

MEMORANDUM

To: 21 Elements Jurisdictions
From: Heidi Aggeler and Julia Jones
Re: Finishing up your AFFH sections of the Housing Element
Date: March 2022

This memo details the next steps jurisdictional staff and/or lead consultants will need to take to carry the AFFH analysis and actions across the finish line for HCD.

AFFH Deliverables to Date—and how to use them

Root Policy Research has provided the following materials for all 21 Elements jurisdictions:

- Jurisdictional Fair Housing Assessment**—this is the primary AFFH chapter for your Housing Element.
- Map and Data Packet**—this is a supplemental section to the Fair Housing Assessment. We separated this from the Fair Housing Assessment to manage the length of the assessment and make it more readable. Feel free to integrate elements of the Map and Data Packet into your Fair Housing Assessment if desired, or reference it as an attachment.
- Disparate Access to Educational Opportunities**—this comprehensive analysis of access to quality educational environments was conducted to support the AFFH because access to quality educational environments has the most variance among the opportunity indicators analyzed for San Mateo County.

It should be used to evaluate the quality of the educational environments your selected sites will provide. It may be useful when choosing among sites if some sites offer better access than others. If you are a high opportunity community, it should help you demonstrate to HCD the benefits of adding family-centered housing in your community.

- State Fair Housing Laws and Regulations**—an appendix that contains a summary of key state laws and regulations related to mitigating housing discrimination and expanding housing choice. This can be used in two ways: 1) You can use it as an internal reference guide for state fair housing laws when you get asked about those. 2) You can use it to update your city webpage on fair housing

protections; that update should include contacts at local fair housing organizations (a table of which is found on the first page of the Map and Data packet).

- ☑ **Forthcoming: Resident Survey Findings appendix**, this will be delivered by Root Policy in late March/early April. HCD has expressed interest in this section. We have incorporated the preliminary results from the survey into your revised drafts if we had large enough samples to do so. You will be able to draw from the appendix, once it is delivered, to round out your Housing Element's public input, as the survey contains information on housing needs beyond fair housing. Mostly, you should use it to inform your Fair Housing Action Plan. Ask yourself: "Do the actions we are proposing meet the needs of the residents with needs as captured in the survey? If not, can I strengthen them in any way?"

Not sure what's been accomplished for your community? [Click here to access the Root Policy AFFH Tracking Sheet](#)

Please contact heidi@rootpolicy.com and/or julia@rootpolicy.com if you have not received these materials.

Finishing up Your AFFH Section

This section is intended to act as a checklist for finalizing your draft for HCD review. This list is based on a late February conversation with HCD reviewers about the 21 Elements AFFH drafts.

Refine Your Jurisdiction's Fair Housing Assessment (aka AFFH Housing Element chapter). Here is how to get that section ready for inclusion in your Housing Element:

- ☑ **Read the draft, edit/comment, and talk to us.** If you haven't already, read through the draft (you will find it in your jurisdiction's AFFH folder, under [Key Documents](#) on the 21 Elements site). Email or meet with us (heidi@rootpolicy.com and julia@rootpolicy.com) about anything that is confusing.
- ☑ **Add pertinent local information.** You will need to add information to your Fair Housing Assessment where we do not have the local knowledge to complete the sections. Specifically, you should consider and add:
 - **Local data/local knowledge.** HCD will be looking for specific local factors that have contributed to the trends identified in the analysis. Your legal counsel may have some knowledge in this area, as would planners who have been involved in your jurisdiction for a long time. Pay particular attention to areas of disparity and include stories and local intel in the narrative of your AFFH section. You may even add a sub header called "Local Knowledge" or "Local Factors" to guide reviewers. There are three areas where this information is most pertinent:

- **History of segregation.** The draft narrative draws mostly on regional analyses. Add information on local factors that have contributed to segregation, including examples of historical discrimination in real estate transactions (e.g., a developer who built much of the housing in the city used race-restricted covenants). While we scanned historical sites for relevant information but we are confident there is more to add.
- **Explaining Racially/Ethnically Concentrated Areas of Poverty (R/ECAPs) or other low opportunity areas.** Provide context for any R/ECAPs identified in Section II, Integration and Segregation. What is the story/history of the neighborhood? What might be impacting this designation? How has the neighborhood changed over time?
- **Zoning and land use.** Add relevant information on local regulations or actions in Section IV. Disproportionate Housing Needs, after Displacement OR incorporate as appropriate in the History of Segregation in the Region. HCD is looking for you to discuss local opposition to affordable housing, problematic language you have uncovered in CC&Rs, and zoning practices in specific neighborhoods where relevant. For example, if your community has a lower proportion of non-White Hispanic residents or low income residents than the region overall you should note that is because of land use regulations that require large minimum lot sizes; lack of areas zoned for multifamily housing; etc.
- **Recent or outstanding legal challenges, if relevant.** In Section I. Fair Housing Enforcement and Outreach Capacity, add any locally pertinent information under fair housing legal cases and inquiries. For example, add a paragraph that discusses any legal action taken against the city by HUD or fair housing consent decrees the city has been or is currently under. HCD will be looking for this information. If none, please state something to this effect: “[Community] has not been a party to fair housing complaints or legal action in the past Xxx years nor has the city been required to operate under a consent decree related to fair housing.”
- ☑ **Incorporate the Segregation Analysis from UC Merced.** In Section II. Integration and Segregation, we left a placeholder under “Dissimilarity and isolation indices” for this information because it was not available at the time we completed your draft. You will see a placeholder for this info in your draft.

The UC Merced analysis is very technical and is best used as an appendix. To fill in this information, review and incorporate a summary of the [analysis performed by UC Merced](#) that is pertinent for your jurisdiction. Here is how to incorporate into the Fair Housing Assessment:

- 1) Scroll to the Appendix 1 Summary of Findings. Copy and paste those findings into the placeholder.

- 2) Add something like this example text: “ABAG and UC Merced completed an analysis of segregation in [you Community]. Several indices were used to assess segregation in the city and determine how the city differs from patterns of segregation and integration in the region overall.

The primary findings from that analysis included:

PASTE BULLETS FROM APPENDIX 1.

Then, add some context for what is driving the segregation. For example, if you are a very high income community: “These indices show that very little segregation exists in [your Community]. Part of this is due to the lack of racial and ethnic diversity. [Your Community] does not allow multifamily development, which provides needed housing to many racially and ethnically diverse residents and workers in the region.

We anticipate that adding [include # of units of]affordable housing, as shown in the site inventory, will provide housing for resident groups who are more racially and ethnically diverse than the city overall due to their disproportionate needs. We are prepared to pair the construction of new affordable housing with affirmative marketing and a regional [downpayment assistance or 1st and last month’s rent] program to ensure that residents with disproportionate needs in the region benefit from the housing.”

As demonstrated in the site inventory, we are careful to disperse new housing throughout the city. As such, we do not anticipate the new housing to increase segregation in the city.”

Some of your jurisdictions will show segregation patterns that may surprise you. These could be due to housing preferences and may not be correlated with poverty concentrations. You should discuss that nuance. Reach out if you need assistance.

- ☑ **Address outstanding items from HCD.** There are two areas where HCD anticipated providing data and maps but as yet has not. Those include the following. We suggest leaving these as placeholders for your drafts and adding the content if they become available.

- Racially Concentrated Areas of Affluence (RCAA), and
- TCAC transportation maps.

In addition, some of the legends are missing on a few of the HCD maps in the Map and Data Appendix.

We like how the City of Sacramento addressed the missing RCAA data, and you may want to borrow their language: *Although HCD and HUD have not established*

standard definitions for Racially or Ethnically Concentrated Areas of Affluence (RCAAs), they are generally understood to be neighborhoods in which there are both high concentrations of non-Hispanic White households and high household income rates. Comparing [your Community] to the surrounding county and region, it is safe to speculate that [Community] has [more/less/about the same] RCAAs as other communities, the county, and the region.

- ☑ **Finish your Fair Housing Action Plan.** Attached to this memo is a Fair Housing Action Plan matrix in *Excel*. It provides a structure and sample language that you can use to develop and present your Fair Housing Action Plan. It is important to note that the Fair Housing Action Plan should contain items beyond the AFFH evaluation of your site inventory; you need to demonstrate that the land use changes, sites located for affordable housing development, and complementary programs and policy changes will affirmatively further fair housing in your jurisdiction.

The matrix we are providing can be used to identify which actions your jurisdiction proposes, and Baird+Driskell has helped you develop policies and programs for your Housing Elements overall.

A starting point for the AFFH actions is to look through the Examples of Affirmatively Furthering Fair Housing Actions in the [State AFFH Guidance](#) (beginning on page 72 in the document or page 74 of the PDF). Identify quantified objectives and outcome metrics to measure the effectiveness of the program toward reaching objectives. Provide as much specificity as possible for implementation of each action. Avoid vague language like explore, consider, and identify. Instead use active and specific language like implement, fund, and enforce. Provide a specific geographic area for implementation where possible and appropriate.

- ☑ **Identify and prioritize contributing factors.** For those of you who asked for help in this area, we developed a list of contributing factors that led to current conditions. You will find these under “Primary Findings” in your draft assessment and in the Fair Housing Action Plan (FHAP) matrix. Contributing factors are exactly what they sound like—the underlying reasons for the housing challenges identified. Examples of how we frame contributing factors are like this:

Fair housing issue: Hispanic, Other/Multiple Race, American Indian or Alaskan Native, Black households, and large families have disproportionate housing needs. These needs are evident in high levels of cost burden.

Contributing factors:

- Hispanic residents are primarily concentrated in areas east of El Camino Real. According to HCD, these areas have the highest concentration of low to moderate income populations and face poor opportunity outcomes according to TCAC's opportunity maps.
- There is a relative lack of affordable housing opportunities in higher resourced areas of the city.

You will need to develop contributing factors or refine those we have provided you. You can look to the [State AFFH Guidance](#) for a list of those on pages 68 through 70 (or 70 through 72 of the PDF).

HCD guidance states, "Prioritize contributing factors, including any local information and knowledge, giving highest priority to those factors that most limit or deny fair housing choice or access to opportunity or negatively impact fair housing or civil rights compliance."

*Note: We think HCD means to prioritize **action items** that **address the contributing factors** that most limit or deny fair housing choice. You should build that prioritization into your Fair Housing Action Plan.*

Sites Inventory

It is important to apply an AFFH lens to your sites inventory work and to describe in your housing element how the sites identified will help to affirmatively further fair housing. The rest of this memo provides guidance on how to do that.

HCD's expectations for the site inventory are well-articulated beginning on page 45 (47 in the PDF) of the [State AFFH Guidance](#). HCD will be looking for you to specify, for the developments you expect to develop as part of your RHNA allocation, the expected incomes served, number of units, bedroom size distribution, and proportion of affordable units already in the relevant census tract.

Use the HESS tool provided by ABAG to help complete this analysis and round out your AFFH assessment of sites. HCD will be looking for the impact that RHNA allocations and your site inventory will have on the existing patterns of income segregation.

You can utilize the rubric below, developed by Baird+Driskell based on the approach used by South San Francisco, to consider the ways in which your sites inventory may or may not contribute to affirmatively furthering fair housing.

Area of City	Segregation and Integration	Racially Concentrated Areas of Affluence	Racially/Ethnically Concentrated Areas of Poverty	Access to Opportunity	Displacement Risk
Sample-specific plan area	✓	✓	✓	!	?

✓ = Advances AFFH; ! = Is an AFFH concern; ? = Unknown impact

Also, ABAG has developed the HESS tool that adds a visual component to this assessment. You need to login to ABAG’s site to access the HESS tool (<https://hess.abag.ca.gov/login>) if you haven’t already.

The following prompts and instructions, prepared by Root Policy, will assist you in the Site Inventory analysis.

Segregation and Integration—Race and ethnicity

For this analysis, ask the following questions:

- 1) Who may occupy this housing? For example, is the housing likely to be housing for people who have experienced homelessness? If so, examine the racial and ethnic distribution of homeless in the county (as captured in your Map and Data Packet) to understand who could occupy your RHNA housing.

Or housing developed privately as part of Below Market Rate/Inclusionary programs? For the latter you can assume, for this exercise, that occupants will share the same racial and ethnic distribution as low and moderate households in the region overall. Look to the Map and Data packet for that information.

- 2) Given the assumed resident characteristics of this new housing, do you feel that the housing will increase segregation? This would occur if you were building affordable housing that is likely to be occupied by the same types of people who live in the neighborhood and it is an area that is already a majority race or ethnic tract (see Figures II-7 through II-11 in your Map and Data Packet). It will help integrate housing if the opposite exists.

Segregation and Integration—Income

HCD identifies how to estimate income segregation or integration in the [State AFFH Guidance](#) pages 46 and 47 (or 48 and 49 in the PDF). Basically, this exercise compares the income distribution of the RHNA units (e.g., 20% extremely low income, 50% low income, 30% moderate income) to the distribution of the neighborhood in which the housing will be placed. You can pull the income distribution for the neighborhood from the American Community Survey (ACS) or analyze it using HCD or HUD AFFH mapping tools.

Racially and Ethnically Concentrated Areas of Poverty (R/ECAPs)

We calculated both R/ECAPs and “edge” R/ECAPs to help you understand placement of your RHNA allocation relative to these areas. Edge R/ECAPs are a measure we use to help you identify areas that could be vulnerable to R/ECAP status in the future.

For this study, the poverty threshold used to qualify a tract as a R/ECAP was three times the average census tract poverty rate countywide—or 19.1%. In addition to R/ECAPs that meet the HUD threshold, this study includes edge or emerging R/ECAPs which hit two thirds of the HUD defined threshold for poverty—emerging R/ECAPs in San Mateo County have two times the average tract poverty rate for the county (12.8%).

In 2010 there were three Census tracts that qualified as R/ECAPs (19.4% poverty rate) in the county and 11 that qualified as edge R/ECAPs (13% poverty rate).

You should look the placement of the RHNA sites to see if they are located in R/ECAPs or edge R/ECAPs (see Figures II-29 and II-30 in your Map and Data Packet). If they are, you will need to explain to HCD how these developments will help stabilize these neighborhoods despite those concentrations. You should be sure to incorporate placed-based investment strategies into your Fair Housing Action Plan to enhance opportunity in these neighborhoods.

Access to Opportunity

This is the factor for which ABAG’s HESS tool and HCD maps will be most useful. You should visually assess the environments in which your RHNA housing will exist and describe how, if lower opportunity, you will invest in those areas to elevate them.

This is where the Disparate Access to Educational Opportunities supplemental analysis will be very helpful. It can be used to evaluate how new housing for families that would be created by your RHNA allocation plan may improve (or not) access to educational opportunity.

If the sites you choose feed to schools that are lower performing or have large gaps in educational proficiency among children of color and/or children with disabilities, you should have a plan for how you will address those disparities. Examples include:

- ☑ Engage the school/school district early on to alert them to the potential for new students and understand what the typical needs of low income students and where the schools far short in accommodating them.
- ☑ Engage area the school/school district in a plan to reduce the disparities in outcomes among the schools that serve the site.
- ☑ Incorporate onsite tutoring, computer labs, free wireless access, and other amenities to ensure that students can complete homework in their housing community.
- ☑ Seek support from foundations and employers who have a vested interest in building a well-trained and successful local workforce.

If you are a high opportunity community where schools are strong throughout your city, it should help you demonstrate to HCD the benefits of adding family-centered housing in your community.

Disproportionate Housing Needs

Using the Primary Findings in your Fair Housing Assessment and the results of the forthcoming resident survey, ask yourself:

- 1) Which residents in my community have the greatest housing needs—based on Overpayment/Cost burden, Overcrowding/Occupants per room, Substandard/Poor condition housing, Homelessness, and Displacement? All of these factors are captured in the final section, Disproportionate Housing Needs, of both the Fair Housing Assessment and Map and Data Packet.
- 2) How would the proposed RHNA housing address these needs?

For example, if the resident survey shows you have a high need for housing families but your site is best for transit-oriented development likely to be studios and house young professionals, you will need to provide alternative sites that can accommodate family housing. If non-Hispanic White households have the greatest housing needs and also have lower incomes and you are only providing options for ownership housing, you will need to demonstrate that you can provide these households access to a tailored downpayment assistance program or fund a homeownership counseling program that helps them become homeowners.