

2015

Regional Analysis of Impediments to Fair Housing for Montgomery County and the Cities of Dayton and Kettering, OH

Section 7 — Summary of Findings

*This PDF contains only a section of the AI.
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Section 7 — Summary of Findings

What the Department of Housing and Urban Development (HUD) expects Montgomery County and the cities of Dayton and Kettering to do next in their planning process has changed and is outlined in HUD's new rule on affirmatively furthering fair housing (AFFH), published earlier this year.¹ Rather than asking for an Analysis of Impediments (AI) to Fair Housing Choice, HUD will now require that entitlement jurisdictions prepare an Assessment of Fair Housing (AFH).

Preparing an AFH is intended to help communities to:

- Recognize and identify local barriers to fair housing choice as well as disparities in access to opportunity;
- Scrutinize and discuss HUD-provided data and local data;
- Identify fair housing issues in the jurisdiction and region as well as factors contributing to those issues; and
- Provide a basis on which the jurisdiction can set goals for overcoming the identified fair housing issues by addressing their contributing factors.²

In preparing this AI, we have identified the Impediments to Fair Housing Choice that exist in Montgomery County and the cities of Dayton and Kettering, and we have analyzed each impediment to determine the factors that contribute to it. Thus, we have set the stage for these three jurisdictions to enter the Fair Housing Planning process in which they will set goals for addressing these impediments.

A. Impediments to Fair Housing Choice

Impediment One: Disability — The region's supply of affordable housing that is accessible to persons with disabilities is inadequate.

The age and condition of the region's existing housing stock limits housing opportunities for people with disabilities. The *2010 Regional Fair Housing Plan* noted the lack of accessible housing and warned of the need to prepare for an increase in the numbers of seniors and people with disabilities, two groups whose populations overlap. In particular, the region has a growing number of people who are 85 years of age and older, many of whom have become disabled.

Aging into disability contributes to Impediment One, and the jurisdictions must plan for it. For example, some elderly people might feel pressured into moving into retirement communities or assisted living even though they would instead prefer to remain in their own homes. Appropriate support and services would enable such choices. Seniors and people with

disabilities who choose to remain in their homes may request reasonable accommodations from local government such as exceptions to zoning requirements pertaining to modular ramps or to local ordinances on the placement of trash cans.

Without proper understanding of the obligation to provide reasonable accommodations, jurisdictions may inappropriately deny housing choice.

Impediment Two: Disability — Most newly constructed multi-family housing is not compliant with the Fair Housing Act’s accessible design and construction requirements.

The accessible design and construction requirements of the Fair Housing Act do not apply to much of the multi-family housing created in the five years since the previous AI—for example, townhouses in downtown Dayton, residential units in converted industrial buildings, and duplexes and triplexes. Obstacles such as steps in these units impair the ability of residents to easily remain in place as they age or become disabled.

Even worse, developers of multi-family housing that is subject to accessibility requirements often choose to ignore those requirements, building new units inaccessible to people who use wheelchairs.

Whether developers choose to construct buildings with fewer than four units in order to avoid accessible design requirements or whether developers choose to violate the law by ignoring the requirements, inaccessible new multi-family developments deny housing choice to people with disabilities and residents who become disabled.

Impediment Three: Disability — People with disabilities experience a fair housing barrier when they encounter a complicated process while requesting reasonable accommodations or modifications.

In both the public and private housing markets people with disabilities often encounter cumbersome policies when requesting exceptions to rules or modifications to structures. When asking to be allowed to keep a service animal or to have a wheelchair ramp installed requires completing a complicated form or waiting a long time for a response, many units are rented or sold to other people before those with disabilities can navigate the process, thus making housing unavailable to people based on their disabilities.

Testing done in preparing this AI confirms that this is a problem in our region and showed that people with disabilities have to jump through more hoops than their counterparts without disabilities. From 2009 to 2014 disability was the most commonly-cited basis for housing discrimination in the Miami Valley.

In addition, organizations such as Miami Valley In-Ovations that assist people with developmental disabilities often face public and governmental opposition to supported living homes. Many members of the public are ignorant about the nature of such homes and the people who live in them. Also, despite continued education about how zoning regulations and definitions are an obstacle to housing choice for people with developmental disabilities, 13 jurisdictions in Montgomery County have failed to act to permit supporting living homes.

Impediment Four: Transit — Public transit service is a barrier to fair housing because it is largely limited to higher-density and developed areas, limiting housing choice and employment opportunities.

Lower-income people and people with disabilities need additional public transit service in order to have access to employment and other amenities. Citizens in some higher opportunity areas do not welcome public transit.

People with disabilities are particularly affected by public transit, which determines how long it takes for them to get to work or school or to go to stores or to medical appointments. Moreover major places of employment and shopping are not physically accessible to people who use wheelchairs, further limiting where they can go even if public transportation is available.

Impediment Five: Race, Ethnicity and Color — Racial segregation is a persistent impediment of fair housing in the region due to income disparity, dual housing markets, and continued steering in the real estate market based on color, race and ethnicity.

Minority households are disproportionately affected by denial of mortgages, higher-cost loans, and difficulty obtaining insurance, making it more difficult for them to become homeowners. Minority renters face discrimination, evidenced by tests done for this AI. In ten out of fourteen tests, African American home seekers received treatment that was less favorable than that received by White home seekers, treatment ranging from minor deterrence to complete refusal to respond to housing inquiries.

Whites and Blacks still live in isolation from each other, with parts of Dayton being over 92% Black while some areas outside Dayton are over 90% White. The region still has ethnic and racial clustering.

Impediment Six: National Origin — Immigrants and refugees face barriers to housing choice and housing availability.

Immigrants and refugees face unique challenges when seeking housing including limited credit histories, lack of knowledge of fair housing rights, large families, and limited English proficiency. Clustering of immigrants exists.

Impediment Seven: Housing Marketing — Non-compliance with Fair Housing advertising guidelines still exists.

Published statements as well as oral ones are covered by fair housing rules for advertising. Sellers and landlords continue to make discouraging statements in ads on the internet and in other media, illegally specifying preferences for particular types of occupants. Ongoing testing continues to uncover illegal steering done by making discouraging remarks about the locale of available units or about the population there. Although incidents have been documented based on all protected classes, violations based on race, color, national origin, disability, and familial status are most common.

Impediment Eight: Local Regulatory Issues — Regulatory policies and zoning guidelines exist that do not comply with the Fair Housing Amendments Act of 1988 and are a barrier to housing choice and housing availability.

Through restrictive and exclusionary zoning some local jurisdictions limit entry by vulnerable populations and low-income households into their communities. Only 58% of local jurisdictions have amended their zoning to allow people with developmental disabilities to live in supported living homes. Zoning regulations such as restrictive definitions of family limit the location of special needs and multi-family housing. Local plans lack strategies for housing and land use that would expand housing choice.

Impediment Nine: Fair Housing Education and Enforcement — Ignorance and/or incorrect understanding of fair housing laws and of new regulations is a barrier to fair housing.

Most members of the public still do not understand fair housing. Self-reporting done in the public involvement activities for this AI shows this as does continued fair housing testing. Housing professionals consistently report that their clients are unaware of fair housing. These professionals also report that they themselves do understand fair housing, but testing of their knowledge shows gaps in understanding. Ohio's requirement of only one civil rights course every three years for real estate agents is woefully inadequate for keeping the agents informed of ever-evolving fair housing issues.

In the five years since the last AI federal funding for fair housing education has been cut every year, and for fiscal year 2016 HUD has made no monies available for private fair housing organizations to do general fair housing education programs. Local governments have not been able to provide funding to replace federal funding, endangering the continuation of robust education and outreach.

Impediment Ten: Systemic Lending Issues — REO disposition policies and procedures are a barrier to fair housing.

Banks do not maintain and market their foreclosed properties, or real estate owned, in neighborhoods of color to the same level as in White neighborhoods, resulting in a disparate impact on large areas in the cities of Dayton and Trotwood as well as in Jefferson Township. Resulting decreases in property values limit the ability of low-income and minority homeowners to sell or refinance their homes, as does banks' policies against issuing mortgages for lower-value houses.

Montgomery County has nearly 7,000 abandoned properties, most of which are older houses in low-income and minority neighborhoods.

Impediment Eleven: Industries that Interconnect with Residential Homeownership — Discriminatory practices in real estate, mortgage lending, residential appraisal, and homeowner insurance markets exist which limit housing choice and availability.

Real estate appraisers continue to consider the racial composition of neighborhoods when appraising houses for sale. Because most lending institutions will not issue mortgages for properties valued below \$50,000, low appraisals limit the ability to obtain mortgages in neighborhoods of color, preventing investment by owner-occupants, in particular minorities because they have less access to capital than Whites. Properties in neighborhoods of color are instead available only to investors with sufficient cash or are left abandoned, contributing to neighborhood blight.

In addition, African Americans seeking mortgages consistently receive less favorable treatment from banks than do Whites. African Americans are more often denied mortgages for purchasing or refinancing homes and more often receive higher cost loans.

Impediment Twelve: Children in the Household — Familial status, or the presence of children under 18 within the household, continues to limit housing availability and choice for families.

Continued limitations in local zoning codes on families with children lead housing providers to discriminate more brazenly against families with children. Familial status is the third most common basis of housing discrimination in the region. Exclusionary zoning policies limit the amount and pace of residential development and often prohibit construction of multi-family housing.

Because public housing is concentrated in Dayton, most families in the region who live in public housing do not live near high-performing schools. Local jurisdictions and the local public housing authority ignore HUD's advice on occupancy policies as outlined in the Keating Memorandum and thus limit fair housing choice.

Impediment Thirteen: Public Sector — The selection process for siting public and affordable housing in the region is a barrier to housing choice and housing availability for low-to-moderate income families with children and people with disabilities.

The region lacks a cogent pro-integrative policy to better site public and subsidized housing and to increase the amount of housing open to holders of Housing Choice Vouchers (HCVs).

Testing done for this AI showed an unwillingness of landlords to accept HCVs, limiting access to affordable housing, particularly in areas of greater opportunity. Exclusionary zoning policies further limit the availability of affordable housing in high-opportunity areas.

Low-income families are thus restricted to areas with under-performing school districts, a problem exacerbated by Ohio's reliance on property taxes to fund schools, a method found to be in violation of the state's constitution and that has a disparate impact on African-American, Hispanic, and disabled students.

B. The Next Step: The Fair Housing Planning Process

Ever since passage of the Fair Housing Act in 1968 recipients of funding from HUD have been legally required “to affirmatively further the Act’s goals of promoting fair housing and equal opportunity.”³ HUD’s new AFFH rule continues and reinforces this obligation.

HUD explains that the rule, by “providing greater clarity and support to jurisdictions receiving HUD funding and facilitating **local decision-making on fair housing priorities and goals**,” aims to ensure that “no child’s ZIP code should determine her opportunity to achieve.”³

Through the new AFFH rule local jurisdictions will be better prepared to develop their fair housing plans. Montgomery County, the City of Dayton, and the City of Kettering—by reviewing this Analysis of Impediments—will know what they must address in their upcoming Fair Housing Planning Process.

¹ RIN 2501–AD33: Affirmatively Furthering Fair Housing, pp. 42272–371. (2015, July 16). *Federal Register*, 80.136. Retrieved from <http://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17032.pdf>.

² For more information about the purpose of the AFH, see 24 CFR §5.154(c) and (d) in RIN 2501–AD33.

³ AFFH Final Rule Executive Summary. U.S. Department of Housing and Urban Development. Retrieved from http://www.huduser.org/portal/sites/default/files/pdf/AFFH_Final_Rule_Executive_Summary.pdf.