressed in a dramatically increased fashion in large part due to the City’s rental property licensing program.

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While the City has long required registration and inspections of both multi-family and single-family rental units, condos, townhomes and any other dwelling unit being rented was added in 2008 to the licensing requirement subjecting all units to an annual inspection. Despite being criticized in one letter, the City's rental property licensing program has had an enormous impact on remedying often dangerous safety, sanitation and other code violations, which is in keeping with the "intent" section of the property maintenance code "to ensure public health, safety and welfare."

It is worth noting that in each of the past several years, over 5,000 code violations have been officially cited and the vast majority of these violations have been for life/safety issues such as electrical or fire hazards, smoke/carbon monoxide detectors, interior or exterior structural issues, etc. Each violation triggers a follow-up inspection and the overall compliance rate has been very high (between 91 – 96%) with most of the balance of violations being remedied through additional prosecution to administrative hearings. To be clear, citations are written to the property owner/landlord whose responsibility it subsequently becomes to fix the code violation and improve the health, safety & sanitation of such rental housing. Much of the rental property being inspected is located in the City of Aurora's neighborhoods with higher percentages of low-income and/or minority families. Without the Rental Housing Licensing Program, most of these 5,000+ annual life/safety code violations would go undetected and unaddressed. The Crime Free Housing Ordinance, which was adopted in October of 2008, is an important part of the City's aggressive inspection program that holds landlords accountable to provide decent, safe and sanitary housing. Collectively, Aurora's efforts are paying off in the form of drastically reduced crime rates and improved quality of life—particularly for those families living in and near rental housing and for entire neighborhoods where rental rates may be more significant.

SEE ATTACHMENT: letter dated 12/15/11 from Mayor Tom Weisner to IHDA Director Mary Kenney



City of Aurora

Mayor's Office • 44 E. Downer Place • Aurora, Illinois 60507-2067
Phone (630) 256-3010 • Fax (630) 256-3019

Thomas J. Weisner
Mayor

Thursday, December 15, 2011

Mary R. Kenney
Executive Director
Illinois Housing Development Authority
404 N. Michigan Ave., Ste. 700
Chicago, IL 60611

RE: Aurora Housing Authority (AHA) Application for Tax Credits

Dear Ms. Kenney,

As the chief elected official of Aurora, I regret to inform you that, *at this time*, I cannot, in good conscience, endorse the Aurora Housing Authority's (AHA's) so-called "Jericho Circle Revitalization" proposed project out of significant concerns regarding its ability to further fair housing in the City of Aurora.

My concerns about the AHA's proposed project are many and varied, and, as you will see from some of the attached letters from community leaders and many of Aurora's primary social service providers to our disadvantaged residents, I am hardly alone (see appendix A). Indeed, there is a widespread consensus within our community that there is serious cause for concern in the substance of the AHA's proposal, as well as in the public process—or lack thereof—that the AHA has undertaken to arrive at its proposed plan.

I recently convened a group of respected community leaders in various fields (see appendix B) – along with each member of the AHA Board – in a Task Force on Affordable Housing in order to evaluate affordable housing, city-wide. I took this step only after the AHA promised to undertake a similar effort nine months ago, and not only never did so, but apparently never even seriously considered a process to solicit the community's input or respond to the one thing that the community had clearly been asking for: a serious look into alternatives to rebuilding at the isolated, stigmatized, twice-failed, Jericho Circle site.

In fact, now that we have assembled this Task Force and met three times, to date, many of these community stakeholders feel as though they're having the opportunity for input for the very first time, and **many members have implored me *not* to sign off on *any* proposed plan before the Task Force has a chance to finish its work and make recommendations** (a process expected to be completed in just the next few months).

To be clear, my intention in writing this letter is not to “block” the possibility of Low-Income Housing Tax Credits being used to develop additional affordable housing units in the City of Aurora. Quite to the contrary, I am very hopeful that there will be an opportunity for the City to work closely with IHDA in the near future on whatever recommendations come out of the highly esteemed and respected collection of community leaders that comprise this Task Force.

As I stated in an open letter to the AHA on August 9th of this year, my focus relating to the possible rebuild of Jericho Circle has always centered on concerns for the families and children who have lived there. Far from being a positive influence on children, the way in which the development has been isolated from the rest of the community has historically trapped children in a continuing cycle of futility, despair and failure. Rather than providing a “hand-up,” as was likely the original intent, Jericho Circle has historically been like a hand holding children down, keeping them from reaching the potential that every child is born with.

Twice built, over 40 years, Jericho Circle has been an obvious and pathetic failure both times, a virtual ghetto, where children have been exposed to more bad influences than good, more barriers than opportunities. The children of Aurora deserve better and we owe it to them to explore every conceivable option before rebuilding on an already heavily stigmatized site location that has been described by HUD as being problematic and not optimal for a mixed-income development.

My goal, therefore, in writing this letter is to explain the very long list of reasons why I cannot possibly “specifically endors[e]” the AHA project per the “Local Support” requirement of the IHDA application. While I can only begin to outline my concerns—which I might add, are the shared concerns of much of the community — I will attempt to limit them to four general categories: (1) disconcerting and alarming discrepancies and inaccuracies contained in the AHA’s application to IHDA; (2) a strong objection to the process the AHA has taken to arrive at its final proposal; (3) serious doubts that the substance of AHA’s proposal aligns with any national best practices; and (4) a strong desire for community input and buy-in, which is the polar opposite of what accompanies the AHA’s proposal to IHDA at this time.

DISCREPANCIES AND INACCURACIES CONTAINED IN AHA’S APPLICATION:

One of the primary reasons that I cannot sign off on the AHA’s application to IHDA is that I was also required to sign off on the Authority’s demolition application to HUD back in 2009, which clearly described the Jericho Circle site location as unsuitable for housing purposes—particularly

the type of housing being proposed, which is dependent on its ability to be integrated with the rest of the community and provide the type of “programs and activities designed to promote economic self-sufficiency and independence” (appendix C).

Unlike the AHA Board, I stand by my support of the statements made in its HUD demolition application—*especially* now that HUD has made eminently clear—both verbally and in writing—that rebuilding at the Jericho Circle site is in no way a requirement of the approval it gave to demolish the existing dilapidated development (appendix D).

Nothing about the Jericho Circle location has changed since I first supported the demolition application and it would be insincere—if not irresponsible—for me to support a redevelopment at this same site without a serious study of alternatives to better advance fair housing in Aurora.

While a complete critique of the AHA’s application to IHDA is not practical in this context, I do want to take a moment to point out some of the more significant inconsistencies between the AHA’s application to HUD for demolition of the existing project and its application to IHDA for redevelopment on the very same site. Because it does not appear that the AHA was required to submit its demolition application to HUD as a part of its pre-application to IHDA, much of what follows may come as new information.

While there are several technical inconsistencies—many of which are noted below—one of the overarching concerns that I thought IHDA should be aware of is that the HUD demolition application and the IHDA pre-application for tax credits would appear to be describing two entirely different site locations. In the “additional comments” of TAB 1, section 5 (“Public Services/Community Amenities”) of the IHDA application, the AHA added “[w]hatever facilities are not available with[in] the one-mile radius are typically available with[in] two miles and are accessible via public transportation.” However, in the very first sentence of the AHA’s “Jericho Circle Demolition Plan Application” to HUD, the authority describes the very same site as being located “in an area of Aurora where there are no stores or shopping opportunities, few, if any employment opportunities, [and a] lack of social service providers willing to deliver services.”

Moreover, the AHA’s application to IHDA consistently paints a picture of an apparently attractive site location for the proposed project with “[p]ublic transportation readily available from the subject site to most of the[] surrounding amenities and many of them accessible via bicycle and pedestrian pathways.” Yet in the demolition application to HUD, the AHA describes this same site as “an island of poverty, despair and hopelessness, isolated from... activities designed to promote economic self-sufficiency and independence.”

The AHA leadership additionally included a number of further unsettling inconsistencies and/or blatant inaccuracies in its IHDA application for tax credits. First, the “Public Services / Community Amenities” section of TAB 1 lists the closest school as being only 0.7 miles away. Although it is true that the Lincoln Elementary School *building* is located just under a mile from the proposed site, the school, itself, has been closed for the past several years and has not held classes since May of 2009 when it was indefinitely shuttered by West Aurora School District 129. In reality, the closest public school is Nicholson Elementary, which is nearly 2 miles away by foot or vehicle.

Of course Nicholson School is a bit closer “as the crow flies,” but one of the many concerns about the proposed site is that there are no connections to any public thorough-fares other than Jericho Rd. (Co. Hwy. 24)—nor would any such connections be possible in the future since there are literally no other roads to which the site could be connected. Not only that, but the site is surrounded by railroad tracks within $\frac{1}{4}$ - $\frac{3}{4}$ of a mile on *three* sides (the AHA application notes only one set of tracks) plus several bodies of water—both natural and man-made—with limited under/over-pass or bridge access. Needless to say, this also limits access and casts a questionable light on the distance calculations that the AHA used when describing the other public services and community amenities as “*available with[in] the one-mile radius.*”

Moreover, several of the services/amenities listed are extremely limited and therefore misleading. For example, the AHA application lists the closest “banking institution” as only 0.6 miles away, but in reality the closest physical bank branch location is over 2 miles away (the AHA application is presumably referring to a somewhat nearby, un-manned ATM/drop-off location of Old Second Bank). The Post-Office, which is actually a limited-service, limited-hours postal station, is actually 0.9 miles by car or foot (not 0.5 miles, as indicated), located inside a small pharmacy. A full-service post office is three miles away.

The AHA application also fails to note that while its housing development plan again targets an almost exclusively (90%) extremely low to very low income population, that the majority of the public services and amenities listed in its IHDA application are rarely, if ever, patronized by any of the current [very low-income] Jericho Circle residents. This not only applies to the “*large private fishing lake, two [private] golf courses/country clubs, [and] the campus of a major [private] regional university*” but also extends to most of the retail establishments cited in AHA’s application as well. And while the reasons for this are probably beyond the scope of this communication, it’s unclear why one should expect a similarly very low income population to suddenly alter its practices and preferences.

When combined with these inconsistencies between the AHA’s description of the Jericho Circle site to HUD (when seeking demolition) and the way the AHA described the same site to IHDA (when seeking tax credits), these additional oversights and glaring inaccuracies in the IHDA

application do little to inspire confidence. Moreover, they provide no reason to reconsider the stance that the AHA and I initially agreed upon in its demolition application to HUD with respect to the non-suitability of this site location for redevelopment.

While it is true that the City of Aurora referenced the plan to rebuild some kind of affordable housing development in its 2010 Consolidated Plan, this was only because we were misled by AHA to believe that HUD would require such a rebuild plan as a condition of its approval to demolish the current, failed project-style buildings at Jericho Circle. Not only did the AHA prove to be wrong in this regard, but the resulting inclusion of this unnecessary and undesired rebuild plan in the City's Consolidated Plan has proved problematic in a number of ways.

Additionally, to the extent that the AHA claims that its proposed rebuild at the Jericho Circle site location is consistent with Aurora's Consolidated Plan, even this is misleading. The City's reluctant inclusion of a rebuild project (again, based on faulty information supplied by the AHA) specifically included plans for a more integrated development stating that "Jericho Circle will be rebuilt as a mixed-income neighborhood, with townhomes and rental units." That is not what AHA is proposing to build in its application to IHDA. As I will address in a later section of this letter, there is no meaningful mix of incomes and it is entirely rental; therefore the AHA's current proposal is clearly inconsistent with the City of Aurora's Consolidated Plan in a number of important ways.

PROCESS CONCERNS:

Over the course of several months in 2009 and 2010, AHA officials represented to City and community leaders that HUD would not approve the demolition of Jericho Circle unless replacement housing was built on that site. This continued even after the letter from HUD authorizing the demolition of the current site (dated Sept. 7, 2010) clearly stated that "*the AHA is not required to provide for replacement housing, and [HUD] is under no obligation to fund replacement housing*" (appendix E). And while it is true that HUD has stated that it took the AHA's plan to redevelop the Jericho Circle site into consideration as a part of its approval process, HUD's statement regarding the non-requirement for replacement housing is a clear signal that re-development of the Jericho Circle site is not a HUD requirement.

Despite this clear direction from HUD, AHA officials continued to assert that redevelopment of the Jericho Circle site was indeed required. This prompted me to convene a meeting between top HUD officials, the AHA, the City and the local School District (129) on March 2, 2011. At that meeting, HUD officials made it clear that there was no federal requirement that the AHA redevelop the Jericho Circle site. Moreover, they provided a written clarification letter dated March 1, 2011 specifically stating that "*HUD does not require that [the AHA] build replacement housing on the Jericho Circle site, nor does HUD require by regulation that public housing approved for demolition be replaced. HUD has not stated in any communication to the Housing*

Authority or to the City that we require new housing be constructed on the Jericho Circle site” (appendix D).

HUD officials did, however, make it clear that given Aurora's housing demographics, the City and AHA had a responsibility to continue to further affordable rental housing as defined by HUD and federal fair housing guidelines. Following that meeting, affirming the City's commitment to making sure that all Aurora residents have safe, livable and affordable housing, I immediately met with AHA leadership and, based on HUD's clarifications, urged them to embark on an open and inclusive community planning process to determine the best solution for providing affordable housing in Aurora. I specifically suggested that this process encompass exploration and discussion of *alternative* redevelopment strategies that might even include disposition of the Jericho property.

The AHA agreed, at our post-March 2nd meeting, to research options and spearhead an open, public planning process to consider the Jericho Circle plan and alternative solutions. I asked the AHA leadership to immediately begin just such a community discussion and that the AHA be truly open-minded in exploring possible solutions – perhaps new solutions. Finally, I asked that these discussions be facilitated by a neutral party, so that the public would feel confident that no pre-conceived agenda existed. (AHA's credibility had been damaged by its unfounded assertions that HUD required it to redevelop the Jericho Circle site.)

On March 30, 2011, I wrote a letter to the Executive Director of the AHA confirming my understanding of these very next steps including my understanding that *"[the AHA's] efforts to redevelop Jericho Circle would not proceed at this time."* I also indicated that *"the City would like to update its Consolidated Plan this year to reflect any changes that result from the community planning process"* (appendix F). My staff met monthly with AHA representatives from March through June of this year and, although AHA leadership seemed disorganized and slow with progress, we were reassured at each meeting that the AHA was working toward a collaborative approach to explore all fair housing options with the community.

Finally, nearly five months after the meeting with HUD officials, the AHA scheduled a meeting that was not open to the public. It wasn't even open to its full Board. Sadly, the AHA also intended to use as the meeting facilitator the original project architect who obviously has a strong interest in the Jericho re-development scheme. (According to an Aug. 21, 2011 article in the Beacon News, the AHA paid this individual more than \$27,700 from June 13-August 1, 2011 for public relations type services.) When I publicly called attention to this closed and biased approach, the AHA cancelled its so-called forum.

The AHA then hired a neutral facilitator for its scheduled July 28th forum and made changes in the format that might ordinarily persuade one that it was being more open and/or open-minded.

But that hope was completely undermined by the actions of the AHA Board on the very night before the "community forum," when, in a virtually unadvertised meeting, the Board quietly approved a Memorandum of Agreement with its west coast developers specifically to build a development on the Jericho Circle site. And although one concerned board member was apparently assured that the agreement did not cement the AHA's direction, it was a clear, though rather secretive, signal of the AHA leadership intentions, not to mention the approved agreement's assertion that *"this MOA shall be legally binding...."*

None of these facts were subsequently revealed by the AHA the following day at the July 28th "public" forum, at which the developers, the AHA's attorney and its consultant deceptively made it appear that they were open to alternative solutions. When its July 27th approval of the Jericho MOA was revealed in the local newspaper the day after the so-called open forum, most attendees were simply outraged or disgusted, the neutral facilitator quit and AHA's credibility in the community was further diminished.

Even before the July 28th "forum," I had placed the AHA on notice in a memo to the Board members that although I was aware of its hopes to complete the community planning process in time to submit a pre-application to IHDA, that I would nonetheless *"insist that a solid plan for the future, not a hurried timetable... be AHA's first concern"* and confirmed my belief that the City and the community *"have both a moral and legal obligation to further fair housing."*

Unfortunately, as the AHA moved ahead with its second (and last) community forum, it became clear to most involved that the purpose of the forums was not an honest or timely attempt at getting community input (remember, five months had already elapsed since AHA had agreed to an open and inclusive community discussion of fair and affordable housing solutions). Rather, the forum was a perfunctory session, held too late to create a real community discussion of housing options and opportunities and meant simply to satisfy minimum IHDA requirements for holding public meetings. All this so the AHA could push forward its original Jericho Circle rebuild proposal – the only proposal it apparently cared to consider.

The frustration reached such a point that the Aurora City Council overwhelmingly passed a resolution put forward by Alderman Rick Mervine stating that: *"the AHA must place all current plans and agreements regarding this project on hold until the [following] steps have been fully completed"* (appendix G):

1. *"investigate all of its options with regard to the demolition of the Jericho Circle property;"*
2. *"hold open, transparent public meetings to discuss all of said options and receive input from the community on the issues surrounding this property;"*
3. *"actively engage [the school districts]... as a partner in the process of determining the best course of action with regard to the property and the ongoing activity of the provision of affordable housing in Aurora;"*

4. *"adequately investigate[] the type of development [the AHA] propose[s] for the Jericho Circle property;"*
5. *"perform[] the proper due diligence in order to understand whether or not a market exists in Aurora for the mixed income development they have contracted for at this site;"*
6. *"fully engage with the community;" and*
7. *"transparently and actively involve the community stakeholders in its research and development planning for the property commonly known as Jericho Circle."*

In the context of this City Council resolution and the aforementioned concerns, how could any mayor be expected to "specifically endorse" such a project?

Nonetheless in a spirit of cooperation, the Aurora City Council invited the AHA Board to a join it at a working meeting in August 2011 to discuss the issues. At the joint meeting, I specifically asked Chairman Schuler why the AHA did not initiate the open, inclusive discussion as promised in February. He was not able to provide a response.

At the same time, the AHA pursued an independent "Modified Analysis of Impediments to Fair Housing," rather than fully participating in the joint "Analysis of Impediments to Fair Housing" being conducted by Economic & Planning Systems (EPS) on behalf of the City of Aurora, City of Elgin and Kane County. As you are likely aware, HUD tasks communities, not public housing authorities, with the responsibility for conducting this analysis. We can only surmise that the purpose of AHA's analysis was to stifle on-going community dialogue regarding its Jericho Circle redevelopment by concluding that open dialogue constitutes an impediment to fair housing. Not only could this allegation be any further from the truth, but it evidences the great lengths and callous calculus that the AHA and its consultants have been using to circumvent and undermine my office, the City Council, and the overwhelming public sentiment, which again, includes the City's leading social service and advocacy organizations for the disadvantaged (see e.g., Appendices A, F, G).

Notwithstanding many real community concerns, the AHA and its consultants continue to push forward its predetermined agenda to rebuild, while at the same time being less than forthcoming about its exact plans with the City Council or the community. To date, the AHA has not submitted any formal—or draft—plans to be reviewed, yet its representatives continue to ask for an accelerated timetable to address the City Council in order to meet application deadlines.

CONCERNS OVER THE MERITS OF AHA'S SO-CALLED "MIXED-INCOME" DEVELOPMENT

1. **FUNDING.** Before addressing the merits of the AHA's proposal, I believe it is also important to point out that neither the AHA nor its developer has ever shared with us a "sources and uses" statement indicating where any of the funding is coming from. Since the project has been described as one using "mixed-financing," we can presume that other funding sources will

be used, but despite having requested this information in a FOIA request, financing details have never been supplied by the AHA or its developer. The research my staff and attorneys have compiled indicates that Tax Credit financing never pays for the entirety of a project and that Public Housing Authorities often make requests of its respective city to not only make infrastructure improvements, but also to contribute subsidies through HOME or CDBG entitlement dollars. At the same time that these important HUD entitlement dollars are being subjected to significant cuts, how can I possibly sign off on a proposal without knowing whether its success may in fact hinge on a presumption of the City being able to re-allocate precious resources away from other important city priorities? With respect to the overall financing picture, the City has been kept in the dark, and I believe it would be irresponsible of me, at this point in time, to endorse a project where this is the case. However, it is my sincere hope that the City's Affordable Housing Taskforce will identify innovative strategies by which we may utilize the community's collective resources, including HOME and CDBG funds, to further fair and affordable housing.

2. PROPSECTS FOR LONG-TERM SUCCESS. With respect to what we do know about the AHA proposed rebuild project, that same research indicates that success of mixed-income housing models typically comes in large urban core areas where there is an abundance of public transportation, job availability and amenities, such as grocery stores, within walking distance. Once again, by AHA's own admission, not only does the Jericho site fail to meet these conditions, it is the antithesis of the optimal site located *"in an area of Aurora where there are no stores or shopping opportunities, [and] few, if any employment opportunities"* (excerpted from the very first sentence of the AHA's demolition application to HUD). Not only that, but AHA's description of its mixed-income model is entirely vague, and to the extent that it has been described, it does not appear to be "mixed-income" at all. Quite to the contrary, nearly 90% of the units are proposed to be reserved for families below 50% of the Area Median Income (AMI), which is considered "very low income" according to HUD guidelines. There are no for-sale units, no simply low-income units (50 - 80% of AMI) and no senior units. The proposed Jericho rebuild project does not resemble successful "mixed income" models and is not "mixed income" by traditional definitions.

Traditional mixed income developments involving public housing authorities look very different from what the AHA appears to be pursuing at Jericho Circle. For example, in Chicago's new mixed-income communities, there is a balance between for-sale and rental housing, which sits in stark contrast to the current AHA proposal that I have been asked to endorse. In addition to the for-sale component, most mixed-income projects involve a substantially different unit mix than what the AHA has proposed, in that they typically include far larger market components. Indeed one of the hallmarks of many successful mixed-income developments is that the market units are often the dominant component. I understand that for-sale and market-rate units present challenges when the housing market has collapsed, but they remain important components in the

majority of successful, mixed-income projects, both in terms of financing and in terms of the larger goal of creating real communities for public housing residents, integrated by both race and income. Mixed income communities are generally aimed at ending the social, economic and racial isolation of public housing residents, which is difficult—if not impossible—to do without a true mix of incomes on site and a development scheme that re-integrates the public housing residents into the larger community—neither of which seem present in the AHA plan for Jericho Circle. The project as proposed resembles true mixed income projects much less than it resembles the two dismal failures that preceded it at this site.

Finally, research also indicates that to be successful, mixed-income projects should be integrated physically into the community with easy access to commercial, recreational and public services (police, fire, libraries and schools). For this reason, mixed income communities are often built close to city centers where such services already exist. As previously indicated, the Jericho site is almost as remote and isolated from the rest of the City as one could imagine and exists as a "Circle" type road extending off of an already remote country road where there are literally no other streets to which the development could be connected (another hallmark of successful mixed-income developments). HUD officials have also indicated that Jericho Circle is not optimal for a mixed-income development and even AHA's own market research consultant recognized the problems created when the closest schools, shopping, banking and pharmacy services are more than a mile away. As previously noted, AHA's distance claims for many amenities are inaccurate.

3. BETTER ALTERNATIVES. While this continues to be a significant concern for me and most of the community, it nevertheless does not seem to have caused AHA to take seriously its own previous commitment to give serious consideration to possible alternatives. The AHA often points to the fact that it commissioned a "feasibility analysis" of other potentially suitable sites in the City of Aurora after *"residents who attended community meetings and spoke against the AHA decision to redevelop Jericho Circle at its present location."* But having already committed to a developer to construct 75 units on a single site location, the AHA narrowed the scope of the feasibility analysis right off the bat as described in the "methodology" section, which states that *"a potentially suitable site must be no less than 7 acres in size in order to accommodate the 70 – 75 unit development comprising Phase 1 of the project."* Once again, under the pretext of listening to the community's desire for alternatives to be explored, the AHA seems to be simply trying to facilitate its own ends—listening more to those with a financial stake in the outcome than to the community.

When I solicited the opinions of Aurora's Affordable Housing Task Force as to whether I should provide the requested letter of support to this IHDA application, the Chairman of the AHA Board wrote back to all the members to enlist its support saying *"the only viable solution for the AHA is to build mixed income housing on the property we own on Jericho Road."* Yet the draft of

AHA's 5-Year and Annual Plan (*available at: www.auroraha.org/AHA-News/*) that was released on Nov. 9, 2011, makes clear that the AHA has reached this conclusion without a serious exploration of other alternatives. Indeed the AHA admits having never given any consideration to a scattered-site tax credit application in order to address one of the major goals outlined in the city's Consolidated Plan. Specifically, the AHA draft plan indicates that "*conversion of scattered site single family homes at some time in the future may also be considered*" and then explains that "*if this option is considered, a thorough feasibility analysis will be conducted.*" And while the AHA may not have found it necessary to take on a broader investigation of alternatives to redevelopment on a clearly deficient site location, as you will see in the final section of this communication, the City is undertaking an active planning process with community stakeholders to do precisely that.

After just a few meetings with our consultants and others who are coming together around this Affordable Housing Study and Task Force, the City has already encountered potential developers who believe that an affordable housing/scattered-site tax-credit application could serve the needs of Aurora's residents very well. Moreover, we continue to be shown more and more examples of alternative models that have successfully received IHDA tax credit financing that include truer forms of "mixed-income" developments and/or scattered-site models using various forms of financing to buy up foreclosed homes and convert them to subsidized homes. Our research indicates that Chicago's foreclosure acquisition program is budgeting \$80,000 per unit—far less than the HUD TDC new construction schedule allowing as much as \$232,540 for only a two-bedroom unit.

We understand Springfield is using 9% tax credits to buy and rehab 90 foreclosed units on the East side of that City. Not only does this method address the issue of affordable housing availability and our city's not uncommon crisis of vacant properties, but it also provides a way to gain access to larger four and five bedroom units more inexpensively and more quickly than building new. Moreover, when combined with a serious consideration of project-based Section 8 site locations, this strategy can strengthen neighborhoods and lead to real integration of public housing families within the large community, as opposed to the isolated existence that has been one of the hallmarks of life at the Jericho Circle site location.

The AHA has actually done a good job of describing the isolated and problematic nature of its proposed site location. But while it was careful to emphasize this point when seeking permission to demolish the current buildings, as previously highlighted in an earlier section of this correspondence, the site was described in almost completely different terms when seeking funding from IHDA. Ironically, the one area of *consistency* between the HUD and IHDA applications appears in TAB 1 – Section 1 of the AHA application to IHDA ("Preliminary Site and Market Assessment") where the AHA's own application describes the subject site as an "*isolated site location [that] helps make it unsuitable for housing purposes.*" Here, again, is one

area where I agree with the AHA's assessment. It is my firm belief that rebuilding a low-income project back on this site will very likely continue this racially and economically segregated island of families, separated from the commercial, civic and educational life of the larger community, which cannot, in the end, further fair housing in our community.

Nothing has changed about the suitability of the site location and so I remain firm in having strong reservations about the proposed development on the proposed site. Unfortunately, at least one out-of-town developer believes that such a development would nonetheless be profitable, so they have undertaken efforts to convince AHA residents and the public to essentially say that "this time it will be different." And while finding a developer willing to take on such a for-profit venture despite the project's many shortcomings seems to be the only substantial change that has occurred since the AHA described the site as an isolated "island of poverty, despair and hopelessness," this in and of itself is not nearly enough to shake my convictions. Having seen little in the proposed project to inspire confidence and still lacking critical details (such as financing sources), I must respectfully disagree with the contention that this time the outcome will be positive.

THE NEED FOR COMMUNITY INPUT AND BUY-IN

As I stated at the outset of this letter, I have recently convened a Task Force to guide a community-wide assessment and planning effort on affordable housing, which marks the **first** time that such an effort has been undertaken, despite the AHA's previous commitment to do so. It also marks the first time that the AHA Board (all of whom sit on this Task Force) has interacted with many of the community leaders and organizations who also make up the Task Force (and vice versa). On September 27th, the City Council approved a contract with Community Planning and Development Advisors (CPDA) to conduct a study of affordable housing for the City of Aurora and serve as a neutral facilitator of the Task Force meetings. The Task Force has met three times in two months and each meeting has been open to the public and included an opportunity for the public to give input.

I believe that in order to adopt and implement any plan to develop affordable housing, the City and the AHA, along with all other relevant stakeholders, must find common ground. Only by exploring all of the alternatives and understanding the yet undisclosed details of the AHA plan for Jericho Circle, can the parties begin to come together. This is the mission and purpose of the Task Force. Now, at this early stage of the Task Force's work and before anyone feels as though there has been any meaningful opportunity to explore alternatives that may better serve the City's affordable housing needs and commitment to further fair housing, we are asked to cut short this long-awaited opportunity for public dialogue and lock ourselves in to a plan that many believe can only end in failure.

Many of the members of the Task Force have publicly questioned what the point of such a Task Force would be if I were to sign off on the AHA's current proposal. As one Task Force member put it in his response to my request for input on whether or not I should provide the required letter of support, "No... [and] I find it curious that [such a question] would even need to be asked at this point." It is my hope, that if properly done, this community conversation facilitated by neutral consultants and members of this Task Force will create both understanding and consensus within our city.

In fact, one of the overarching purposes of assembling this Task Force was to ensure that any investments in affordable housing give the residents the best possible chance to succeed in life. I believe that any proposed affordable housing project should not be measured simply by whether it provides a profit for the developer or reduces the AHA's management responsibilities. It should instead be measured by whether it optimizes the opportunity for disadvantaged families, and particularly for children, to succeed in a healthy, integrated environment. Both the past history of and the current proposal for the Jericho Circle site inspire little confidence that this important goal will be achieved, if this project moves forward. We cannot lose sight of the fact that current and future generations of Aurora children will be impacted by these decisions and they deserve only the very best that our community can offer. I believe we must and can do better than the current Jericho Circle proposal.

As I have from the beginning, I continue to agree with the quoted sentiments of the AHA in its demolition application to HUD. Moreover, I agree with the AHA's own words that, as proposed, the AHA Jericho Circle rebuild cannot possibly further fair housing in the City of Aurora due to its "*isolated site location [that] helps make it unsuitable for housing purposes.*" Therefore, I cannot provide my endorsement of the AHA proposal, and I hope this letter helps to explain why. Please do not hesitate to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Weisner", with a large, sweeping flourish above the name.

Thomas J. Weisner
Mayor

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March 5, 2012

Karen F. Christensen
Neighborhood Redevelopment Division
City of Aurora
51 E. Galena Boulevard
Aurora, Illinois 60505-3313

Re: Comments on the Draft Report of the Analysis of Impediments
to Fair Housing Choice

Dear Ms. Christensen:

We are writing on behalf of our low-income clients to submit comments on the draft Analysis of Impediments to Fair Housing Choice prepared by Economic & Planning Systems (EPS). Prairie State Legal Services represents many minorities, persons with disabilities and families with children. Prairie State also has a program funded by HUD to conduct education and outreach on fair housing issues. We appreciate this opportunity. As we describe more fully below, our main comment is that the draft report does not include the assessment and analysis that EPS identifies as the key elements of an adequate Analysis of Impediments to Fair Housing Choice as required by HUD. We urge the City and the County to return to EPS and seek the analysis and assessment that the draft report identifies as necessary, but which is missing from the draft report EPS has submitted. Because the draft in its current form does not include this information, it is of minimal use to the City or the County in identifying or addressing in a meaningful and significant way actual impediments to fair housing.

The Introduction to the draft Report lays out the obligation entitlement jurisdictions receiving HUD funding have to affirmatively further fair housing. Conducting an analysis of impediments to fair housing choice is required as part of the duty to further fair housing. HUD has made clear in its Fair Housing Planning Guide that it is "committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disability and other discriminatory practices in housing. The fundamental goal of HUD's fair housing policy is to make housing choice a reality through Fair Housing Planning." An analysis of impediments to fair housing choice (AI) is designed to serve as the first step in that planning process.



The Introduction of the draft report on page one accurately lays out what HUD requests that jurisdictions include in their AIs:

- A comprehensive review of an entitlement jurisdiction's laws, regulations, and administrative policies, procedures and practices;
- An assessment of how those laws, regulations, and administrative policies, procedures and practices affect the location, availability, and accessibility of housing;
- An assessment of conditions, both public and private, affecting fair housing choice for all protected classes; and
- An assessment of the availability of affordable, accessible housing in a range of unit sizes.

The draft report, however, does not include the review of the jurisdictions' laws, regulations, policies, procedures and practices described in the first bullet point. For example, there is no analysis of the Aurora Housing Authority's Analysis of Impediments or of the City of Aurora's opposition to tax credits for the redevelopment of Jericho Circle. Further, it does not include the assessments described in the three following bullet points.

The draft does include a good deal of information, but it does not assess how the information shows impediments to fair housing choice. For example, the draft includes information that shows segregation of minorities within Kane County (see pages 12 and 13), stating that "the County has several areas of minority household racial concentration, particularly in the larger municipalities of Aurora and Elgin." It does not explore these concentrations further or address why they exist. Nor does it address the fact that the charts show large areas without any minority populations. It does not explore private or public conditions or local laws, regulations, or practices that might affect the concentrations, or identify the fact of these concentrations among the impediments to fair housing. In failing to make this assessment, the draft report does not grapple with the essential purpose of the AI.

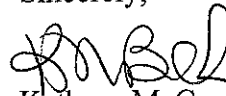
As another example, the draft describes that during the period from 2005-2009, 16% of whites were denied conventional home loans, whereas 32% of African Americans and 29% of Latinos were denied such loans. The draft does not analyze this difference, or include it among the impediments to fair housing. As noted on page one of the Introduction to the draft report and as described in the Fair Housing Planning Guide, an impediment to fair housing is defined as "any actions, omissions, or decisions that restrict, or have the effect of restricting, the available of housing choices based on race, color, religion, sex, disability, familial status, or national origin."

While the draft report notes that minority households experience excessive housing cost burden and that there is a lack of affordable housing in Kane County, the lack of affordable housing is not expressly identified as an impediment to fair housing

choice. The draft does not assess how governmental policies or practices may affect the lack of affordable housing or enhance development of affordable housing.

HUD has closely examined some AIs and found them inadequate. I am attaching a copy of HUD's letter to the City of Houston detailing why HUD determined Houston's AI was insufficient to assess the real fair housing choice impediments present in the city. EPS should conduct an AI and prepare a report that helps Kane County and the Cities of Aurora and Elgin avoid any similar HUD reaction and which really helps the jurisdictions identify policies and practices that impact fair housing choice and segregation, as well as specific steps with measurable outcomes that can address the identified impediments.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. McGowan Bettcher', written over the printed name.

Kathryn McGowan Bettcher
Managing Attorney



U.S. Department of Housing and Urban Development
Houston Field Office, Region VI
Office of Fair Housing & Equal Opportunity
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Houston, Texas 77002
(713) 718-3199 - FAX (713) 718-3255
www.hud.gov

November 30, 2011

James D. Noteware
Director
City of Houston
Housing and Community Development
P.O. Box 1562, Houston, Texas 77251-1562

Subject: HUD's Office of Fair Housing and Equal Opportunity's Review of the City of Houston's
Analysis of Impediments to Fair Housing Choice

Dear Mr. Noteware:

As recipients of federal funds, the city is required to comply with 42 U.S.C. 3608(d) and (e)(5) of the Fair Housing Act which requires that they administer their programs and activities relating to housing, demonstrating an effort to affirmatively further fair housing. With each funding cycle the city is required to certify to HUD that they are affirmatively furthering fair housing with the federal funds that they have been awarded in that program year. In order to properly assess the impediments to fair housing choice within the jurisdiction, the city is required to do fair housing planning.

HUD Funding

In Fiscal Year 2010, the city of Houston received \$32,769,402.00 in CDBG funds, \$14,066,375.00 in HOME, \$1,329,099.00 in ESG and \$7,793,944.00 in HOPWA. In addition to these awards, they received a one time amount of \$12,375,861.00 in HPRP, \$8,093,613 in CDBG-R and \$13,542,193.00 in NSP-1. In Fiscal Year 2011, the city received \$27,342,559.00 in CDBG, \$12,414,905.00 in HOME, \$1,327,628.00 in ESG and \$7,127,183.00 in HOPWA. Their one time award for NSP-3 was \$3,389,035.00. The city receives a substantial amount of money from HUD and engages in actions that are related to housing and urban development and therefore, is required to affirmatively further fair housing.

Fair Housing Planning Requirements

As part of the obligation to affirmatively further fair housing, the city is required to prepare an Analysis of Impediments (AI) to fair housing choice; take actions to overcome impediments; and maintain records of actions taken. Such analysis should include all affordable housing and funded programs in the jurisdiction, including homeownership and rental housing created with and without federal funding. The Fair Housing Planning Guide is a useful planning tool that should be used as part of this process.

The U.S. Department of Housing and Urban Development (HUD) has conducted a review of the current Houston AI to determine whether the city of Houston has affirmatively furthered fair housing choice by promoting affordable housing development outside areas of racial/ethnic minority concentration, analyzing and addressing participation by protected classes in funded programs, analyzing manifestations of discrimination in its programs and activities and in the private market and planned effective countermeasures and corrective actions, examining affirmative marketing strategies to avoid under-participation by protected groups, engaging in other actions that affirmatively further fair housing and that the city has retained records of its actions. After review of the Houston AI, the Department has determined that the AI's analysis is incomplete. The AI is incomplete because:

- 1) The AI does not identify as impediments actions known to the city that perpetuate segregation and restrict the availability of housing to African-Americans, Hispanics or to households with children. It does not identify actions to address patterns of existing segregation.
- 2) The AI does not specify an appropriate strategy or actions to overcome the shortage of affordable housing for African Americans, Hispanics, persons with disabilities, and families with children.
- 3) In addition, the AI does not identify any funding directed by the City toward fair housing enforcement or enforcement-related activities such as testing for 2010 nor is such funding proposed for subsequent years although high levels of discrimination were identified as an impediment to fair housing in the AI.

Data Regarding Segregation

In attempt to identify some of the impediments that the city currently faces, the AI relied upon several studies to obtain their quantitative data including the 2001 Houston Rental Audit, the 2000 HUD Nationwide Report on Housing Discrimination, 2005 Urban Institute Study on Discrimination, Houston Housing Survey of 2004, the 2010 Needs Assessment Survey and HMDA data. The AI does not contain any identification or analysis of the fact that Houston is one of the most racially segregated cities in the United States.

The 2010 census data demonstrates, considering the dissimilarity index, that Houston's level of segregation based on race is 68.6, making it the 13th most segregated city out of 200 of the largest cities in the United States. Houston's dissimilarity index for the White/Hispanic population is 60.4, making it the 8th most segregated city in this category, and its dissimilarity index for the White/Asian population is 41.8, making it the 21st most segregated city in the county for its Asian population.¹ Houston is the most racially segregated city in Texas, according to Census Scope.²

¹ America 2010, <http://www.s-j.brown.edu/us2010/segregation2010/city.aspx?cityid=4835000>

² CensusScope, http://www.censuscope.org/us/48/rank_dissimilarity_white_black.html

This striking data is not identified, discussed, or analyzed in the AI. The AI lacks identification of the causes of these patterns of segregation and it lacks a strategy to address these patterns. This is a significant omission.

The AI also fails to discuss the challenges that protected classes face in seeking market rate and affordable housing outside of areas of minority concentration. The AI must be revised to discuss and describe actions that will address both strong patterns of segregation in the community, actions that will be taken to expand opportunities based on race and national origin in areas outside of racial and ethnic concentration, and actions that will be taken to reduce concentrations of race and national origin and support the expansion of opportunity in those areas.

The AI should include geodemographic data that will allow for review and analysis of past siting decisions for HUD assisted, tax credit and other affordable housing, and include an examination of the siting of such housing both in areas that are concentrated by race or national origin and by poverty and in less concentrated areas that offer higher opportunity. A spatial deconcentration analysis would be useful to identify the neighborhoods where housing for low and moderate income residents exist and how the city's placement of affordable housing may have served to promulgate racial segregation. A review of the extent to which placement of this housing has contributed to segregation should be included in the AI. In addition, the AI should identify areas of higher opportunity in less concentrated areas which will be targeted for future development of housing. Finally the AI should describe actions that may be taken to increase investments in areas that are concentrated by race, ethnicity and poverty, any plans for demolition or replacement of housing in those areas and plans for relocation of current residents, as well as ways to increase opportunity in those areas.

We also recommend that the AI quantify how much CDBG, HOME, ESG, and other HUD funding the city spent in impacted areas during the previous five year period with a comparison of the amount of money the city spent in non-impacted areas during the same time period. .

The AI should also examine the city's existing mechanisms for collecting data regarding the relative participation rate of protected classes in federally assisted properties including public and assisted housing and identify the patterns of over and under representation by race, national origin, and family size and, if necessary, identify affirmative marketing efforts to promote fuller participation where appropriate. If there is under participation by protected classes outside areas of concentration of minorities, this should be identified and properly addressed.

There is no data provided about or analysis of potential barriers to the development of housing in Houston. Examination of the transportation patterns and public transportation may provide helpful strategies for future siting of housing. Examination of the location of schools, especially those which are above average, may suggest neighborhoods for development of affordable housing, especially for families with children. Examination of environmental issues may suggest relocation of some existing housing and provide useful information about potential sites for future housing. Regarding environmental concerns, the city may wish to contact the Agency for Toxic Substances and consult the Disease Registry for evaluation of the proximity of affordable housing developments to toxic sites. In addition, the Department of Justice has a list of environmental hazards to determine proximity of such hazards to affordable housing.

PHA Data Collection and Analysis

The AI failed to include information on housing provided through Public Housing Authorities in the greater Houston area. The Houston Housing Authority's and Harris County Housing Authority's contribution to the production of affordable housing is substantial. The failure to analyze their impact on fair housing choice based on race, national origin, familial status and disability presents a significant gap in the analysis. The information assessed may determine if the public housing rental subsidy program or low income public housing programs are congregated in minority concentrated areas thus intensifying segregation and constricting residential choice. Under 24 CFR 903.7(o)(2)(ii) and (iii), the PHA is required to interface with the city's AI or through its own independent AI, by identifying any impediments to fair housing choice within the programs. Moreover, pursuant to Section 6 of the "PHA Certification of Compliance with the PHA Plans and Related Regulations": The PHA will affirmatively further fair housing by examining their proposed programs, identifying any impediment to fair housing choice within their programs, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing.

Data About Discrimination

The AI indicates that there is a substantial amount of housing discrimination occurring in Houston, stating "The lack of awareness of fair housing rights and the general tolerance of housing inequities contribute greatly to the problem"¹ And the AI recommends aggressive enforcement. The AI also identified evidence of differential treatment in lending discrimination and practices which affect homeownership and evidence of discrimination based on race directed toward Katrina survivors. However, the AI lacks identification of actions to address the discrimination which it identified. Actions such as increased enforcement of fair housing laws, adoption of a substantially equivalent fair housing ordinance and local enforcement of fair housing rights, and implementation of a fair housing testing program funded by the City, as well as other strategies that will increase enforcement of fair housing laws should have been considered.

Data about Disability

The AI identifies discrimination against persons with disabilities and the need for accessible housing as impediments to fair housing. However, the AI does not identify the scope of the need for housing for persons with disabilities, including physical, mental or cognitive disabilities, it does not distinguish between the needs of these different populations for different types of housing and does not contain specific strategies to address the varying needs of these groups. Housing for people with disabilities should be made available in the most integrated setting possible. The AI should identify specific methods that the City is using to meet the housing needs for people with disabilities. Actions such as the passage and enforcement of a building code that results in construction of accessible housing, identification of ways to expand housing opportunities for persons leaving institutions, and creation of housing opportunities for persons with mental illness and cognitive disabilities should be considered.

¹ AI, page 17.

Information about Access for Persons with Limited English Proficiency

The city did not provide any evidence that the AI was provided to persons who are non English speakers nor was there any evidence to show that materials or the public participation process was available to persons with disabilities. The AI also fails to show if there was any outreach done to include protected classes in the planning process. In light of the high percentage of Hispanics living in the Houston area, the city should identify the number and percentage of language minorities by population in the City and identify barriers to this population in accessing housing and urban development services provided in the city. The city may wish to develop a Language Access Plan, especially if under-participation in funded programs has been noted among persons with LEP (Limited English Proficiency).

Goals and Measureable Outcomes

The AI failed to provide quantifiable goals. The Analysis of Impediments should propose assessment tools for which the city could use to measure their progress. The AI does not reference that the city must create and maintain records to reflect their analysis and actions described in the AI. This information should appear in subsequent reports in the city's Annual Action Plan and in the CAPER. In the Action Plan, the city should indicate which impediments they intend to tackle in that particular funding year and what money will be allocated toward the particular impediment. In the CAPER, the city should refer back to the Annual Action Plan and indicate if it was able to follow through. If the department responsible for carrying out this plan failed, the report should indicate the reason.

The AI should identify organizations that the city could partner with in their endeavor to increase fair housing choice for city residents. This list should include a diverse group of organizations that could assist the city in various aspects of deficiencies spanning from accessible housing to predatory lending to the use of foreclosed single and multifamily properties to create more affordable housing, to suggest a few.

Other Potential Impediments To Be Considered by the City

1. **Municipal regulations including city ordinances.** The city of Houston has regulations and ordinances that should be reviewed for their impact on protected classes. They should be examined to identify the effect that they have on the city's efforts to integrate the city racially and mitigate the economic stratification that exists in certain neighborhoods. In addition, these landuse requirements should be examined to determine whether they present any barriers to the siting or operation of housing for persons with disabilities.
2. **Deteriorating housing stock in affordable neighborhoods.** The AI should include a detailed discussion of the existing housing stock in the city and the effects that such housing has on its neighborhoods and surrounding areas. The city has several housing structures that have been abandoned and the effect on the communities in close juxtaposition to this housing should be identified and appropriate actions to improve the quality of the stock included in this AI.
3. **Code enforcement.** The AI should examine if code enforcement is applied fairly to all communities and neighborhoods and consider the effects that the lack of fair applicability of enforcement codes could have on housing in certain communities in the city.

4. **Cost of land.** The report states that land costs are not affordable for most families. The AI does not identify statistical data to support this statement. Moreover, if the data supports this, then this should be identified as an impediment and discussed as such.
5. **Lack of landlords' awareness of disability rights.** The AI briefly discusses the problem of inaccessible housing. However, it fails to address the issue with respect to all forms of housing –public, assisted, and private market housing. Lack of awareness by landlords and housing providers, including public and assisted housing about the application of fair housing laws to housing may have a systemic impact on persons with disabilities. The need for increased education and enforcement in this area should be examined.
6. **Environmental issues** were not discussed in the AI. The AI should review the city's environmental issues and their pertinence to fair housing and their relationship to the siting of housing. In communities where environmental issues are a concern for areas that are racially or ethnically concentrated, jurisdictions should consider apportioning a certain percentage of CDBG funds yearly to those communities to mitigate the environmental problems.
7. **Steering.** The AI should include a discussion on the negative effects of steering by race and national origin in the private market and data should be included to enhance this discussion. Education and enforcement should be considered if this issue is found to contribute to housing segregation.
8. **Analysis of Foreclosures.** There should be a discussion on the analysis on foreclosures on housing patterns. The analysis should include the relationship that neighborhoods with higher foreclosure rates have to race and national origin, if any, to determine if these rates are directly proportional to each other and what effect this has on these communities and neighborhoods. The AI should also contain an analysis of the number of loan modifications being awarded to different races and ethnic groups throughout the city to determine if they are being made available on different terms based on the race or national origin of the borrower or the racial or ethnic concentration of the neighborhood. The AI should include any barriers identified as part of this analysis and actions designed to address both lending practices and the appropriate maintenance, marketing and potential use of foreclosed properties, depending on the results of the analysis.
9. **Public Schools.** The AI should include an analysis and discussion of the relationship between the location and quality of public schools and their relationship to housing choice. The discussion should include analysis of the segregation that exists in some schools and housing siting strategies that may assist to provide access to schools on a less segregated basis. .
10. **Historical racial/ethnic tensions.** The AI should include a discussion and analysis on any racial and ethnic tensions that exist throughout the city and any anticipated neighborhood or community opposition to the siting of affordable housing and strategies which the city will undertake to address these tensions. .
11. **Racial discrimination.** The AI should address how the evidence of racial discrimination may affect sales and rentals for persons of color throughout the city. The AI refers to a testing study on the treatment received by Katrina survivors and how differential treatment levels demonstrated an incidence rate for blacks of 66% as compared to Whites

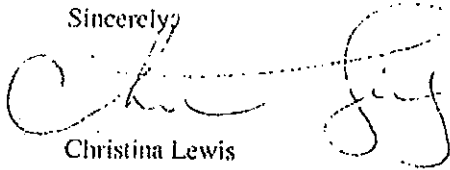
when inquiring about housing. But the report does not discuss the implications of this data nor indicate a plan for addressing the extent of this discrimination.

12. **Subprime Loans and Loan Pricing.** The AI should provide analysis on whether certain communities show a high percentage of subprime loans. Research should be included to discuss whether there is any evidence of loan pricing discrimination, e.g. higher fees, higher points, higher closing costs for persons in protected classes and identify actions that the city may take to address these issues if they have been identified.

The city's AI is incomplete and unacceptable because it fails to identify and address patterns of segregation based on race and national origin, identify appropriate actions to address identified housing discrimination, address access to housing and services for persons with disabilities and persons with limited English proficiency; it fails to contain actions to address the impediments it does identify and it lacks references to maintaining documents and records to document its actions in addressing the identified impediments. HUD will offer the city technical assistance in their effort to correct the deficiencies of the AI and meet compliance. I look forward to working with the city in improving their Analysis of Impediments in order to ensure compliance with AFFH Certifications.

I can be contacted directly at 713 718-3189.

Sincerely,



Christina Lewis
Houston FHEO Director

cc: Sandra Warren, Director – HUD CPD Houston
Garry Sweeney, Region VI Director – HUD FHEO



March 5, 2012

CAFHA Membership

Access Living

Chicago Lawyers' Committee
for Civil Rights Under Law

Cook County Commission on
Human Rights

Community and Economic
Development Corporation

Diversity, Inc.

Fair Housing Center of Lake
County

HOPE Fair Housing Center

Illinois Department of
Human Rights

Interfaith Housing Center of
the Northern Suburbs

Interfaith Open Communities

The John Marshall Law
School Fair Housing Legal
Support Center

Lawyers' Committee for
Better Housing

Oak Park Regional Housing
Center

Sargent Shriver National
Center on Poverty Law

South Suburban Housing
Center

Village of Park Forest

Village of Streamwood

Woodstock Institute

Neighborhood Redevelopment Division

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Community Development Department

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RE: Joint Draft Analysis of Impediments (AI)

The Chicago Area Fair Housing Alliance (CAFHA) submits the following comments upon review of the draft Joint Analysis of Impediments to Fair Housing Choice by the City of Aurora, City of Elgin, and Kane County,

The City of Aurora, the City of Elgin, and Kane County each receive federal funding from the Department of Housing and Urban Development (HUD). As part of HUD's eligibility requirements, each is required to conduct an analysis of impediments to fair housing. The completion of an AI is not a task that should be taken lightly; its findings provide the outline for fair housing planning within the jurisdiction and further identify indicators against which future progress may be measured.

HUD provides clear guidelines specifying the obligatory scope of the analysis. The joint draft AI fails to adequately fulfill HUD's requirements and therefore could not, in its current state, serve as a tool for addressing the impediments that exist within the subregion. CAFHA is extremely concerned that the lack of an effective AI will further hinder each municipality and the subregion as a whole from crafting progressive housing initiatives aimed at eliminating segregation and disparities in opportunities for protected classes. The draft AI, if not altered to address the concerns outlined below, will not meet HUD expectations.

The AI Fails to Fulfill Basic HUD Requirements

The AI fails to do the following:

- **Identify barriers to fair housing choice and disparities in access to opportunity for all protected classes within the three jurisdictions**
- **Address patterns of segregation and identify racially concentrated areas of poverty**
- **Adequately analyze both public and private sector impediments to fair housing**
- **Clearly delineate the differences between affordable housing and fair housing**
- **Establish remedies or effective action steps to address fair housing impediments both those that are unique to each jurisdiction and those that are common to the three jurisdictions**

Patterns of Segregation

This AI does not provide a comprehensive review of the fundamental issue of segregation. The historic patterns of segregation and the trends in segregation over time are essential factors for an AI. This analysis must include discussion of both public and private factors that have contributed and continue to contribute to this pattern. The AI concedes that segregation "appears" to exist within the jurisdictions but fails to offer any critical analysis of exactly where populations are segregated or possible reasons for the perpetuation of segregation.

This evasion and equivocation of data and fact continues when the AI states that there "may exist" racially concentrated areas of poverty (RCAPs) within both Aurora and Elgin. This hedging is utterly counterproductive to the fundamental goals of the AI. Data used to determine where RCAPs exist in the three jurisdictions is easily accessible. CAFHA has used this publicly available data to determine that RCAPs do exist as shown in the attached map. The failure to identify RCAPs halts any attempt to develop strategies to address them.

Furthermore, the AI fails to discuss the unique issues of each jurisdiction. While it is promising to see collaboration and cooperation between jurisdictions on fair housing issues that transcend borders, this does not provide an exemption to address the impediments unique to each jurisdiction. Nor does it allow jurisdictions to ignore the ways in which certain impediments may be best addressed internally and not regionally.

For instance, the AI provides a demographic overview of Kane County (p 9) but does not include a demographic overview of Aurora and Elgin, whose population compositions are significantly

different from county aggregate figures. Indeed, the AI states that Aurora and Elgin have higher than average African American, Latino, and American Indian cost-burdened households (p 17). Then, the AI returns to a countywide perspective specifying that large family households were particularly cost burdened. Tables on pages 19 and 20 depict a general lack of affordable housing in Kane County; “only six percent of the rental units in the data collected were affordable to households with an AMI less than 50%.” However, this affordability analysis does not offer an overview of the housing situation in Aurora or Elgin.

Again, although alluding to a “minority household racial concentration” both in the county as a whole and specifically within Aurora and Elgin, there is no analysis of the potential causes of this racial isolation. Vague maps provided on pages 12 and 13 poorly identify the areas of minority concentration. No significant analysis precedes or follows them.

Most concerning however, is the lack of any insight into how these housing limitations may drive segregation in the county. Clearly, larger families and African American, Latino, and American Indian families experience limited housing choices and this fact must be expounded on in the AI. The settlement decree in *Westchester* and subsequent HUD guidance have made clear that AIs must address patterns of racial segregation and barriers to housing choice among all protected classes. Moreover, they have made clear that analyzing affordable housing patterns does not serve as a proxy for analysis of racial segregation. The draft AI does not assess the extent of racial and ethnic segregation within the subregion, and further neglects to address the disparities in access to appropriate housing for virtually all other protected classes. This failure to analyze racial segregation and barriers to protected classes constitutes a violation of an entitlement jurisdiction’s duty to affirmatively further fair housing in an AI.

Analysis of Public & Private Sector Impediments

HUD requires an analysis of a jurisdiction’s public policies to discern whether certain policies have the effect of limiting housing opportunities for protected classes. No such analysis is offered in the draft AI. Instead, the nominal discussion that is provided simply applauds the three jurisdictions for administering housing programs (such as foreclosure counseling) and supporting the efforts of local social services (however underfunded they may be) without any explanation as to how this relates to the affirmative furthering of fair housing.

The lack of discussion related to the impact of public policies disavows the jurisdictions’ responsibilities in creating impediments to fair housing choice. This omission creates a lack of legitimacy for the creation and implementation of policy solutions to the fair housing issues that exist within the county and the two municipalities, when in fact policy solutions are often the most effective ways to address fair housing impediments.

The AI purports that local government entities can only play a “supportive” role in promoting fair housing:

It is important to note that agencies which are tasked with administering HUD funding at the local level often have very little influence or authority over the private sector with respect to ensuring that fair housing policies and practices are being followed to the letter of the law...Given the lack of enforcement capability over the private sector, specifically the real estate and lending community, local government entities like Kane County, the City of Elgin, and the City of Aurora are more likely to play a support or partner role to the promotion of fair housing principles and practices (p 21)

Instead of treating this issue as an afterthought, the lack of enforcement capability should have been identified as an impediment to fair housing choice. An effective remedy would be for the three entities to support a private, non-profit fair housing enforcement agency qualified to 1) receive discrimination complaints, 2) investigate complaints for probable cause, 3) refer complaints to HUD, and 4) provide fair housing training for housing professionals in the jurisdictions.

By asserting that fair housing is essentially a private market issue, the AI fails to address the ways in which public policies, such as land-use and zoning ordinances, may contribute to the creation of impediments to fair housing. The AI lacks even a basic assessment of each jurisdictions fair housing ordinance, or lack thereof. The dearth of public policy assessment in this AI clearly contradicts the mandates of HUD. Secretary Donovan has acknowledged, "With the passage of the Fair Housing Act in 1968, we acknowledged that segregation didn't happen in spite of government policy – it happened in large part because of it....And we affirmed that government has a role to play in creating integrated, inclusive, diverse communities."

In any AI, it is vital to determine the role that local public policies have played in perpetuating segregation and in turn, the ways in which disparities in housing access can be addressed through policy reform. The draft AI has drastically diminished the role that the public sector has had in propagating impediments to fair housing, and therefore provides a disincentive for municipal and county leaders to actively contribute to affirmatively furthering fair housing in Kane County and the cities of Elgin and Aurora.

Furthermore, the AI must address private housing market conditions that impede equal access to housing for protected classes. The AI glosses over this responsibility by simply stating that discrimination in housing "may exist" yet provides insufficient detail regarding the scope of the problem or how to address it.

The AI states that both Aurora and Elgin have rental property licensing programs requiring "mandatory landlord or manager training along with the licensing process to ensure that rental properties are safe places to live and have a positive contribution to the surrounding community" (p 30). Although it is stated that these programs include fair housing as an element of the training process, an assessment of training effectiveness and licensing procedures would be useful, especially since it was noted that "there may exist some discriminatory practices among rental housing providers" (p 2). It would be helpful to include a copy of the fair housing

curriculum along with the penalization process for housing providers who violate fair housing laws. A proposed action step to address the potential discriminatory practices would be to enhance training techniques and explore the implementation of fines or license suspensions for fair housing violations if they do not currently exist. Again, this may be done in conjunction with a non-profit fair housing agency with a track record of successfully implementing similar training or compliance programs.

Affordable Housing vs. Fair Housing

Although the AI states that there is a distinct difference between fair and affordable housing (p 2) it does not clearly identify this distinction, how the two are related, or how each will be assessed through the AI. Clearly, without this basic understanding, there is an overarching lack of meaningful analysis of *fair housing* issues throughout the draft report. A common pitfall of many AIs is relying too heavily on the more politically appealing “affordability” discussion. While there is a detailed explanation of federal and state fair housing regulations along with a listing of the protected classes (p 4-7), there is no analysis as to each protected class’ limits in accessing appropriate housing within the cities of Aurora and Elgin and throughout the County. The lack of such an analysis starkly contradicts HUD requirements. However, the AI does provide a relatively lengthy discussion regarding the overall *affordability* of housing in the County (p 16-20). Unfortunately, there is a lack of analysis regarding the ways in which the limits of affordable housing, especially in areas of opportunity, may produce segregation of protected classes. The AI also fails to identify how policy changes could promote improved integration.

The AI does however touch on a relevant fair housing issue, in the acknowledgement of “the lack of a formalized Language Assistance Plan (LAP) for residents who have a limited English proficiency. The development of a LAP is required by the Department of Justice’s Executive Order 13166” (p 30). The lack of an LAP is especially important to emphasize since both Aurora and Elgin have relatively high populations of Hispanic/ Latino residents as compared to both Kane County and the State of IL. Ensuring that housing related materials are available in the primary languages of residents, and that this material is also culturally relevant, would allow for a greater understanding of fair housing protections and could perhaps assist in the elimination of ethnic isolation. Further, it was noted in the AI that survey participation among Hispanic residents was very low based on their overall population. Finding ways in which Hispanic/Latino residents, who make up over 40% of the population in both Aurora and Elgin, may have meaningful participation in public discourse is essential in promoting diversity and integration.

Identified Impediments

The AI fails to identify impediments to fair housing choice both by identifying too few impediments and by downplaying identified impediments. The impediments listed in the joint AI are really more observations and summations of the public outreach conducted.

For instance, impediment number 1 states: “There is a perceived lack of handicapped accessible housing in the community” (p 2). An effective AI would analyze the need for accessible housing versus the actual accessible housing units that exist and where these units are located within the jurisdiction to determine if a lack of accessible housing is indeed an impediment. Impediment number 4: “Based upon feedback from the community survey and housing complaint data, there may be some existence of discriminatory practices, either intentional or unintentional among rental housing providers or property managers toward low-income minority renters...” (p 2). Simply stating the feedback received from surveys does not constitute an assessment of the potentially illegal practices of real estate agents, nor does it analyze the interplay of private market forces and public policies to discern how these may reinforce one another to create racial disparities in housing. The proposed action steps are similarly inadequate with language that only suggests to “identify opportunities to increase educational programming” and “investigate the need to update fair housing testing” respectively.

It is distressing that the authors of the AI clearly collected a great deal of useful housing-related information such as Home Mortgage Disclosure Act (HMDA) data that was never analyzed. The data is simply presented in raw form, and not analyzed in respect to fair housing issues.

Instead, the AI relies on surveys, interviews, and focus groups that center solely on the participants’ understanding of fair housing laws and not, for instance, on their perceptions of housing choices and racial integration. Yet, these surveys also suffer from design failures. When surveyed on what they believed were impediments to fair housing within the county: “The most frequently indicated response was employment issues...as employment issues are at the forefront for most people these days, they are also present in perceptions in Kane County regarding fair housing issues” (p 35). However, employment issues in this context are not fair housing issues -- unemployment is not a protected class. The answer should have been ignored as irrelevant. Despite leaving the answer in, the AI did not even make an attempt to connect the answer to a relevant fair housing issue, such as disparities in employment opportunities by protected class or in RCAPs. Neither did it provide strategies regarding ways in which inclusive housing patterns could be implemented in areas with the greatest access to employment.

Lack of Clear Action Steps to Eliminate Barriers to Fair Housing

The AI, in its current state, fails to provide a clear action plan to eliminate barriers to fair housing choice in the region. This is not surprising since the analysis itself lacks any meaningful identification of fair housing impediments and, therefore, could not possibly serve as a planning guide to address such issues. Since the AI entails three distinct jurisdictions, each with its own duty to identify impediments to fair housing, the use of a combined AI in this case only serves to muddle the distinct issues within each jurisdiction. The AI fails to clearly demonstrate the common impediments among the three jurisdictions. This is compounded by the failure to identify the impediments faced in each jurisdiction. A compliant AI would identify these impediments and provide action steps for the common impediments and the unique impediments of each jurisdiction. The AI also fails to identify resources that may be allocated or a timetable that may be followed to further fair housing goals.

For instance, the AI acknowledges that 1 in 4 residents surveyed experienced or knew someone who had experienced discrimination (p 37). Further, it was found that the same respondents would not know what to do if faced with discriminatory practices (p 37). Although the AI notes that fair housing education is needed, there is neither a clear delineation of responsibilities for executing this education campaign nor a plan for allocating resources to achieve this goal – demonstrating a lack of commitment from the jurisdictions.

HUD stresses the need to take concrete actions to overcome barriers to fair housing choice, document the actions taken, and keep records of actions implemented over time in order to track progress. The draft AI utterly fails to comply with these requirements. It does not adequately assess the current state of fair housing in the county and the two municipalities and lacks actionable steps that can be taken overcome these impediments and affirmatively further fair housing.

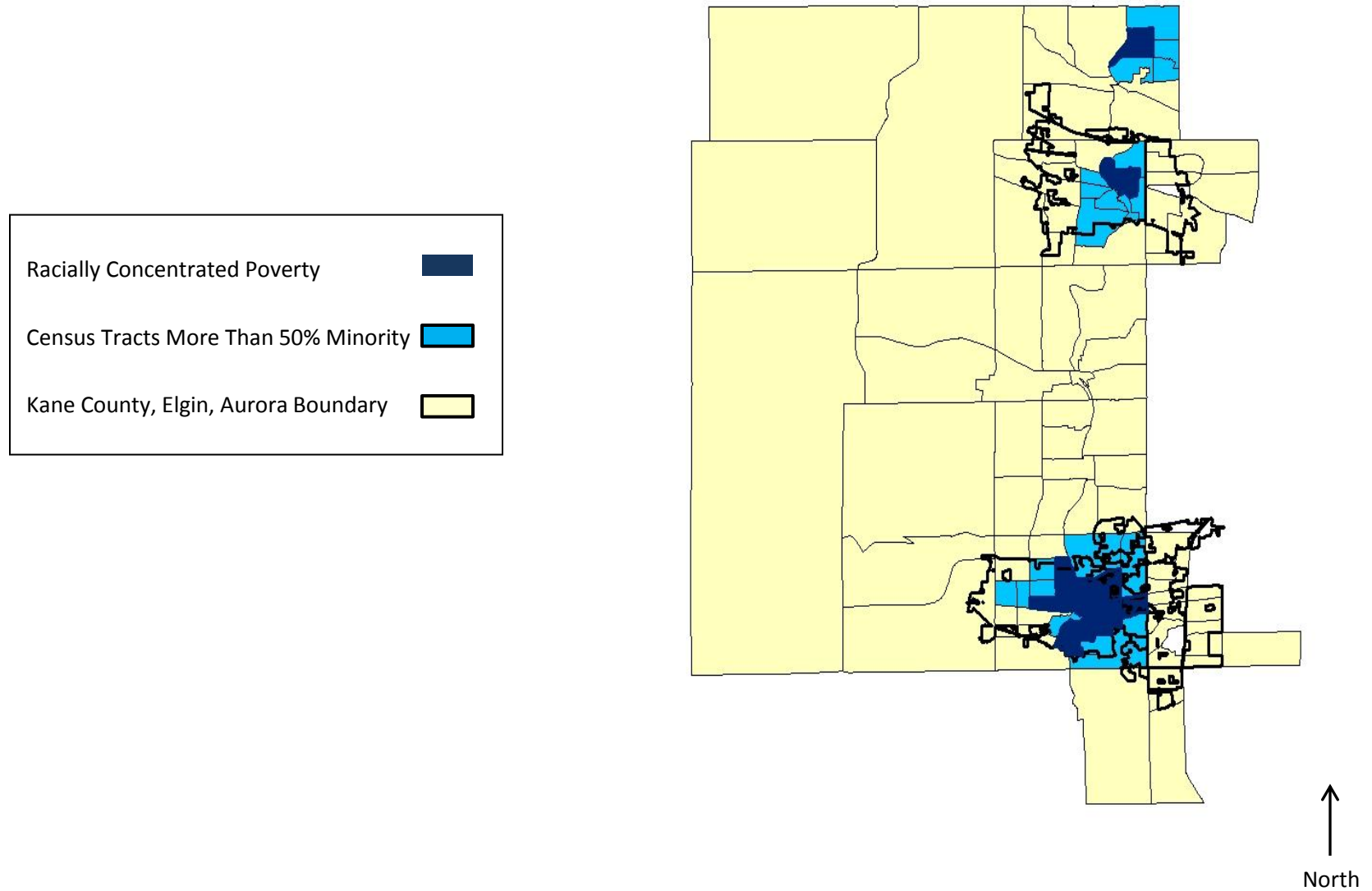
As a result, this AI is not compliant with HUD regulations as it neither analyzes the impediments to fair housing choice nor provides remedies to overcome them.

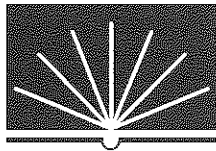
Sincerely

Rob Breymaier, President
Chicago Area Fair Housing Alliance

cc: Ray E. Lewis, Region V Director, CPD
Maurice J. McGough, Region V Director, FHEO

AURORA, ELGIN, AND, KANE COUNTY RACIALLY CONCENTRATED AREAS OF POVERTY (RCAP), 2010





SHRIVER CENTER

advancing justice and opportunity

Sargent Shriver National Center on Poverty Law

March 2, 2012

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RE: Draft Analysis of Impediments to Fair Housing

Dear Mr. Beck, Ms. Christensen, and Ms. Momodu:

The Sargent Shriver National Center on Poverty Law respectfully submits these public comments on the draft Analysis of Impediments to Fair Housing (AI) for Kane County, Aurora, and Elgin. We believe that the AI prepared for these three jurisdictions contains numerous critical deficiencies and therefore remains substantially incomplete.

As recipients of federal Community Development Block Grant and/or HOME funds, Kane County, Aurora, and Elgin are all required to undertake efforts to affirmatively further fair housing (AFFH). The obligation of these entitlement jurisdictions to AFFH encompasses three elements: 1) being honest and transparent in identifying all fair housing impediments in the jurisdiction, and their causes; 2) designing appropriate actions to overcome those impediments, and 3) keeping records of each of the above.

Kane County, Aurora, and Elgin are failing to satisfy the very first prong of this obligation, because they have not been thorough and honest in assessing impediments to fair housing choice in their jurisdictions. Unless a jurisdiction identifies and understands impediments accurately, it can never implement appropriate responsive actions, which must be calibrated to the actual impediments. Nor can the jurisdiction design activities with sufficient benchmarks and timelines that will enable it to succeed in overcoming these impediments.

We believe that the following fundamental flaws in the draft Analysis of Impediments leave the county and both municipalities still far short of fulfilling their respective AFFH obligations:

- The AI does not distinguish between fair housing impediments or action steps for each participating jurisdiction. As Aurora and Elgin are both major metropolitan areas, each with a population of more than 100,000, a proper analysis of impediments to fair housing choice must begin at the city level. For example, the AI only presents county-wide data concerning racial and ethnic demographics (Draft AI at 9) and the affordability of owner-occupied and rental housing at various income levels (Draft AI at 19-20). As demographics and other critical data vary among the jurisdictions, the AI must break this information down by jurisdiction. Only then can the AI investigate fair housing impediments and appropriately tailor action steps to fulfill each jurisdiction's own AFFH obligation.¹
- The AI is virtually silent regarding the fair housing implications of the City of Aurora's actions towards the redevelopment of the Jericho Circle public housing development, despite the fact that the City is well aware that its opposition to rebuilding has fair housing consequences by restricting the availability of affordable housing to protected classes. Jericho Circle is only referenced in a recommendation that the City support the Mayor's Blue Ribbon Affordable Housing Task Force as it considers strategies to address the loss of public housing units at that property (Draft AI at 45-46). A substantially complete AI must honestly and transparently assess all potential impediments to fair housing choice for protected classes currently existing within a jurisdiction, including those caused or exacerbated by the local government. It is inappropriate for the AI to suggest deferring the work of addressing the fair housing implications of Jericho Circle redevelopment to another forum. The AI also seems to gloss over the issue of Jericho Circle redevelopment as merely a problem of communication between the local government and the housing authority (Draft AI at 42). Improving coordination between municipalities and housing authorities may enhance fair housing outcomes, but this observation cannot absolve Aurora of the obligation to analyze the impact of its efforts to prevent Jericho Circle redevelopment on fair housing choice for protected classes. The AI must assess any impediments to fair housing created by the Jericho Circle redevelopment dispute, and particularly the extent to which the City of Aurora's involvement is fomenting race and familial status discrimination against households in need of subsidized housing.² The AI must also specify appropriate actions to overcome these impediments.
- The AI's analysis of segregation in the housing market is woefully inadequate and fails to identify racial and ethnic concentration as an impediment to fair housing choice. The AI only notes "several areas" of African-American concentration and "many areas" of

¹ While it is certainly desirable that jurisdictions cooperate and collaborate to address fair housing issues that often transcend borders, this does not give jurisdictions a license to shirk responsibility for identifying and responding to all fair housing impediments existing within that jurisdiction.

² The AI currently makes no mention of the Analysis of Impediments to Fair Housing Choice recently conducted by the Aurora Housing Authority, which is contrary to HUD guidance that "strongly encourages... jurisdictions to become familiar with all studies that apply to their community... as a first step in planning an AI" (HUD Fair Housing Planning Guide at 2-18). The AI should take note of any data and/or analysis contained in this recent study that bears on fair housing impediments in Aurora or any of the other participating jurisdictions, including the fair housing implications of the Jericho Circle redevelopment issue.

Hispanic concentration across Kane County (Draft AI at 11). However, the AI nowhere specifies the number of racially and/or ethnically concentrated census tracts in the county overall or in either municipality. The AI also does not analyze the severity of segregation, for example by determining the degree of racial and/or ethnic concentration in particular census tracts. The AI undertakes no analysis of how market forces and/or local government policies and practices – such as code enforcement, zoning, a lack of source of income protection, affordable housing siting decisions, and/or opposition to new affordable housing development – have contributed to segregated housing patterns. Furthermore, the AI undertakes absolutely no analysis with regard to the segregation of any other protected classes. The AI thus falls far short of the benchmark of “describ[ing] the degree of segregation and restricted housing by race, ethnicity, disability status, and families with children” and assessing “how segregation and restricted housing supply occurred” (HUD Fair Housing Planning Guide at 2-28). Furthermore, the AI does not recommend any strategy to address existing patterns of residential segregation and expand housing opportunities for members of protected classes throughout the entire county. For example, the AI should identify existing areas of opportunity (i.e. – low poverty, racially integrated communities) that will be targeted for future development of housing that is affordable and accessible to protected classes. The AI should discuss any anticipated neighborhood opposition to this integrative siting of affordable housing, and identify strategies the participating jurisdictions will take to overcome this barrier.

- A substantially complete AI must probe any impediments to fair housing experienced by various protected classes in concrete detail in order to serve as the basis for crafting responsive actions that can achieve measurable improvements in housing choice. An AI therefore must not be based on mere assumptions or undeveloped hypotheses. This AI fails dramatically in that regard. For example, the AI opines that there “*may* be some existence of rental property discriminatory practices by apartment owners or managers toward low-income minority renters, and in particular those households with disabilities” and suggests that discriminatory outcomes in the rental housing market “*may* be due to a number of issues, intentional or unintentional” (emphasis added) (Draft AI at 42). However, the AI does not assess the actual extent of discrimination against protected classes in the rental housing market.³ The AI must thoroughly investigate all identified disparities that negatively affect protected classes before drawing conclusions about their nature and origin, and cannot discount the possibility of intentional discrimination. The AI must also identify appropriate actions each jurisdiction will take to respond to the specific sources of discrimination that are thus uncovered, such as the adoption of or addition of new protected classes to local fair housing ordinances, and/or the devotion of government resources to fair housing testing in the rental market.⁴

³ This is not an isolated problem of assuming fair housing impediments without investigating their scope. For example, the AI also “anticipate[s]” that the disproportionate cost burden experienced by racial and ethnic minorities has increased commensurately with an overall increase in household cost burden over the past decade (Draft AI at 17). There is, however, no actual assessment of increases in housing costs for any protected classes.

⁴ The AI makes the troubling suggestion that local governments have a limited ability and thus obligation to enforce fair housing compliance in the private housing market (Draft AI at 21). Expression of such a sentiment in an AI is unacceptable. Rather, the AI should identify any current lack of local government enforcement capability as an impediment to fair housing choice and design effective remedies.

- There is a distinct difference between affordable housing and fair housing. A complete AI must go beyond analyzing affordable housing issues in general in order to draw definitive conclusions regarding how those issues represent fair housing impediments for particular protected classes. This AI notes a dearth of rental housing affordable to very and extremely low income households (i.e. – households earning less than 50% of Area Median Income) in the county (Draft AI at 20). However, the AI fails to analyze this deficiency in affordable rental housing as a possible impediment to fair housing choice disproportionately affecting or contributing to segregation of any of the protected classes. The AI also fails to determine the size of the current deficit in affordable rental housing in the county and in each municipality, or to investigate the policies and practices that have contributed to the problem. This is a necessary prerequisite to crafting an appropriate strategy to overcome any fair housing impediment presented, such as increasing the supply of deeply affordable rental housing options for very and extremely low income households using public subsidies. In fact, the AI essentially defers to the forthcoming efforts of the Mayor’s Blue Ribbon Affordable Housing Task Force in terms of establishing a baseline analysis of affordable housing need in Aurora (Draft AI at 45-46). A substantially complete AI must actually assess the adequacy of housing affordable to persons in protected classes and determine the actions needed to address any deficiency, and cannot postpone this effort to a later forum that lacks the AI’s exclusive focus on fair housing.⁵
- The AI fails to rigorously evaluate and respond to available information indicating the existence of fair housing impediments. For example, the AI notes that African-American, American Indian, Hispanic and large family households are significantly more likely to be cost burdened than non-Hispanic white households in the county and/or municipalities (Draft AI at 17-18). This is a clear acknowledgment of a disparate adverse impact on protected classes. However, the AI does not identify this disparate impact as an impediment to fair housing choice for the county or either municipality. The AI also makes no effort to assess the private and/or public policies and practices contributing to this disparate impact, and proposes no actions to overcome the disproportionate cost burden experienced by protected classes. Similarly, the AI notes that denial rates for conventional loan applications by African-American and Hispanic homebuyers are substantially higher than the denial rate for applications by white homebuyers (Draft AI at 25). However, the AI does not explore the reasons for this blatant racial and ethnic disparity, and therefore fails to craft appropriate responsive actions.⁶
- The AI’s assessment of how public sector policies and practices are impacting fair housing choice for protected classes is utterly deficient. For example, the AI does not analyze any specific local land use policies or practices in terms of whether they limit the

⁵ Furthermore, any efforts of the Affordable Housing Task Force in Aurora will have no bearing on whether Elgin or Kane County have fulfilled their own obligations to further fair housing.

⁶ The AI should also analyze whether foreclosure rates are higher for households in protected classes or in neighborhoods of racial/ethnic concentration. This analysis is critical to tailoring the AI’s recommendation of foreclosure counseling, and crafting other appropriate measures to mitigate the harmful impacts of foreclosures on protected classes, in order to address the particular fair housing implications of the ongoing foreclosure crisis. Similarly, the AI should analyze subprime loan rates and loan pricing through such a fair housing lens.

availability of housing that is affordable and accessible to members of protected classes, or locate that housing in segregated settings. The AI even commends Elgin and Aurora for their rental property licensing programs (Draft AI at 30), despite the fact that Aurora requires landlords to conduct criminal background checks of all prospective tenants and is therefore likely creating a disparate racial and ethnic impact given the disproportionate involvement of African-Americans and Hispanics with the criminal justice system. The AI does not analyze whether the code enforcement components of these licensing programs are being applied fairly in practice to avoid discriminatory effects. A substantially complete AI must engage in “a comprehensive review of [the jurisdictions’] laws, regulations, and administrative policies, procedures, and practices” and an “assessment of how those... affect the location, availability, and accessibility of housing” (HUD Fair Housing Planning Guide at 2-7).

- Despite expressing concern about the inadequacy of accessible housing and supportive services for persons with disabilities (Draft AI at 2, 30, 40), the AI fails to measure the degree to which there is an unmet need for accessible housing units and/or supportive housing options. The AI also fails to distinguish between the varying housing needs, if any, of persons with physical, mental, and cognitive disabilities. Without first engaging in this sort of analysis, the county and municipalities cannot effectively undertake the subsequent step of implementing actions that will overcome impediments experienced by disabled persons.⁷
- The AFFH obligation encompasses not only ensuring that there is an adequate supply of housing that is affordable to protected classes, but also ensuring that this housing is decent, safe, and sanitary. However, the AI neither analyzes housing conditions generally, nor engages in any assessment of whether quality housing is disproportionately unavailable to households belonging to protected classes.
- Municipal governments play an essential role in affirmatively furthering fair housing both within their own jurisdictions and across their regions, and therefore the AI must address any indication that municipal officials are not prepared to fulfill that role. In this regard, the responses given by municipal government officials to the AI’s fair housing survey are quite disconcerting. For example, such officials are the group least likely to believe there are significant barriers to fair housing choice, and less than half of such officials know where to get assistance with housing discrimination (Draft AI at 34, 39). However, the AI does not consider how the lack of awareness of fair housing issues and resources by municipal government officials in particular presents a fair housing impediment, nor does it recommend any actions specifically geared at improving the awareness of this set of stakeholders.
- The AI also fails to craft appropriate action steps to address the identified impediments to fair housing choice. The action steps that the AI recommends are generally articulated as broad statements of intent to “encourage” or “continue” or “seek” to implement vague

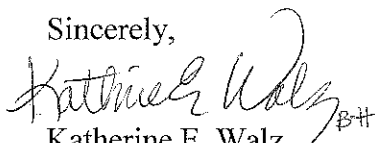
⁷ Once the AI includes the requisite analysis, the AI should then identify specific methods that participating jurisdictions will use to meet the housing needs of all persons with disabilities in the most integrated setting possible.

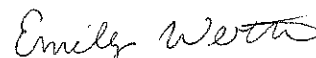
results (Draft AI at 44-47). The AI makes little effort to specify concrete steps to be taken towards achieving any of the identified goals. The AI also fails entirely to identify the persons who will be responsible for completing proposed actions, resources that will be allocated to complete proposed actions, timeframes for the completion of proposed actions, or quantifiable results by which the success of proposed actions will be assessed.⁸ These conclusory commitments are not an effective basis for each jurisdiction's satisfaction of the second and third prongs of the AFFH obligation, namely taking action to overcome fair housing impediments and maintaining adequate records of the same. The AI should propose detailed assessment tools that the participating jurisdictions can use to measure their progress toward surmounting impediments to fair housing choice.

We urge Kane County, Aurora, and Elgin to revise the draft AI in order to address the critical concerns we have highlighted in this letter. Otherwise each jurisdiction risks having its annual AFFH certifications deemed unsatisfactory by the Department of Housing and Urban Development, and losing its federal housing and community development funding.

We thank you very much for your consideration of these comments.

Sincerely,


Katherine E. Walz
Director, Housing Justice


Emily Werth
Staff Attorney/Skadden Fellow

⁸ In many instances there is a concerning mismatch between fair housing impediments identified and action steps recommended. For example, even though the AI identifies a lack of current data on fair housing compliance as inhibiting the ability of jurisdictions to take action on fair housing issues, the AI then goes on to recommend merely that jurisdictions "investigate the need to update data related to fair housing practices" (Draft AI at 44). The AI also recommends that the private and nonprofit sectors take the lead in providing fair housing education and resources (Draft AI at 44), which essentially validates the inadequate awareness of fair housing issues and resources among local government officials evidenced by the AI's fair housing survey. The action steps laid out in the AI must be directly related to and justified by the AI's conclusions regarding fair housing impediments.