



Memorandum

TO: NEIGHBORHOOD SERVICES
& EDUCATION COMMITTEE

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: April 6, 2017

Approved

Date

4/6/17

SUBJECT: DRAFT ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

RECOMMENDATION

It is recommended that the Neighborhood Services and Education Committee (NSE)

1. Accept the draft Analysis of Impediments to Fair Housing Choice;
2. Recommend this item for full Council consideration at the April 25 City Council meeting.

BACKGROUND

As a recipient of Community Development Block Grant (CDBG), Emergency Solutions Grants (ESG), Housing Opportunities for Persons with AIDS (HOPWA), and HOME Investment Partnerships (HOME) funding from the U.S. Department of Housing and Urban Development (HUD), the City is required to develop and update an Analysis of Impediments to Fair Housing Choice (AI) document on a periodic basis.

The purpose of the AI is to provide an overview of the laws, policies, and practices that may hinder residents' ability to choose housing in the City. It also includes recommended actions to overcome those impediments. The AI is intended to serve as the basis for the City to evaluate and plan for fair housing needs, while providing valuable information to policymakers, fair housing advocates, service providers, and lenders in their efforts to build and support fair housing policies and practices.

ANALYSIS

The City prepared the draft AI (**Attachment A**) with the assistance of LeSar Development Consultants (LDC) through funding provided from CDBG entitlement dollars. A variety of data

April 6, 2017

Subject: Draft Analysis of Impediments to Fair Housing

Page 2

sources and planning documents were consulted to provide a quantitative and qualitative overview of past and current housing choice conditions within the City, and to ensure future compliance with fair housing regulations.

The first step in preparing the draft AI was to understand the City's demographic and housing characteristics. A summary of key findings is provided below.

- Over the last decade the City's population has grown by approximately 6% percent. This growth is expected to continue at an even higher rate.
- Over the last decade population growth occurred among Asians, Hispanic/Latinos, and Pacific Islanders showing a trend of continued diversification.
- Nearly 80% of the City's population is below the age of 54, but Seniors age 55 and over are by far the fastest growing age group.
- Half of all households are small families.
- 38% of households are designated as Low-and Moderate-Income (incomes below or up to \$75,700 for a family of four).
- Approximately 9% of households experience overcrowding. This problem is more prevalent for rental households earning less than 80%of Area Median Income (AMI).
- 8% of households include disabled persons.
- Over the last ten years, median income decreased by 13% when adjusted for inflation. During the same period, the median home value increased by 46% and the median contract rent increased by 28%.
- Hispanic, Black/African American, and Pacific Islander households face disproportionately higher barriers to finding affordable housing.

To add a qualitative component to the AI, the City proactively met with community residents, representatives of organizations, agencies, and businesses to share ideas and concerns regarding fair housing issues and ensure future implementation and evaluation of the fair housing recommendations included within this report. Through various outreach efforts (community forums, surveys, interviews with community stakeholders, and additional public meetings) the City collected information on the concerns of stakeholders regarding existing limitations to fair housing choice in the City.

Community Forums

A total of eleven regional and community forums were held to gather community input and feedback for the creation of the City's Consolidated Plan and AI. Three regional forums were held in Mountain View, San José, and Gilroy from September 2014 to November 2014; the City held four additional local community forums in September and October 2014. These meetings were open to the public and were scheduled on different days of the week and at various times of day to allow maximum flexibility for participants to attend.

The meetings provided City residents, service agencies, and organizations with the opportunity to share their fair housing experiences and concerns as well as to gain awareness of fair housing laws. A total of 168 individuals attended the regional and local forums. The attendees were comprised of community members, service providers, fair housing advocates, school district board members, housing and human services commission members, non-profit representatives, and interested stakeholders. A total of 109 individuals attended forums in San José.

Outreach

Approximately 4,847 entities, organizations, agencies, and persons were directly engaged via outreach efforts and asked to share materials with their beneficiaries, partners, and contacts. These stakeholders were also encouraged to promote attendance at the public forums and to solicit responses to the Regional Needs Survey. Stakeholder engagement included phone calls, targeted emails, newsletter announcements, and social media posts.

Through these communications, stakeholders were invited to participate in one of the forums planned throughout the County and to submit survey responses. Each participating jurisdiction also promoted the regional forums and survey links on their respective websites and announced the Consolidated Plan process through their electronic mailing lists.

Approximately 1,225 printed flyers noticing the regional forums were distributed throughout the County, including at libraries, recreation centers, community meetings, and organizations benefiting LMI residents and areas. These flyers were available online and in print in English and Spanish.

Multi-lingual, print advertisements in local newspapers were posted in the Gilroy Dispatch (English), Mountain View Voice (English), El Observador (Spanish), La Oferta (Spanish), Thoi Bao (Vietnamese), Philippine News (Tagalog), World Journal (Chinese) and San José Mercury News (English). In addition, an online display ad was placed in the San José Mercury News to reach readers electronically.

Primary Needs Associated with the Housing Issue Area

The themes that emerged for the housing issue are summarized below.

- Ensure availability of affordable housing, including transitional housing.
- Provide legal services to protect fair housing rights and to mediate tenant/landlord legal issues.
- Address affordable housing eligibility restrictions to expand the number of residents who can qualify.
- Provide affordable rental housing for low income families, at-risk families and individuals with disabilities.
- Fund additional homeless prevention programs.
- Provide rental subsidies and assistance for low income families to support rapid re-housing.

Regional Needs Survey

A Regional Needs Survey was conducted to solicit input from residents and workers in the County of Santa Clara. Survey respondents were informed that the Santa County agencies that receive federal entitlement funds were updating their Consolidated Plans to publicize how their federal funds would be used to serve low income residents and areas. The survey polled

respondents about the level of need in their neighborhoods for various types of improvements that can potentially be addressed by entitlement funds.

The survey was distributed through a number of channels to gather responses from a broad sample. It was made available in printed format, as well as electronic format via Survey Monkey. Electronic responses could be submitted via smartphone, tablet, and web browsers. The survey was available online and in print in English and Spanish, and in print in simplified Chinese, Tagalog, and Vietnamese.

Survey Results

A total of 1,472 survey responses were collected from September 19, 2014 to November 15, 2014, including 1,078 surveys collected electronically and 394 collected on paper. 36% of respondents indicated they live in San José and 40% indicated they work in San José. Respondents rated the level of need in their neighborhood in five overall areas. These areas are listed below.

1. Create additional affordable housing available to low income residents.
2. Improve non-profit community services (such as senior, youth, health, homeless, and fair housing services).
3. Create more jobs available to low income residents.
4. Improve city facilities that provide public services (such as parks, recreation or senior centers, parking facilities, and street improvements).

Nearly two-thirds (62%) of respondents rated the need to create additional affordable housing as high.

In addition to the four overall need areas, 373 respondents provided open-ended feedback through the "Other" survey response option. The key themes and needs identified by survey respondents for the housing issue area are listed below.

- Increase availability of senior housing.
- Provide housing for LGBT and HIV/AIDS population.
- Create housing for median income population.
- Provide more subsidized housing for disabled population.

Respondents also rated the need for 13 different housing-related improvements in their neighborhoods. The five highest priorities in this area are listed below.:

1. Increase of affordable rental housing inventory.
2. Rental assistance for the homeless.
3. Affordable housing located near transit.
4. Housing for other special needs.
5. Permanent supportive rental housing for the homeless.

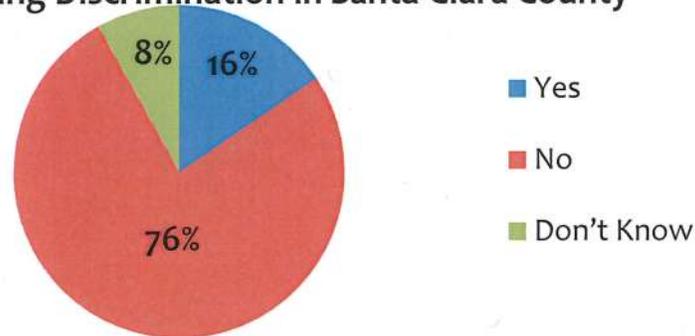
The table below shows the highest level of need for each of the housing-related improvements and the share of respondents who rated each category as “high level” of need.

High Level of Need for Specific Housing Improvements

Priority Rank	Housing: High Level of Need	Share of Respondents
1	Increase affordable rental housing inventory	63.1%
2	Rental assistance for the homeless	51.0%
3	Affordable housing located near transit	48.6%
4	Housing for other special needs (such as seniors and persons with disabilities)	48.0%
5	Permanent supportive rental housing for the homeless	46.8%
6	Energy efficiency and sustainability improvements	41.6%
7	Healthy homes	37.5%
8	Down-payment assistance to purchase a home	33.8%
9	Code enforcement, in coordination with a neighborhood plan	33.4%
10	Housing accessibility improvements	29.7%
11	Rental housing rehabilitation	27.7%
12	Emergency home improvement/repair	24.9%
13	Owner-occupied housing rehabilitation	18.5%

Respondents were also asked to answer a series of questions related to Fair Housing. Four questions were used to gauge each individual’s experience with housing discrimination.

Percent of Individuals Who Have Experienced Housing Discrimination in Santa Clara County



Of the 1,472 total respondents, 192 (16%) said they have experienced some form of housing discrimination. The majority of discrimination occurred within an apartment complex (44%). The next highest location for discrimination was indicated by the “Other” category. Within this category, duplexes, condos, and private renters were the most commonly indicated.

April 6, 2017

Subject: **Draft Analysis of Impediments to Fair Housing**

Page 6

Additional Public Meetings

The draft AI was circulated for a public review and comment period beginning on October 14, 2016. The Plan was available electronically at <http://www.sanjoseca.gov/index.aspx?nid=1292>. Hardcopies were also available at San José City Hall, 200 E. Santa Clara Street, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Interested persons were encouraged to submit their public comments via email to Adam Marcus at adam.marcus@sanjoseca.gov, or in writing to City of San José Housing Department, 200 E. Santa Clara Street, San José, CA 95113.

After publication, the City held several additional public meetings to gather comments on the draft AI. The following four meetings were held to gather additional input.

October 24th, 2016

10:00AM-12:00PM

San José City Hall – City Council Chambers
(Wing)

200 E. Santa Clara Street
San José, CA 95112

October 26th, 2016

6:00PM-8:00PM

Edenvale Library
101 Branham Lane East
San José, CA 95111

December 1st, 2016

2:00PM – 4:00PM

Bascom Community Center
1000 S. Bascom Avenue
San José, CA 95128

December 7th, 2016

6:00PM – 8:00PM

Mayfair Community Center (Juarez Room)
2039 Kammerer Avenue
San José, CA 95116

Summary of Public Meeting Input

The concerns expressed during the outreach meetings included some of the same issues from the initial outreach, as well as new topics not raised previously. The most common concerns raised were the lack of affordable housing, current and future displacement of low-income households (especially in urban village and growth areas), lack of landlord and tenant education and services, and lack of tenant protection related to rent control, evictions, relocation, and source of income discrimination for housing vouchers. A more detailed listing of concerns are included in **Attachment B** to this memorandum.

Community members participating in public meetings provided valuable input into potential solutions to the concerns raised. The most common solutions suggested by residents and advocates included strengthening of City ordinances related to rent control, eviction protection, source of income discrimination protection (for voucher holders), and code enforcement. Additionally, several members of the public supported more landlord and tenant education and services to assist with landlord-tenant disputes. Support for new affordable housing and preservation of existing affordable housing was echoed throughout the public outreach process. A more detailed listing of suggested solutions will be summarized in the next revision of the draft AI. They are included here as **Attachment C**.

Housing and Community Development Commission

On January 12, 2017 the City hosted a hearing at the Housing and Community Development Commission (HCDC). Below is a summary of the comments from this meeting:

- Include a report card of progress on prior Fair Housing goals.
- Use simpler language, the document is hard for the public to understand.
- Can the City add duplexes to the Apartment Rent Ordinance?
- Please copy HCDC on the revisions.
- The Commission voted unanimously to recommend approval to the City Council of the Analysis of Impediments to Fair Housing Report with the additional recommendation to add the scorecard to existing programs to tie in future recommendations.

Summary of Impediments and Strategies

Based on the data presented, as well as the community feedback gathered from 2014 through 2016, the City has identified four factors as the most significant impediments to fair housing in San José. These factors, as well as the strategies designed to mitigate those impediments, are listed below.

1. **The availability of affordable units in a range of sizes.** The City's affordable housing stock falls far short of meeting the demand. Due to the shortage of affordable housing available, housing costs are some of the highest in the nation. Residents are increasingly cost-burdened, paying a large portion of their income in housing costs. The lack of affordable housing also results in overcrowding in several neighborhoods in San José, as families live together to share housing costs. When low-income individuals or families lose their housing, they are at a high risk of homelessness due to the difficulty in securing affordable housing.

Strategies: The City will continue to focus on increasing affordable housing availability by investing in the affordable housing development, as well as promoting access to available housing, developing standards for affirmative marketing, and exploring ways to streamline the affordable housing application process. In addition, the City will continue to explore policies, such as the recently revised secondary unit ordinance, to encourage the development of naturally occurring affordable housing.

2. **Location and type of affordable housing.** Due to the insufficient affordable housing to meet the demand, residents face limited choices when locating and securing housing. There is a need for more permanent supportive housing for homeless individuals, as well as more housing for extremely low income, low income, and moderate income residents. While most of the publicly-supported affordable housing developments are distributed across several neighborhoods in the City, Housing Choice Vouchers are concentrated in specific areas. There are some neighborhoods in which there are very few landlords that accept Housing Choice Vouchers or where there are very few affordable rentals available, thereby limiting the housing choices for low-income households.

Strategies: The City will continue to focus on increasing permanent supportive housing and other affordable housing types, as well as facilitate access to existing extremely low, low, and moderate income housing. The City will update the existing dispersion policy to align development of affordable housing with residential growth areas, as well as access to transit, retail, services, and jobs. The City will work with the Housing Authority to explore policy updates to increase the distribution of voucher usage across the county. The City will also explore the feasibility of a local fair housing ordinance, which could include source of income discrimination.

- 3. Displacement of residents due to economic pressures.** Due to rising housing costs over the last several years, residents in low and moderate income neighborhoods have experienced displacement. The displacement is expected to continue, particularly in neighborhoods with accelerating growth and new development. Data from the Urban Displacement Project at the University of California Berkeley found that in the Bay Area, more than half of low-income households live in neighborhoods at risk of or already experiencing displacement and gentrification pressures. Several neighborhoods in San José, such as Japantown, Luna Park, and Little Portugal, have experienced advanced gentrification. Most of Central and East San José, as well as several areas of South San José are currently undergoing or at risk of gentrification.

Strategies: To address displacement of residents in low-income neighborhoods, the City will continue to enforce the Apartment Rent Ordinance, ensuring families in rent stabilized apartments are not facing illegal increases or evictions. Additionally, at the time of publishing, the City has published a local Ellis Act and Tenant Protection Ordinance for public comment. The City is also exploring the feasibility of “source of income discrimination” protections. Additionally, the City will explore strategies to locate affordable housing within growth areas that are experiencing or expect to experience displacement, such as urban villages.

- 4. Lack of tenant eviction protection and tenant education.** Throughout the community outreach process, residents expressed a need for stronger tenant protections, as well as tenant and landlord education and services. Residents identified a need for eviction protection, strengthening of the local rent stabilization ordinance, additional enforcement and tenant protections, tenant and landlord mediation, and outreach and education.

Strategies: The City’s recent update to the Apartment Rent Ordinance is a step in addressing the concerns. The proposed Ellis Act and Tenant Protection Ordinances will provide additional protections. The City is also exploring a local fair housing ordinance, including the feasibility of source of income discrimination protection. The City will continue to fund a consortium of fair housing organizations to provide education, fair housing testing and investigation, and legal assistance. The City will also explore additional methods of outreach and education including ways to improve access to fair housing information for persons with limited English proficiency.

April 6, 2017

Subject: Draft Analysis of Impediments to Fair Housing

Page 9

Recommended Actions

The draft AI contemplates the above data analysis, community input, and strategies and recommends a set of actions to reduce impediments to Fair Housing Choice. There a total of 34 recommended actions that are categorized into the five major goal areas listed below. The complete list of recommendations can be found on pages 94 through 97 of the draft AI.

Goal 1: Expand Access to Affordable Housing: This goal includes actions aimed at understanding who in San José currently benefits from Federal housing programs, promoting fair access to affordable housing through standard marketing procedures, and finding ways to strengthen various programs that match homeless individuals with housing and services. It also includes policies and actions to preserve affordable housing, prevent landlord retaliation against tenants, assist with relocation benefits, and improve language access for persons with limited English proficiency.

Goal 2: Expand Access to Fair Housing Services: This goal includes actions to support organizations that provide fair housing services, including outreach, fair housing testing, investigation, and legal representation. In addition, there are actions to explore alternative forms of fair housing education to persons with limited English proficiency. One action calls for coordination with the City's newly established Office of Immigrant Affairs.

Goal 3: Rectify Conflicting Local Zoning Requirements: This goal includes actions that facilitate the creation of secondary dwelling units and to explore policy changes relating to Reasonable Accommodation when zoning variances are requested by persons with disabilities or other protected classes.

Goal 4: Assist Local Housing Authorities in Applying Fair Housing Requirements: This goal includes actions to coordinate with local Housing Authorities to establish procedures on Fair Housing and Section 8 (Housing Choice Voucher) Guidance.

Goal 5: Continue Efforts to Build Complete Communities: This goal includes actions to facilitate transit-oriented development as well as mixed use and mixed income communities in the City's designated growth areas. Actions also relate to the dispersion of affordable housing across the City, how streets can be made safer for pedestrians and cyclists, and how new housing can be made more accessible for persons with disabilities.

EVALUATION AND FOLLOW-UP

The Housing Department plans to take this item to the full City Council in late April or early May 2017 for input and approval. Staff will report on progress related to fair housing efforts in the Consolidated Annual Performance Evaluation Report (CAPER), which is presented to City Council each Fall.

April 6, 2017

Subject: Draft Analysis of Impediments to Fair Housing

Page 10

PUBLIC OUTREACH

In addition to the public outreach summarized in this memorandum, the Housing Department met with nonprofit agency representatives who address fair housing issues on February 16, 2017. The purpose of the meeting was to discuss their January 19, 2017 letter (**Attachment D**) which provided recommendations on how to improve the AI. At this meeting, the Department and the representatives reached an understanding as to recommendations that the Department would include in this version of the AI and items that will be incorporated in the next iteration. The Department also committed to partner with community-based organizations to develop an outreach plan prior to initiation of the public input process.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

JACKY MORALES-FERRAND
Director, Department of Housing

For questions, please contact Adam Marcus, Senior Development Officer, at (408) 975-4451.

Attachment A: Draft Analysis of Impediments to Fair Housing
Attachment B: Summary of Comments from Additional Public Meetings
Attachment C: Letters and Public Correspondence
Attachment D: January 19, 2017 Letter from Fair Housing Advocates

Attachment B – Summary of Comments from Public Outreach Meetings

Summary of Public Meetings:

After publication, the City held several public meetings for comment on the draft AI. The following four meetings were held to gather additional input.

October 24th, 2016
10:00AM-12:00PM
San Jose City Hall – City Council Chambers
(Wing)
200 E. Santa Clara Street
San José, CA 95113

October 26th, 2016
6:00PM-8:00PM
Edenvale Library
101 Branham Lane East
San José, CA 95111

December 1st, 2016
2:00PM – 4:00PM
Bascom Community Center
1000 S. Bascom Avenue
San José, CA 95128

December 7th, 2016
6:00PM – 8:00PM
Mayfair Community Center (Juarez Room)
2039 Kammerer Avenue
San José, CA 95116

The concerns expressed during the outreach meetings included some of the same concerns from the initial outreach, as well as new concerns not raised previously. The most common concerns raised were related to the lack of affordable housing, current and future displacement of low-income households (especially in urban villages), lack of landlord and tenant education and services, and lack of tenant protection related to rent control, evictions, relocation, and source of income discrimination for housing vouchers.

Concerns raised by the community included:

- Lack of affordable housing options
- Gentrification and displacement of low-income households, especially people of color, from neighborhoods where housing costs are increasing.
 - Concern for future displacement in Urban Villages, specifically, developments that do not include affordable housing, right to return, or displacement/relocation assistance.
 - Concern that the City's Jobs First policy is driving displacement and lack of affordable housing options.
- Lack of opportunities for residents
- Lack of landlord education
- Lack of housing that is accessible to people with disabilities
- Lack of eviction protection for tenants
- Housing voucher, including Section 8, discrimination
- Housing Choice Voucher/Section 8 payment standard is too low, leading to concentration of low-income households utilizing vouchers
- Lack of enforcement of existing policies including the City's rent ordinance and code enforcement violations
- Illegal subletting, illegal units, and other overcrowding issues are resulting in evictions

- Criminalization of homelessness (trespassing, lack of public restrooms, encampment sweeps, etc.) is creating additional barriers to housing
- Lack of transit options and access to jobs and services
- City's planning process inhibits the development of affordable housing and leads to NIMBYism
- Households with undocumented family members are afraid to report housing issues and afraid to apply for affordable housing
- Costa Hawkins prevents the addition of new rent controlled apartments
- Lack of enforcement of existing rent control ordinance, including relocation requirements and vacancy decontrol

Community members participating in public meetings provided valuable input into potential solutions to the concerns raised. The most common solutions suggested by residents and advocates included strengthening of City ordinances related to rent control, eviction protection, source of income discrimination protection (for voucher holders), and code enforcement. Additionally, several members of the public supported more landlord and tenant education and services to assist with landlord-tenant disputes. Support for new affordable housing and preservation of existing affordable housing was echoed throughout the public outreach process.

Solutions suggested by the community included:

- Conduct an inventory analysis of urban villages to provide more information on who is living in the urban village areas
- Support local preference, relocation assistance, right to return, affordable housing requirements in Urban Villages
- Provide outreach and education for landlords and service providers
- Provide/fund general landlord tenant assistance (in addition to fair housing issues)
- Support a just-cause eviction ordinance
- Support an ordinance requiring relocation assistance when eviction is without cause
- Support a non-discrimination ordinance related to Section 8 or other housing vouchers (source of income discrimination)
- Provide emergency deposit cash assistance
- Support a uniform lease and uniform application for rental housing
- Improve language access to City services and other support for tenants, including free written translation
- Support a commercial linkage fee
- Examine the concentration and future placement of affordable housing
- Stop exempting new developments from affordable housing requirements/fees
- Support the expansion of transit services
- Take measures to reduce NIMBYism including not requiring notification of neighbors, education of neighbors, education of Councilmembers
- Support a technology tax to provide for affordable housing and services
- Support secondary unit
- Support a universal design ordinance or other measures that assist seniors and disabled individuals to age in place and stay in their homes
- Provide increased language access services, including meetings and written materials

- Preserve existing affordable housing stock
- City needs to send a strong message regarding protections for undocumented households
- Regional coordination on housing, transportation, and other related issues

Attachement C - Public Correspondence



San José Analysis of Impediments to Fair Housing Choice Recommended Areas for Analysis and Actions in 2016 AI

Thank you for the opportunity to provide input on San José's 2016 Analysis of Impediments to Fair Housing Choice (AI). The following items are topics, impediments, and policy options that we recommend the City consider in its AI.

1. Overarching Concerns and Recommendations
 - a. Although the City is preparing an AI rather than an AFH under the new AFFH regulation, we recommend that the City use HUD's AFH template in order to more thoroughly analyze impediments, as well as to better prepare for the City's new obligations under the regulation in the next cycle.
 - b. Engage in a robust public participation process that is designed to solicit meaningful input from local organizations and community members.
 - i. Meet people where they are—solicit feedback through multiple media in multiple geographic locations throughout the City.
 - ii. Ensure that the process is accessible to people with limited English proficiency; ensure that materials are available in at least English, Spanish, and Vietnamese.
 - iii. Formulate questions effectively to get meaningful input from laypeople.
 - iv. Partner with community-based organizations on outreach and facilitation.
 - c. Describe which actions in the 2010 AI were implemented, which were not, and why not.
 - d. Analysis, findings, and actions should address San José specifically, as well as other entitlement jurisdictions.
2. Data to Be Compiled and Analyzed
 - a. Risk of displacement by race and national origin.
 - b. Demographics of urban villages.
 - c. City-owned sites available for potential affordable housing development.
 - d. Section 8 utilization.
 - e. Racial and disability demographics for Section 8 voucher holders.
 - f. Location of Section 8 voucher holders.
 - g. Location of existing and planned affordable developments.
 - i. Access to jobs, good schools, public amenities, transit, etc. (opportunity).
 - ii. Concentration/"dispersion" of affordable developments.

Attachement C - Public Correspondence

- h. Racial demographics for transit ridership, job types and wages, access to quality schools, and access to other amenities.
 - i. Transit frequency and access.
 - j. Jobs-housing fit (by income and housing cost).
 - k. Racial and disability demographics of housing cost burden and other indicators of affordable housing need (e.g., poverty, median income, etc.).
 - l. Inventory of deed-restricted or otherwise affordable units that are accessible to people with disabilities.
3. Impediments and Actions to Be Taken to Address Those Impediments
- a. Gentrification and displacement
 - i. Risk of displacement caused by Urban Village planning and transit-oriented development in low-income communities of color.
 - ii. Regional transportation investments and focus on investment in Priority Development Areas.
 - iii. Mobilehome parks at risk of conversion/closure.
 - iv. Eviction process and lack of just cause eviction protections.
 - v. Existing rent control mediation/arbitration process creates barriers to tenant participation.
 - b. Urban Villages
 - i. Lack of emphasis on development without displacement in General Plan.
 - ii. Lack of emphasis on affordable housing in Urban Villages.
 - iii. Risk of loss of rent controlled or otherwise affordable housing stock caused by new development in Urban Village areas (e.g., the Reserve).
 - c. Section 8 discrimination and under-utilization.
 - d. Inadequacy of public transportation to some areas of the City.
 - e. Inadequate wages.
 - f. As described in the Law Foundation's 2010 letter, San José's Reasonable Accommodation Policy still requires neighborhood notification of a proposed action on a reasonable accommodation and allows anyone to make a request for a hearing on a proposed decision with the director of the Planning, Building and Code Enforcement Department. Municipal Code 20.160.060(A) and (B). This opportunity for citizens who oppose group homes for people with disabilities in their neighborhoods to voice their concerns to the entity responsible for granting the requests for allowing them to operate in the first place is an impediment.
 - g. Habitability/substandard housing conditions, which particularly affect immigrants and other groups who are more vulnerable to retaliation.
 - h. Code Enforcement for substandard rental housing, including language accessibility, responsiveness of staff, enforcement of violations against landlords, and identification of landlords who are chronic or repeat offenders.
 - i. Jobs-First general plan/policy.

Attachement C - Public Correspondence

- i. Makes housing, including affordable housing, more difficult to develop.
 - ii. Failure to adopt a commercial linkage fee.
4. State and Federal Policies that Create Impediments to Fair Housing Choice as Possible Legislative Priorities for the City
 - a. Costa-Hawkins limitations on rent control.
 - b. Lack of anti-discrimination protections for tenants with Section 8 and other tenant-based subsidies.
 - c. Eviction laws/process.
 - d. Inadequacy of state and federal funding to meet affordable housing needs.

Attachement C - Public Correspondence

Kaminski, Kathryn

From: Anne Bellows <abellows@publicadvocates.org>
Sent: Wednesday, October 12, 2016 11:00 AM
To: Marcus, Adam
Cc: Diana Castillo; Melissa Morris; Kaminski, Kathryn; David Zisser; Tom Zito; Kyra Kazantzis; Bopf, Dave; Morales-Ferrand, Jacky
Subject: Re: Analysis of Impediments to Fair Housing Choice

Hi Adam,

Thanks for the opportunity to sit down and discuss San Jose's plans for the Analysis of Impediments. We appreciated the conversation and we look forward to reviewing the draft AI when it is released.

Unfortunately, the timeline you have laid out does not permit as robust a public participation process as we would normally hope to see. We would encourage you to maximize the opportunity for community input over the coming weeks by implementing a strong outreach program, including:

- Direct, personal communications—in addition to any email blast—to organizations that represent protected class members or work on issues related to housing to inform them about the AI and the public hearing.
- Collaboration with place-based staff to promote community participation at the public hearings about the AI.
- Outreach materials that describe the AI and the purpose of the public hearing in accessible language, translated, at a minimum, into Spanish, Vietnamese, and Chinese.

With enough time, we would expect the City to co-host and co-facilitate with local community-based organizations a series of community meetings to hear directly from residents – particularly those in protected classes – about their experiences with -- and solutions to -- barriers to fair housing choice and de-segregation.

Each of the above is most likely to be effective if you use language and topics that laypeople can understand, rather than terms of art like "analysis of impediments" and "fair housing." For example, outreach materials and targeted communications with organizations could highlight topics like "affordable housing needs in different neighborhoods of San Jose" or "the impact of displacement and high housing costs on communities of color in San Jose" or "how housing challenges in San Jose are impacting Asian immigrants" (or Latino immigrants, or people with disabilities, or families with children, etc.).

We also want to take this opportunity to reiterate our recommendations that the AI analyze the fair housing issues connected with the urban villages, and with displacement more broadly. Demographic analysis of the populations most likely to be impacted by those two issues in the next three years will be fundamental to this task. We also strongly encourage you to examine how city policies, or the lack of city action, shape fair housing impacts connected with displacement and the urban villages.

Thanks again for the opportunity to share our thoughts. Please do not hesitate to reach out to any of us if you would like to discuss anything further.

Anne Bellows
Attorney & Equal Justice Works Fellow
Sponsored by Hewlett-Packard and Morgan, Lewis & Bockius LLP
131 Steuart Street | Suite 300 | San Francisco CA 94105
[415.431.7430](tel:415.431.7430) x317 (o) | [415.625.8467](tel:415.625.8467) (direct)

Attachement C - Public Correspondence

Marcus, Adam

From: EofS <edgeofsavy@aol.com>
Sent: Friday, October 28, 2016 12:34 PM
To: Marcus, Adam
Cc: emmamaez@aol.com
Subject: 10/26 edenvale library

i believe when doing a credit check before allowing the "low income" as u guys put it to be approved for rental at one of these building being built, that u check their credit report on why they are below the sliding scale if thats how u require it, by only a few points? or whatever... MEANING..., someone in the low income bracket may be just a few (1-5) points below, but yet HAS PAID their rent on time for many years or so at their previous place of rent. ISN'T THAT WHAT REALLY MATTERS??? if a person can pay their rent? and has proof of paying it on time.?

or at least check into WHY their credit isn't up to our par of being accepted? 1. maybe check if their trying to make goods with the credit card company, WHICH I DON'T SEE WHY THAT SHOULD MATTER?, TO ME THATS PRIVATE HOW I USE MY CREDIT CARD IM JUST SAYING.

anyways this is my opinion, and would like to be heard please.

thank you, vikki



Attachment D - January 2017 Letter



WORKING PARTNERSHIPS USA

January 19, 2017

City of San Jose Housing Department
c/o Adam Marcus (adam.marcus@sanjoseca.gov)
200 E. Santa Clara Street
San Jose, CA 95113

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

To Whom It May Concern:

Thank you for the opportunity to comment on San Jose's Draft Analysis of Impediments to Fair Housing Choice (Draft AI), released on October 14, 2016. We appreciate that the City of San Jose ("City") has extended the public process, has been receptive to our initial input, and is considering amending the AI to include such changes. However, after reviewing the Draft AI, we are disappointed that almost none of the recommended topics, impediments, and policy options that we recommended previously (see attachment) were included. While we continue to urge you to include all of the recommendations we previously submitted, we describe a few of the most important recommendations below.

We suggest that the City review HUD's recently published "AFFH Rule Guidebook" for guidance about what type of analysis an AI should have. While we understand that the AFFH Rule Guidebook describes entitlement jurisdictions' newly created obligation to create an "Assessment of Fair Housing" in lieu of an AI, much of the analysis is the same.¹

1. Ensure strong public participation.

While we appreciate that the City has added community meetings to the process for developing the AI, more action is needed to ensure robust public participation. The City should meet people where they are by soliciting feedback through multiple media and in multiple geographic locations throughout the City. The City should formulate questions that solicit meaningful input from laypeople. Finally, the City should actively partner with community-based organizations on outreach and facilitation of community meetings. Community-based organizations have deep roots in the communities, have the trust of

¹ See, AFFH Rule Guidebook, p. 5). The AFFH Rule Guidebook available at <https://www.hudexchange.info/resource/4866/affh-rule-guidebook/>.

Attachment D - January 2017 Letter

residents, and are accustomed to creating empowering spaces for residents to engage in meaningful discussion.

2. Develop robust data.

In order to accurately and comprehensively understand and identify impediments to fair housing, it is critical to develop and analyze a robust set of data. Currently, the Draft AI is lacking data that would be particularly useful. Specifically, the AI should include data on the risk of displacement² (to understand which populations are experiencing displacement the most and thus be deprived of housing choice and access to key amenities and indicators of opportunity), Section 8 utilization and demographics (to understand whether there are barriers to taking advantage of this important program), Urban Village demographics, jobs-housing fit (by income and housing cost, to understand housing is available at prices that match wages)³, and access to transit and other assets and amenities for members of protected classes (a key indicator of fair housing).⁴ The City has been undergoing a study of the ARO, and this information should be included in the AI.

3. Clearly identify impediments, and the actions to overcome them.

In order to ensure transparency, accountability, and effective implementation, it is crucial that the AI clearly articulate the impediments to fair housing choice and the relevant actions to overcome them.⁵ In addition, HUD's 1996 Planning Guide urges jurisdictions to consider private and public sector impediments separately⁶, and numerous AIs make this distinction.⁷ Public sector issues include local building, occupancy, and health and safety codes; public policies and action such as zoning laws and policies; and planning, financing, and administrative actions.⁸ The City has been working to amend its ARO. The Draft AI should look at the ARO to analyze whether it is an impediment to fair housing choice, and what could be done to strengthen it.

Instead, the Draft AI excludes the most important section of the AI – the impediments themselves. The tables at the end of the document include a long list of recommendations, but it is impossible to know

² See UC Berkeley, Urban Displacement Project, available at www.urbandisplacement.org.

³ Chris Benner, UC Davis, Jobs Housing Fit in the Bay Area (PowerPoint), available at <http://bit.ly/2hb6SeZ>.

⁴ U.S. Department of Housing and Urban Development, Affirmatively Furthering Fair Housing Tool, available at <https://egis.hud.gov/affht/>.

⁵ See, for example, District of Columbia Analysis of Impediments to Fair Housing Choice 2006-2011 (Apr. 2012) 179-195, available at

<http://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/DC%20AI%202012%20-%20FINAL.pdf>;
City of Naperville, Analysis of Impediments to Fair Housing Choice in the City of Naperville, Illinois 2007 (Dec. 2007) 64-78, available at http://www.planningcommunications.com/ai/naperville_ai_2007.pdf.

⁶ HUD, Fair Housing Planning Guide, Vol. 1 (Mar. 1996) 4-5 to 4-8, available at <http://fhic.nfhta.org/media/710>.
This guide preceded HUD's Rule on Affirmatively Furthering Fair Housing, serving as the primary source of guidance for developing AIs.

⁷ See DC AI at 179-195; Naperville AI at 64-78.

⁸ HUD Fair Housing Planning Guide at 4-5 to 4-6.

Attachment D - January 2017 Letter

which impediments the recommendations are meant to address and whether they are solutions to public or private sector barriers.

4. Include economic displacement as an impediment.

Displacement – resulting from evictions and increased rents spurred by gentrification – is a significant barrier to fair housing choice, particularly for low-income people of color.⁹ We have seen the displacement of low-income tenants from San Jose, through mass evictions, the loss of rent-controlled buildings, and the potential closure of mobile home parks. Concentrated growth in Urban Villages and Priority Development Areas will inevitably exacerbate displacement as new development attracts higher-income residents who want to live near transit and other amenities. Yet the Draft AI does not include any description or analysis of displacement and gentrification in San Jose generally or in the context of concentrated growth in places such as Urban Villages specifically.

Other AIs have identified displacement as an impediment to fair housing. For instance, Washington, D.C.'s 2006-2011 AI includes a long analysis of the problem and acknowledges “the potential for displacement that new development poses, particularly for lower-income residents.”¹⁰ Included in its “Impediment #4” is this description: “While wealthier Caucasians have been moving into neighborhoods that had been overwhelmingly African American, gentrification has accompanied this in-migration, leading to higher housing costs and displacement of a substantial percentage of residents with lower incomes, who ... are disproportionately African American.”¹¹

In addition, the City of Oakland included the “loss of naturally occurring affordable housing” as an impediment in its 2015 AI. It notes that this loss “has also led to significant displacement and gentrification” and cites the Urban Displacement Project’s findings on the risk of displacement in Oakland census tracts.¹² The City of San Jose should include a similar analysis.

5. Include effective anti-displacement policies as actions to overcome displacement.

One of the only places where displacement is mentioned in the Draft AI is in recommendation 1.10 – exploring the creation of an ordinance requiring relocation benefits for displaced tenants.¹³ However, it is important that actions to overcome the impediment of displacement go beyond relocation benefits, which do nothing to *prevent* displacement but merely to assist those already being displaced. More

⁹ For example, in San Mateo County, 25% of the population is Latino, but 49% of those evicted are Latino, and 2.5% of the population is African-American, but 21.4% of those evicted are African-American. Legal Aid Society of San Mateo County, Community Legal Services in East Palo Alto, and Anti-Eviction Mapping Project, San Mateo County Eviction Report 2016, p.8, available at www.legalaidsmc.org/eviction_report_2016.html.

¹⁰ DC AI at 98.

¹¹ Id. at 185.

¹² City of Oakland, Analysis of Impediments to Fair Housing Choice (Oct. 2015), p.83, available at <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/policy/oak056700.pdf>.

¹³ Draft AI at 94.

Attachment D - January 2017 Letter

effective strategies include a stronger rent stabilization policy, a just cause for eviction policy, local preferences in affordable housing (consistent with the Fair Housing Act), and acquisition and preservation of “naturally occurring affordable housing,” to name a few.¹⁴

We look forward to continuing to work with the City to develop a thorough AI that can truly guide the City in promoting greater inclusion and access to opportunity for protected classes.

Thank you,

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¹⁴ For examples and descriptions of anti-displacement policies, see Association of Bay Area Governments, Bay Area Housing Policy Directory, available at <http://abag.ca.gov/planning/housing/housing-policies.html>; Causa Justa :: Just Cause, Development Without Displacement, pp.60-79, available at <http://cjjc.org/wp-content/uploads/2015/11/development-without-displacement.pdf>; and UC Berkeley, Urban Displacement Project, Policy Tools, available at <http://www.urbandisplacement.org/policy-tools-2>.