

Section V – Conclusion

Summary of Research Findings

Population

Over the past 100 years, Clackamas County grew appreciably, from fewer than 20,000 persons in 1900 to a Census population of 338,391 people in 2000, and further rising to 363,276 in 2004. This decade's growth rate is less than the long-term trend, and is now about 1.8 percent per year, but the absolute size of the increase is getting bigger and placing increasing demand on housing resources. The composition of the household is changing and, with persons per household declining, additional pressures are being placed on affordable housing markets.

The 2000 Decennial Census reports that Clackamas County had more than 50,000 citizens over the age of five that had some form of disability. The distribution of the disabled population varies significantly throughout the county. This seems to imply a disproportionate share of the county's disabled residing in some specific areas. HUD defines disproportionate share as more than ten percentage points higher than the jurisdiction's average concentration. It appears that many of the areas with higher concentrations of the disabled are near major transportation arterials. This is common in metropolitan areas. In our research, we have found that the disabled generally tend to live near mass transit centers or within easy access to one. These tend to be more often located near major transportation arterials rather than in rural areas.

Race and Ethnicity

The racial composition of Clackamas County is predominantly white, comprising some 91.3 percent of the population. However, the white population, while growing in absolute terms, has actually fallen as a percentage of the total population, dropping from 96.3 percent in 1990. Further, the distribution of the population by race is far from being uniform. There are a few areas that have a disproportionate share of minority racial populations, which means more than a 15 percent concentration in a given area.

The Hispanic population in Clackamas County is nearly 17,000 persons, or some 4.95 percent of the county's population. While this may seem small at first, this particular minority population is growing quickly. Between 1990 and 2000, the Hispanic population jumped some 135 percent, increasing from 7,129. This is significantly more rapid than the national rate, which was 58 percent over the same period. Further, there are several areas of the county that have disproportionately large Hispanic populations.

Employment, Income, and Earnings

For nearly 35 years, full and part-time employment in Clackamas County has been continually rising. These data slipped only once since 1969, during the 1980-82 recession, but in 2003, the year of the most recent BEA data, there were 197,981 jobs. Furthermore, Clackamas County has consistently outperformed Oregon in terms of unemployment rates. In 1990, when Oregon had a 5.4 percent unemployment rate, Clackamas County's rate was 3.4 percent. Even in 2004, when

unemployment rates were higher, Clackamas County had an unemployment rate of 6.6 percent when the state had a rate of 7.4 percent.

The average real earnings per job in Clackamas County have been steadily increasing. In 2003, the last year available from the BEA, real average earnings in the county exceeded \$36,200. However, the state surpassed \$37,900 at the same time. In fact, Clackamas County usually tends to have lower average wage rates than the remainder of the state. Still, the citizens of Clackamas County tend to hold numerous jobs and tend to have, on average, higher portions of their income from unearned income sources, such as property income – dividends, interest, and rents. When the sum of all these, defined as total personal income, is divided by total population, the result is per capita income. In Clackamas County, per capita income is \$34,900, compared to the state average of \$28,734 in 2003.

Poverty and Low Income Concentrations .

In 2000, some 21,969 people lived in poverty in Clackamas County, a poverty rate of 6.6 percent. Over 2,200 of the persons in poverty were under the age of five and 7,000 were under the age of 18. Another 1,100 individuals in poverty were over the age of 75.

While these may seem to be somewhat alarming statistics, the poverty rate in Clackamas County was significantly lower than the 12.4 percent rate seen in the nation. However, poverty is not uniformly distributed around the county.

The countywide average indicates that nearly 18.5 percent of all households in the county earn less than \$25,000. However, there are several block groups with more than 30 percent of all their households earning less than 50 percent of the median family income. In fact, some block groups have nearly 50 percent of their households in this very low-income category. Hence, areas with a disproportionate share of low-income households exist in the county.

Housing

Of the county's total housing stock, 128,201 units were occupied. Of these, about 91,145 were homeowners and another 37,056 were renters. This represents a solid homeownership rate of 71.1 percent. At the time the census was taken, this compared very favorably with the national average of 66.2 percent.

While Clackamas County renters have a lower incidence of cost burdens and severe cost burdens than seen nationally, this in no way minimizes the difficulties that some of the county's citizens are facing. Those who are experiencing a severe cost burden are only one step away from being at risk of homelessness. With one financial set-back, such as an auto accident, a medical emergency, or a job layoff, they are faced with immediate and challenging housing choices. Homeowners with a mortgage who are experiencing a severe cost burden are in a similar situation, except that their homeownership is at risk. In the case of homeowners without a mortgage who are experiencing a severe cost burden, it is the housing unit that is at risk. These homeowners are not able to conduct normal and periodic maintenance on their homes, thereby contributing to a blighting influence. These cost burdens are not uniformly distributed throughout the county.

Housing Problems

Clackamas County has over 4,500 householders that are either overcrowded or severely overcrowded. However, most households that are overcrowded are renter households. Furthermore, renter households are nearly three times as likely to be severely overcrowded as homeowner households. It would appear that both Oregon City and Canby have a very high incidence of severely overcrowded households.

Incomplete plumbing facilities are equally frequent between renters and homeowners in Clackamas County. However, due to the lower level of renter households, it would appear that renters have a larger portion of housing units that have incomplete plumbing facilities. In terms of lacking complete kitchen facilities, it is very evident that renters share an extremely disproportionate share of those units with incomplete kitchen facilities.

Complaint and Compliance Review

Access to and use of the HUD housing complaint system is little utilized in Clackamas County. The Clackamas County Community Action Agency, under contract with the Community Development Division, conducts information and referral services only. The Fair Housing Council of Oregon, with the capacity for education, outreach, testing and enforcement, conducts relatively few of these activities in Clackamas County. While sufficient capacity is available to the citizens of the county for pursuit of a fair housing complaint, and review of fair housing compliance by housing providers, cooperation and coordination of active fair housing entities in Clackamas County is limited. This lack of coordination with each other hampers affirmatively furthering fair housing.

The 2005 Fair Housing Survey

The survey contacted and interviewed 70 people familiar with housing and housing-related services in Clackamas County, and nine follow-up interviews with county and city building officials and planners. Survey findings indicate that additional education and outreach related to fair housing law and impediments to fair housing is desirable. Lastly, the content of responses imply that having a more uniform and consistent referral system for pursuing fair housing complaints would encourage a more active housing complaint process. Introducing a fair housing testing and enforcement mechanism in the Clackamas County would be welcomed by the interviewees. Sentiments expressed by several interview respondents cited land use policies, whether building or zoning in application, that increase the cost of affordable housing, thus detracting from affirmatively furthering fair housing.

Some examples given were the increasing price of land, a lack of available land for building multi-family units, the lack of incentives or bonuses for those who build affordable housing, and overly restrictive building codes that require certain materials, such as energy efficient windows and thicker insulation. While helpful in conserving natural resources, these do not impact the health or safety of the building residents, and the cost burdens fall mostly on protected classes or persons, according to respondents of the interviews.

Several survey respondents also said that some cities within the county have dealt with some of these issues by making affordable housing a priority. For example, the city of Lake Oswego has

formed an affordable housing task force. The city of Happy Valley is considering changing part of its zoning code to allow more affordable housing.

Home Mortgage Disclosure Act

Clackamas County has seen significant activity in the home lending market over the last 11 years, with nearly 370,000 loan applications. The denial rates for owner-occupied home loans are relatively low, just under 19 percent over the 11-year period. However, selected racial and ethnic minorities, chiefly blacks and Hispanics, have much higher denial rates than whites even when normalized for income. This may limit fair housing choice for some householders. While the absolute number of black and Hispanic minority applicants is small, the frequency of denials for these minority applicants is higher than white households. The same is true for those minority low-income householders accepting undue debt to perform home improvements. Also, while these denial rates are slightly higher than Washington and Multnomah counties, they are lower than the state of Oregon in its entirety. The state's rate is also higher than that of the nation. This higher frequency of denials for selected minority householders should be of concern.

When home improvement loans are inspected by type of lending institution, the size of the loan, and consequent debt, for extremely low-income householders is significantly higher when made by sub-prime lenders. This may place some householders at risk of losing their homes to the sub-prime lender.

Impediments to Fair Housing Choice

During the course of the 2005 analysis, several impediments to fair housing choice were found to exist in Clackamas County. These impediments are attributable, with varying degrees of severity, to various aspects of the housing and housing service provider industries, such as rental markets, credit and lending practices, outreach and education effectiveness, and housing service provider coordination. While these groups are interrelated, they have been separated into four general categories. Each will be discussed in more detail below and, while all are of concern, they are ranked by general level of importance, from most to least.

Organizational Structure

Some portions of the existing organizational structure that delivers fair housing services in Clackamas County may at times be an impediment to fair housing choice, based on data gathered and findings of analysis conducted during the AI research. For the purposes of this document, the term "organizational structure" refers to how fair housing services are delivered to citizens of the county, whether provided by Clackamas County government, Legal Aid Services of Oregon, HUD, or other regional fair housing agencies operating in the metropolitan area and state as a whole. This organizational structure has led to uncoordinated, less effective fair housing activities, including outreach and education, enforcement, and testing, as described below.

The Clackamas County CDD, the agency responsible for the Analysis of Impediments, provides counseling and referral for fair housing issues by way of a contract between the Social Services Division and the Community Development Division and through the Clackamas County Department of Human Services, Community Action Agency (CAA). In its fair housing activities,

the CAA may refer a client to an attorney or to HUD. However, the focus of this effort - referral and counseling - appears to be somewhat narrow.

Legal Aid Services of Oregon (LASO) provides legal assistance to low-income individuals and advocacy for individual clients and as a class to assure indirect benefits as mandated by the law with regard to housing discrimination.³⁹ The LASO operates a regional office in Oregon City, but does not have the resources to conduct a comprehensive program for fair housing.

The Fair Housing Council of Oregon (FHCO) is a statewide civil rights organization whose mission is to eliminate housing discrimination through enforcement and education. FHCO is a non-profit corporation.⁴⁰ The FHCO receives funding from HUD for many of its activities, but such activities are limited in Clackamas County. The FHCO typically refers callers to the Clackamas County CAA in cases occurring in Clackamas County.

The United States Department of Housing and Urban Development oversees, administers, and enforces the Fair Housing Act. The Office of Fair Housing and Equal Opportunity (FHEO) of HUD is responsible for administration of fair housing programs and for processing fair housing complaints. The Civil Rights Division of the U.S. Department of Justice is responsible for litigating on behalf of HUD in select cases of fair housing violations.

HUD maintains an office in Portland, Oregon, that coordinates a variety of agency programs, including some fair housing activities. For example, the office provides information to persons interested in fair housing and investigates fair housing complaints. However, the office does not directly handle fair housing complaints, but refers them to the Seattle regional office. Results of the analysis of complaint activity lodged with HUD over the last eleven years indicate that housing complaints are scant, the opposite of state and national trends. This implies a barrier to using a fair housing complaint system.

According to a survey of housing experts conducted for the AI, some confusion as to where referrals should be sent exists as well, regardless of the level of housing expertise. Furthermore, the confusion in the existing referral system may discourage pursuit of a fair housing complaint, leading to the existence of a small incidence of complaint data.

Consequently, AI findings indicate that fair housing entities working within Clackamas County tend to lack a consistent referral system for prospective discrimination victims and prospective violations of fair housing law. Further, it appears that citizens living in Clackamas County do not have the same access to fair housing testing and enforcement mechanisms as those living in nearby counties.

The Fair Housing Council of Oregon has the capacity to provide an array of fair housing services, but lacks any formal relationship to do so in Clackamas County. Besides Legal Aid of Oregon, no local avenue is open to persons who wish to move forward with alleged violations of housing law in Clackamas County.

Even though current statistics are scant, it appears that possible violations of fair housing law may be occurring in Clackamas County. This is evidenced by information from HUD

³⁹ Ronald Rubino, Legal Aid Services of Oregon, 6/10/05

⁴⁰ <http://www.fhco.org/mission.htm>

complaints, the Fair Housing Council and a phone survey of 70 people within the county who are knowledgeable about housing issues, as explained below.

According to opinions expressed in the AI survey of experts, education and outreach, a key and necessary part of any set of fair housing efforts, is not providing the level of knowledge necessary for responsible housing providers and may be falling short for the general public as well. As demonstrated in the telephone interviews, knowledge of fair housing laws is less than desirable and outreach and education needs much more attention.

Issues attributable to lack of knowledge and understanding of fair housing laws, including provisions of the ADA, lead to many misinterpretations and miscommunications. This includes restrictive advertising, discriminatory terms and conditions during rental transactions, failure to make reasonable accommodation, and a variety of other discriminatory actions.

This also includes construction of new housing facilities. These imbalances in the fair housing system include the notion that county government lacks adequate resources to enforce fair housing code compliance or lacks the capacity to inspect housing for safety and health violations, which typically occur in lower income households.

Hence, access to the fair housing complaint system appears to be limited. Further, the capacity to engender an enhanced understanding of fair housing law is lacking. Resources devoted by the CDD and other fair housing entities operating in the county do not appear to be coordinated in such a fashion as to be most effective.

Confusion with ADA and Fair Housing Law

During the course of the analysis, a series of interviews was conducted with various building officials, planners, and other government employees, both at the county and city level. Based on the data gathered, there tends to be a general lack of understanding as to when the Fair Housing Act applies and when the Americans with Disabilities Act are applicable. Lack of knowledge and understanding of fair housing laws, including provisions of the ADA, lead to many misinterpretations and miscommunications. Of late, these misunderstandings and lack of knowledge are most often seen in new construction, leading to an impediment to fair housing choice for disabled citizens.

The Americans with Disabilities Act, Title II and III, covers public services and places of public accommodation. It states that all commercial buildings constructed for occupancy after January 26, 1992 must be made accessible to people with disabilities. This includes facilities such as hotels, grocery stores, government buildings (including government run housing), service establishments, schools, movie theaters and recreational facilities.

The Fair Housing Act disability provision covers multi-family residential housing constructed for first-time occupancy after March 1991. It also states that landlords cannot refuse to let tenants make reasonable modifications to their dwelling or common use areas built before 1991, at the tenant's expense, if it is necessary for them to use the housing.

These requirements can often be confusing, not only to the general public, but to building officials, developers, community planners and other officials who are supposed to make sure the rules are being followed. The terms "ADA compliance" and "fair housing compliance" are used

interchangeably, even though these are two different laws. Other research indicates that this is not only an issue within various government entities, but also with housing advocates at the state and federal level.

By no means is this issue limited to Clackamas County government or the various cities within the county. It is evident at the state and national level. Project Civic Access, a compliance review undertaken by the Department of Justice (DOJ), investigated different cities in all 50 states, the District of Columbia and Puerto Rico. The DOJ began the project in 1999 to see whether the nation was complying with Title II and III of the ADA, referenced above. By 2005, the DOJ eventually reached 134 settlement agreements with 128 different cities.

According to the compliance review, the participants were cooperative and forthcoming with the information, but there was a lack of understanding of the law, which led to the need for widespread modifications.⁴¹

Confusion regarding requirements of the FHA was evident at the federal level as well, according to the research gathered from the National Council on Disability (NCD). The NCD is an independent federal agency making recommendations to the President and Congress on issues affecting Americans with disabilities.⁴²

In a study titled “Reconstructing Fair Housing,” it stated that administrative enforcement of civil rights was hampered by a misunderstanding of the laws and by the failure of Congress and HUD to provide the level of resources that effective enforcement requires. The report also stated that inconsistent and inadequate funding has caused some specific problems at HUD, especially concerning special government initiatives. However, the bigger problem, according to the study, has been the failure of HUD to provide consistent national leadership and management of a fair enforcement process. This, the study says, results in people with disabilities enduring illegal housing discrimination in many different ways. These include inaccessible housing, stereotypes about the ability to live alone, or the inability to get modifications in rules or policies that have historically excluded people with disabilities.

City, County, and State Policies

Assessment of census data determined that there exist disproportionate rates of minority racial and ethnic concentrations, as well as concentrations of low-income and disabled households, in selected areas of the county. There also appears to be some correlation between areas with high concentrations of disabled households and areas of low-income concentration. Further, these latter areas tend to correspond with major transportation corridors. This is neither a positive or negative conclusion, as those who are disabled are more likely to rely on public transportation, which is more readily available near major transportation corridors.

However, responses to the telephone interviews cast doubts upon the equity of prospective land use controls and selected public policies. Additional inquiries with planners and building officials at the county and city level indicated that some land use practices and public policies contribute to land costs that cause housing prices to be prohibitive for many. Some examples of the increasing price of land were a lack of available land for the construction of multi-family

⁴¹ www.us.doj.gov

⁴² www.ncd.gov

units, the lack of incentives or bonuses for those who build affordable housing, and overly restrictive building codes that require certain materials, such as energy efficient windows and thicker insulation. While some of these tend to be socially desirable, such as conserving natural resources, the cost burdens fall mostly on protected classes of persons, according to respondents of the interviews.

Clackamas County government has had provisions in its zoning code since 1980 that allow an increase in density if affordable housing is provided. This is referred to as a density bonus, or land use incentive, that allows a developer to construct more units than would otherwise be allowed in a specified residential zone in exchange for the more affordable housing units. The percentage increase in density varies with the Comprehensive Plan category. For low-density, single family homes, there is an incentive increase up to 5 percent. Medium- or high-density multi-family zones have an incentive increase of up to 8 percent.

Mortgage Lending Markets

Evaluation of Home Mortgage Disclosure Act Information indicates two prospective problems in the county. First, selected minorities have relatively high home purchase loan denial rates and may be missing out on acquiring homeownership, particularly black and Hispanic householders. Secondly, the potential for risky lending behavior is high for extremely low-income householders making use of sub-prime lenders. A sub-prime lender gives loans to borrowers who do not qualify for loans from conventional lenders.

However, Clackamas County has lower denial rates than Oregon and only slightly higher denial rates than those seen nationally, so the county is not alone in experiencing this market imperfection. Still, minority Asian populations in Clackamas County are experiencing relatively low denial rates, often lower than other races; therefore, the degree of racial or ethnic bias in the credit markets is likely to be limited. Nevertheless, the frequency of denials for black and Hispanic householder applicants is higher than white households. The same is true for those low-income householders accepting undue debt to perform home improvements.

Nonetheless, there are few minority applicants, perhaps fewer than the share of several populations, but the level of denial should be of concern.

Actions for the Clackamas County Community Development Division to Consider

Within each of the four broad impediment categories, the Clackamas County CDD can consider taking selected actions over the next several years. However, the problem is significantly greater than the authority vested in the Community Development Division or the resources available to the CDD, and some of the actions are the responsibility of HUD, state government, or other fair housing agencies. Nevertheless, the following represents the prospective actions, segmented by category.

Organizational Structure

1. The Community Development Division and Social Services Division should consider formalizing a fair housing planning process, perhaps as a component to the Consolidated Plan for Housing and Community Development. The purpose of such a process would be to

gain the participation and commitment of active fair housing entities to pursue a uniform and coordinated effort to affirmatively further fair housing.

- a. The SSD could take the lead and gain consensus on the best approaches for delivering fair housing services in the most cost effective fashions.
- b. Through this process, the SSD could review best practices seen elsewhere in the region.
2. The SSD could examine options to expand the county's ability to better conduct housing and home inspections for fair housing compliance.
3. The CDD should consider reallocating and/or expanding fair housing resources to better serve the needs of the citizens of Clackamas County. Specific actions to consider are below.
 - a. Clackamas County could evaluate the feasibility of incorporating a testing and enforcement component to the county's fair housing system by providing funding to a third-party agency to conduct testing and enforcement.
 - b. The SSD, in cooperation with the CDD, could prepare a uniform and consistent fair housing referral policy, accomplished through cooperation and coordination with the active fair housing entities in Clackamas County.
 - c. The SSD could expand fair housing education and outreach by:
 - iii. Broadening education and outreach methods
 - iv. Soliciting participation by construction trades and building inspectors

Confusion with ADA and Fair Housing Law

1. Legal Aid Services of Oregon should attempt to decrease confusion regarding the Fair Housing Act and Americans with Disabilities Act through the development of educational materials for new employees in the departments that deal with construction of residential buildings.
2. The LASO could review current literature on both laws to ensure that current construction inspection practices are in compliance with federal laws.
3. The LASO could create a short reference sheet that describes the differences between the two laws and when each of these applies. Make these available for the following agencies and individuals:
 - a. Builders and developers of multi- and single-family homes.
 - b. Realtors, leasing agents and landlords.
 - c. Employees in the planning and building departments.

City, County, and State Policies

1. The DTD could convene a process to inspect building codes and zoning and land use regulations that adversely affect fair housing choice, lead to unwanted disproportionate concentrations of selected populations, or could lower the cost of providing affordable housing.
2. The DTD could inventory best practices seen in other jurisdictions to discover alternative methods for lowering the cost of affordable housing units, such as:

- a. Methods of creating affordable housing trust funds
- b. Equity concerns related to waiver of system development charges
- c. Contract purchase or bulk negotiation for construction and building materials

Mortgage Lending Markets

1. Oversight of the mortgage lending community is beyond the authority of Clackamas County government. However, educating people about how credit can impact them is needed. This can be done both at the county and state level through the public school system, Fair Housing Council of Oregon and the county's Community Development Department. The specific type of outreach effort or educational material would be left up to the discretion of the individual agencies. The following are general steps suggested to help consumers:
 - a. The FHCO could increase outreach and education to prospective homeowners through:
 - iii. Enhanced home buyer training
 - iv. A high school training program, in cooperation with the local school district, on how credit markets can best work for the consumer
 - b. The FHCO could better inform consumers of the advantages and disadvantages of using credit from sub-prime lenders
2. The SSD and the FHCO could provide referral and counseling to householders seeking credit advice and support.