

# EXECUTIVE SUMMARY

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## A. AI PURPOSE AND PROCESS

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As a requirement of receiving funds under the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME), the Emergency Solutions Grants (ESG) program, and the Housing Opportunities for Persons With HIV/AIDS (HOPWA) program, entitlement jurisdictions must submit certification of affirmatively furthering fair housing to the U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development (CPD). This certification must be addressed in the entitlement jurisdiction's five-year Consolidated Plan.

States and communities that receive CPD funds through a formula allocation directly from HUD, and not through a competitive process, are termed "entitlement jurisdictions." As part of the Consolidated Planning process, states and entitlement jurisdictions are required to submit to HUD certification that they are affirmatively furthering fair housing (AFFH). The AFFH certification has three parts:

1. Complete an Analysis of Impediments to Fair Housing Choice (AI),
2. Take actions to overcome the effects of any impediments identified through the analysis, and
3. Maintain records reflecting the analysis and actions taken.

In the *Fair Housing Planning Guide*, page 2-8, HUD notes that impediments to fair housing choice are:

- "Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices [and]
- Any actions, omissions, or decisions which have [this] effect."

The list of protected classes included in the above definition is drawn from the Federal Fair Housing Act, which was first enacted in 1968. However, state and local governments may enact fair housing laws that extend protection to other groups, and the AI is expected to address housing choice for these additional protected classes as well. The Tennessee Human Rights Act added creed to the State's list of protected classes.

## B. PURPOSE AND METHODOLOGY

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### PURPOSE

The AI, as part of the AFFH certification, involves a thorough examination of a variety of sources related to housing, the fair housing delivery system, and housing transactions, particularly for persons who are protected under fair housing law. The development of an AI also includes public input and review via direct contact with stakeholders, public meetings to

collect input from citizens and interested parties, distribution of draft reports for citizen review, and formal presentations of findings and identified impediments, along with suggested actions to overcome the identified impediments.

The State of Tennessee Department of Economic and Community Development (ECD) carried out this AI to evaluate impediments to fair housing choice within the nonentitlement areas of the State.

Therefore, the purpose of this report is to determine current impediments to fair housing choice at work in the more rural areas of the State of Tennessee and to suggest actions that the State can consider in order to overcome the identified impediments. Thus, this report also represents the first step in the three-part certification process required.

## METHODOLOGY

This AI was conducted through the assessment of a number of quantitative and qualitative sources. Quantitative sources used in analyzing fair housing choice in the State included:

- Socio-economic and housing data from the U.S. Census Bureau,
- Employment data from the U.S. Bureau of Labor Statistics,
- Economic data from the U.S. Bureau of Economic Analysis,
- Investment data from the Community Reinvestment Act,
- Home loan application data from the Home Mortgage Disclosure Act, and
- Housing complaint data from HUD and the Tennessee Human Rights Commission.

Qualitative research included evaluation of relevant existing fair housing research and fair housing law cases from within the State of Tennessee. Additionally, this research involved the evaluation of information gathered from several public input opportunities conducted in relation to this AI. This included the 2013 Fair Housing Survey of 858 stakeholders throughout the State, conducted from February through April of 2013 to investigate fair housing issues in the private and public sectors. Responses to the survey are separated for the nonentitlement areas of the State and included in the main body of this document, and responses from the entitlement areas are tabulated and presented in **Appendix F**.

Also included were three forums held in the State of Tennessee the week of March 18, 2013 to allow public input and reaction to preliminary findings of the AI.

Ultimately, a list of potential impediments was drawn from these sources and further evaluated based on HUD's definition of impediments to fair housing choice, as presented on the previous page. Potential impediments to fair housing choice present within the State of Tennessee were identified, along with actions for the State's jurisdictions to consider for overcoming or ameliorating the possible impediments.

## HOLISTIC APPROACH

This AI reviews both the public and private sector contexts for the State's housing markets, in order to determine the effects these forces have on housing choice. As part of that review,

analysis of demographic, economic, and housing data provide background context for the environments in which housing choices are made. Demographic data indicate the sizes of racial and ethnic populations and other protected classes; economic and employment data show additional factors in influencing housing choice; and counts of housing by type, tenure, quality, and cost indicate the ability of the housing stock to meet the needs of the State's residents.

This contextual review of the factors that influence housing choice is essential to a holistic analysis that covers the variety of challenges that State of Tennessee residents may face while exercising a housing choice. Once this contextual background analysis has been performed, detailed review of fair housing laws, cases, studies, complaints, and public involvement data can be more thoroughly analyzed and interpreted. The structure provided by local, state, and federal fair housing laws shapes the complaint and advocacy processes available in the State, as do the services provided by local, state, and federal agencies. Private sector factors in the homeownership and rental markets, such as home mortgage lending practices, have substantive influence on fair housing choice. While the State's jurisdictions may not have the influence or resources to fully address such issues, the analysis provided in this AI assists with the recognition and consideration of potential private sector barriers. In the public sector, policies and codes of local governments and a limited location of affordable rental units can significantly affect the housing available in each area, as well as neighborhood and community development trends.

Complaint data and public involvement feedback further help define problems and possible impediments to housing choice for persons of protected classes, and confirm suspected findings from the contextual and supporting data. Combined, these diverse sets of data provide a robust analysis identifying impediments to fair housing choice for State of Tennessee residents.

Alone, findings from any one of the following sources do not undeniably indicate the existence of an impediment to fair housing choice. However, when combined with results of other AI research, prospective impediments can be found, and in some cases, additional results directly indicate the cause of an impediment to fair housing choice.

## **C. OVERVIEW OF FINDINGS**

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### **SOCIO-ECONOMIC CONTEXT**

Analysis of demographic, economic, and housing data provides information about the level and results of past housing locational choices. Demographic data indicate the sizes of populations and several protected classes; economic and employment data show economic factors; and counts of housing by type, tenure, quality, and cost indicate the ability of the housing stock to meet the needs of the State's nonentitlement area residents.

According to the Census Bureau, between 2000 and 2011, the population in the nonentitlement areas of the State of Tennessee grew from 3,179,586 to 3,558,774 persons, or by 11.9 percent. Data for population by age showed that the State's population slowly shifted

to represent more persons over the age of 55, although the age groups with the largest populations comprised persons aged 5 to 19 and 35 to 54.

Census Bureau data showed that since 2000, the racial and ethnic composition of the nonentitlement areas of the State also changed slightly. While the white and black populations increased the least, by 9.7 and 12.7 percent, respectively, between 2000 and 2010, all other racial and ethnic minorities showed much larger increases in population share. Asian, Hispanic, two or more races, and “other” groups all showed percentage increases of more than 87 percent. Further evaluation of Hispanic population data, in geographic terms, showed increases in the concentration of this group in Census tracts in several rural areas in the State from 2000 to 2010.

Economic data for the State of Tennessee demonstrate the impact of the recent recession. Data from the BLS showed that while the labor force—defined as persons either working or looking for work—did not increase significantly from 2000 to 2011, employment figures declined more dramatically after 1999 and again after 2007. As a result, the overall unemployment rate had increased to 9.7 percent by 2012. Data from the BEA showed that average earnings per job in the State of Tennessee decreased from 2004 to 2009 but increased after that point.

The poverty rate in the nonentitlement areas of the State was 15.9 percent, as reported in the 2011 ACS, compared to 12.7 percent in 2000. Elevated concentrations of poverty may be a concern.

The number of housing units in nonentitlement areas of the State increased by 15.9 percent between 2000 and 2010, or from 1,362,390 to 1,579,005 units. Of the housing units reported in nonentitlement areas of the State in the 2011 ACS, 74.7 percent were single-family units and 16.2 were mobile homes. The 2010 Census showed that 87.7 percent of units were occupied; of these, 75.3 percent were owner-occupied and 24.7 percent were renter-occupied. Of the 128,978 unoccupied housing units counted in nonentitlement areas of the State of Tennessee in 2000, 39,449 were “other vacant” units, which are not available to the marketplace. However, data from the 2010 Census showed that the percentage of this type of unit increased by 64.01 percent, to 64,701 units. However, these “other vacant” units, if located in close proximity to one another, may have a blighting influence.

At the time of the 2000 Census, 1.6 percent of households were overcrowded; this housing problem was more common in renter households than in owner households. In 2000, .8 and .6 percent of all households were lacking complete plumbing or kitchen facilities, respectively, and the number of households with incomplete kitchen facilities had increased in more recent data. Additionally, in 2000, 13.0 percent of households had a cost burden and 8.6 percent of households had a severe cost burden, and 2011 data showed that both of these percentages had increased considerably since that point.

Average rental costs were highest in surrounding the Davidson County metropolitan area and other large cities, as shown in geographic maps. The highest median home values for owner-occupied homes were more concentrated in the Davidson County/Williamson County area.

## **REVIEW OF FAIR HOUSING LAWS, STUDIES, AND CASES**

A review of laws, studies, cases, and related materials relevant to fair housing in the State of Tennessee demonstrated the complexity of the fair housing landscape. The fair housing laws in the State of Tennessee offer protections beyond the scope of the Federal Fair Housing Act to protect persons based on creed. Review of fair housing cases in nonentitlement areas of the State of Tennessee revealed discriminatory practices in the rental markets related to disability and familial status. Occasionally, there may have been community resistance to the production of affordable housing.

## **FAIR HOUSING STRUCTURE**

A review of the fair housing profile in nonentitlement areas of the State of Tennessee revealed that several organizations provide fair housing services on the federal, state, and local levels. They all provide outreach and education, complaint intake, and testing and enforcement activities for both providers and consumers of housing. These organizations include HUD, the Tennessee Human Rights Commission, West Tennessee Legal Services, and the Tennessee Fair Housing Council.

## **FAIR HOUSING IN THE PRIVATE SECTOR**

Evaluation of the private housing sector included review of home mortgage loan application information, small business lending practices, fair housing complaint data, and results from the private sector section of the 2013 Fair Housing Survey.

HMDA data were used to analyze differences in home mortgage application denial rates in nonentitlement areas of the State of Tennessee by race, ethnicity, sex, income, and Census tract. Evaluation of home purchase loan applications from 2004 through 2011 showed that there were 318,160 loan originations and 95,366 denials, for an eight-year average loan denial rate of 23.1 percent. Denial rates were highest in 2011, at 29.7. These HMDA data also showed that American Indian, black, and Hispanic applicants experienced higher rates of loan denials than white or Asian applicants, even after correcting for income. Further, these more frequently denied racial and ethnic groups tended to be more disproportionately impacted in some specific areas of the State.

Analysis of originated loans with high annual percentage rates showed that black and Hispanic populations were also disproportionately issued these types of lower-quality loan products. Black borrowers experienced a rate nearly twice that of white applicants, for example. With high proportions of low quality, high-annual percentage rate loans being issued to these particular groups, the burden of foreclosure tended to fall more heavily upon them.

Analysis of data from the CRA, which is intended to encourage investment in low- and moderate-income areas, showed that business loans did not tend to be directed toward the areas with higher-poverty concentrations in the nonentitlement areas of the State of Tennessee as commonly as they were toward more moderate-income areas.

Fair housing complaint data was requested from HUD and the THRC. HUD data showed that 572 fair housing–related complaints were filed in the State from 2004 through February of 2013. The number of complaints filed with this agency varied by year, ranging from 36 to 96. The protected classes most impacted by discrimination, based on the 111 successfully conciliated complaints, were disability and race, and the most common complaint issues related to:

- Discriminatory terms, conditions, or privileges relating to rental;
- Discriminatory acts under Section 818;
- Failure to make reasonable accommodation; and
- Discriminatory terms, conditions, privileges, or services and facilities.

Complaints filed with the THRC showed that of the 30 complaints where cause for discrimination was found, the most common bases were for disability and family status. The most common issues for these complaints closely matched the issues found commonly in complaints filed with HUD.

Results from the private sector portion of the 2013 Fair Housing Survey, conducted from February to April of 2013 as part of the AI process, showed that some respondents saw possible issues of housing discrimination in the nonentitlement areas of the State of Tennessee’s private housing sector. Issues described by respondents regarding the rental markets suggested that some landlords discriminate based on race, color, and sex. In the home sales and lending markets, respondents noted lack of accessible design for persons with disabilities and discrimination based on race or ethnicity.

## **FAIR HOUSING IN THE PUBLIC SECTOR**

The status of AFFH within the nonentitlement areas of the State of Tennessee’s public sector was evaluated through review of the location of publicly assisted housing, interviews with several cities and their policies and practices; and the results of the public sector section of the 2013 Fair Housing Survey.

Evaluation of the distribution of housing vouchers, HUD-assisted rental properties, and other affordable housing in the State demonstrated that these assisted housing options were relatively widely distributed, and tended to be concentrated in areas other than those with the highest poverty rates.

An analysis of the policies and codes of many of the State’s largest nonentitlement cities showed that all of these jurisdictions have in place some basic housing definitions such as “dwelling unit” and “family,” but most tend to be restrictive and may not be in the spirit of AFFH. Few communities define “disability” in their codes and or have policies in place to offer options for persons in need of modifications to policies for reasonable accommodation. However, housing for seniors and group housing are not consistently addressed in local codes, despite being accommodated in State codes. Some communities lack fair housing ordinances. Across the array of communities contacted, a wide variety of policies and practices exist, several of which are not in the spirit of AFFH and may unwittingly discriminate against several

groups. A more complete, consistent, and uniform approach could greatly benefit these communities in the nonentitlement areas of the State.

Results from the public sector section of the 2013 Fair Housing Survey revealed that few respondents in nonentitlement areas of the State of Tennessee believe there are problematic practices or policies within the public sector. However, of those that did, some noted land use policies and zoning laws that particularly impact protected class populations, and others suggested that public transit services are lacking.

## **PUBLIC INVOLVEMENT**

Public involvement opportunities were an intrinsic part of the development of this AI. Activities included the 2013 Fair Housing Survey to evaluate current fair housing efforts and the three fair housing forums wherein citizens were offered the chance to comment on initial findings of the AI and offer feedback on prospective impediments.

Results of the 2013 Fair Housing Survey showed that the majority of respondents felt that fair housing laws are useful, whereas some respondents were not familiar with fair housing law and few respondents showed familiarity with the classes of persons protected by fair housing law in the State. Many respondents were not aware of appropriate venues to which to refer a victim of housing discrimination. Of the respondents who answered the question, many noted the need for increased fair housing education and outreach activities, and a moderate need was indicated for increased fair housing testing activities.

The public forums held in Jackson, Knoxville, and Nashville in March of 2013 allowed citizens and agencies to voice concerns about barriers to fair housing choice. Comments received at these forums focused on housing availability, particularly for seniors and disabled persons, as well as some neighborhood- and city government-level resistance to such housing.

## **D. IMPEDIMENTS TO FAIR HOUSING CHOICE AND SUGGESTED ACTIONS**

The *2013 Tennessee Analysis of Impediments to Fair Housing Choice* uncovered several potential issues regarding fair housing in the State. Identification of these items as probable impediments to fair housing choice was based on HUD's definition of impediments as actions, omissions, or decisions that restrict housing choice due to protected class status or actions, omissions, or decisions that have this effect. The identified impediments are supported by evidence uncovered during the AI process, with impediments of higher need being those identified in multiple sources.

These probable impediments are presented on the following pages for the nonentitlement areas of the State of Tennessee. They are accompanied by suggested actions that the jurisdictions in the State may implement in order to alleviate or eliminate these impediments, and are accompanied by measurable objectives. The goal of these actions and measurable objectives is to assist these agencies in offering greater housing choice for all citizens of the State of Tennessee.