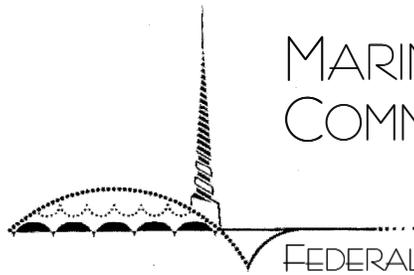


**Marin County  
Analysis of Impediments to Fair  
Housing Choice**

**Prepared by Caroline Peattie  
and Jessica Tankersley,  
Fair Housing of Marin**

**For the Marin County Community  
Development Agency**

**Approved by the Marin County  
Board of Supervisors  
on October 11, 2011**



MARIN COUNTY  
COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

FEDERAL GRANTS DIVISION

October 28, 2011

Mr. Chuck Hauptman, Regional Director  
Office of Fair Housing and Equal Opportunity, Region IX  
U.S. Department of Housing and Urban Development  
600 Harrison Street, Third Floor  
San Francisco, California 94107

Subject: County of Marin  
Analysis of Impediments to Fair Housing Choice

Dear Mr. Hauptman:

On October 11, 2011, the Marin County Board of Supervisors unanimously approved an Analysis of Impediments to Fair Housing Choice, including an Implementation Plan. This was the culmination of a process of ten public hearings. I am pleased to provide you with the enclosed copies of both documents. A video of the Board of Supervisors hearing is posted on the County's website at <http://www.co.marin.ca.us/depts/BS/Archive/Meetings.cfm>.

Please let me know if you have any comments about these items.

Sincerely,

Roy Bateman  
Community Development Coordinator

cc: Supervisor Judy Arnold  
Sharon Chan  
Brian Crawford  
Jeff Jackson

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Mailing Address: 3501 Civic Center Drive, Room 308, San Rafael, California 94903-4157  
Office Location: 899 Northgate Drive, Room 408, San Rafael, California  
Telephone (415) 499-6698 - California Relay Service 711 - Fax (415) 507-4061

## **EXECUTIVE SUMMARY**

In Marin County, it is unlawful to restrict housing choice on the basis of race, color, disability, religion, sex, familial status, national origin, sexual orientation, marital status, ancestry, age, and source of income. This Analysis of Impediments to Fair Housing Choice (AI) broadly identifies the actions, omissions, and conditions in the county that may have the effect of restricting housing choice for people protected under state and federal fair housing laws. The AI not only identifies impediments to fair housing choice, but also makes recommendations to overcome the effects of those impediments. It is the authors' hope that this AI will serve as the basis for fair housing planning, providing essential information to County staff, policy makers, housing providers, lenders, and fair housing advocates, and assisting with garnering community support for fair housing efforts. Caroline Peattie and Jessica Tankersley of Fair Housing of Marin prepared the 2010 AI under contract to the County of Marin.

### **Summary of Findings and Recommendations**

This Analysis of Impediments concludes that there exist substantial impediments to housing choice across the rental, sale, and lending markets throughout Marin County. Hispanic, Asian, and particularly Black households are not moving into Marin County in appreciable numbers; and those who live here may face differential treatment and limited housing choices. Black and Latino renters experience differential treatment in the housing market. Families with children also experience discrimination. People with disabilities face barriers ranging from housing providers' unwillingness to rent to "troublesome" tenants who will need reasonable accommodations to physically inaccessible housing. As the generation of baby boomers ages, there is an increasing demand for a limited number of beds in residential care facilities for the elderly (RCFEs). Studies have shown that people with disabilities, particularly people of color, have unequal access to senior housing, RCFEs and continuing care facilities. Discriminatory advertising, particularly on internet sites such as Craigslist, limits housing choice for people across protected classes.

Affordable housing frequently serves a range of protected classes. Limiting the development of affordable multifamily housing reduces housing options for those protected groups. Current zoning ordinances impose onerous restrictions on the development of high-density, multifamily housing, which limits the stock of available rental housing. Inclusionary

zoning policies require housing developers to set aside a portion of new units for below-market-rate occupancy, but inclusionary zoning alone is insufficient to produce the amount of affordable housing needed in the county, especially during economic downturns when there is little market-rate development and an increased need for affordable housing. Similarly, second units alone will not meet the county's affordable housing need, because they are less likely than units in conventional apartment buildings to be broadly marketed. As a result, second units in practice may have limited availability to those who need affordable housing, particularly minorities. In addition, many second units that are on the rental market are inadequate housing for minorities, people with disabilities, and the elderly, as many units do not meet accessibility standards or cannot pass Section 8 housing choice voucher inspection requirements. While second units are a viable option in some neighborhoods, they should not be relied upon as the sole source of affordable housing in Marin.

There are few opportunities for major redevelopment projects and County and city redevelopment funds are often committed to redevelopment project areas that are already highly segregated, perpetuating the concentration of minorities in certain neighborhoods and cities.

After initial occupancy, the County does not update its data on the race and ethnicity of residents of affordable housing projects, and therefore cannot measure whether developments have the long-term effect of further concentrating racial minorities in certain localities.

Disproportionately high numbers of Black residents receive Section 8 housing voucher subsidies or reside in Marin City Public Housing. Although public housing applicants with families express the desire to live outside Marin City, there is no other family public housing in the county. Public housing effectively perpetuates segregation based on race and familial status, although there has been some increase in racial diversity in the family public housing in the last 15 years, and the most recent redevelopment project has made Marin City a more diverse community. Section 8 voucher holders are disproportionately represented in localities with higher-than-average proportions of minorities, which may perpetuate patterns of segregation because many Section 8 voucher holders are people of color, people with disabilities, and families with children. However, these are also the localities where there are higher-than-average concentrations of rental housing and greater availability of public transit service. Many landlords are reticent to participate in the Section 8 program, in part due to negative stereotypes

about recipients of public assistance, which exacerbates the concentration of protected classes in certain neighborhoods and communities.

Choices for families are further limited because the affordable housing developed by non-profit developers is disproportionately senior housing or studios and one-bedroom units – generally inappropriate for families with children.

The Marin Housing Authority (MHA) is the largest supplier of affordable housing in Marin, but a number of their policies may act as barriers to furthering fair housing. The Housing Authority’s “One-Strike” Policy, if implemented as written, could disproportionately affect Black residents, women who are victims of domestic violence, and people with mental disabilities, jeopardizing their tenancies and destabilizing housing opportunities. The MHA’s program for outreach to Limited English Proficient communities is insufficient. Large numbers of Spanish-speaking and Vietnamese-speaking households could benefit from Housing Authority programs, yet information about those programs is not always easily accessible in a language other than English.

Almost all affordable rental properties identified as appropriate for people with disabilities are at capacity, and many properties have closed their waiting lists completely. Additionally, many properties for people with disabilities are not wheelchair accessible. The properties for people with disabilities are concentrated in certain localities; only two properties exist in West Marin. Further, the aging housing stock limits accessibility of many privately-owned units to people with disabilities, despite new construction’s compliance with contemporary building codes.

Public transportation resources are clustered in a few densely populated and more segregated communities, effectively perpetuating the concentration of minorities, women with children, and the disabled in certain neighborhoods.

Black and Latino home loan borrowers are subjected to higher denial rates, as are borrowers in minority census tracts. Blacks and Latinos also receive a disproportionately small share of prime loans, as compared to their share of Marin County’s households. The share of prime loans issued to Hispanic or Latino borrowers in 2008 registered a notable drop from 2006. Latino borrowers in Marin County receive a disproportionately high share of high-cost loans. Therefore, Latinos face greater risk of defaulting on their loans, particularly during an economic downturn. Evidence suggests that a disproportionately large number of monolingual Spanish-

speaking Latinos in Marin are at the delinquency, default, or foreclosure stage. Borrowers residing in predominantly minority neighborhoods in Marin County are more likely to get a high-cost loan than borrowers residing in predominantly White tracts. Below-market rate homeowners fall prey to predatory lending and may ultimately lose their homes for failure to abide by their deed provisions restricting additional encumbrances.

These findings apply to local jurisdictions throughout Marin County. The scope of this report was focused on County policies rather than an individualized analysis of each jurisdiction within the County. There may be unique circumstances which do not apply to every jurisdiction; however, the barriers and recommendations identified apply to each jurisdiction, unless otherwise specified.

To effectively combat housing discrimination and affirmatively further fair housing, the County and other local jurisdictions should undertake a multi-pronged approach that includes implementing the following recommendations:

1. The Marin County Task Force on Housing Discrimination was established in 1998 by the Marin County Supervisors and Fair Housing of Marin. Since its inception, the Task Force has analyzed a number of different housing discrimination issues. In recent years there has been some loss of momentum; FHOM has continued to present fair housing issues to any of the players wanting to participate, but without the consistent involvement of community representatives. Given the County's mandate to affirmatively further fair housing, the Supervisors and other advocates can use the Task Force as a forum to address some of the impediments identified in this document and encourage broader involvement from the community in addressing these impediments.
2. Additional affordable rental housing is needed, but current zoning ordinances impose onerous restrictions on the development of high-density, multifamily housing. In its analysis of efforts at residential development in commercial zones, Public Advocates found that zoning regulations related to density, height, parking, and limitations of ground-floor space to commercial uses act as a significant hurdle to development of affordable housing.<sup>1</sup> The County and other local jurisdictions should undertake comprehensive reviews of zoning regulations, taking into consideration research already

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<sup>1</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 27 (2009).

conducted on the matter. The County and other local jurisdictions should consider adopting design guidelines for multi-family developments that could be used to review and permit affordable housing projects either “by right” (meaning ministerial review) or through a streamlined process of discretionary design review limited to design aspects of the site and the proposed improvements. Local jurisdictions should consider the creation of affordable housing overlay zones. Local jurisdictions can establish a list of sites where affordable developments may benefit from increased residential density standards, fee waivers, and relaxation of other development standards such as parking requirements.<sup>2</sup> Further, all jurisdictions should ensure that within the overlay zone, the general zoning code permits either “by right” development of multifamily dwellings or allows such development through a streamlined discretionary review process that is limited to site and building design considerations based upon multi-family design guidelines. Marin can look to the Town of Corte Madera’s Affordable Housing Overlay (AHO) zone and San Rafael’s Transit Overlay District as successful exemplars.<sup>3</sup> None of the jurisdictions with high-density multifamily “by right” zoning districts currently has a minimum density requirement; the effect is that sites zoned to permit higher-density residential use may instead be used to develop low-density housing. Local jurisdictions should consider imposing zoning restrictions that include a density floor to prevent lower-density development of a site.<sup>4</sup>

3. Countywide, most jurisdictions have inclusionary zoning, which requires a percentage of new development to be set aside as below-market-rate housing. A number of jurisdictions still do not have inclusionary policies, while others have policies that are in need of updating to ensure they are promoting fair housing. The jurisdictions that do not have inclusionary zoning policies should evaluate the potential effects of adopting inclusionary zoning ordinances as a strategy for developing more affordable housing. Current inclusionary zoning regulations should be studied and changed if necessary to

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<sup>2</sup> *Marin County Housing Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County*, Kate Bristol Consulting, 02/05/10, pg. 18.

<sup>3</sup> *Ibid.*

<sup>4</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 24 (2009).

remove policies which may act as a barrier to increasing housing options for low income and minority households. For example, in the County, inclusionary units may be allowed to be developed off-site if they do not fit with the “overall project character.” This exception may be exercised as a pretext for discrimination against very-low and low-income residents, predominantly people of color, families, and people with disabilities. Local jurisdictions should define “overall project character” and develop clear criteria for determining when inclusionary units would not fit with overall project character and therefore may be built off-site, so that the regulation is applied consistently and not in a manner as to disparately impact minorities, families, and people with disabilities. Finally, in-lieu fees should be assessed in direct proportion to the cost to construct a unit.

4. Inclusionary zoning requirements are only effective at creating affordable housing during times when substantial market-rate development takes place; inclusionary zoning requirements are, however, ineffective during a real estate downturn. Other options for providing affordable housing and funding for local housing trusts should be explored, including considering adopting affordable housing impact fees, similar to the County’s fee. More generally, local schedules of in-lieu fees and impact fees should be periodically reviewed to determine whether they should be adjusted.
5. Second units can supply only a limited portion of needed affordable housing, as the units are often small. Some second units are not broadly marketed, and those that are on the rental market are often inadequate housing for people with disabilities and the elderly, as many units do not meet accessibility standards or cannot pass Section 8 housing choice voucher inspection requirements. While second units are a viable option in some neighborhoods, they should not be relied upon as the sole source of affordable housing in Marin. The County and other local jurisdictions must diversify development of affordable housing beyond second units.
6. Redevelopment funds are often committed to project areas that are already highly segregated, which might perpetuate the concentration of minorities in certain communities. However, redevelopment funds have also been used for projects which increase neighborhood diversity. Further, affordable housing is disproportionately senior housing. Senior housing comports with the idea of a “deserving poor,” whereas housing

for minorities and families does not.<sup>5</sup> Finally, affordable housing development tends to be studios and one-bedroom units – generally inappropriate for families with children. The County and its jurisdictions should encourage and facilitate the development of more subsidized and affordable housing for families with children, particularly in areas with low concentrations of minorities. Substantial investment in acquisition and rehabilitation may also be a successful strategy for developing more affordable housing for families outside impacted areas; the County and other local jurisdictions should also consider working with community advocates and developers to develop non-traditional housing arrangements such as shared housing. However, the market for shared housing may be limited to tenants who prefer more involvement with their neighbors than occurs in traditional housing.<sup>6</sup>

7. Almost all properties identified as appropriate for people with disabilities are at capacity, and many properties have closed their waiting lists completely. Additionally, many properties for people with disabilities are not wheelchair accessible. Further, the properties for people with disabilities are concentrated in certain localities; only two properties exist in West Marin. The Housing Authority should review information it provides regarding accessibility to ensure accuracy. Funders and the County should devote resources to developing more housing for persons with disabilities in diverse geographic locations, especially underserved communities such as West Marin.
8. Local public transportation service is concentrated in low-income communities where current demand and current ridership are greatest, but this can perpetuate the segregation of minorities in those neighborhoods. A way forward would be the pursuit of transit-rich development in non-impacted neighborhoods (for example, the “Green Hubs” concept), but that would require local governments to allow development at densities high enough to create sufficient demand for public transportation. The Transportation Authority of Marin should approve and implement the Marin City transportation plan it commissioned in 2007. The Transportation Authority of Marin should work with local public transit providers to increase transportation options in higher-income, less impacted communities as well as to broaden opportunity for all residents.

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<sup>5</sup> Interview, Richard Marcantonio, Public Advocates.

<sup>6</sup> Interview, Roy Bateman, Marin County Community Development Agency.

9. The County does not regularly update data collected on the race or ethnicity of residents of affordable housing projects, and therefore cannot measure whether these developments have the long-term effect of further concentrating racial minorities in certain localities. Marin County should institute a system for tracking the racial and ethnic demographics of residents of all housing developed with County funds and federal funds that pass through the County. The County should consider conducting regular surveys of those privately developed affordable housing properties which are subject to local government restrictions on household income, to determine racial and ethnic demographics of residents.<sup>7</sup>
10. All tenants in Marin Housing Authority properties must sign a lease before they can live in public housing; the dwelling lease sets forth rules and requirements for tenancy. MHA should ensure that its public housing lease and rental notices are translated into Spanish and Vietnamese and should make them available on a consistent basis when needed. MHA should have a procedure to access interpreters if oral discussion is necessary.<sup>8</sup>
11. When the Section 8 Housing Choice Voucher or Public Housing wait lists are open, MHA should affirmatively market the availability of units to all families within the jurisdiction by placing a public service announcement in English, Spanish, and Vietnamese in local circulation language-specific newspapers, radio, and/or television.<sup>9</sup>
12. Section 8 voucher holders are disproportionately represented in localities with higher-than-average proportions of minorities<sup>10</sup>, which may perpetuate patterns of residential segregation. However, these are also the localities where there are higher-than-average concentrations of rental housing and greater availability of public transit service. As many Section 8 voucher holders are people of color, people with disabilities, and families with children, this perpetuates patterns of segregation. Some landlords are reticent to participate in the program, in part due to negative stereotypes about race, ethnicity, and recipients of public assistance, which exacerbates the concentration of protected classes in certain neighborhoods and communities. The County and other local jurisdictions

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<sup>7</sup> This recommendation is also propounded in “Compliance” chapter.

<sup>8</sup> See HUD Final Guidance at 2750.

<sup>9</sup> *Ibid.*

<sup>10</sup> HUD internal guidelines define areas with over 40% minority population as racially impacted.

should collaborate with the Housing Authority and community housing advocates to strategize ways to encourage landlord participation and expand housing choice.

13. Disproportionately high numbers of Black residents receive Section 8 housing voucher subsidies or reside in Marin City Public Housing. In fact, the majority of Marin City public housing tenants are Black. Although public housing applicants with families express the desire to live outside Marin City, there is no other family public housing in the county. Public housing effectively perpetuates segregation based on race and familial status, although there has been some increase in racial diversity in the family public housing in the last 15 years, and the most recent redevelopment project has made Marin City a more diverse community. The County and other local jurisdictions should devote resources to developing more subsidized housing outside impacted areas. Given current funding patterns, new subsidized housing is unlikely to be public housing, and instead will most likely be owned or sponsored by non-profit organizations.
14. The MHA's "One-Strike" Policy, if implemented as written, could disproportionately affect Black residents, women who are victims of domestic violence, and people with mental disabilities, jeopardizing their tenancies and destabilizing housing opportunities. The Marin Housing Authority should consider modifying its written policy to make it clear that only residents who present a direct threat to the health or safety of others will be evicted from public housing or terminated from public housing assistance, and that there will be an opportunity for case-by-case review of specific circumstances. The MHA should include specific language in its lease alerting victims of domestic violence to their rights under the Violence Against Women Act. The administration of the One-Strike Policy should be monitored to ensure that it does not disparately impact any protected classes.
15. BMR homeowners may fall prey to predatory lending and may ultimately lose their homes for failure to abide by their deed provisions restricting additional encumbrances. BMR owners need advocacy and education. Local jurisdictions with BMR programs should be sensitive to this issue and assure that BMR homeowners receive adequate pre-purchase and post-purchase counseling and education.
16. Few resources exist to assist precariously housed persons with finding stable, permanent housing. Funders and local jurisdictions should consider providing funding for improved

housing information and referral services, which might include reviving the Housing Assistline.

17. Outreach to English as a Second-Language communities is insufficient. Large numbers of Spanish-speaking and Vietnamese-speaking households could benefit from Housing Authority programs, yet information about those programs is not always easily accessible in a language other than English. For example, the MHA should include Spanish and Vietnamese translations on [www.marinhousing.org](http://www.marinhousing.org), list contact information for staff fluent in Spanish and Vietnamese in prominent locations, and ensure compliance with federal regulations by publishing all relevant or vital documents relating to tenancy in Spanish, Vietnamese, and any other language as needed. Other housing and service providers should review whether their services are accessible in multiple languages as needed.
18. Developers cannot always take advantage of the available Low-Income Housing Tax Credit because of poor proximity of developments to public transportation. Further, commercial development is more appealing to many municipalities than residential development because of the increased sales tax revenue. Local jurisdictions should continue their inclusionary zoning policies to ensure that commercial developments include affordable housing units. The Transportation Authority of Marin should also secure more resources for developing transportation hubs outside racially-impacted areas so that properties located near those hubs which are suited for higher-density housing can qualify for the Low-Income Housing Tax Credit. Other public transportation improvements which would qualify infill housing opportunity sites for tax credits would facilitate the financing of needed affordable housing.
19. Some of the stated purposes of local jurisdictions' development codes may be interpreted as potentially conflicting with affirmatively furthering fair housing. For example, the County's Development Code includes language to "protect the character and social and economic stability" and maintain "community identity and quality development."<sup>11</sup> The County should consider amending its Development Code to limit the language that could be used as a pretext for discrimination against minorities, people with disabilities, and families with children, and add clarifying language noting that the code is intended to

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<sup>11</sup> Marin County Development Code, Section 22.01.020.

expand housing opportunities for all people, regardless of their membership in a protected class, as well as to implement other public policy objectives. Other local jurisdictions should undertake similar amendments where needed.

20. The aging housing stock limits accessibility of units to people with disabilities, despite new construction's compliance with contemporary building codes. The County and other local jurisdictions should consider providing incentives for property owners to make residential properties constructed before 1991 accessible, thus increasing the available housing stock for people with disabilities and the elderly. Incentives could take the form of financial rebates or credits, or education and outreach.
21. Given higher denial rates for Blacks and Latinos, it is important that consumer protection groups within Marin County work with County officials and Fair Housing of Marin staff to target marketing of responsible loan products and counseling targeted to communities and borrowers experiencing unequal access to loans, tapping into the expertise of organizations such as the California Reinvestment Coalition whenever possible.
22. Further fair lending investigations/testing into the disparities identified through the HMDA data analysis is crucial to understanding and addressing the inequities in lending across races and ethnicities.
23. More generally, HMDA data for Marin County should be monitored on an ongoing basis to analyze overall lending patterns in the county. In addition (and what has not been studied for this AI), lending patterns of individual lenders should be analyzed, to gauge how effective the CRA programs of individual lenders are in reaching all communities to ensure that people of all races and ethnicities have equal access to loans.
24. There is currently one certified HUD Housing Counseling agency in Marin County, Fair Housing of Marin, which employs a bilingual part-time foreclosure counselor. FHOM holds workshops and investigates possible predatory lending to ascertain if there are fair housing violations. Other agencies provide foreclosure assistance: Marin Family Action provides foreclosure advocacy, Legal Aid provides legal advice, and the District Attorney's office investigates criminal activity. The County should take a leadership role in encouraging collaboration among these agencies, particularly those focusing on protected classes targeted by predatory lenders. This includes outreach through the agencies serving the Latino and Black communities. Existing financial literacy education

programs should incorporate predatory lending education, and the organizations offering those programs should become versed in recognizing predatory lending practices.

25. Currently, there are not enough legitimate and affordable resources for all victims of predatory loans to have their needs addressed, starting with negotiating and analyzing the confusing stacks of loan documents. Enforcement – prosecuting offenders after investigating them – is therefore difficult, particularly as many agencies and attorneys, purporting to be consumer advocates, further victimize borrowers desperate to save their homes by charging exorbitant rates to accomplish little. The return for the enormous investment of time makes it economically prohibitive for many attorneys to represent clients in these cases. It becomes extremely important, therefore, for consumer advocates to join with local and state enforcement agencies to coordinate an effective strategy to address predatory lenders.
26. The County should join consumer advocates in supporting any legislation that would help clarify the outreach, notice, and process that homeowners seeking loan modifications are due, as well as provide recourse to homeowners whose homes are foreclosed on improperly. In addition, the County and advocates should support legislation to prevent lending practices which can lead to abuse: prepayment penalties which trap borrowers in unaffordable loans; unsuitable loans that borrowers cannot afford to repay; extra payments that lenders make to brokers for giving borrowers higher interest rate loans; and loans that do not require proof of actual income.
27. The County, in cooperation with funders and consumer groups, should support local studies of foreclosure data in Marin County, to analyze foreclosures according to race and ethnicity, as well as neighborhoods. Such an analysis should also include the number of loan modifications across race and ethnic lines so as to better understand the fair lending implications of foreclosure trends in Marin.
28. The County and local funders should support the expansion of financial literacy and counseling programs. Nonprofit home loan counselors are on the front line for staving off foreclosures, working with borrowers and negotiating with lenders to modify unaffordable loans. These agencies need consistent financial resources to educate the public about financial matters. Most importantly, services should be available in

languages other than English, particularly Spanish. The County should work with community groups to target neighborhoods of color in education efforts.

29. The County of Marin and other local jurisdictions should track the development of affordable housing towards meeting RHNA needs. Further, the County should require municipalities to report on actions they have taken to affirmatively further fair housing (AFFH). To ensure compliance, the County should be prepared to implement enforcement measures such as withholding funding from municipalities that it deems to be failing to affirmatively further fair housing.
30. The County of Marin should rank recommendations contained within the 2010 Analysis of Impediments and amend its Consolidated Plan 2010-2014 to incorporate those prioritized recommendations as part of its action plan.
31. Marin County should undertake to update its AI within two years of the release of the 2010 Census data.
32. The County should utilize the public hearing and AI adoption process to raise community awareness of the barriers to fair housing choice by publicizing the hearing and inviting all segments of the community to participate.
33. The County should include the community as part of the solution to fair housing rights education and monitoring, and should incorporate community recommendations in the final version of the AI.
34. The County should explore the expansion of the Marin County Task Force on Housing Discrimination to include fair housing advocates, governmental representatives, community and business leaders, Realtors, lenders, and academics to explore and lend urgency to fair housing issues and their potential effect on Marin County's economic and social future.
35. The County should ensure that one County department consistently monitors and tracks progress in meeting the AI recommendations.
36. As the 2010 AI is considerably more comprehensive than the 1994 AI, the AI should be updated every two to five years, with updates to be funded such that they do not detract from resources for fair housing counseling and enforcement.

## CHAPTER 1

### INTRODUCTION, DEFINITIONS AND METHODS

Special Thanks to Anne Peterson, former Executive Director of the Housing Council, Rochester, NY, and to Fair Housing Napa Valley for their assistance in preparing the Introductory Section of this report.

#### FAIR HOUSING CHOICE

The Analysis of Impediments to Fair Housing Choice (AI) identifies impediments to fair housing choice and presents recommendations that Marin County can adopt to overcome those barriers. The AI should then be used to monitor the County's progress toward achieving the adopted recommendations. Identifying and analyzing barriers to fair housing choice is integral to ensuring that the County has at its disposal the information needed to develop a comprehensive strategy to meet its commitment to "affirmatively further fair housing" (AFFH).

While there is much that Marin County can do to combat discrimination in housing, some external factors beyond the County's control also affect housing choice. These forces include poverty and income levels, the cost of housing, linguistic isolation, transportation, employment opportunities, educational achievement, and regional planning agencies. Although these challenges may dominate the environment in which local government functions, community development initiatives and the jurisdictions that implement those initiatives only exercise limited, if any, control over external factors.

This is the matrix in which Marin County, its towns and cities, and all the other counties in the Bay Area operate daily. Many factors outside the County's control significantly limit the available means of implementing strategies to increase fair housing choice. The dilemma faced by Marin County is how to maintain and enhance fair housing choice in such an environment.

#### **Definition of Analysis of Impediments to Fair Housing (AI)**

The AI is a review of impediments or barriers to fair housing choice in the public and private sectors, including policies, practices, and procedures that affect housing choice. Impediments to fair housing choice are defined as any actions, omissions, or decisions that restrict, or have the effect of restricting, the availability of housing choices based on race, color, religion, sex, disability, familial status, or national origin. The AI serves as the basis for fair

housing planning, provides essential information to policy makers, administrative staff, housing providers, lenders, and fair housing advocates, and assists in building public support for fair housing efforts. Conducting an AI is a required component of certification for jurisdictions that receive Housing and Urban Development (HUD) Community Planning and Development funds.

According to the federal Department of Housing and Urban Development's (HUD) Fair Housing Planning Guide, "Communities have authority and responsibility to decide the nature and extent of impediments to fair housing and to decide what they believe can and should be done to address those impediments."<sup>1</sup> HUD's Fair Housing Planning Guide defines a four-step process:

1. *Complete an Analysis of Impediments to Fair Housing Choice* (the audience is the jurisdiction itself);
2. *Develop actions to overcome identified impediments* and ways of measuring progress in doing so;
3. *Implement the strategies*;
4. *Measure results*.

Marin County contracted with Fair Housing of Marin to complete its Analysis of Impediments to Fair Housing Choice in 2010. As outlined in the Fair Housing Planning Guide, the analysis involves the following:

- An assessment of conditions, both public and private, affecting fair housing choice for all protected classes
- A review of the jurisdiction's laws, regulations, and administrative policies, procedures and practices
- An assessment of how those laws, etc. affect the location, availability and accessibility of housing
- An assessment of the availability of affordable, accessible housing.

## **The Role of the U.S. Department of Housing and Urban Development**

The U.S. Department of Housing and Urban Development (HUD) is committed to

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<sup>1</sup> Fair Housing Planning Guide, U.S. Dep't of Housing and Urban Dev't, Office of Fair Housing and Equal Opportunity, Section 2, page 11; *see* 24 C.F.R. 570.601(b).

eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities, and other discriminatory practices in housing. The fundamental goal of HUD's fair housing policy is to make housing choice a reality through fair housing planning. HUD has historically encouraged the adoption and enforcement of state and local fair housing laws and the reduction of separation by race, ethnicity, or disability status in its community planning and development programs in order to affirmatively further fair housing choice. These programs include:

- Community Development Block Grant (CDBG)
- Home Investment Partnerships (HOME)
- Housing Opportunities for Persons with AIDS (HOPWA)

The CDBG program contains a regulatory requirement to affirmatively further fair housing (AFFH) based upon HUD's obligation under Section 808 of the Fair Housing Act. The CDBG regulation also reflects the CDBG statutory requirement that grantees certify that they will affirmatively further fair housing. HUD requires CDBG grantees to document AFFH actions in the Consolidated Plan, Consolidated Annual Performance and Evaluation Report (CAPER), and reports submitted to HUD.

### **Definition of Affirmatively Furthering Fair Housing (AFFH)**

HUD defines affirmatively furthering fair housing as requiring a grantee to:

- *Conduct an analysis to identify impediments to fair housing choice within its jurisdiction.*
- *Take appropriate actions to overcome the effects of any impediments identified through the analysis.*
- *Maintain records reflecting the analysis and actions taken in this regard.*

HUD defines impediments to fair housing choice as:

- *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*
- *Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race,*

*color, religion, sex, disability, familial status, or nation origin.*<sup>2</sup>

## **Protected Classes and Discriminatory Practices**

Both federal and California fair housing laws establish protected classes and govern their treatment by a variety of housing professionals who provide services and are, therefore, parties to the transaction in regard to nearly every aspect of the purchase and rental of housing. The Fair Housing Act makes it unlawful to “refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person” because of their:

- *Race*
- *Color*
- *Religion*
- *National Origin*
- *Sex*
- *Familial Status (families with children under 18 or who are expecting or adopting a child)*
- *Handicap (Disability)*<sup>3</sup>

In addition to federal statutes, there are a number of California state laws that have added the following protected classes:

- *Age*
- *Ancestry*
- *Sexual Orientation*
- *Medical Condition*
- *Marital Status*
- *Arbitrary Characteristics*
- *Source of Income*

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<sup>2</sup> HUD Fair Housing Planning Guide (1995).

<sup>3</sup> Title VIII of the Civil Rights Act of 1968, as amended (1988), 42 U.S.C. §§ 3601 – 3619, 3631.

Federal statutes, state statutes, and case law further define discriminatory practices or acts in housing. The most common practices fall into the following broadly defined categories:

- *Different Terms & Conditions*
- *Refusal to Rent, Sell or Lend*
- *False Denial of Availability*
- *Intimidation and Coercion*
- *Interference With Rights*
- *Brokers' Services*
- *Financing*
- *Advertising or Discriminatory Statements*
- *New Construction Accessibility for Persons with a Disability*
- *Reasonable Modification for Persons with a Disability*
- *Reasonable Accommodation for Persons with a Disability*

### **Federal Fair Housing Laws and Presidential Executive Orders**

The following are descriptions of the various laws and Executive Orders that mandate fair housing compliance:<sup>4</sup>

#### Fair Housing Act: Title VIII of the Civil Rights Act of 1968, as Amended (1988)

The Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18) and handicap (disability).

#### Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of race, color or national origin in programs and activities receiving federal financial assistance.

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<sup>4</sup> <http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

### Section 504 of the Rehabilitation Act of 1973

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

### Section 109 of Title I of the Housing and Community Development Act of 1974

Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.

### Title II of the Americans with Disabilities Act of 1990

Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.

### Architectural Barriers Act of 1968

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

### Age Discrimination Act of 1975

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.

### The Civil Rights Act of 1866, Sections 1981 and 1982

Section 1981 of the Civil Rights Act of 1866 provides that “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts....”

Section 1982 provides that “All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase,

lease, sell, hold and convey real...property.”

Sections 1981 and 1982 prohibit many of the same discriminatory activities prohibited by the Fair Housing Act. Some activities, such as discriminatory advertising, have not been successfully demonstrated to be a violation of the 1866 Act.<sup>5</sup> Unlike Title VIII, Section 1982 will apply to an owner-occupied property having less than four units and the rental or sale of single family homes, and is not limited to discrimination involving “dwellings.” Section 1982 extends to, for example, failure to rent office space to a prospective black tenant.

Unlike the Fair Housing Act, which allows suits by any “aggrieved person,” Section 1982 protects only citizens. In addition, these sections apply only to conduct undertaken because of considerations of race. The Civil Rights Act of 1866 does not protect other classes protected by the Fair Housing Act. Under the Fair Housing Act a plaintiff must demonstrate only that the effects of one’s actions are discriminatory, regardless of the intent; however, a person suing under the Civil Rights Act of 1866 must also demonstrate a clear intent to discriminate on the part of his legal adversary, a much higher standard of proof.<sup>6</sup>

## **Fair Housing-Related Presidential Executive Orders**

### Executive Order 11063

Executive Order 11063 prohibits discrimination in the sale, leasing, rental or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

### Executive Order 12892

Executive Order 12892, as amended, requires federal agencies to affirmatively further

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<sup>5</sup> *Spann v. Colonial Village, Inc.*, 899 F.2d 24, 27 (D.C. Cir. 1990); see also Relman, John P., *Housing Discrimination Practice Manual*, Vol. 1, Thomson West (2005).

<sup>6</sup> Relman, John P., *Housing Discrimination Practice Manual*, Vol. 1, Thomson West (2005).

fair housing in their programs and activities and provides that the Secretary of HUD will be responsible for coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.

#### Executive Order 12898

Executive Order 12898 requires that each federal agency conduct its program, policies and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.

#### Executive Order 13166

Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.

#### Executive Order 13217

Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

### **Other Relevant Federal Legislation**

Two other federal acts govern the actions of lending institutions in relation to mortgage lending: the Community Reinvestment Act of 1977 (CRA) and the Home Mortgage Disclosure Act of 1975 (HMDA).

#### The Community Reinvestment Act (CRA)

The Community Reinvestment Act (CRA) states that “regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered.” CRA establishes federal regulatory procedures for monitoring the level of lending, investments, and services in low- and moderate-income neighborhoods defined as underserved by lending institutions.

### The Home Mortgage Disclosure Act (HMDA)

The Home Mortgage Disclosure Act (HMDA) requires banks, savings and loan associations, and other financial institutions to publicly report detailed data on their home lending activity. Under HMDA, lenders are required to publicly disclose the number of loan applications by census tract, income, race, and gender of the borrower, the type of loan and the number and dollar amount of loans made. Starting in 1993, independent mortgage companies were also required to report HMDA data.

CRA creates an obligation for depository institutions to serve the entire community from which its deposits are garnered, including low- and moderate-income neighborhoods. HMDA creates a significant and publicly available tool by which mortgage lending activity in communities can be assessed. HMDA data can be analyzed to determine bank performance and borrower choices.

### **METHODOLOGY**

Fair Housing of Marin conducted the following activities in order to fulfill these guidelines and requirements:

- *Identification and review of current studies, articles and statistical materials.*
- *Collection and review of public documents to identify existing impediments, including an analysis of the 1994 AI conducted in Marin County, as well as a review of HUD's Final Investigative Report, Section 109, Title VI and Section 604 Compliance Review of Marin County's CDBG program in 2009.*
- *Research of available data sources to explore housing, demographic, and lending and economic patterns.*
- *The completion of a number of interviews of community members representing a variety of interests, including different ethnicities, races, incomes, goals, and perspectives.*
- *Analysis of information collected and compiled during literature and public document reviews, and research of available data sources including a history*

*of race, national origin, familial status, and disability discrimination, which includes complaints and audit testing within Marin County since the 1994 AI.*

- *Compilation of the Analysis of Impediments to Fair Housing Choice 2010, describing a variety of existing conditions and trends, and identifying impediments to fair housing choice with conclusions and recommendations.*

In order to place issues that significantly affect local fair housing choice in their proper context, the analysis looks not only at Marin County in isolation, but also within the context of both the North Bay and the San Francisco Bay Area generally. The conditions faced by the county do not exist in a demographic, social or economic vacuum. Rather, those conditions are strongly influenced by demographic, social and economic trends in the Bay Area and in the state as a whole.

This analysis examines not only data documenting the recent economic downturn, but also long-term change and trends beginning with the settling of Marin City during World War II and community resistance to land development beginning in the 1960s.

## **DEFINITIONS**

*Asian:* A person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, Philippine Islands, Thailand, and Vietnam. This group includes Asian Indian, Chinese, Filipino, Korean, Japanese, Vietnamese and Other Asian. For tabulations in this analysis, the Asian population for 2000 does not include the population reporting multiple races.<sup>7</sup>

*Black or African-American:* A person having origins in any of the black racial groups of Africa. This group includes people who indicate their race as Black, African-American or Negro, or provide written census questionnaire entries such as African American, Afro-American, Kenyan, Nigerian or Haitian. For tabulations in this analysis, the Black or African American population for 2000 does not include the population reporting multiple races.<sup>8</sup>

*Consolidated Metropolitan Statistical Area (CMSA):* The general concept of a metropolitan area is one of a large population nucleus, together with adjacent communities that have a high

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<sup>7</sup> See U.S. Census 2000.

<sup>8</sup> *Ibid.*

degree of economic and social integration with that nucleus. The CMSA consists of the nine counties that make up the Bay Area: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

*Family:* A family includes a householder and one or more other people living in the same household and related to the householder by birth, marriage or adoption. All household members related to the householder are regarded as members of his or her family. A family household may contain people not related to the householder, but those people are not included in census tabulations as part of the householder's family. Thus, the number of family households is equal to the number of families, but family households may include more members than do families. A household can contain only one family for purposes of census tabulations. Not all households contain families, since a household may be comprised of a group of unrelated people or of one person living alone.<sup>9</sup>

*Hispanic:* The terms Hispanic, Latino or Spanish are used interchangeably. Hispanics or Latinos who identify with the terms Hispanic, Latino or Spanish are those who classify themselves in one of the specific Hispanic or Latino categories listed on the US Census questionnaire. These terms include Mexican, Puerto Rican or Cuban, as well as those who indicate that they are "other" Spanish, Hispanic, or Latino. People who do not identify with one of the specific origins listed on the census questionnaire, but do indicate that they are Spanish, Hispanic, or Latino, are those whose origins are Spain, the Spanish speaking countries of Central or South America, the Dominican Republic or people identifying themselves generally as Spanish, Spanish-American, Hispanic, Hispano, and Latino. People who identify their origin as Spanish, Hispanic, or Latino may be of any race.<sup>10</sup>

*Household:* A household includes all people who occupy a housing unit. Occupants may be a single family, one person living alone, two or more families living together or any other group of related or unrelated people who share living quarters. A non-family household would include a person living alone and unrelated people who are making their home together in a single residence. People not living in households are classified as living in in-group quarters.

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<sup>9</sup> See U.S. Census 2000.

<sup>10</sup> *Ibid.*

*Householder:* In most cases, the householder is the person, or one of the people, in whose name the home is owned or rented. If there is no such person in the household, any adult household member 15 years old and over could be designated as the householder.<sup>11</sup>

*Housing Unit:* A housing unit is a house, apartment, mobile home, or group of rooms or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building. Separate living units have direct access from outside the building or through a common hall. Boats, recreational vehicles (RVs), vans, tents and the like are housing units only if they are occupied as someone's usual place of residence.<sup>12</sup>

*In-Group Quarters:* Census reports of persons who were classified as living "In-Group Quarters" were excluded from the analysis unless otherwise specified. This would include persons who resided in jails, mental health facilities, and homeless shelters at the time of Census 2000. This does not include group homes.

*Marin County:* Demographic analyses of Marin County that were derived from census data excluded data located in San Quentin, as that includes a large state prison with a population of over 5,000 inmates.

*Origination:* An approved and closed home mortgage loan application that creates an existing loan.

*Predatory Lending:* Lending with onerous terms, including such negative characteristics as extremely high interest rates, exorbitant penalties for early payoff, an array of overly high closing fees, and inflated appraisals to get a larger payout. While the interest rate may reflect the market, some market rate loans are considered predatory because of other onerous terms of the loan and/or because of deceptive broker/lender practices at the time of its origination. Such loans are often made without regard to the borrower's ability to repay the loan and sometimes falsify income information to qualify the borrower. In other circumstances, the borrower is misled by a lender or broker into accepting a loan with much less favorable terms than for which the borrower could otherwise qualify. In many cases the borrower is deceived regarding the actual terms and conditions of the loan or only informed regarding those terms and conditions just prior to closing, when it is too late to renegotiate home purchase and payoff commitments.

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<sup>11</sup> *Ibid.*

<sup>12</sup> *See* U.S. Census 2000.

*Subprime Lending:* Lending generally at a higher interest rate and with additional fees to individuals with blemished credit, inconsistent employment histories, jumbo loan amounts, and/or other negative factors. This is sometimes referred to as “risk based” lending. Information on subprime lending was based on the number of mortgage applications and originations through the Home Mortgage Disclosure Act (HMDA). Subprime loans are not necessarily predatory, although they may contain onerous terms. However, subprime lenders are sometimes closely associated with predatory lending practices.

*White, non-Hispanic:* A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. This group includes people who indicate their race as White or report entries such as Irish, German, Italian, Lebanese, Near Easterner, Arab, or Polish. For tabulations in this analysis, the Non-Hispanic White population for 2000 does not include the population reporting multiple races.<sup>13</sup>

#### **INDIVIDUAL INTERVIEWS<sup>14</sup>**

- Kimberly Carroll, Marin Housing Authority
- Dave Coury, Marin Continuum for Housing and Services
- Paul Cummins, Marin Housing Authority
- Jeffrey Dinh, Marin Housing Authority
- Ericka Erickson, Grassroots Leadership Network
- Eli Gelardin, Marin Center for Independent Living
- Kathleen Harris, Marin Community Foundation
- Makini Hassan, Marin City Community Development Corporation
- Robert Hickey, Marin Community Housing Action Initiative, Nonprofit Housing
- Leslie Klor, Marin Housing Authority
- David Levin, resident of Mill Valley
- Vinh Luu, Asian Advocacy Project
- Susan Malardino, Marin Center for Independent Living
- Richard Marcantonio, Public Advocates

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<sup>13</sup> See U.S. Census 2000.

<sup>14</sup> Conducted by phone, email, and in person.

- Carolyn Placente, Grassroots Leadership Network
- Sandy Ponek, Canal Alliance
- Jesse Sandoval, Marin Center for Independent Living
- Phil Shepard, Marin Center for Independent Living
- Kevin Stein, California Reinvestment Coalition
- Gayle Theard, Chair of Marin Tenants' Voice Council at Grassroots Leadership Network
- Leelee Thomas, Marin County Community Development Agency
- Sharon Turner, Marin City resident and Project Director, Marin Center Network
- Tom Wilson, Canal Alliance
- Kathleen Wyatt, Marin Housing Authority
- Megan Yip, Legal Aid of Marin
- Cecilia Zamora, Latina Council

### **TASKS SUBSEQUENT TO ADOPTION OF THE AI**

Fair housing planning does not end after the production of the AI, but is a continuous process undertaken by the jurisdiction using the information gathered in the AI. The Fair Housing Planning Guide suggests a process that includes:

- 1) Processing the information about housing choice barriers;
- 2) Setting goals;
- 3) Identifying an action plan; and
- 4) Measuring progress.

These factors provide great potential for community partners to work cooperatively to search for answers, measure progress, and engage community stakeholders as part of an ongoing effort to addressing fair and equitable housing.

### **ACKNOWLEDGEMENTS**

The writers of this AI are grateful to all the people interviewed during the process of gathering information for this Analysis, both for their time and willingness to share their views

on impediments to fair housing choice in Marin County.

We would like to thank Roy Bateman and Reid Thaler at the Marin County Community Development Agency for their time and support.

We would also like to thank Jeff Jackson and other HUD Region IX staff at the office of Fair Housing and Equal Opportunity, who shared useful documents about HUD's requirements for AIs, other notable AIs written in the last several years, useful articles on AIs and affirmatively furthering fair housing, as well as HUD's complaint data.

Finally, we would like to thank the volunteers who helped research background information and provided technical support in editing, and formatting: Tanya Grove, Miki Hidaka, Diane Moreno, and David Peattie.

### **LIMITATIONS OF THIS ANALYSIS**

The analysis of impediments to fair housing was written for the County of Marin for the purpose outlined in the Introduction. This AI therefore identified impediments and made recommendations based on information gathered from research and interviews with community members. This is not, however, a comprehensive planning document, nor does it offer legal advice. Some of the impediments identified and solutions offered require further study and research by the staff at the Marin County Community Development Agency. The writers assume that information supplied by County employees and other sources as contained in this AI is accurate.

For readers who may find this AI useful for their own purposes: please do not take conclusions or recommendations out of context. Most conclusions and recommendations stem from an earlier analysis or presentation of data that should be considered in its entirety; selective citation outside the context of the document as a whole could result in skewed or inaccurate representations.

## CHAPTER 2

### MARIN COUNTY REGIONAL HISTORY, DEMOGRAPHICS, INCOME, EDUCATION, AND HOUSING CHOICE<sup>1</sup>

This chapter provides background for an analysis of the effect of Marin County's demographics on housing choice for all state and federally protected classes. The demographic analysis considers the existing population, income, education, and housing stock as well as identified trends. To more effectively address impediments to fair housing choice, it is imperative to view Marin County in the context of its population and development history. Marin should also be viewed in context of the surrounding Bay Area counties, to distinguish impediments that may be within the control of Marin County from those that represent more regional impediments.

#### **Marin County Within its Metropolitan Statistical Area**

Marin County, located north of San Francisco, had a suburban population of 247,289, according to the 2000 Census, which increased 7.5 percent from 1990 and changed demographically. Marin County is one of nine counties comprising the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area ("CMSA"). The CMSA, with a population of 6.958 million (an increase from 6.784 million in 2000), is racially and ethnically diverse. According to American Community Survey estimates, in 2007 the population of the Bay Area was 58.1 percent White, 19.39 percent Latino, 19.01 percent Asian, and 7.53 percent Black.<sup>2</sup> The Bay Area is the sixth largest CMSA in the country with approximately 7.4 million people, encompassing the metropolitan areas of San Francisco and San Jose.<sup>3</sup>

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<sup>1</sup> Please see Appendix I for tables on census tract data by race and ethnicity, demographics of the ten most populated cities in Marin County, and public school standardized test scores in the Bay Area and Marin County schools.

<sup>2</sup> Census 2000 SF1& SF3. DP1-DP4 2006-2008 ACS 3-Year Estimates. Association of Bay Area Governments (ABAG) Website for Census Data for the Nine County Bay Area: Retrieved on 5/17/10 from <http://www.bayareacensus.ca.gov/counties/MarinCounty.htm>

<sup>3</sup> <http://www.census.gov/popest/metro/tables/2008/CBSA-EST2008-02.xls> accessed 4/19/10. San Francisco is the 13<sup>th</sup> largest metropolitan area in the country, while San Jose is the 31<sup>st</sup> largest.

Marin County is the only county in the Bay Area that actually experienced a decrease in its total population since the most recent census: from 247,289 in 2000, to 246,985 in 2008.<sup>4</sup> It should be noted, however, that the county grew in population by 0.08 percent from 2009 to 2010 and is now at 260,651, according to figures released by the California Department of Finance and reported in a recent article in the *Marin Independent Journal*.<sup>5</sup>

**North Bay:** The North Bay is the subregion of the Bay Area comprised of Marin, Napa, Solano and Sonoma counties, and is still largely agricultural in character compared to the rest of the Bay Area, with much undeveloped open space. The region's largest city, Santa Rosa (population 157,985), lies in the center of Sonoma County, which borders Marin County to the north. Wine industry has replaced some of the dairy industry in Sonoma and Napa counties, while Solano County has developed rapidly, particularly in Vacaville and Fairfield (both cities are within commuting distance to San Francisco and Sacramento). The North Bay is the only part of the larger Bay Area not served by a commuter rail service, possibly because of the lack of population mass and its physical isolation.<sup>6</sup>

**Marin County:** Marin County is bounded by the Pacific Ocean to the west, San Pablo Bay and San Francisco Bay to the east, and the city of San Francisco to the south, across the Golden Gate Bridge. The opening of the Golden Gate Bridge in the 1930s is considered to be the greatest factor in propelling Marin County from an agricultural and dairy region to the upscale suburban area it is today. Adjacent counties are Sonoma to the north and northeast, Contra Costa to the southeast, and San Francisco to the south. Traditionally, the County resisted urban sprawl and preserved open space, which has helped push housing prices higher since few subdivisions have been built in the area since 1930. The proposed Marincello development project in the 1960s would have built homes, apartments, and hotels in a planned community above the Marin Headlands, overlooking Golden Gate Bridge. Though the County Supervisors initially supported the project, it failed after becoming embroiled in a number of legal battles.<sup>7</sup> Its failure set a precedent for Marin County's strong anti-development and pro-open space

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<sup>4</sup> <http://www.bayareacensus.ca.gov/counties/MarinCounty.htm>, accessed 4/19/10.

<sup>5</sup> Prado, Mark, "Marin is Still Tops in Income," *Marin Independent Journal*, A1, 5/1/2010.

<sup>6</sup> Water divides the North Bay from the rest of the Bay Area, connected only by the Golden Gate Bridge, the Richmond-San Rafael Bridge, the Carquinez Bridge, and the Benicia-Martinez Bridge.

<sup>7</sup> *Glass v. Gulf Oil Corp.*, 12 Cal. App. 3d 412 (1970).

position. Eventually, the land was sold and turned over to the National Park Service, and it is now one of the most popular national parks in America.<sup>8</sup> Today, based on the amount of land that is held in agriculture, parkland, open space (public and private), watershed, and tidelands, the Marin County Community Development Agency has ascertained that only 16 percent of the total county is suitable for development – 11 percent has already been developed, and only five percent remains available for development.<sup>9</sup>

## **Demographics and Income Patterns of Nine Bay Area Counties**

The demographics in Marin are far more similar to Napa and Sonoma counties than the other Bay Area counties. Though neighboring Sonoma County has about twice the population of Marin County, it has only approximately 63 percent of the density of Marin County (Marin and Sonoma counties have 454 and 286 persons per square mile, respectively). According to the Census 2000, there were 458,614 residents in Sonoma County, compared to 247,289 in Marin County.<sup>10</sup> The population of Sonoma County is 17 percent Latino, 1.4 percent Black, and 3.1 percent Asian. Marin County is 11 percent Latino, 2.9 percent Black, and 4.5 percent Asian. Further up the North Bay, Napa County has 124,279 residents, which is only 166 persons per square mile—about one-third the density of Marin County—with a population that is 24 percent Latino, 1.3 percent Black, and 3 percent Asian.

Yet just over the Golden Gate Bridge in urban San Francisco, the demographics change dramatically. San Francisco has a population of 776,733, a density of 15,744 people per square mile (over three times that of Marin County), which is comprised of 8 percent Blacks, 31 percent Asians, and 14 percent Latinos. It is interesting to note that the Black population in these counties increases with the density of the population, while the inverse is the case with the Latino population.

The table below shows race and ethnicity in the nine Bay Area counties for White, Black, Asian, and Latino populations as estimated in American Factfinder 2006-08, as well as land mass

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<sup>8</sup> <http://fogbayblog.blogspot.com/2005/10/256-marincello-marin-county.html>, accessed 5/3/10.

<sup>9</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 45, § 91.210(a).

<sup>10</sup> Census 2000 SF1& SF3. DP1-DP4; Association of Bay Area Governments (ABAG) Website For Census Data For The Nine County Bay Area, retrieved on 4/10/06 from <http://www.bayareacensus.ca.gov/counties/>.

and persons per square mile. In percentage of overall population, Marin County has the largest White population of the nine counties, the sixth largest Black population, the eighth largest Asian population (just above neighboring Sonoma County), and the lowest Latino population. When compared with data from the 2000 Census for trends, San Francisco, San Mateo, and Santa Clara are the only counties where the White population has increased; Marin and Napa are the only counties where the Black population has increased. The Black population in Sonoma County has not changed (it should be noted that these three counties have the lowest percentages of Blacks in the Bay Area). Contra Costa is the only county where the Asian population has decreased, while Sonoma County's Asian population has stayed the same. San Francisco is the only county in which the Latino population decreased. San Francisco and Marin are the only two counties where the Latino population has remained under 20 percent.

### Bay Area County Demographics<sup>11</sup>

	Alameda	Contra Costa	Marin	Napa	San Francisco	San Mateo	Santa Clara	Solano	Sonoma
Total Population	1,457,169	1,016,696	246,985	132,207	798,176	703,730	1,734,756	407,214	462,326
White	47.3%	61.7%	81%	81.8%	54.5%	61.3%	52.2%	52.1%	80.5%
Black	12.9%	9.2%	3.2%	1.9%	6.5%	3.1%	2.6%	14.8%	1.4%
Asian	24.6%	13.4%	5.6%	6.0%	31.3%	23.7%	30.3%	13.9%	3.9%
Latino	21.4%	22.4%	13.6%	29.2%	14.0%	23.1%	25.6%	22.2%	22.6%

<sup>11</sup> U.S. Census: [2006-2008 American Community Survey 3-Year Estimates](http://www.census.gov/hhes/ah/c2k8br01-03/tables/m2008br01-03.pdf), TM-M2. Persons per Square Mile: 2008, retrieved 5/3/10; Source of Land Mass data: <http://quickfacts.census.gov/> U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, Census of Population and Housing, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report, Last Revised: Thursday, 22-Apr-2010 08:34:27 EDT, retrieved 5/3/10.

	Alameda	Contra Costa	Marin	Napa	San Francisco	San Mateo	Santa Clara	Solano	Sonoma
*Land Mass (sq. miles)	738	720	520	754	47	449	1,291	829	1,576
Persons per sq. mile	1,997	1455	482	178	17,395	1604	1368	496	300

**Note: Demographic Information** does not include information for American Indians/Alaska Natives nor Native Hawaiian/Other Pacific Islander because they represent less than 1% in every city and town throughout the county.

The table below shows the median yearly household incomes of different races and ethnicities in the Bay Area. In Marin, Asians have the highest median household income, followed by Whites, and then Latinos, while the Black population has the lowest median household income.

### Comparative Bay Area County Median Yearly Household Income<sup>12</sup>

Median Yearly Household Income in:	Alameda	Contra Costa	Marin	Napa	San Francisco	San Mateo	Santa Clara	Solano	Sonoma
White	\$78,441	\$84,750	\$90,504	\$66,298	\$85,871	\$85,287	\$86,922	\$72,085	\$65,278
Black	\$38,864	\$48,413	\$38,770	\$94,175	\$27,754	\$54,065	\$56,725	\$53,711	\$57,215
Asian	\$85,063	\$90,303	\$96,281	\$102,545	\$57,341	\$98,268	\$103,243	\$82,626	\$74,115
Latino	\$55,420	\$59,423	\$49,195	\$52,039	\$54,315	\$58,445	\$58,878	\$57,833	\$50,179

### Demographics of the Ten Most Populated Cities and Towns in Marin County

Listed in the table below are the demographics of the ten most populated cities/towns in Marin County, all within five miles of the 101 Corridor, in descending order of population. Information on American Indians/Alaska Natives and Native Hawaiian/Other Pacific Islander is not broken out separately because these populations represent less than one percent in every city,

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<sup>12</sup>U.S. Census-- S1903. Median Income in the Past 12 Months (In 2008 Inflation-Adjusted Dollars) 2006-2008 American Community Survey 3-Year Estimates, retrieved 5/3/10, <http://factfinder.census.gov>.

and throughout the county as a whole. All the cities below are incorporated except Kentfield.<sup>13</sup> It is interesting to note that the two most populated jurisdictions, San Rafael and Novato, also have the largest percentages of non-White populations – Blacks, Asians, Latinos, and Others (which includes “some other race” and “two or more races”). San Rafael has a significantly larger Latino population than any other city in Marin.

**Population in Jurisdictions by Race and Ethnicity<sup>14</sup>**

	<b>Population</b>	<b>% White</b>	<b>% Black</b>	<b>% Asian</b>	<b>% Other*</b>	<b>% Latino</b>
San Rafael	56,063	75.8%	2.2%	5.6%	16.5%	23.3%
Novato	47,630	82.8%	2.0%	5.2%	13.1%	10%
Mill Valley	13,600	91.4%	1.0%	4.1%	3.5%	3.5%
San Anselmo	12,378	91.6%	1.1%	2.9%	4.4%	4.1%
Larkspur	12,014	91.3%	0.8%	3.9%	4.0%	4.3%
Corte Madera	9,100	87.7%	0.9%	6.1%	5.4%	4.8%
Tiburon	8,666	90.9%	0.9%	4.4%	3.8%	3.7%
Sausalito	7,330	91.7%	0.7%	4.3%	3.5%	3.3%
Fairfax	7,319	91.4%	1.2%	2.0%	5.5%	5.7%
Kentfield	6,351	94.5%	0.3%	2.1%	3.0%	2.2%
<b>Marin County</b>	247,289	84%	2.9%	4.5%	8.6%	11.1%

\*%Other = %One Race of American Indian and Alaska Native + %Native Hawaiian and Other Pacific Islander + %Some other race + %Two or More Races

<sup>13</sup> The only other incorporated jurisdictions not included in this chart are Belvedere and Ross, with populations of 2,125 and 2,329. Both jurisdictions have White populations exceeding 96%, with Asian populations less than 2%, and Latino populations just over 2%. All other races combined are 1.2% and 2.5%, respectively.

<sup>14</sup> <http://factfinder.census.gov/> U.S. Census-- 2000 Demographic Profile Highlights, retrieved 5/3/10.

## Demographic Patterns and Changes in Marin

Immigrants are the fastest growing population subset in Marin County. According to 2000 Census data, Latinos made up 11 percent of Marin’s population; people of color totaled 16 percent. By 2008, the American Community Survey estimated the Latino population of Marin had grown to 13.6 percent.<sup>15</sup> From 1990 to 2000, Caucasians in Marin decreased from 88.7 percent to 84 percent, further dropping in 2008 to an estimated 81 percent. The Black population grew by 2.1 percent between 1990 and 2000, then by an additional estimated 10 percent by 2008; Asian/Pacific Islanders grew by 22 percent in the 1990s and then again by 24 percent by 2008 estimates; and percentage of Latinos in the overall population grew by 60 percent in the 1990s, then again by 23 percent by 2008 estimates. In 2000, about 20 percent of Marin County’s population spoke a language other than English at home, compared to 23 percent in the 2006-2008 estimates. Cecilia Zamora, the Executive Director of the Latino Council of Marin, predicts that in the next 10 years, more people will identify as multi-racial, so race and ethnicity of the population will be mixed, and therefore fewer people will identify specifically as Latinos. This will skew demographic numbers, and according Ms. Zamora, it will be difficult to know how to adapt policy to address this.<sup>16</sup>

Marin City, downtown San Rafael, and the Canal Area of San Rafael (“the Canal”) all have low-income concentrations. Of these three areas, two are home to a high percentage of minority groups. In Marin City and the Canal, the census tracts are comprised of a much higher percentage of minorities than the rest of the county (over 50 percent). These are the only two ethnically and/or racially diverse census tracts in the entire county.

### The Canal Area of San Rafael

Development in the Canal area of San Rafael is split fairly evenly between residential and commercial/industrial land use. A significant portion of the lower cost rental housing<sup>17</sup> in Marin County is located in the Canal. The new immigrant population is centered mostly in the Canal area (located within census tract 1122). While the majority of Marin County is mostly

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<sup>15</sup> [www.census.gov](http://www.census.gov), accessed 5/5/10.

<sup>16</sup> Interview with Cecilia Zamora, Executive Director of Latino Council, 3/31/10.

<sup>17</sup> These are mostly non-subsidized units, but many with Section 8 tenant-based rental assistance.

Caucasian, the largest city of Marin, San Rafael, is 23 percent Latino according to the 2000 Census. The Canal area houses 12,000 residents, 70 percent of whom are of Latino origin, within two square miles. In fact, almost half of the Latinos in Marin County live in the Canal area.<sup>18</sup> Some community advocates assert that this population is significantly undercounted by the U.S. Census due to the high percentage of immigrants, and believe that the 6.6 percent of the countywide population listed as below the poverty line is both under-reported and heavily concentrated in the Canal. According to a study conducted by the Marin Community Foundation, 57 percent of the Canal’s population speaks no English at home. Of this population, 41 percent speak Spanish, nine percent speak Asian/Pacific Island languages and seven percent speak other languages. The Canal area provides housing for workers who hold low-income jobs; many day laborers looking for work gather along Bellam Avenue, just off the 101/580 interchange, throughout the week. Many households reside in apartment units, rather than single-family homes. According to the Marin County Consolidated Plan for 2010-14, because the Canal area has rental units that are moderately priced, it “has a very high degree of overcrowding (defined as over one person per room),” and that during the past ten years, “overcrowding in the Canal has increased dramatically as rental prices have skyrocketed.”<sup>19</sup> There are several possible reasons for overcrowding: two or more families share units, larger families with many members cannot afford larger units, or many single individuals share a unit, but there is clearly “some link between rent burden and overcrowding, since some families double-up in an apartment in order to save rent.”<sup>20</sup>

### Marin City

This unincorporated community (census tract 1290), located 1.5 miles northwest of scenic downtown Sausalito, began as an integrated community but has become a predominantly Black community. In 1942, Marin City was developed for housing for wartime shipyard workers and other recent immigrants and arrivals from other states who moved to California for work.

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<sup>18</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 59.

<sup>19</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 31, §. 91.205(b)(1)

<sup>20</sup> *Ibid.*

Following World War II, Marin City's population became mostly Black, as Whites moved to private housing in other parts of Marin County while Blacks stayed either by choice or because many were barred from living or buying homes in other nearby towns due to racial prejudice. Though only ten percent of Marin City residents at that time were Black, by the 1970s, Blacks comprised over 75 percent of the population.<sup>21</sup> According to HUD's 2009 Final Investigative Report for Marin County's Compliance Review, "Of the county's population of 7,142 Blacks, 16 percent of those live in ... Marin City ... where Blacks make up 1,150 or 46 percent of the total residents."<sup>22</sup> There are small but increasing Asian and Latino populations in this Census tract. From the 1960s to the 1990s there was significant development in both the residential and commercial arenas, with new housing developments (including below market rate, or BMR, units), apartment complexes, public housing<sup>23</sup>, and condo developments, and the Gateway Shopping Center. Various forms of HUD-subsidized housing are located in Marin City, including the Marin Housing Authority's largest low-income public housing development, Golden Gate Village, which has become run-down in recent years. According to long-time Marin City resident Sharon Turner, many Black residents feel a sense of community in Marin City, and though some move to other cities in Marin County, many move back because they do not feel comfortable elsewhere.<sup>24</sup> A local real estate agent recently spoke with a Black retired postal carrier who bought a home in Vallejo for his daughter who said she did not want to live in Marin County because it is "too white." This same agent, formerly with Northbay Community Homes, noted that while new condos were built in Marin City, many people of color did not have the financial literacy necessary to become qualified to live there.<sup>25</sup>

While the rest of Marin is upper- or middle-income, Marin City and the Canal are moderate-income communities, where the median family income (MFI) is between 50 – 80 percent of the regional MFI. All other Marin communities are upper or middle-income where the MFI is 80 – 120 percent of the regional MFI. A comparison of Marin City and the Canal

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<sup>21</sup> [Marin City looks to better days](http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/15/BU2H16DH7A.DTL), by Dana Perrigan, *San Francisco Chronicle*, March 15, 2009, access date 5-03-2010, <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/15/BU2H16DH7A.DTL>

<sup>22</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 58.

<sup>23</sup> The only public housing for families was built in Marin City in 1960.

<sup>24</sup> Interview with Sharon Turner, 3/24/10.

<sup>25</sup> Interview with Laura Levine, 4/23/10.

area to the rest of the county can be seen in the chart below – *only* these two areas have a median household income below \$60,000. Yet while the median gross rent for both areas is in the bottom third of the cities and towns, other areas of the county have even lower median gross rents. Although there may be several explanations for this, the only rents under \$1,350 other than Marin City are all in small towns in western Marin (Inverness, Pt. Reyes, San Geronimo, and Tomales), considerably farther from the 101 corridor. While the estimated median house/condo value for Marin City is not available, it is striking that the poorest neighborhood in Marin County – and one of only two minority census tracts in the county – sits in southern Marin, in which every jurisdiction (Belvedere, Corte Madera, Larkspur, Mill Valley, Sausalito, and Tiburon) has an estimated median house/condo value of over \$1,000,000, with correspondingly high median household incomes.<sup>26</sup>

### **Median Household Income, Gross Rent, and Housing Value by Jurisdiction<sup>27</sup>**

<u>CITY/TOWN</u>	<u>MEDIAN HOUSEHOLD INCOME</u>	<u>MEDIAN GROSS RENT</u>	<u>ESTIMATED MEDIAN HOUSE/CONDO VALUE</u>
Belvedere	\$168,722	\$2694	\$1,870,263
Bolinas	\$68,610	\$1691	\$859,759
Canal Waterfront (San Rafael)	\$59,054	\$1455	Not avail.
Corte Madera	\$102,989	\$1814	\$1,026,744
Fairfax	\$75,418	\$1492	\$781,769
Forest Knolls, Lagunitas	\$84,303,	\$1580	\$941,627
Greenbrae Marina	\$107,586	\$2234	Not avail.
Bon Air Hill (Greenbrae)	\$73,724	\$1780	Not avail.
Greenbrae Boardwalk (Arksville)	\$76,274	\$1957	Not avail.

<sup>26</sup> According to the March 15, 2009 San Francisco Chronicle article, “Where We Live: Marin City looks to better days”, by Dana Perrigan, a realtor interviewed with Frank Howard Allen said recent sales in Marin City included a one-bedroom one-bath condo for \$165,000 and a 1250 square-foot three-bedroom, two-bath single-family home for \$490,000.

<sup>27</sup> <http://www.citydata.com/city>, retrieved 4/30/10.

Inverness	\$61,273	\$1344	\$911,378
Kentfield	\$151,515	\$1617	\$1,679,308
Larkspur	\$86,053	\$1779	\$1,100,836
Marin City	\$52,717	\$1319	Not avail.
Mill Valley	\$117,121	\$1660	\$1,345,653
Muir Beach	\$161,764	\$2694	\$1,563,352
Nicasio	\$97,897	Not avail.	\$1,871,052
Novato	\$81,852	\$1543	\$682,271
Olema	\$103,601	Not avail.	\$1,257,148
Pt. Reyes Station	\$73,904	\$1222	\$885,569
Ross	\$131,595	\$2694	>\$1,870,263
San Anselmo	\$92,217	\$1446	\$943,921
San Geronimo	\$75,517	\$1084	\$787,754
San Rafael	\$78,680	\$1400	\$854,710
Sausalito	\$112,832	\$2235	\$1,235,308
Stinson Beach	\$113,103	\$1643	\$1,64,509
Tiburon	\$137,524	\$2096	\$1,870,263
Tomales	\$67,017	\$1085	\$609,705
Woodacre	\$81,161	\$1626	\$802,155
<b>Marin County</b>	<b>\$91,982</b>	<b>\$1515</b>	<b>\$922,600</b>
<b>CALIFORNIA</b>	<b>\$61,021</b>	<b>\$1035</b>	<b>\$467,000</b>

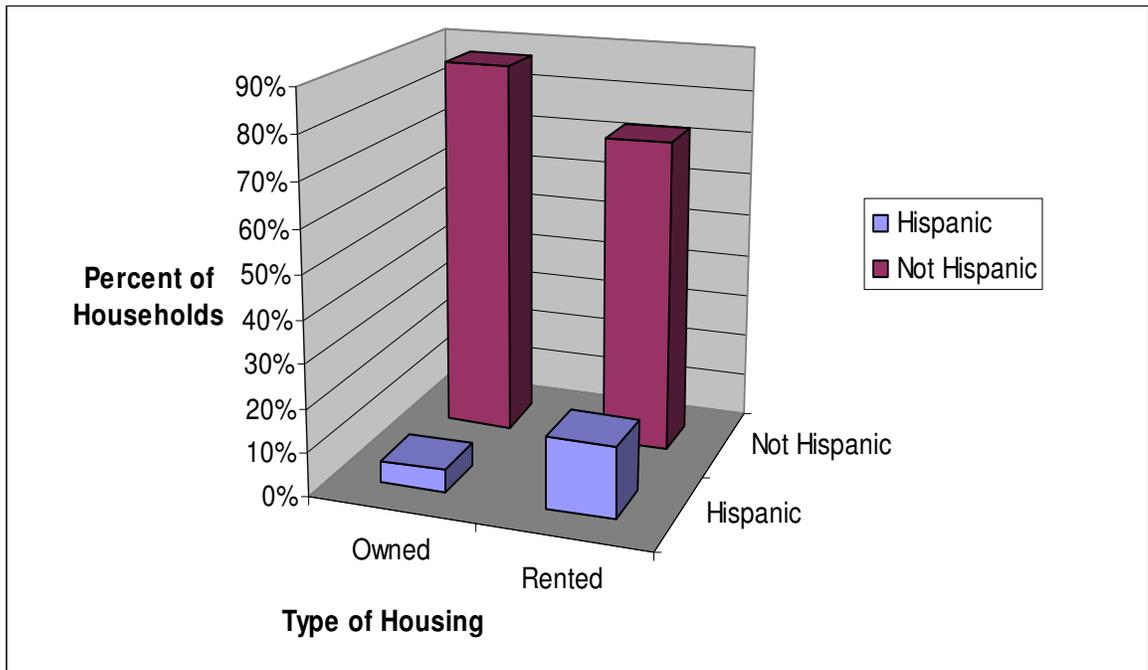
### **Demographics of Renter-Occupied and Owner-Occupied Housing in Marin**

The 2006-2008 American Community Survey estimates that there are 108,313 total housing units in Marin. Of those 108,313 units, 35,621 (32.9%) are renter-occupied, 64,825 (59.8%) are owner-occupied and the final 7,867 (7.3%) are vacant. There are 64,018 owner-occupied houses and condos, while there are 36,632 renter-occupied apartments. Renters

comprise 36 percent, compared to 42 percent statewide and 33 percent nation-wide.<sup>28</sup> However, in the ten most populated cities identified above, there is a great deal of variability in the type of housing stock. Fairfax, Mill Valley, San Anselmo, and Novato have a roughly similar split as Marin County overall; Sausalito, San Rafael, and Larkspur are almost evenly split between owner-occupied and renter-occupied units; and Corte Madera, Tiburon and Kentfield have 70 – 80 percent owner-occupied units.

Type of Housing	Number of Units in Marin	Percentage of Housing Units in Marin
Total Housing Units	108,313	100.00%
Renter-Occupied	35,621	32.9%
Owner-Occupied	64,825	59.8%
Vacant Housing Units	7,867	7.3%

The chart below compares ownership versus rental statistics for Hispanic and non-Hispanic households in the county.



<sup>28</sup> <http://factfinder.census.gov>, 4/17/2010.

According to the 2000 Census, 93.4 percent of owner-occupied units are owned by Whites, 0.8 percent by Blacks, 3.5 percent by Asians, and 2.4 percent “other”<sup>29</sup>; Latinos own 2.8 percent. According to the U.S. Census Bureau’s 2006-2008 American Community Survey, 44.1 percent of Marin County homeowners paid more than one-third of their household income towards owner costs (on housing units with a mortgage). HUD stated in its 2009 Final Investigative Report for Marin County’s Compliance Review that “while even the median-income non-Latino White families living in Marin could not qualify for the mortgage of a median-priced house there, the income/homeownership gap is much further still for Black and Latino families living in Marin, or living in adjacent counties.”<sup>30</sup> Furthermore, the Marin County Consolidated Plan states, “There is a greater need for rental housing since once overly generous bank lending policies, which allowed many to purchase homes which they may not have been able to afford if prudent lending standards had been applied, have reverted to more conventional qualifications standards.”<sup>31</sup>

Of renter-occupied units, 82.7 percent are occupied by Whites, 3 percent Blacks, 4.5 percent Asians, 9.9 percent “other”, and 12.2 percent Latinos. The greatest difference to be noted here between the two groups (renter- and owner-occupied) is among Latinos, who have far greater representation in renter-occupied units.<sup>32</sup> In fact, all people of color are underrepresented in the owner-occupied group. The cities of San Rafael and Novato have a greater proportion of renter-occupied units among Black, Asian, “other” and Latino populations. In fact, the Marin County Consolidated Plan 2010-14 stated “Anecdotal reports and 2000 Census data indicated that lower income Latino and Asian residents, particularly recent immigrants, live primarily in San Rafael and Novato. They experience a severe rent burden, and often live in overcrowded conditions to support the rent.”<sup>33</sup>

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<sup>29</sup> Native Hawaiian/Pacific Islander, American Indian/Alaska Native, other race and two or more races.

<sup>30</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 60.

<sup>31</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 15, § 91.205(b)(1).

<sup>32</sup> While the percentages for Latino owner occupancy may have risen during the last decade with the dramatic increase of subprime loans, it is just as likely those percentages dropped again with the following wave of foreclosures – see “Home Purchase, Lending and Foreclosure,” *supra*.

<sup>33</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 26, § 91.205(b)(1).

According to HUD’s 2010 Fair Market Rent values for the Bay Area (see chart below), the San Francisco HUD Metro Fair Market Rent Area (HMFA) – which includes Marin County – is the most expensive. In 1999, 34.7 percent of Marin County residents paid 35% or more of their household income towards gross rent.<sup>34</sup> According to the U.S. Census Bureau’s 2006-2008 American Community Survey, that number jumped to 46.6 percent. This therefore has the greatest impact on Latino renters as they are not only disproportionately represented in renter-occupied units, but also because many of them are low-income. In its Final Investigative Report for Marin County’s Compliance Review, HUD calculated that:

*Far fewer than half of all Black families living in Marin or adjacent counties would qualify for an “average” market-rate rental rate for a 2BR apartment. And, only about half of Latino families living in Marin or any of the adjacent counties would qualify for a market-rate rent in a 2BR apartment. Finally, more than half of Asian families living in adjacent San Francisco county would qualify for the rent of an average 2BR apartment in Marin, though more Asians living in other counties would qualify.*<sup>35</sup>

### Fair Market Rents by County<sup>36</sup>

Metropolitan FMR Areas	0 BR	1BR	2BR	3BR	4 BR	Counties of FMR Area within State
Napa, CA MSA	927	1040	1350	1867	2121	Napa
Oakland-Fremont, CA HMFA	963	1162	1377	1867	2312	Alameda, Contra Costa
San Francisco, CA HMFA	1144	1406	1760	2350	2483	Marin, San Francisco, San Mateo

<sup>34</sup> 2000 Census, DP-4, Profile of Selected Housing Characteristics, File SF3.

<sup>35</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 60.

<sup>36</sup> Fair Market Rents, FMRs 2010, HUD, Office of Policy Development and Research, 2006, <http://www.huduser.org/portal/datasets/fmr.html>

Metropolitan FMR Areas	0 BR	1BR	2BR	3BR	4 BR	Counties of FMR Area within State
San Jose-Sunnyvale-Santa Clara, CA HMFHA	1032	1196	1438	2068	2276	Santa Clara
Santa Rosa-Petaluma, CA MSA	850	1034	1306	1853	2167	Sonoma
Vallejo-Fairfield, CA MSA	980	1055	1210	1696	2090	Solano

The size of rental units and owner occupied units also impact protected classes. According to the 2000 Census, 15,325 out of 64,018 owner occupied units, or 23%, are 2 bedrooms or smaller. However, 29,947 out of 36,632 rental units (82%) are 2 bedrooms or smaller. Only 6.6 percent of the entire housing market is comprised of rental units larger than two bedrooms, limiting the amount of housing available to larger renting households, including those with families with children, multi-generational families, and households where multiple income-earning adults live together to pool resources. Latino households tend to be larger than non-Latino households, potentially due to economics, culture, or other factors, and are therefore also impacted. This mirrors the information supplied in the State of California’s “Raising the Roof”, which stated “While overcrowding increased for both owners and renters during the 1980s, renters were much more likely to live in overcrowded housing than owners. Overcrowding is particularly exacerbated where there is a mismatch between the number of large family households and the number of available family-sized housing units.”<sup>37</sup>

According to 2000 Census data, 8.5 percent of Marin County households have female heads of household: 5,115 families with a female head of household and at least one child under 18 years of age. The income differential between married-couple families and single-parent families was striking. Female heads of households are at the greatest disadvantage, with a mean

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<sup>37</sup> *Raising the Roof, California Housing Development Projections and Constraints, 1997-2020*, State of California Dep’t of Hous and Community Dev’t, pg. 163 (2000).

household income of \$36,740 in 1999 compared to a married-couple families' income of \$108,095. The barriers to housing choice in both owner-occupied and rental housing for female single heads of household are obvious.

### **Development of New Housing and Impact on Protected Classes**

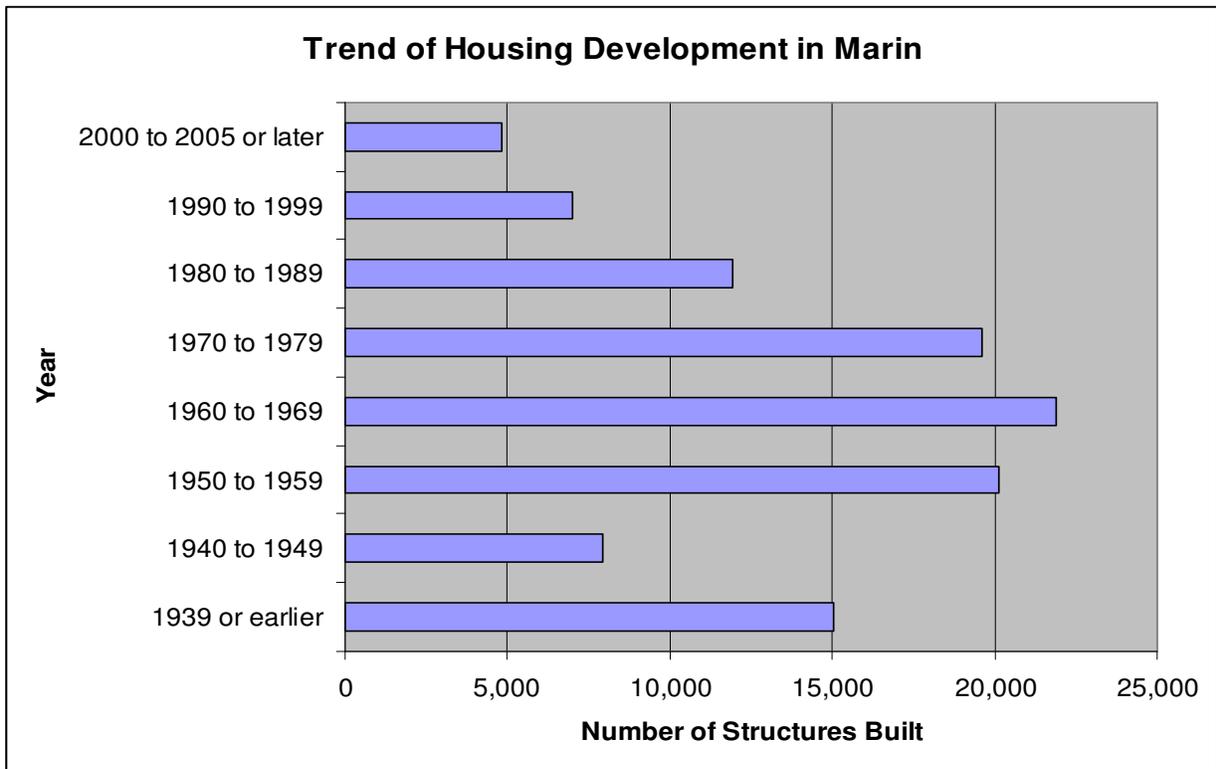
As identified in Marin County's 2010-2014 Consolidated Plan, "Marin County is an extremely high-cost housing market, and there continues to be a serious shortage of affordable housing in Marin County for low-income workers, people with disabilities, and seniors...

Because Marin County is an extremely high-cost housing market, with a very high cost of land, and where most vacant developable parcels have significant site engineering issues, we expect that the per-unit costs of rental housing development will continue to be extremely high."<sup>38</sup>

Once the Golden Gate Bridge was completed in 1937, residential development boomed in Marin County. As charted in the graph below, new construction peaked in the 1960s, but began to slow after 1980 with the emergence of strong anti-development and pro-open space groups in Marin County, and slowed further in the 1990s.

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<sup>38</sup> County of Marin Consolidated Plan for FY 2010-2014, Executive Summary.



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Two protected groups are impacted by the lack of new construction and the aging of existing housing stock. As identified in HUD’s Final Investigative Report for Marin County’s Compliance Review:

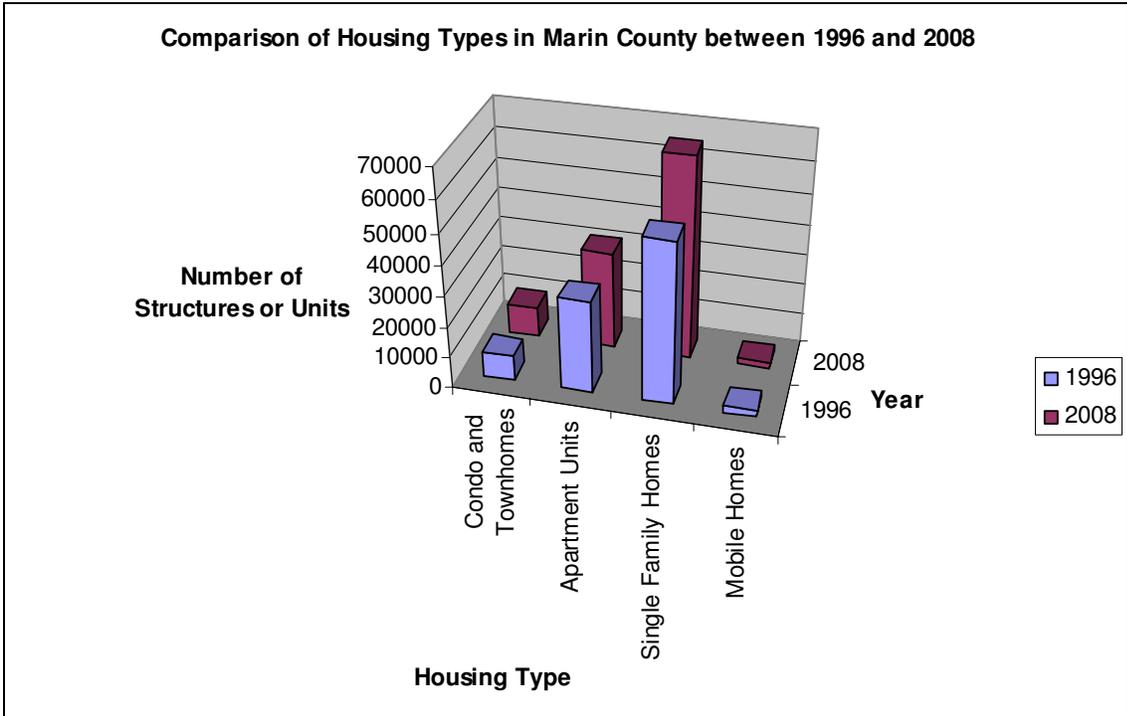
*Lack of new housing development/non-creation of new units with accessible features of design: With the county’s historic opposition to new housing development, few new multifamily housing units that would incorporate the FHA’s new construction design accessibility requirements (4/more units) are being constructed, making it difficult for people with mobility impairments to find suitable housing in Marin.*<sup>40</sup>

The following chart data on the availability of different types of housing within Marin County.<sup>41</sup>

<sup>39</sup> Selected Housing Characteristics: 2006-2008, Data Set: 2006-2008 American Community Survey 3-Year Estimates, Survey: American Community Survey, <http://factfinder.census.gov>.

<sup>40</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 69.

<sup>41</sup> Interview with Kristin Drumm, County of Marin Planning Department.



	Condo and Townhomes	Apartment Units	Single Family Homes	Mobile Homes	Total Single Family Structures	Total
1996	8262	30258	52686	2065	54751	148022
2008	9791	31990	65793	2131	67924	109705

Increase in single family structures between 1996 and 2008 = 13173

In addition to barriers for people with disabilities, families with children are also negatively affected because aging housing stock is unsuitable:

*The majority of Marin's housing stock ... constructed in the 1960s and 1970s...is mostly wood frame, and there are minimal sound/noise isolation measures in the units. Families with minor children encounter many obstacles in finding suitable rental units, including lack of units with more than two bedrooms such as would be needed by larger families,*

*lack of affordability. But a particular problem results when families secure housing in these modestly-constructed buildings, and then find that neighbors begin to complain about noise problems from the children's presence in the units. This can result in threats or actual evictions, with disproportionate impact on families with minor children.*<sup>42</sup>

As noted in the above section “Demographics of Renter-Occupied and Owner-Occupied Housing in Marin,” there are more one- and two-bedroom rentals available in Marin than three-bedrooms, creating further barriers to housing choice, particularly for larger families.

### **Demographics of Income and Employment in Relation to Housing**

According to the Census, Marin County had the highest per capita income of any county in the United States as of 2000. According to Forbes.com, its median income in 2009 was the 18<sup>th</sup> highest in the country.<sup>43</sup> And yet, though Marin County is so affluent, “[m]any of the jobs in Marin today are low-paying service jobs,... 64% percent [sic] of Section 8 rental assistance recipients work, but they are unable to afford rents in the county. Even most middle-income families are not able to afford to buy housing in the county at today’s prices. Persons working locally tend to commute from less expensive outlying areas.”<sup>44</sup>

The Marin County Consolidated Plan of 2010-14 states:

*[R]esidents of Marin who are white typically earn higher wages than persons of African American, Latino, Native American, and Asian heritage. While the median income for Asian families is high..., anecdotal evidence suggests that the county has a significant population of lower income Southeast Asian families (estimated at 3,500), suggesting that Asians may have a wider income distribution than whites, although both whites and Asians have about the same median income... While a majority of Marin’s housing stock is in ownership housing and the majority of Marin’s residents are white, persons of black or Latino heritage are disproportionately represented in rental housing. Blacks are also disproportionately represented as renters of lower cost units, units which cost less than the median gross rent, and in public housing complexes in Marin City. Based on anecdotal evidence, it appears that many Latino families are able to afford market rents because they live in overcrowded conditions, sometimes with two or more families sharing an apartment.*<sup>45</sup>

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<sup>42</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg.69.

<sup>43</sup> [America's 25 Richest Counties](http://www.forbes.com), <http://www.forbes.com>.

<sup>44</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 46, § 91.210(a).

<sup>45</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 130, § 91.205(b)(2).

HUD's 2009 Final Investigative Report of its compliance review for Marin County also noted that the "racial/ethnic characteristics of owner-occupied housing, as is true for characteristics of the general population, reflect notably lower representations of racial/ethnic minorities."<sup>46</sup>

The FIR also identifies that:

*Blacks and Latinos living in Marin County have much lower median household incomes, and are much likelier to be living below the poverty level than other groups, particularly non-Latino Whites. The median household income of Blacks (\$37,314) is only 49% of the median income of non-Latino Whites (\$75,341); the median household income of Latinos (\$50,221) is better than for Blacks, but still only 67% then that of non-Latino Whites (supra). Blacks (12.21%) and Latinos (14.55%) are both over three times as likely to be living with incomes below the poverty level as non-Latino Whites (4.72%) are in Marin County... Asian median household income is more comparable to that of White/non-Latino families, and thus their ability to achieve market-rate housing in Marin is better than that of Blacks or Latinos. The median household income of Asians who are already living in Marin is only slightly lower than that of non-Latino Whites. Asians living in adjacent counties of San Francisco and Alameda do, however, have substantially lower median household incomes than that of non-Latino Whites. Also, the percentage of Asian families living below the poverty level in Marin (8.69%), while lower than the poverty rate for Blacks or Latinos, is still nearly double the rate of non-Latino Whites.*<sup>47</sup>

The FIR concludes that:

*As demonstrated above, Blacks and Latinos living in Marin and adjacent counties have median family incomes significantly lower than those of White/non-Latino families or the general population... The lower median household incomes of Black and Latino families living in Marin and adjacent counties make them largely unable to achieve homeownership, or even rental housing, at prevailing market rates in Marin. Fewer than half of all Black or Latino families living in Marin or adjacent Bay Area counties have household incomes that would qualify them to purchase a single family home in Marin, or even to rent an average 2BR apartment in that county.*<sup>48</sup>

## **Public Schools and Housing in Marin County**

Much of Marin County, particularly southern Marin, is known for its excellent public school systems, particularly as there is strong private financial backing to maintain the schools in

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<sup>46</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 8.

<sup>47</sup> *Ibid.* at pg. 59.

<sup>48</sup> *Ibid.* at pg. 62.

certain districts.<sup>49</sup> As a result of spiraling costs of private tuition, many families would rather pay a higher premium in real estate to live in a district with distinguished public schools, knowing that the resale value is more likely to be recession-proof. This is known as a “school district premium,” where a buyer is likely to pay a premium of 10 percent to 25 percent in overall sale or rental price for a home in an area that is known for excellence in public schools.<sup>50</sup> A growing body of literature shows a measurable relationship between public school characteristics and private home sales prices. Such findings, as one American Journal article pointed out, serve “as evidence of yet another form of unjust privilege as access to more desirable public schools is viewed more like a commodity—rather than a democratic right—to be readily bought and sold within the private housing market.”<sup>51</sup> One study in Washington D.C. monitored the online search behaviors of a public school choice informational web site, and found that not only did parents frequently access the demographics of the student body, they tended to focus on schools with fewer Black students.<sup>52</sup>

Interesting trends emerge when comparing Marin County public schools with other public schools in the Bay Area. Data for standardized STAR test results for students who scored at proficient and advanced in all grades by economic status and ethnicity by county in 2009 illustrates one such trend.<sup>53</sup> While Marin’s “not economically disadvantaged” (NED) groups

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<sup>49</sup> For example, Kiddo! is the Mill Valley Schools Community Foundation backed by local businesses, parents, and other community members to provide programs in art, music, dance, poetry, drama, and technology in the Mill Valley school district.

<sup>50</sup> “Bay real estate: Parents pay plenty to get kids into better schools”, San Francisco Chronicle, March 28, 2010, <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2010/03/28/RE2S1CLC0B.DTL>, accessed 5/17/10.

<sup>51</sup> “School Choice in Suburbia: Test Scores, Race, and Housing Markets”, Jack Dougherty, Jeffrey Harrelson, Laura Maloney, Drew Murphy, Russell Smith, Michael Snow, and Diane Zannoni, *American Journal of Education* 2009 115:4, 523-548.

<sup>52</sup> Buckley, Jack, and Mark Schneider. 2007. *Charter Schools: Hope or Hype?* Princeton, NJ: Princeton University Press.

<sup>53</sup> Economically disadvantaged (ED) African-Americans in Marin County have the second lowest score in English Language Arts (ELA), and ranked fourth in Math of the nine counties. On the other hand, the not economically disadvantaged (NED) African-Americans scored higher than all others of the same ethnic/economic group in the nine counties in ELA and Math. In fact, across all four NED racial/ethnic groups, all except Asians scored higher than their counterparts across all counties. While NED Latinos scored higher than their counterparts across the Bay Area in both ELA and Math, ED Latinos scored in the middle of the counties. Whites scored higher than their counterparts in other counties in both ED and NED groups for both ELA and Math. See Appendix. Source: <http://star.cde.ca.gov/summaryreports2009.asp>, retrieved 5/11/2010.

scored at the top or near the top of the other nine counties across race and ethnicity, of the economically disadvantaged groups, only the White economically disadvantaged (ED) group scored within the same range. In general, Marin County's trends followed other Bay Area counties: in both NED and ED groups, Asians scored higher than their counterparts, followed by Whites, Latinos, and African-Americans, as can be seen in the charts in the Appendix.

Education, therefore, is not just about income – race and ethnicity and how they relate to housing choice also play a factor in how well children perform. In looking at a further breakdown of race and ethnicity by school in Marin County, there are some dramatic examples of this. For example, in the exclusive community of Ross, there is only one category for STAR testing at the public elementary school: NED Whites who, not surprisingly, score very high (over 80 percent at the proficient level or above in Math and English Language Arts (ELA)). On the other end of the spectrum, in Marin City, there are only two categories: ED Blacks (26 percent ELA and 36 percent Math) and Latinos (47 percent ELA and 56 percent Math), scoring far below their White counterparts in other parts of the county.

While it is not the intent of this AI to conduct a more thorough review of education in Marin County as it relates to race and ethnicity, it is clear that the disparity between public schools is potentially another institutional barrier for Blacks and Latinos in particular in achieving economic parity. Income clearly plays a role in determining where a Marin County resident can live, and Black and Latino households have a far lower median income in Marin County than their White counterparts (43 percent and 54 percent of the average White household's median income, respectively). It follows that Black and Latino families have fewer choices of where in Marin County they can live, and consequently, where their children can go to school. This can have long-range consequences for their likelihood of accessing a college education and subsequently a higher income, which ultimately affects housing choice in the future.

### **Disabled and Elderly Population**

The local senior population is growing faster than the overall population. According to the Association of Bay Area Governments (ABAG), the most dramatic demographic change will be the sharp increase in the number of people over 65. Between 1995 and 2020, this age group is

projected to double, growing from 12 percent of the population in 1995 to 20 percent in 2020. Marin County has the fastest aging population in California. By 2010, it is estimated that Marin will have the state's highest median age. The 2006-2008 American Community Survey estimates the median age at 44.3 years, up from 41.3 in the 2000 Census. During HUD's 2009 Compliance Review of Marin County's CDBG Program, HUD staff interviewed several county government representatives who noted that "the lack of housing affordability has also created in Marin one of the largest populations of elderly people among Bay Area counties, since younger families regardless of their race or ethnicity now have trouble achieving the household incomes necessary to purchase or rent a home in Marin, while the population that moved into Marin in the more affordable and growth-oriented 1950s and 1960s continues to age in-place."<sup>54</sup> Half of Marin residents over 65 live alone and 43 percent of the elderly have annual incomes less than \$15,000. An increasing elderly population translates to an increasingly disabled population. The Marin County Consolidated Plan 2010-2014 identifies a critical need for assisted living housing for extremely low-income seniors in Marin. Assisted living combines housing with supportive services needed to assist seniors and people with disabilities with daily living activities.<sup>55</sup> Further, the Plan states, "As the aging senior population becomes frail, the need to modify existing housing for disabled accessibility will increase."<sup>56</sup>

According to the 2000 Census, 15.4 percent of Marin County's population has been disabled five or more years, compared to 23.5 percent in California and 19.3 percent nationwide. The 1994 Marin County Analysis of Impediments<sup>57</sup> identified seniors and disabled persons on fixed incomes at risk of housing discrimination and homelessness because they often cannot keep pace with rising housing costs. The underrepresentation of disabled persons in Marin County as compared with disabled persons in the state illustrates this impediment.

Marin Center for Independent Living (MCIL), a comprehensive agency providing services to people with disability, estimates that 50,000 to 55,000 people with disabilities live in Marin County, and this number will increase dramatically given that seniors are the fastest

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<sup>54</sup> HUD's 2009 Final Investigative Report: Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program Final Investigative Report, pp. 61-62.

<sup>55</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 16, § 91.205(b)(1).

<sup>56</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 43, § 91.205(d).

<sup>57</sup> <http://egovwebprd.marinpublic.com/depts/cd/main/pdf/planning/HE4Web.pdf>

growing population in the county and are projected to double by the year 2020.<sup>58</sup> This group is estimated to be mostly lower income. As set forth in the chart below, San Rafael, the city with the largest population in the county, also has the highest percentage of people with disabilities. Aside from San Rafael being the hub for public transportation by bus, it is also home to MCIL and Whistlestop, which provides meals, paratransit services, and other programs for elderly and disabled persons of Marin County. The Marin County Consolidated Plan of 2010-2014 identified a need for housing for “permanent supported housing for persons with persistent mental illness, group homes for people needing supervised living quarters,... [and] accessible housing for people with physical disabilities and environmental sensitivities... and housing for the independent and the frail elderly.”<sup>59</sup>

**Percentage of Total Population that is Disabled, by Jurisdiction<sup>60</sup>**

	<b>Population</b>	<b>% Disabled</b>
San Rafael	56,063	20.1%
Novato	47,630	16.8%
Mill Valley	13,600	12.2%
San Anselmo	12,378	11.0%
Larkspur	12,014	14.2%
Corte Madera	9,100	10.4%
Tiburon	8,666	9.6%
Sausalito	7,330	16.4%
Fairfax	7,319	14.0%
Kentfield	6,351	19.3%
<b>Marin County</b>	<b>247,289</b>	<b>15.4%</b>

<sup>58</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 41, § 91.205(d).

<sup>59</sup> County of Marin Consolidated Plan for FY 2010-2014, pg. 24-25, § 91.205(b)(1).

<sup>60</sup> U.S. Census—2000 Demographic Profile Highlights, retrieved 5/3/10, <http://factfinder.census.gov/>

## Marin's Homeless Population

The last “point-in-time” count of Marin's homeless population, conducted by Marin County Health and Human Services in January 2009, found 1,770 homeless<sup>61</sup> (of which 23 percent are considered “chronically homeless”<sup>62</sup>) and 3,028 “precariously housed”<sup>63</sup> (83 percent of whom are families with children). Furthermore, it is estimated that the one-day count falls far below the annual number of homeless and precariously housed people. According to a Marin County Study, “...more people experience homelessness annually than can be counted at any given point in time. In any year, people will cycle in and out of homelessness. Counting people only at a single point in time tends to under-represent the extent of the homelessness problem.”<sup>64</sup> The study makes a rough annual estimate of 5,655 homeless people, though it does not give an annual estimate of the precariously housed. Homeless individuals represent roughly two percent of Marin’s approximately 250,000 person population. According to the Marin Continuum of Housing and Services, who also conducted a homeless survey in 2007, the count is imprecise because many of Marin's homeless are transient, live in difficult-to-reach encampments, or refuse to participate in the survey.

The Marin County Health and Human Services study, however, uses a fairly narrow definition of “precariously housed,” and notes:

*There are much more expansive definitions of “at-risk” of homelessness that would encompass many more people than the 3,028 counted. Many advocates would argue that all households who are “extremely low income” by HUD’s standards, meaning they earn less than 30% of Area Median Income (AMI), are by definition at-risk of homelessness, since it is so difficult for people at this income level to afford market rate housing. In 2009, a family of four in Marin County earning less than \$33,900 would be extremely low*

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<sup>61</sup> This includes 623 people in emergency shelters or transitional housing for homeless, and 1,147 people living in streets, cars, parks, encampments, boats, jail without a permanent address upon release, or staying temporarily with family or friends, and self-identifying as homeless.

<sup>62</sup> HUD’s definition of chronic homelessness: single adults with a disabling condition who are homeless for 12 consecutive months or who have four episodes of homelessness in three years.

<sup>63</sup> “Precariously housed” is defined as on the edge of becoming homeless, including people who are staying with friends or relatives or in overly crowded circumstances.

<sup>64</sup> “Marin County Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County”, prepared by Kate Bristol Consulting for Marin County Health & Human Services, February 5, 2010, pg. 3.

*income by HUD standards. There are approximately 10,000 such households in Marin County or 10% of all households in the community.*<sup>65</sup>

As Marin County has a disproportionate number of Blacks and Latinos who are low-income, the number of Blacks and Latinos who are homeless or at risk of homelessness can also be estimated to be severely impacted. As noted by the Executive Director of the Latino Council, however, Latinos do not tend to go to shelters, but instead double up in overly crowded living conditions.<sup>66</sup>

## CONCLUSIONS

This demographic analysis demonstrates that other than in the three tracts identified – Marin City, downtown San Rafael, and the Canal Area of San Rafael (“the Canal”)—Latinos, Asians and particularly Black households are not moving into Marin County in appreciable numbers. Marin City and the Canal neighborhood of San Rafael are the only census tracts with a high percentage of minority groups. They are moderate-income communities with low-income concentrations, while all other Marin communities are upper or middle-income. Income clearly plays a role in determining where a Marin County resident can live, and Black and Latino households have a far lower median income in Marin County than their White counterparts. The ratio of owner-occupied to renter-occupied units is 65 percent to 35 percent; unsurprisingly, Black and Latino families in Marin are over-represented among renters and underrepresented among owners. The cost of renting in Marin County is among the most expensive in the Bay Area. It follows that Black and Latino families have fewer choices of where in Marin County they can live, and consequently, where their children can go to school. Public schools are potentially another institutional barrier for Blacks and Latinos in particular in achieving economic parity.

Families with children and people with disabilities are impacted by the lack of new construction and the aging of existing housing stock. Rentals in Marin County are

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<sup>65</sup> “Marin County Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County”, prepared by Kate Bristol Consulting for Marin County Health & Human Services, February 5, 2010, pg. 2.

<sup>66</sup> Interview with Cecilia Zamora, Executive Director of Latino Council, 3/31/10.

predominately one- and two-bedroom units, and the lack of larger rentals creates a barrier to housing choice for families with children. Because the development of new rental housing, particularly affordable housing, has slowed greatly since the 1980s, there are fewer options for people with disabilities who require accessible units.

The local senior population is growing faster than the overall population, and Marin County has the fastest aging population in California, particularly as younger families cannot afford to rent or purchase a home in Marin. This means an increase in the number of people with disabilities. There is a therefore a need for modifications for accessible housing as well as assisted living housing for seniors, particularly low-income seniors, in Marin.

## CHAPTER 3

### FAIR HOUSING ENFORCEMENT, TESTING AND EDUCATION

Fair Housing of Marin (FHOM) is the only comprehensive fair housing enforcement agency located in Marin County. FHOM began in 1984 as a program under Homeward Bound, a nonprofit housing organization. In 1995, the Community Housing Resource Board (CHRB), also a nonprofit, was formed to support fair housing work; in 1995, the Fair Housing Program became part of the CHRB and changed its name to Fair Housing of Marin. Since 1985, FHOM has provided comprehensive fair housing education and enforcement services throughout the county. During its first years of operation, the agency focused almost exclusively on discrimination in rental housing. Over the last fifteen years, the agency has expanded fair housing enforcement into other housing areas such as home purchase, mortgage lending, home insurance, accessibility and residential care facilities. In 2005, FHOM began to focus on the issue of voice identification in rental housing, as the first contact in the process of acquiring a home is often a telephone call to a prospective housing provider. Even more recently, as it is increasingly frequent that tenants find housing through internet advertising and initially respond via email, FHOM began to study differences in responses by housing providers based on the apparent ethnicity in the names of those inquiring about available housing.

Often when potential complainants have called FHOM, it is clear that they are unfamiliar with fair housing law and classes that are protected under state or federal law. Potential complainants are often unaware that their rights have been violated, and call Fair Housing of Marin not because they believe that illegal discrimination has occurred, but rather because they feel that something unfair has happened and conclude that an organization called “Fair Housing of Marin” should be the logical entity to address issues that are “unfair.” The concept of illegal discrimination under fair housing law and possible remedies is more sophisticated than the lay definition of discrimination. Many callers, unfamiliar with state and federal fair housing agencies, expect FHOM to have enforcement powers approaching those of the Department of Housing and Urban Development (HUD) and the Department of Fair Employment and Housing (DFEH). Enforcement actions alone are an incomplete rubric by which to measure housing discrimination because of a pervasive misconception that FHOM is a government entity, and cultural differences in when or how or even whether authorities should be approached may lead

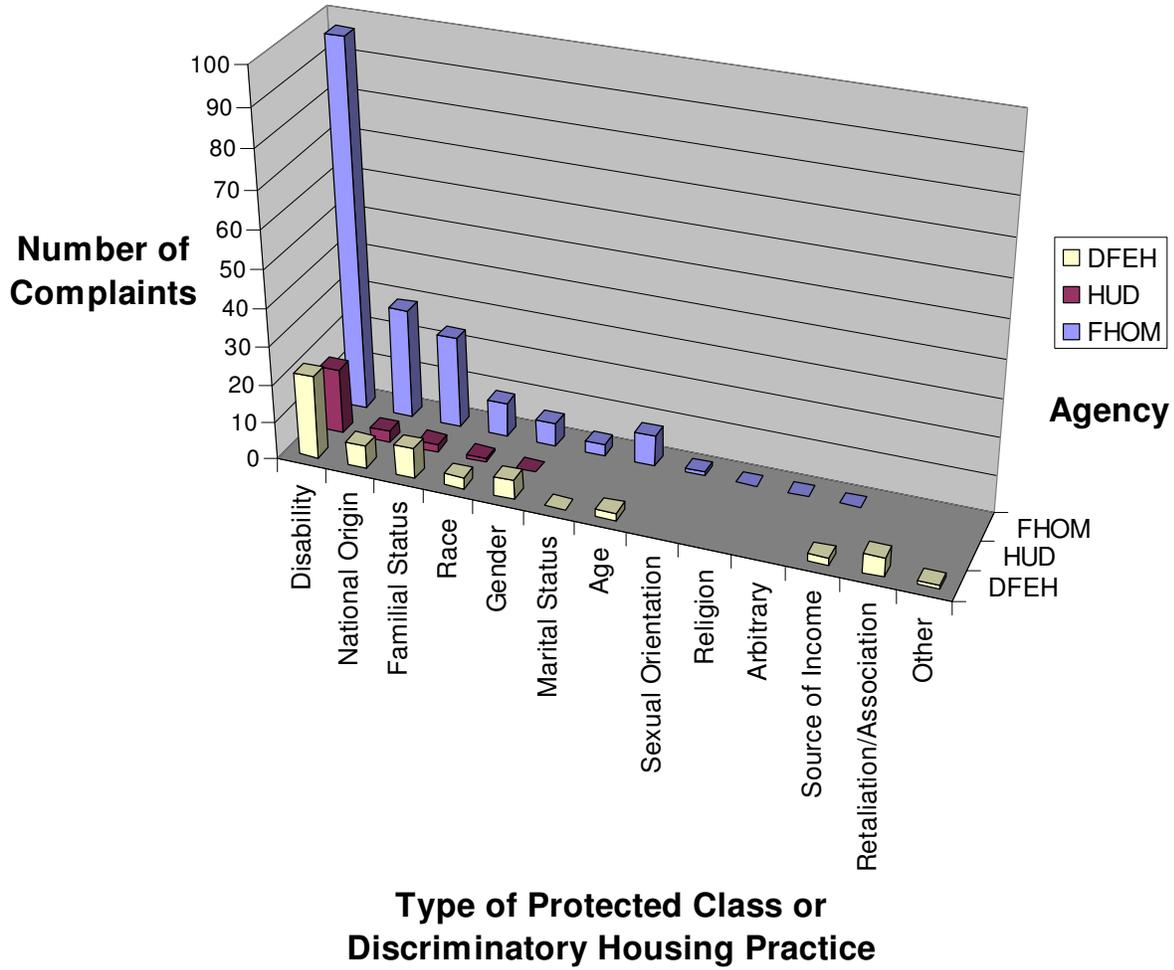
to underreporting of instances of discrimination. Nevertheless, it is useful to look at the number of fair housing complaints Marin County residents make to FHOM, as well as the number of residents who file administrative complaints with HUD or DFEH. The table and graphs below illustrate complainant allegations of housing discrimination by protected class and discriminatory housing practice that the agency received over the 2009 calendar year. Fair Housing of Marin received 150 complaints of discrimination between January 1, 2009 and December 31, 2009 from Marin County residents. The most common protected class cited by complainants was disability (65%), followed by national origin (19%) and familial status (16%). The greatest number of complaints received by HUD and DFEH, as illustrated below, are also on the basis of disability. Familial status and national origin complaints were also in the top three protected categories for DFEH and HUD. Protected classes and discriminatory acts are defined in the introductory chapter.

**The Protected Class and Discriminatory Housing Practices Alleged in Fair Housing Complaint Incidents in Marin County between January 1, 2009 and December 31, 2009**

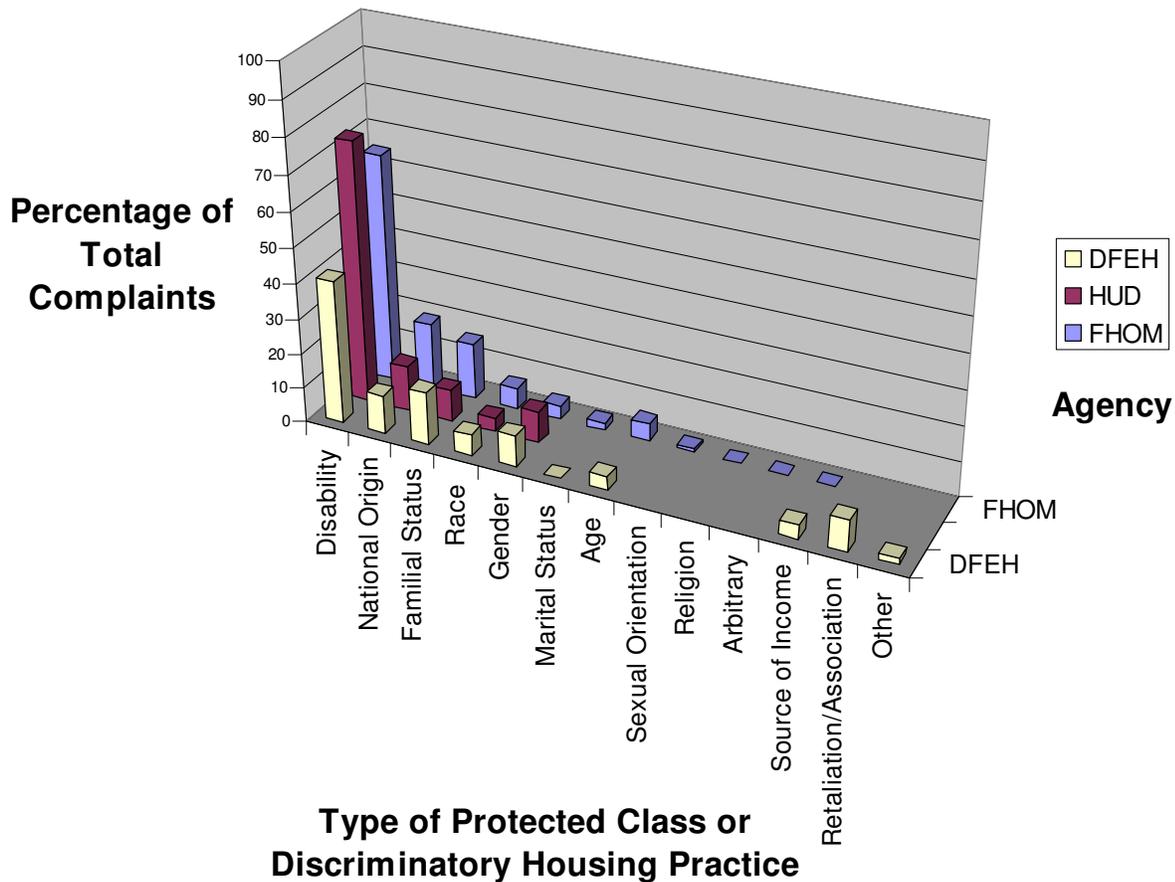
Agency	Number of Complaints			Percentage of Total Complaints		
	FHOM*	HUD**	DFEH***	FHOM	HUD	DFEH
<b>Type of Protected Class or Discriminatory Housing Practice</b>						
Disability	97	17	22	65%	74%	41%
National Origin	29	3	6	19%	13%	11%
Familial Status	24	2	8	16%	9%	15%
Race	9	1	3	6%	4%	6%
Gender	6	0	5	4%	0%	9%
Marital Status	3	--	0	2%	--	0%
Age	8	--	2	5%	--	4%
Sexual Orientation	1	--	--	1%	--	--
Religion	0	--	--	0%	--	--
Arbitrary	0	--	--	0%	--	--
Source of Income	0	--	2	0%	--	4%
Retaliation/Association	--	--	5	--	--	9%
Other	--	--	1	--	--	2%

\*150 total complaint incidents, \*\* 23 total complaint incidents, \*\*\*54 total complaint incidents  
 Note: Sum of "Number of Complaints" may not equal total complaint incidents because some complaint incidents allege more than one protected class or discriminatory housing practice.

### The Protected Class and Discriminatory Housing Practices Alleged in Fair Housing Complaint Incidents in Marin County between January 1, 2009 and December 31, 2009



**The Protected Class and Discriminatory Housing Practices Alleged in Fair Housing Complaint Incidents in Marin County between January 1, 2009 and December 31, 2009**



**Individual Complaints of Discrimination**

FHOM assists complainants in determining if an allegation of housing discrimination is jurisdictional under federal and/or state law. Staff investigates the following factors to determine if fair housing law applies:

- If the most recent alleged event occurred within the statute of limitations;
- If the complainant was harmed or is about to be harmed;

- If the dwelling and respondent involved are covered under the law;
- If the alleged discriminatory act or housing practice is prohibited; and
- If there is a connection between the alleged discriminatory act and a legally defined protected class.

Once staff has determined that fair housing law applies, FHOM may assist complainants by running a test of the property to replicate the experience of the complainant, negotiating with the housing provider on behalf of the complainant, referring complainants to HUD, DFEH, or a private attorney, and/or filing an agency complaint.

### **Reasonable Accommodations**

Under the Fair Housing Act, a “reasonable accommodation” is a change, adaptation or modification to a housing policy or program that will allow a qualified tenant or applicant with a disability to participate fully in a housing program or to use and enjoy a dwelling, including public and common use spaces. Since persons with disabilities may have special needs due to their disabilities, simply treating them exactly the same as others may not ensure that they have an equal opportunity to use and enjoy a dwelling. In 2009, FHOM formally requested 28 reasonable accommodations on behalf of clients with disabilities in Marin County, of which 26 were granted, with two pending. In addition, staff gave advice to numerous clients on how to write letters requesting reasonable accommodations or helped in drafting requests. Six of these cases ended as administrative complaints before being granted as part of a settlement agreement. While many more people with disabilities understand the concept of requesting reasonable accommodations since the passage of the 1988 Fair Housing Amendments Act, much is still misunderstood about accommodations. Many tenants are not well-versed in how to request an accommodation, or what constitutes reasonableness. Some housing providers are not familiar with what information they may or may not request about a tenant’s disability. Further, some housing providers are unaware that the law requires consideration of each accommodation on an individual, case-by-case basis. However, it is clear is that education of housing providers, as well as advocacy on behalf of individual tenants with disabilities in need of accommodations (sometimes using the administrative complaint process at HUD or DFEH) leads to a much higher rate of acceptance for accommodations requested.

## **Reasonable Modifications**

A “reasonable modification” according to the Fair Housing Act, is a structural change made to the interior or exterior of existing premises, including public and common use areas, to allow a qualified tenant or applicant with a disability to fully use and enjoy a dwelling. FHOM also assists with reasonable modification requests for people with disabilities. For example, one disabled tenant using a wheelchair wanted a cover over his parking space to keep the area around his vehicle dry, so he would not continue to slip and injure himself during transfers in and out of his vehicle. His housing provider initially refused, but FHOM helped him file an administrative complaint and eventually he received the modification. The Marin Center for Independent Living (MCIL) also assists people with disabilities to achieve needed modifications. While people with disabilities occasionally request novel modifications, such as optimizing painted surfaces to promote safe navigation for an individual with a visual impairment or replacing automated patient ceiling-track lift systems, the typical modifications requested are:

- *Grab bar and safety rail installations;*
- *Ramps;*
- *Widening doorways;*
- *Raising and lowering sinks;*
- *Shower/bath reconstruction;*
- *Stair lift and porch lift installations; and*
- *Barrier removal*

In 2009, MCIL reported 26 total funding requests for residential access modification services, with 13 completed projects. Documentation procurement per project averaged about two to four weeks, with longer delays occasionally resulting from landlord resistance to project approval. In a minority of instances, landlord resistance reflected an unwillingness to bear eventual costs associated with restoration of rental units when they become vacant (though under the Fair Housing Act, the tenant is responsible for paying for reasonable restorations). It is worth noting, however, the majority of projects met with landlord approval, either because the landlords in these situations were advocates in support of these services, and/or because the accommodations in question were seen as a market value enhancement to the rental unit.

According to MCIL, the majority of uncompleted projects resulted from the consumer's non-compliance in providing appropriate documentation or to health status changes requiring consumers to transition to assisted-care settings in the community.

### **Accessibility in New Construction**

The Fair Housing Act establishes design and construction requirements for multi-family housing of four or more units built for first occupancy after March 13, 1991. The Act provides that a failure to design and construct multi-family dwellings to include certain features of accessible design will be regarded as unlawful discrimination.

The Act requires the following seven accessibility features:

1. Accessible building entrance on an accessible route;
2. Accessible public and common use areas;
3. Usable doors;
4. Accessible route into and through dwelling unit;
5. Accessible light switches, thermostats and other environmental controls within the dwelling unit;
6. Reinforced walls for grab bars; and
7. Useable kitchens and bathrooms with space for a wheelchair to maneuver.

As identified in HUD's Final Investigative Report, the lack of new multi-family units built in Marin County according to the FHA's new construction design accessibility requirements is a barrier for people with mobility impairments to finding suitable housing in Marin:

*Anecdotal evidence suggests that people seeking accessible housing most generally accomplish that by way of making modifications to existing structures. However, even if the tenant can secure permission from the landlord to undertake the modifications, these tenants often cannot afford to make the renovations themselves. Fair Housing of Marin has provided fair housing training to over 3,000 people within the past 10 years, and it is felt that the landlords who have participated are now fairly well aware of their obligation to permit reasonable modifications under the FHA.<sup>1</sup>*

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<sup>1</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg. 69.

Yet fair housing advocates still play a necessary role, as some housing providers lack adequate training on compliance with building regulations, and others refuse to do more than the absolute minimum unless the person requesting a reasonable modification has a vocal advocate. As a result of an audit that uncovered accessibility violations in new construction, FHOM was part of a landmark settlement agreement with the nation's fifth-largest builder of residential real estate, discussed in more detail below.

### **Administrative Complaints**

In 2009, FHOM referred 20 enforcement proposals to HUD or DFEH: 10 disability, one national origin, one race, one source of income, one combined race and disability, one disability/familial status, two combined race/arbitrary/disability, one combined familial status/national origin/race, one combined national origin/gender, and one agency familial status complaint. Fully 65% of the 20 enforcement proposals FHOM referred to HUD involved disability discrimination as a component, corresponding to the percentage of disability related complaints FHOM received in 2009.

### **Complaint Settlements as a Result of Administrative Filings and Lawsuits**

In 2009, FHOM assisted eight complainants in reaching successful settlements, and FHOM filed one agency complaint, for a total of \$45,795 in damages for clients and FHOM. Client and agency complaints were predicated on the following bases of discrimination: six disability, one familial status, one race, and one combined familial status/disability/marital status/source of income. All six of the disability cases involved reasonable accommodations and/or modifications that had been denied. In the familial status case, FHOM was the complainant as a result of testing following an anonymous complaint about a discriminatory Craigslist advertisement boasting a “kid-free zone.” In addition, FHOM was one of four fair housing organizations that joined the National Fair Housing Alliance in a landmark accessibility lawsuit and settlement against one of the largest builders in the nation. FHOM joined the lawsuit after an accessibility audit of the builder’s properties in Sonoma County revealed accessibility violations. The multi-million dollar settlement included provisions for the direct retrofit of properties in 11 states, compensatory damages for each plaintiff, and \$50,000 per year for three

years for FHOM to distribute in Marin and Sonoma counties for modifications for people with disabilities.<sup>2</sup>

### **Anti-Immigrant and Other Prejudicial Sentiments**

In 2008, FHOM expanded its public website to include Spanish-language pages with information about fair housing rights. FHOM also conducted a public service outreach campaign in Spanish, and published a newsletter with describing services available in Spanish. FHOM received what it characterized as hate mail from some Marin residents. The vitriolic comments included the sentiment that taxpayer money should not be spent conducting outreach to or advocating for the rights of immigrants, though it was unclear whether the authors objected to immigrants in general, or immigrants who were perceived as living in the U.S. illegally. Many immigrants are aware of this anti-immigrant animosity; combined with a lack of knowledge of housing law and fear of reprisals, immigrants are often unlikely to exercise their fair housing and landlord/tenant rights. Anecdotal evidence and complaints of national origin discrimination highlight predatory behavior engaged in by some housing providers, who may take advantage of immigrant tenants' reluctance to exercise their rights.

In addition, some residents have posted inflammatory or discriminatory responses to local newspaper articles about civil rights and fair housing issues. In January 2010, FHOM and other community groups sponsored a photo exhibit of Rev. Martin Luther King Jr. and the March for Open Housing in Chicago. The exhibit received positive media attention, but some commentators posted disturbing responses to a Marin Independent Journal article online, including such statements as “More brainwashing propaganda. Hosted of course in Little Haiti, Marin City.”<sup>3</sup> More recently, when the Marin I.J. published a notice that a local credit union was hosting an exhibit of the winning posters for Fair Housing of Marin’s annual poster contest,<sup>4</sup> the following comments were posted<sup>5</sup>:

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<sup>2</sup> The \$7.4 million settlement included the creation of national (\$4,200,466) and local (\$750,000) accessibility funds, a national media campaign (\$100,000), damages (\$950,000), coalition building (\$40,000), and attorneys’ fees. For FHOM specifically, the settlement included \$135,292 in damages and \$150,000 to establish accessibility funds.

<sup>3</sup> <http://www.topix.net/forum/source/marin-independent-journal/TDJJ3TNM769VTSLGA>, accessed 6/21/10

<sup>4</sup> The theme: New Neighbors, New Friends

<sup>5</sup> <http://www.topix.net/forum/source/marin-independent-journal/TSGSOSKOUNJK31F90>, accessed 6/21/10

- *[After posting the arrest of a drug bust by a local affordable housing resident] Why is Redwood Credit Union promoting the destruction and cheapening of our communities? Boycott Redwood Credit Union unless they remove this political propaganda.*
- *[In response to the first comment above]...This should be a HUGE wake-up call to the Fair Housing movement. Can't afford to live in Marin? Live somewhere else!*
- *It is up to all of us. Please think about making the world a better place right where you live, work and play rather than wasting energy endorsing social engineering.*

As recently as February 2011, after residents of both sides of the affordable housing issue came together for before the Novato city council to discuss the housing element, strong opinions such as this one were posted after a Marin Independent Journal article about the meeting:

*What is affordable housing? It is government-subsidized housing - PROJECTS. I remember the project housing in Philadelphia where I grew up. I remember project housing in San Francisco where I went to school. We have had a taste of what this brings in Novato recently, people shot while sitting in a car in the Safeway parking lot, assaults, drugs, gangs, graffiti. The market is fair. Social planners are utopians who will destroy our way of life and the value of our property. But they will feel good about it.*

The above examples are just a few indications of the strong opposition to affordable housing and basic fair housing concepts within the county, creating further barriers for Marin County to affirmatively further fair housing.

### **Individual Testing**

During 2009, in addition to audit tests, FHOM conducted 25 paired site tests, of which 12 (*almost half*) indicated unfair treatment to one of the seven federally protected classes. These tests were either complaint-based or retests from previous tests indicating differential treatment favoring the control tester. Often testing is the only proof a plaintiff can offer that illegal discrimination has occurred. While a test may not result in sufficient evidence of discrimination to achieve a positive judicial or administrative outcome for a plaintiff, the test may nevertheless signal that more investigation and education outreach efforts may be appropriate. Fair housing testing is an invaluable tool in determining whether a housing provider's practices are

discriminatory, and the U.S. Supreme Court has recognized and affirmed the importance of fair housing testing in fighting housing discrimination.<sup>6</sup>

### **Audit Testing: Other Indicators of Fair Housing Violations**

Fair Housing of Marin has completed a significant number of audit tests during the past two decades. Audit testing is an effective means of gauging the extent and pattern of discriminatory practices. In an audit, two or more testers contact a housing provider, lender, or insurance broker, posing as possible buyers or renters of property. The testers' backgrounds are intentionally structured so as to make both individuals identically well-qualified; the only substantive difference is that one tester hails from a protected class while the other does not. An agency may compare the treatment of the testers to measure whether the housing provider, lender, or insurer is treating both persons equally as is required by law. While the audit tests discussed below were all limited in scope and lacking in statistical significance, the results nevertheless parallel statewide and nationwide trends, thus providing useful guidelines for fair housing issues that must be addressed in the county. According to an article about affirmatively furthering fair housing on HUD's website, a jurisdiction should include fair housing testing activity in its AI: "Because discriminatory behavior in the housing market is often very subtle, testing is one of the most reliable means of determining the extent and type of discrimination that occurs in the housing market."<sup>7</sup>

### **Race and National Origin Discrimination in Rental Housing**

HUD's HDS2000 Nationwide Audit of discriminatory practices in the rental and sale of residential property showed that Black and Hispanic renters face significant discrimination. In 25.7 percent of tests of the rental market, non-Hispanic whites were consistently favored over Hispanics. In sales markets, non-Hispanic whites were consistently favored over Hispanics in

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<sup>6</sup> In 1982, the Supreme Court considered *Havens v. Coleman*, 455 U.S. 363. The case was an important landmark as the Court sanctioned "testing" and determined that testers have standing to sue. Further, the court determined that fair housing agencies also have standing to sue when the discriminatory actions of a defendant impair the agency's activities.

<sup>7</sup> "Affirmatively Furthering Fair Housing," Fair Housing for HOME Program Participants, pg. 4, <http://www.hud.gov/offices/cpd/about/conplan/fairhousingexs/fha200510.pdf>, accessed 6/6/10.

19.7 percent of tests.<sup>8</sup>

In addition, limited proficiency in English increases an immigrant's vulnerability to discrimination in housing. In the first major regional voice-identification audit of Marin County performed by Fair Housing of Marin under a FHIP grant in 2004, FHOM found results similar to those of HUD's Nationwide Audit.<sup>9</sup> Based on voice recognition, the rate of less favorable treatment towards Latinos was 55 percent. Latinos were offered fewer units, higher rents and longer application processing time. FHOM's audit findings are consistent with Stanford University linguistics expert Dr. John Baugh's studies confirming race and ethnicity discrimination based solely on speech patterns. Professor Baugh concluded that people correctly identify race 80 percent of the time by the speaker's utterance of the word "Hello."<sup>10</sup>

FHOM conducted a similar study in 2007, this time looking at how Black tenants were treated when contacting prospective landlords by phone. Real estate transactions, including rentals, purchases, and obtaining mortgage loans and homeowner's property insurance, are often conducted in whole or part over the telephone. Although this HUD-funded audit marked FHOM's first effort to isolate whether discrimination on the basis of race occurs based solely on phone contacts, results of FHOM's previous testing had suggested that it would. In 2001, FHOM found that Black testers encountered less favorable treatment 33 percent of the time. Less favorable treatment included being offered fewer units, quoted higher rents, or faced with a longer approval process. Twenty-five paired testers telephoned agents administering the rental of 1,246 units<sup>11</sup> in Marin County. Telephone tests utilized paired teams of Black and White testers with each team member matched to his or her counterpart as closely as possible in age, gender, and manner. In eight out of 25 Marin County tests (32%), there were at least some

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<sup>8</sup> Turner, Margery Austin T., Stephen L. Ross, George Galster, and John Yinger, *Discrimination in Metropolitan Housing Markets: Results from Phase I of HDS2000, Final Report to US Dept of Housing and Urban Development*, The Urban Institute, 2002, at [http://www.huduser.org/intercept.asp?loc=/Publications/pdf/Phase1\\_Report.pdf](http://www.huduser.org/intercept.asp?loc=/Publications/pdf/Phase1_Report.pdf)

<sup>9</sup> Fair Housing of Marin, "Accents Speak Louder Than Words: National Origin Discrimination in Rental Housing in the North Bay Based on Voice Identification," 2005.

<sup>10</sup> Baugh, John, William Idsardi, Thomas Purnell, "Perceptual and Phonetic Experiments on American English Dialect Identification," *Journal of Social Psychology*, 1999.

<sup>11</sup> This is an approximation based on the combined total of rental units at the 25 properties tested. Because some of the rental agents involved in this audit likely have control over units at properties other than those tested, the number of rental units affected by the practices found is probably greater than 1,246 units.

discrepancies or disadvantages in treatment toward the Black tester.<sup>12</sup>

The following illustrates different types of discrimination experienced by Black testers:

Screening: A practice whereby the housing provider uses a phone answering system to filter calls, possibly in order to thwart undesired applicants. For example, a Black tester left three voicemail messages and never received a call back, while the agent returned the White tester's calls.

Terms and Conditions; Flexibility & Offers: The Black tester was offered less advantageous terms and conditions, including quotes of higher rent. As a parallel but distinct outcome, in some cases agents offered more flexible terms and a broader range of options to the White tester.

Availability: The White tester received more information about availability including more units and specials with reduced rates about which the agent did not inform the Black tester.

Comments made by agent: This included the Black tester being brushed off, while the agent showed more patience with the White tester.

## **Race Discrimination in Real Estate Sales**

FHOM conducted a sales audit in 1999 in Marin County (specifically in central and northern Marin), which consisted of ten paired tests (five at real estate companies and five at new developments) for properties ranging from \$240,000 to \$550,000, to test for race discrimination. While the sample size was small, discriminatory comments and differential treatment favoring the White tester was indicated in five of the seven categories compared.<sup>13</sup> This was a favorable outcome compared to a nationwide survey indicating racial discrimination in home sales 49 percent of the time.<sup>14</sup>

## **Race and National Origin Discrimination in Insurance**

FHOM conducted an insurance audit between July 2002 and April 2003, wherein paired testers made individual phone calls to homeowners' insurance agents. The audit uncovered

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<sup>12</sup> Fair Housing of Marin, "The Color of Your Voice: Race Discrimination in Rental Housing in Marin County Based on Voice Identification," 2008.

<sup>13</sup> Fair Housing of Marin, "Racial Discrimination in Real Estate Sales Audit Report," January 2000.

<sup>14</sup> National Audit for Racial Discrimination in Rental and Sale of Housing, U.S. Department of Housing and Urban Development, 1991.

evidence that homebuyers of color, purchasing moderately priced homes in non-White neighborhoods, encounter differential treatment when attempting to obtain homeowners insurance quotes.<sup>15</sup> This audit was based on 60 tests, or 29 paired tests. Two paired tests necessitated a third single test. Seventeen tests were based on national origin, while twelve tests were based on race.<sup>16</sup>

In paired tests, two individuals (White and Black, or White and Latino) telephoned an assigned insurance company. Whites were assigned homes in non-Hispanic white neighborhoods. Blacks were assigned houses in Marin City, a predominantly Black neighborhood. Latino homebuyers were assigned houses in the Canal district of San Rafael, which has a 70 percent Latino population. Latino testers had identifiably Latino names and distinctive speech that made their ethnicity recognizable.

The audit study showed that homebuyers of color in Marin seeking property insurance quotes for homes in diverse neighborhoods face a significant risk of receiving less favorable treatment. Twenty-one tests, or 72%, evidenced differential treatment favoring the White homebuyer.

The differential treatment documented confirms that discriminatory practices are subtle. Differential treatment was evidenced in the following categories:

- Cost of policy (higher charges or fewer discounts offered);
- Policy type (less desirable liability limits or level of coverage); level of service (fewer quotes, less access to standard discounts, less helpful information and explanation of policies);
- Different application of company policies (requiring social security numbers before giving written or verbal quotes); and
- Agent responsiveness or discouragement (only offering to call White testers, or only asking Latinos if they had prior claims).

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<sup>15</sup> Fair Housing of Marin, "It's Not As Simple As It Seems: A Paired Testing Study of Efforts to Obtain Homeowners Insurance Quotes," 2003.

<sup>16</sup> National origin tests used Latino testers, while race tests used Black testers.

## **Race and National Origin Discrimination in Residential Care Facilities for the Elderly (RCFEs)**

Between the months of December 2006 and March 2007, Fair Housing of Marin conducted audit testing of 10 residential care facilities for the elderly (RCFEs) in Marin County to ascertain whether there was differential treatment between Blacks and Whites who were inquiring about residency.

A residential care facility for the elderly (RCFE), sometimes called a board and care facility, is a community care building where non-medical care and supervision are provided to the elderly. The care services are custodial in nature and do not require the services of skilled medical professionals. Continuing Care Retirement Communities, sometimes called Life Care Communities, combine different levels of care – independent living, assisted living and nursing home care in a single setting. These communities typically have a sizeable entry fee, plus monthly maintenance fees, in exchange for a residential unit, meals and health care coverage up to the nursing home level. Residences can vary from studios and one bedrooms to two and three bedrooms, or larger. Some communities allow a resident to purchase a unit, while others provide living arrangements for the duration of time the resident remains in the community. Community care facilities are licensed by the Community Care Licensing Division of the California Department of Social Services.

FHOM conducted a similar race audit several years earlier at 20 locations representing approximately 1,300 beds in Marin and Sonoma counties. Sixty percent of the RCFEs tested showed differential treatment favoring the White tester.<sup>17</sup> The types of differential treatment included access and availability; terms and conditions (price, level of care while at the facility, special diets, activities offered, and transportation); treatment by RCFE representative; and steering. As a result of the audit, FHOM undertook a publicity campaign to raise awareness of fair housing issues concerning RCFEs, an arena previously unexamined. In January 2004, FHOM presented a seminar, “Opening Doors to Diversity: Fair Housing Laws for Residential Care Facility Professionals,” to which all RCFEs in Marin and Sonoma County were invited.

During the 2006-2007 audit, three of the ten tests (30%) rose to the level of differential treatment favoring the White tester, while two (20%) showed inconsistent treatment. Differential

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<sup>17</sup> Fair Housing of Marin, “Racial Discrimination in Residential Care Facilities for the Elderly,” 2003. Analysis of Impediments to Fair Housing  
Fair Housing Testing, Enforcement, and Education

treatment involved the following: higher monthly rates quoted to the Black testers along with additional fees not communicated to the White testers; follow-up only for the White tester; transportation offered only to the White tester for doctor visits.

### **Disability Discrimination in RCFEs**

At two sites in the 2006-2007 race audit of RCFEs discussed above, agents said they would not accept insulin-dependent applicants with Type I diabetes. Given that in a number of tests, the testers did not fully disclose the health issues of their given profiles, it is quite possible that agents at more sites would have commented on this issue. Disability discrimination is rarely addressed in RCFEs. In fact, the California Department of Social Services' Community Care Licensing Division has established certain "prohibited health conditions" for RCFEs<sup>18</sup> that may be at odds with the Fair Housing Act.

Eric Carlson, Director of the Long-Term Care Project at the National Senior Citizens Law Center, made the following observations in an article analyzing long-term care and the Fair Housing Act:<sup>19</sup>

*Before making an admission decision, a nursing home often requires an applicant to disclose a significant portion of her medical records. The applicant likely presumes that the nursing home needs this information to determine if the nursing home can meet her health care needs. This presumption is often wrong. The information is reviewed not by nurses but by administrators, and not for care planning but instead for calculating the applicant's potential profitability to the facility... As a result of this type of screening, facilities frequently deny admission to applicants who appear to be less profitable or are otherwise less than desirable... Potentially this screening could be curbed by active enforcement of the Fair Housing Act's no-inquiry regulation, which prohibits a housing provider from inquiring into a handicap of an applicant for tenancy. Courts have ruled consistently that the Fair Housing Act (FHA) applies to nursing homes, assisted living facilities, and other long-term care facilities, because each of these facilities is considered a "dwelling" under the FHA.*

At one Continuing Care Retirement Community (CCRC), FHOM tested for

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<sup>18</sup> Cal. Reg. § 87701.

<sup>19</sup> Carlson, Eric, "Disability Discrimination in Long-term care: Using the Fair Housing Act to Prevent Illegal Screening in Admissions to Nursing Homes and Assisted Living Facilities."

discrimination on the basis of disability based on a complaint from the relative of one resident.<sup>20</sup> Testers were turned away for Parkinsons' Disease and rheumatoid arthritis, despite the fact that there does not appear to be anything in DSS regulations or applicable statutes that identifies either disease as a disqualifying condition.<sup>21</sup>

As the generation of baby boomers ages, there will be an increasing demand for a limited number of RCFE beds, and the issue of disability discrimination will come under closer scrutiny. FHOM will continue to investigate RCFEs for their admissions policies for people with various disabilities.

### **Independent Living and Disability Discrimination**

Between November 2005 and January 2006, Fair Housing of Marin conducted an Independent Living Audit of 19 paired telephone tests in Marin County to determine whether housing providers exclude individuals with disabilities based on the perception that the individual is unable to meet the tenancy requirements. The audit also identified discriminatory practices at private or senior facilities at randomly selected locations, thus providing an indication of housing discrimination against people with disabilities in the area.

Neither public nor private rental housing may impose terms or conditions of tenancy that require applicants or tenants to be healthy and able to live independent of any assistive services necessary because of such applicant's or tenant's disability. Additionally, the FHA prohibits both public and private rental housing providers from making statements indicating that a person cannot or should not live in the housing if they use assistive services. Under case law precedent, requiring residents to be "capable of independent living" is an illegal discriminatory practice. Furthermore, the FHA prohibits both public and private rental housing providers from inquiring about the nature and severity of a disability, or discouraging people from renting a unit or steering individuals with disabilities to other sites because of their disability.

FHOM conducted half the phone tests at regular, market-rate rentals open to the general public (where the testers were disabled but not necessarily seniors), and the additional paired

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<sup>20</sup> At a CCRC, the entry, or "independent living" level is licensed by the Continuing Care Contracts branch of California Department of Social Services. The assisted living component is licensed under DSS's authority over "residential care facilities for the elderly" (RCFEs).

<sup>21</sup> See Cal. Reg. § 87701 (prohibited health conditions).

tests at complexes designed for seniors and in many cases subsidized, and therefore nearly all with waiting lists. The disabled tester profile included a care-attendant who visited daily.

Of the 19 paired tests, 36 percent showed differential treatment favoring the non-disabled tester, 21percent fell into the category of inconclusive/indicating retesting, 16% were categorized as inconclusive/no action, and 26 percent showed no differential treatment.<sup>22</sup> Examples of some of the differences are listed below:

- Only the disabled profile tester was told that management would do a criminal background check, and that they (illegally) charge a deposit for a companion animal. Both testers were told tenants must be in good health, while the disabled profile tester was told that most tenants were able-bodied people, sometimes needing some care.
- The disabled profile tester was told of fewer units.
- Agents asked the nature of the tester’s disability, suggesting in one case the unsuitability of stairs and also mentioning that there was no laundry or dishwasher, while describing optimum features to the control tester.
- Agent offered to mail the application only to the control tester, and told the disabled profile tester that the residents were all seniors but there were not many disabled tenants.
- A number of times the agent told both testers it was “independent living,” and in one case only the disabled profile tester was told that units were 100% independent living and that the tenant needed a sponsor in case of emergencies.
- The agent quoted the disabled profile tester a higher move-in by several hundred dollars than the control tester.
- Agent projected that because of her degenerative disease, the disabled tester would be in a wheelchair eventually and that this may make a difference in her interest in the units currently available, as they were all upstairs. In contrast, she told the control tester about units both on the first floor and second floor.

In discussing the results of the audit with disability advocates, FHOM staff confirmed that discrimination in independent living situations often arises most frequently when the

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<sup>22</sup>Fair Housing of Marin, “Independent Living Audit Testing” (2006).

disabled tenant has a live-in attendant, rather than someone who visits daily. While agents at times discouraged the disabled profile tester at the pre-application stage, the true differences in treatment are likely to come out at the application stage, particularly given the statement at several sites that tenants must be able to live independently. FHOM staff have found ads on Craigslist advertising at senior complexes for “Apartments for Active Adults.” While this makes for a catchy ad with great alliteration, it also indicates potential discrimination against the disabled or frail elderly. Given this type of advertising and the results of this audit, it is clear that further work is necessary – both education and enforcement – on issues of discrimination against the disabled population, particularly around understanding of what it means to be able to live independently.

### **Accessibility Audit - Measuring Impact on People with Disabilities**

During July 2001, Fair Housing of Marin conducted an audit of 10 multi-family complexes in various communities throughout Marin and Sonoma counties, 5 of which were in Marin. The audit was designed to determine the extent to which multi-family housing developments are accessible to persons with disabilities. In this audit, FHOM tested multi-family complexes built for first occupancy after March 1991 for compliance with the accessibility provisions of the Fair Housing Act and the California Building Code. It is noteworthy that it was difficult to locate enough multi-family housing built after 1991, with vacancies, to visit in Marin County. Of the five affordable and market rate complexes appropriate for audit visits, two were complexes built for seniors. The accessibility expert concluded that very few of the sites provided all of the accessible features required and some did not appear to provide any of them. A summary of the issues raised at one or more of the complexes follows:

- Managers did not always know which units and areas were accessible or how many accessible units they had; while the public areas (clubroom and pool) had a front accessible entry, it was closed and the accessibility expert was directed to a rear entry, which was not accessible; there was no guest accessible parking; the pool was prepared for an accessible device, but staff were unaware of it, or alternatively, the pool was not accessible (up stairs); one development was required to be adaptable in all units and 20

percent accessible but did not meet these requirements; the manager at one complex said there were no accessible or adaptable units.

- In the complex with the most egregious violations, the following violations were found: most of the spatial requirements had not been met on the units; door width and circulation space was inadequate; the bathrooms were not accessible; there did not appear to be any accessible units at one property; the public parking area provided no visible accessible parking spaces; and the office was not accessible. In the words of the accessibility expert about one complex, “this development is not an accessible environment.”

While the 2001 audit was conducted by a general accessibility expert, it was not until FHOM’s accessibility audit in Sonoma County in 2005 that FHOM developed better strategies to determine if complexes met accessibility requirements specifically as they relate to federal fair housing laws. One dramatic result was the outcome of the multimillion-dollar lawsuit discussed above under “Complaint Settlements as a Result of Administrative Filings and Lawsuits.” It is clear that further study of accessibility, with follow-up action for violations at multi-family complexes, is needed to bring the few multi-family dwellings built after 1991 in Marin County into full compliance. As it is, new construction that must adhere to accessibility standards is scarce in Marin County, which negatively impacts people with disabilities who need accessible housing. The slow rate of development in the county means that the majority of the housing stock predates adoption of new accessibility standards. When those few units constructed post-1991 are in violation of federal accessibility standards, it reduces the availability of accessible housing in Marin further. While fair housing laws allow for modifications, the cost in private housing is borne by the tenant and may be prohibitive. Thus, ensuring that new construction is fully accessible is crucial for people with disabilities.

### **Familial Status Discrimination**

As identified in HUD’s Final Investigative Report of Marin County, much of the older multi-family dwellings available to families with children are unsuitable:

*The construction is mostly wood frame, and there are minimal sound/noise isolation measures in the units. Families with minor children encounter many obstacles in finding*

*suitable rental units, including lack of units with more than two bedrooms such as would be needed by larger families, lack of affordability. But a particular problem results when families secure housing in these modestly-constructed buildings, and then find that neighbors begin to complain about noise problems from the children's presence in the units. This can result in threats or actual evictions, with disproportionate impact on families with minor children. Further, a good number of multifamily complexes constructed during the 1960s/1970s were originally built as "adults only" complexes. Although discrimination against families with children was outlawed by state fair housing law even before passage of the FHA amendments in 1988, there is still some lingering discrimination against families with minor children in these historically-adults complexes, who may now know that law requires that they rent to families with children, but then look for justifications such as noise complaints as grounds to limit the number of families with children living in those complexes.*<sup>23</sup>

In 2000, Fair Housing of Marin conducted a two-stage familial status audit funded by the Marin Community Foundation. The first stage involved telephone testing of 50 available apartment, duplex or condominium units advertised for rent in Marin County. Clear evidence of discrimination against families with children was found in 10% of the telephone tests (in Novato, Corte Madera, Larkspur, Mill Valley and Tiburon).<sup>24</sup> Some type of differential treatment favoring the testers without children occurred in 32 percent of the tests (in Novato, San Rafael, Greenbrae, Corte Madera, Mill Valley and Sausalito). Forty-six percent of the telephone tests did not indicate evidence of discrimination. In the remaining ten percent of tests, the evidence was inconclusive. Thus, based solely on preliminary phone testing, the audit concluded that a prospective family with children telephoning about rental housing in Marin would experience discrimination in one out of every ten calls, and differential treatment in approximately one out of every three calls.

Discrimination toward families with children manifested in several ways:

- Availability (testers without children were told of more available units);
- Rental terms, conditions or privileges (for the tester without children, lower or more flexible deposits, earlier availability);
- Discouraging remarks by the housing provider (that the complex was not conducive to children, or that not many landlords want to rent to families with children, or that there

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<sup>23</sup> Final Investigative Report, Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program, pg.69. It should be noted that while the noise complaint may be legitimate, the effect of the eviction may still be discriminatory.

<sup>24</sup> Fair Housing of Marin, "Discrimination Against Families with Children in Rental Housing," 2001.

were only couples and singles as tenants); or

- Discriminatory statements (for example, that the owner refused to rent to anyone with children).

Not only did differential or discriminatory treatment favoring the childless tester occur in more than 40 percent of the telephone tests, the follow-up site tests showed a further winnowing out of another 30 percent of families.<sup>25</sup> Further, families with children who persist are likely to encounter barriers like demands for deposit payments with cashier's checks, pointed personal comments and illegal inquiries, or prejudicial statements, such as the “child-unfriendly” nature of the complex or a characterization of it as a “quiet place for young professionals.”

### **Limitations of Audit Testing**

While the results of these studies are dramatic, they are limited in scope. The tests are often further limited to telephone or email contact by the testers; full scale in-person testing, however, is likely to reveal further details of unintentional and intentional discriminatory practices. Furthermore, as most testing occurs at the pre-application stage, it is quite likely that going through the application process would reveal further differences.

### **Discriminatory Advertising and the Internet**

The Fair Housing Act prohibits landlords from discriminating based on race, color, religion, national origin, sex, disability or familial status. This includes publishing print, broadcast or internet advertisements that indicate a preference or otherwise discriminate against families with children. The majority of rental transactions are now handled on the Internet, highlighting the importance of monitoring Internet ads for indications of discrimination. Per the Craigslist fact sheet, 14 million news ads are received and viewed by 15 million people per month on Craigslist. Many people search for housing online and this method is rapidly replacing searching through newspaper ads.

Two university professors, Adrian Carpusor and William Loges, conducted testing for

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<sup>25</sup> Fair Housing of Marin press release, “Discouraging Results From Latest Fair Housing of Marin Rental Audit Families with Children Still Second Class Citizens,” 2002.

rental discrimination and ethnicity in names. The *Journal of Applied Social Psychology* published the results of that research in 2006.<sup>26</sup> Professors Carpusor and Loges sent email inquiries to landlords advertising vacancies in Los Angeles County using an Arabic, Black and White implied name. Black and Arab names received significantly fewer positive responses than the White name, with the Black name receiving the fewest.

### **Internet Monitoring for Discrimination**

In 2005, Fair Housing of Marin began monitoring rental housing ads on Craigslist, the largest internet advertising site in the world, with 450 sites in all 50 U.S. states and 50 countries. Though most of the discriminatory ads in Marin involve shared housing,<sup>27</sup> housing providers also post discriminatory ads for single-family homes, duplexes, and multi-family complexes. The most common type of discriminatory ads affect families with children, with postings such as “ideal for couples, not ideal for kids”, or “kid-free zone.” Other ads, while not specifically excluding children, either have a potentially discouraging effect or have an adverse impact on families with children (“single professionals only” or “perfect for a couple, or a person who enjoys a lot of space”). In most cases, FHOM sends a courtesy email informing the housing provider of the violation and offering follow-up training. In more egregious cases, particularly discriminatory ads for multi-family complexes, FHOM may conduct further investigation and file a complaint. In some cases, anonymous callers, offended by discriminatory ads, will alert FHOM to illegal wording posted in ads online.

In 2008, FHOM began a new internet monitoring project modeled on the project in Los Angeles County. FHOM used Latino, Black, and White implied names in 50 sets of emails, and found that the Latino and Black names received fewer positive responses than the White name. Though inquiries were only sent to advertisements posted that day, in 10 cases, no one received a return email. Out of the remaining 40, there were no significant differences in 24 sets. In 11 cases, the Black implied name received a less favorable response or no response; in nine cases,

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<sup>26</sup> Carpusor, Adrian G. and William E. Loges, “Rental Discrimination and Ethnicity in Names,” *Journal of Applied Social Psychology* 36, no. 4, 934-952 (2006).

<sup>27</sup> Some examples of discriminatory ads in 2010 for shared rentals in Marin: “Single occupancy ONLY”; “single person or a couple in their forties or even better fifties and up who have no kids”; “we prefer...no kids, and that you are from the ages of 18-24.” Under federal and state fair housing law, people can legally discriminate when choosing roommates or housemates, but they lose their exemption when they advertise using discriminatory wording.

the Latino implied name received a less favorable response.

Researchers recently completed a study that demonstrated that the electronic housing market is not race-neutral. Appropriate investigation strategies are needed to combat the reality of housing discrimination in cyberspace.<sup>28</sup> As the authors noted “... HUD, state and local fair housing agencies, and non-profit fair housing organizations need to expand their investigative tactics and pay much closer attention to Craigslist and other electronic search tools.”<sup>29</sup>

### **Fair Housing Education in Marin County**

Fair Housing of Marin has provided Marin County service providers, tenants, housing providers, and community members with a variety of fair housing classes, workshops, and presentations since its inception. While FHOM provides hundreds of people with one-on-one fair housing education and counseling each year, the agency continues to reach out to larger numbers to make sure that everyone has access to fair housing education. FHOM trained hundreds of housing providers in Marin County over the last decade through its Fair Housing Law and Practices seminar, accredited by the state Department of Real Estate, for housing providers and accredited by the Department of Real Estate. FHOM conducted an accessibility workshop in 2001 with MCIL, and seven successful daylong conferences on reasonable accommodations in three counties between 1997 and 2010. Over 400 public and assisted housing providers, advocates, and people with disabilities attended these programs. In addition, FHOM staff meets with hundreds of social service agency staff throughout the county to build better understanding of fair housing issues and better referral systems.

### **Limited English Proficiency**

Limited proficiency in English increases an immigrant's vulnerability to discriminatory housing practices. That there is no rent control or just cause for eviction ordinance in Marin

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<sup>28</sup> An excerpt of this study by Professor Gregory D. Squires (Professor of Sociology, George Washington University, D.C.) and Samantha Friedman (Associate Professor of Sociology, University at Albany, NY) was published in an op-ed piece on May 12, 2010 in the *Huffington Post* entitled “Cyberdiscrimination in Dallas: Is Neil a More Desirable Tenant than Tyrone or Jorge?” [http://www.huffingtonpost.com/gregory-d-squires/cyberdiscrimination-in-da\\_b\\_574008.html](http://www.huffingtonpost.com/gregory-d-squires/cyberdiscrimination-in-da_b_574008.html)

<sup>29</sup> *Ibid.*

County may encourage discrimination among some housing providers. Immigrants need information in their native language to help them assert their fair housing rights during the home buying and rental process. Fair Housing of Marin provides written literature in English, Spanish, Vietnamese and Chinese, with Spanish-speaking staff and a contract with the Asian Advocacy Program for translation needs. To better serve the needs of limited English speaking Spanish and Vietnamese population, FHOM expanded the Spanish section of its website and translated portions of its website into Vietnamese. According to the 2000 Census, in Marin County, 22 percent of people above age five report speaking a language other than English, and of those 48 percent speak Spanish. Nearly half of Spanish speakers report they speak English “less than well,” and 17 percent of non-English speakers speak an Asian language and more than one-third report they speak English “less than well.” Vinh Luu, Asian Advocacy Program Director, reports that the need for translation is greatest for the Vietnamese population, as they are the newest immigrants with the greatest need for information in their native language, and their English language skills are not well developed.

### **Restrictive Covenants**

A restrictive covenant is a provision in a deed limiting or prohibiting certain uses of the property. At one time, restrictive covenants were used to prevent minorities from moving into residential neighborhoods. Developers initiated the restrictions in real estate deeds and homeowners and real estate agents used these to keep out Blacks, Jews, and other minorities. Although in 1948 the U.S. Supreme Court held such covenants to be unenforceable,<sup>30</sup> restrictive covenants have remained in many deeds. It may well have been such covenants, along with discriminatory attitudes, that initiated segregated housing patterns in Marin City after World War II. Building upon the Supreme Court precedent, the California Fair Employment and Housing Act (FEHA) expressly prohibits the existence of a restrictive covenant that makes housing opportunities unavailable based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income or ancestry.<sup>31</sup> In 2002, Fair Housing

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<sup>30</sup> *Shelley v. Kraemer*, 334 U.S. 1 (1948).

<sup>31</sup> <http://www.dfeh.ca.gov/DFEH/Complaints/restrictiveCovenants.aspx>

of Marin received a call from a family in Greenbrae who had discovered the following language in their deed and wanted to know what they could do remove it.<sup>32</sup>

*No portion of the property... shall be conveyed, transferred, let to, or held, occupiedor possessed by anyone other than a person of the Caucasian or White race. This indenture is upon the further condition and covenant (independently of the preceding paragraph) that no portion of said property shall be occupied or possessed, or used as a place or residence by any person not of the Caucasian or White race, but subject to the right of any occupant to have the customary and reasonable domestic servants of other races.*

While the offensive wording could not be removed from the original deed, FHOM rallied owners, the Marin Association of Realtors, and others around the county to support a Senate bill that would simplify the process of invalidating restrictive covenants. Effective January 1, 2006, any person holding an ownership interest of record in a property believed to be the subject of an illegal restrictive covenant may record a document titled Restrictive Covenant Modification with the county recorder in the county in which the subject property is located. The modification document should include a complete copy of the original document containing the unlawfully restrictive language with the unlawfully restrictive language stricken. Following approval by the county counsel, the county recorder will record the modification document.<sup>33</sup>

While it may appear that discriminatory restrictive covenants have been addressed, it is worth noting that a 2009 study of foreclosures in Sacramento has drawn a clear connection between census tracts with racially restrictive covenants or mortgage redlining, and mortgage deficiency. The study concluded that historical racism ultimately played a role in the thousands of foreclosures that have disproportionately impacted communities of color after the “geography of neighborhoods with restrictive covenants ... firmly established white residential boundaries shaped by the race-based privileged access to mortgage credit.”<sup>34</sup>

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<sup>32</sup> The homeowner’s home was part of a subdivision built in 1946, and the complaint led FHOM to discover that 197 homes in this subdivision had the same covenant.

<sup>33</sup> Cal. Gov. Code § 12956.2(a) and (b).

<sup>34</sup> Hernandez, Jesus, “The Residual Impact of History: Connecting Residential Segregation, Mortgage Redlining, and the Housing Crisis,” submitted to the Kirwan Institute for the Study of Race and Ethnicity as part of the Kirwan Fair Housing and Fair Credit Initiative, p. 15, December 2009.

Clearly the existence of restrictive covenants has helped shape the demographics in Marin County today, and certainly has had much to do with the large Black population existing in Marin City. As noted by one long time Mill Valley resident, “In Marin County, we didn’t let supply and demand work fifty years ago, so now we have homes that are three times the cost of [those in neighboring counties], and now people don’t want to change because they are happy with their economic position if they own a house here.”<sup>35</sup> He pointed out that when people say that the expense of building affordable housing in Marin County is prohibitive so it should be built elsewhere, it is an old idea of outsourcing poverty to other areas. People employed in lower-paying jobs cannot afford to live in the area and must commute, increasing congestion. All this, the resident claims, has profound practical and moral consequences for Marin County residents and future generations.

### **The Intersection of Landlord-Tenant and Fair Housing Issues**

The Marin Consolidated Plan of 2010-14 identified that “Housing code enforcement, housing counseling, mediation services for tenants and landlords, and fair housing enforcement are ... priorities for serving extremely low income persons.”<sup>36</sup> Tenants often have difficulty determining whether unfair housing practices are illegal, and if so, whether those housing practices violate fair housing law or state habitability law. Immigrants, especially Latinos, who may not speak English or may lack documentation, are most likely to experience unfair treatment by landlords. Although the Marin Consolidated Plan of 2010-14 maintains that “rental units tend to be well-maintained ... due to the high rents asked for vacant apartments,”<sup>37</sup> some landlords engage in a “predatory habitability” practice, intentionally leasing units to immigrants of questionable legal status, then refusing to make repairs needed to maintain the unit in a habitable condition. A predatory landlord may not provide a rental agreement, or refuse to provide receipts for rents or deposits tendered, or raise rent without proper notice. Though Marin County does not have a rent ordinance, a landlord is still beholden to state law requirements regarding

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<sup>35</sup> Interview with David Levin, 2/8/10

<sup>36</sup> County of Marin Consolidated Plan for FY 2010-2014, p. 24, § 91.205(b)(1).

<sup>37</sup> County of Marin Consolidated Plan for FY 2010-2014, p. 47 § 91.210(a): 181 (0.5%) of 36,632 renter-occupied units are substandard.

provision of proper notice to terminate tenancy.<sup>38</sup> After a tenant vacates, a predatory landlord may illegally retain all or part of the security deposit.

These violations of state housing law fall under the rubric of illegal housing discrimination if a protected class of people is victimized. In the case where a complex is filled with mostly Latino residents, and many of them are subjected to any of the practices outlined above, this may constitute national origin discrimination. Nevertheless, because of the difficulty in getting tenants in these situations to come forward for fear of retaliation from their landlord, fair housing advocates often have a difficult time proving the fair housing issues. For those tenants fortunate enough to contact an advocacy group, advocates can work on their behalf to counter illegal housing practices. While Fair Housing of Marin has directly intervened on behalf of tenants to work out agreements or assisted tenants with filing complaints, FHOM has also worked with the county agency Mediation Services when landlord-tenant and fair housing issues overlap in order to achieve positive outcomes in a non-adversarial manner. Mediation Services is a county agency that has been in operation for over 30 years, providing landlord-tenant information and dispute resolution with face-to-face mediations at a sliding scale rate. Unfortunately the program has been cut from the County's 2010-2011 budget and will no longer be staffed after September 2010.<sup>39</sup> The impact of the loss of Mediations Services on immigrants and other protected groups cannot yet be gauged.

### **RECOMMENDATIONS**

1. The number of fully jurisdictional complaints received confirms that discriminatory housing practices in rental housing occur in Marin County. This indicates a continued need for funding of Fair Housing of Marin's educational programs to all protected classes

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<sup>38</sup> Proper notice under the California Civil Code includes 30 days for month-to-month tenants living in their homes for less than one year, and 60 days for month-to-month tenants residing in their homes for more than one year.

<sup>39</sup> While the District Attorney's Consumer Protection program will be slated to take housing calls, it is not clear how issues of neutrality or confidentiality will be handled (or the volume that can be managed). Further, the program will apparently not continue to conduct the face-to-face mediations currently at the core of Mediation Services' program. Mediation Services will also be unable to fulfill its contractual obligations to follow up on any cases when problems arise. It is unknown if there are any mediators who offer free pro bono services for landlord tenant issues within the county.

and particularly to housing providers and new immigrants. The County can support Fair Housing of Marin's community education further through publicity of fair housing events whenever possible.

2. Since Fair Housing of Marin's audits have indicated that national origin discrimination against Latino renters and race discrimination against Blacks occurs all too frequently, community education and enforcement efforts need to target discriminatory housing practices impacting Latino and Black households in Marin County in the area of rentals primarily, but also sales, insurance, and residential care facilities for the elderly.
3. Fair Housing of Marin's audits also indicate that families with children experience discrimination frequently; therefore, community education and enforcement efforts should target discriminatory housing practices impacting families with children.
4. Because of the frequency of noise complaints related to families with children (potentially leading to eviction), often due to inadequate sound barriers in older multi-family housing stock, local government should consider offering incentives and/or adopt requirements to housing providers to insulate walls to minimize this difficulty.
5. Fair Housing of Marin's audits also indicate that there are accessibility violations among multi-family units built after 1991, and that people with disabilities experience discrimination frequently; therefore, community education and enforcement efforts should target discriminatory housing practices impacting people with disabilities as well as accessibility violations in new construction. This would include fair housing accessibility training for code enforcement officials as well as developers and architects.
6. Fair Housing of Marin's audits of residential care facilities for the elderly, "independent living," and accessibility demonstrate the barriers that people with disabilities face, from housing providers' unwillingness to rent to people seen as "troublesome" in their need for reasonable accommodations or in need of costly services, to physically inaccessible housing. Community education and enforcement efforts should continue to target discriminatory housing practices impacting people with disabilities as well as seniors.
7. Testing as an enforcement activity has at times been limited due to shrinking funding sources. Since testing is an effective enforcement activity in resolving complaints by providing positive outcomes to complainants and modifying the discriminatory practices of housing providers, it is recommended that the County and other funders expand

funding to include other types of fair housing audit testing. Though FHOM has traditionally been generously supported by the Marin Community Foundation, funding from MCF (as a result of shifting priorities and a move away from supporting operating funds) has shrunk drastically in 2009 with future support for any fair housing enforcement work very uncertain, leaving a heavier burden on the County, which is itself projecting a deficit of \$20 million for FY2010-2011, the most severe since Proposition 13 curbed services in 1978.<sup>40</sup> At such times federal dollars under HUD's Fair Housing Initiatives Program become increasingly crucial – as much of the enforcement work described above was conducted under this program. In addition, while HUD's 2011 program budget is the most fair housing-oriented presented in a number of years, it is clear that programs promoting more mobility of rental assistance and sustainable inclusive communities and other innovative concepts cannot succeed without supportive enforcement work. While the County and other local funders can support some of the elements of fair housing enforcement, it is not enough for fair housing education, outreach, enforcement, and the full scope of fair housing programs needed. Therefore the County and other funders should help fair housing groups garner the support of public officials in Congress who have control over the purse strings of this program to stress the importance of funding fair housing work and affirmatively furthering fair housing. There may also be programs through large employers that could work in concert with fair housing efforts, where employees might be offered release time to pursue volunteer opportunities – in this case, working as testers.

8. Community education and enforcement efforts need to be broadened from rental housing to more fully encompass Fair Housing law by including home sales, lending, and advertising. The County can demonstrate its dedication to affirmatively furthering fair housing by taking a leadership role in encouraging the business community to support fair housing enforcement activities with the assistance of lenders, media and real estate professionals, and the public schools.

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<sup>40</sup> Johnson, Nels, "County Faced \$20 Million Shortfall; \$12 Mil Slashed From Budget", Marin Independent Journal, A1, 04/01/10.

9. The Marin County Community Development Agency (as well as the cities and towns within Marin) and Fair Housing of Marin should enter into an arrangement where FHOM is notified regarding new building permits of new multi-family units so that FHOM can offer information to the builders regarding Fair Housing Act construction requirements. In addition, the Marin County Building Department and the building departments of the cities in Marin and FHOM should enter into a collaborative arrangement to distribute a brochure outlining Federal Fair Housing Act Accessibility Requirements in New Construction to any new construction building permit for multi-unit housing.
10. Successful fair housing enforcement encourages increased compliance with fair housing laws. The County can support Fair Housing of Marin's community education through publicity regarding successful fair housing enforcement efforts.
11. Over the years Fair Housing of Marin has relied on the expertise of a few fair housing attorneys who are well-known and established in their fields. Because this is a very specific field of law, FHOM knows the potential for establishing bad case law and has therefore shied away from new attorneys in the field. However, FHOM has recognized the value in developing a pool of local attorneys able and willing to pursue fair housing cases, particularly those that may be valid and even important discrimination cases but without much to offer in damages and therefore more likely to be rejected by more established fair housing attorneys. The County should sponsor continuing education for attorneys in conjunction with the Marin County Bar Association to broaden the pool of attorneys with fair housing experience who may be willing to step forward and provide pro bono work. This would require some training by Fair Housing of Marin in concert with trained fair housing attorneys.
12. The County should evaluate the District Attorney Consumer Protection program to see how effectively it manages the new influx of landlord-tenant calls since Mediation Services has been de-funded, and take steps as needed to address transition issues or training needs in the program.
13. The Marin County Task Force on Housing Discrimination was established in 1998 by the Marin County Supervisors and Fair Housing of Marin. Since its inception, the Task Force has analyzed a number of different housing discrimination issues. In recent years there has been some loss of momentum; FHOM has continued to present fair housing

issues to any of the players wanting to participate, but without the consistent involvement of community representatives. Given the County's mandate to affirmatively further fair housing, the Supervisors and other advocates can use the Task Force as a forum to address some of the impediments identified in this document and encourage broader involvement from the community in addressing these impediments.

## **CHAPTER 4 THE PUBLIC SECTOR**

### **ZONING AND SITE SELECTION**

#### **Location and Distribution of Low- and Moderate-Income Housing**

Only a small percentage of land in Marin County is available for the development of housing. Based on figures provided by the Marin County Community Development Agency, 84 percent of land area in Marin is designated for agriculture, parklands, open space and watershed; thus, only 16 percent of the total land area in the county, including cities, is suitable for development. Eleven percent of the land in the county has already been developed, leaving only five percent available for future development.<sup>1</sup>

Approximately 2,890 low-income assisted housing units sponsored by non-profit organizations exist in Marin County.<sup>2</sup> For example, the Hilarita Apartments, a 102-unit subsidized apartment complex in Tiburon, and the Shelter Hill Apartments, a 75-unit complex in Mill Valley, are currently owned entirely by non-profits.<sup>3</sup> Marin County has an additional inventory of 274 inclusionary rental units, 758 below market rate (“BMR”) ownership units, 573 units of public housing, and 2,269 Section 8 housing choice vouchers.<sup>4</sup> While affordable housing exists in all Marin jurisdictions, the affordable housing stock is concentrated in Novato, San Rafael, and the unincorporated County. Although affordable developments for seniors and people with disabilities are located throughout most jurisdictions in the County, public housing is concentrated in the unincorporated County. In Corte Madera, Mill Valley, and Tiburon, affordable rentals comprise at least 7.5 percent of the overall rental stock.<sup>5</sup> Below market rate home ownership units exist in eight jurisdictions in Marin. An estimated 20 percent of Marin’s affordable housing units are reserved for persons with disabilities or seniors.<sup>6</sup> The table below illustrates the distribution of affordable as well as market rate housing units across jurisdictions within the county.

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<sup>1</sup> Marin County Consolidated Plan 2010-2014 (“Con Plan”) § 91.210(a), pg. 45.

<sup>2</sup> Con Plan § 91.210(b)(2), pg. 58.

<sup>3</sup> *Ibid.* at 58-59.

<sup>4</sup> Marin County Affordable Housing Inventory 2008.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

## Existing Housing Units in Marin County<sup>7</sup>

Jurisdiction	Very Low (R)	Low (R)	Moderate (R)	Restricted Total	Market Rate	TOTAL
<b>Belvedere</b>	0	11	0	11	1056	1067
<b>Corte Madera</b>	62	33	23	118	3950	4068
<b>Fairfax</b>	97	3	0	101	3322	3423
<b>Larkspur</b>	20	81	28	129	6321	6450
<b>Mill Valley</b>	228	22	29	283	6100	6383
<b>Novato</b>	615	584	245	1444	19221	20665
<b>Ross</b>	0	0	0	0	819	819
<b>San Anselmo</b>	11	23	3	42	5401	5443
<b>San Rafael</b>	422	611	267	1300	22361	23661
<b>Sausalito</b>	6	33	0	39	4531	4570
<b>Tiburon</b>	84	39	29	152	3815	3967
<b>Unincorporated</b>	619	82	69	770	27210	27980
<b>County Total</b>	2164	1522	693	4389	104107	108496

Using the data provided above, the following table illustrates the percentage of all affordable housing in Marin County that is located within a given jurisdiction, as compared to the percentage of the county's total housing stock (both affordable and market rate units) located within that jurisdiction.

### Percentages of Affordable Housing

Jurisdiction	% Total County Affordable Housing Stock Located in Jurisdiction	% Total All County Housing Stock Located in Jurisdiction
<b>Belvedere</b>	0.3 %	1.0 %
<b>Corte Madera</b>	2.7 %	3.7 %
<b>Fairfax</b>	2.3 %	3.2 %
<b>Larkspur</b>	2.9 %	5.9 %
<b>Mill Valley</b>	6.4 %	5.9 %
<b>Novato</b>	32.9 %	19.0 %
<b>Ross</b>	0.0 %	0.8 %
<b>San Anselmo</b>	1.0 %	5.0 %
<b>San Rafael</b>	29.6 %	21.8 %
<b>Sausalito</b>	0.9 %	4.2 %
<b>Tiburon</b>	3.5 %	3.7 %
<b>Unincorporated County</b>	17.5 %	25.8 %

<sup>7</sup> Association of Bay Area Governments, San Francisco Bay Area Housing Data 2009 (R: Restricted).

Statistically, one would expect rough proportionality between the percentage of the county's housing stock located in a jurisdiction, and the percentage of the county's *affordable* housing stock located in a jurisdiction. However, the above figures clearly illustrate that relative to the total amount of housing located therein, Mill Valley, Novato, and San Rafael have a disproportionately high number of affordable units. On the other hand, Belvedere, Corte Madera, Fairfax, Larkspur, Ross, San Anselmo, Sausalito, and the unincorporated County<sup>8</sup> all have disproportionately low amounts of affordable housing within their jurisdictions. Only Tiburon has a proportionate number of affordable units given the total amount of housing units located therein.

Future affordable housing developments are proposed in Novato, San Rafael, and the unincorporated County. To wit, the Marin County Community Development Agency has identified two proposed housing developments: Toussin Senior Housing in Kentfield (unincorporated), and Warner Creek Senior Housing in Novato.<sup>9</sup> Recent development of The Next Key in Novato also aligns with this trend. The Next Key, with 32 units of transitional housing, was built adjacent to Homeward Bound's New Beginnings Center in Novato for the purpose of housing students enrolled in the Center's Fresh Starts Culinary Training Program as well as other training programs.<sup>10</sup> Novato required the development of affordable housing through its Reuse Plan for the decommissioned Hamilton Army Air Field, which called for 425 units of market rate housing and 783 units of below market rate housing, including owner-occupied homes, conventional rental housing, and transitional rental housing. Though the development resulted in the creation of hundreds of lower-income units, the conversion of Hamilton Army Air Field was a "one-time" opportunity and not easily replicable in the future.<sup>11</sup>

## **Current Zoning Policies**

Numerous advocates for increased affordable housing development in Marin County agree: restrictive zoning and permitting requirements constitute significant barriers to

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<sup>8</sup> Note that the above data does not separate Marin City from the rest of the unincorporated County; the bulk of affordable units in the unincorporated County are concentrated in Marin City specifically.

<sup>9</sup> Con Plan Executive Summary.

<sup>10</sup> Con Plan § 91.210(c), pg. 65.

<sup>11</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 18 (2009).

development, further exacerbating the problem of making land available for housing development.<sup>12</sup>

*The overriding issue...is that the vast majority of land in Marin is not available for development as it is dedicated to parks, agricultural land or open space. In the areas that remain available for development, most jurisdictions have chosen to create zoning that restricts residential development primarily to single-family homes. There are very few areas in the county where zoning permits multi-family residential development at the densities needed to make affordable housing economically feasible. The underlying reasons for these restrictions are many, but include concerns about traffic, environmental impact, and community opposition, resulting from a lack of understanding of affordable housing and fear and stigma associated with people who are low-income, homeless, or disabled...*

*California law requires every community to develop a Housing Element that identifies a sufficient number of sites to accommodate that jurisdiction's fair share of regional housing need, and to ensure that these sites are appropriately zoned for affordable multi-family housing. None of the jurisdictions in Marin currently have State-approved Housing Elements...The reality, however, is that many of the affordable housing sites identified in these Housing Elements still pose substantial barriers to development because they have not been zoned to allow multi-family housing at the needed densities "by right," meaning they can be developed without securing conditional use permits or other approvals that require public input.*

California law defines "by right" development as that which does not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval.<sup>13</sup> "In other words, a use that is permitted 'by right' is one that does not burden the developer with the cost, delay and uncertainty of requesting an approval that the local government retains the discretion to deny, or to grant only after imposing onerous conditions."<sup>14</sup>

*Housing developers, and particularly the non-profit developers who create the vast majority of affordable housing, are typically very reluctant to take the risk of acquiring and developing sites where needed approvals have to be secured through a long and arduous public process. The lack of appropriately zoned sites presents a tremendous*

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<sup>12</sup> *Marin County Housing Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County*, Kate Bristol Consulting, 02/05/10, pg. 14; See also Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc. (2009); Interview with Richard Marcantonio, Public Advocates; Interview with Dave Coury, Marin Continuum of Housing and Services.

<sup>13</sup> Cal. Gov. Code § 65583.2(i).

<sup>14</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 23 (2009).

*obstacle to the creation of new housing and is one of the major reasons the rate of new unit production in Marin is so low.*<sup>15</sup>

The Marin County Development Code (“Code”) imposes a number of zoning regulations that may have the effect of impeding the development of affordable housing.<sup>16,17</sup> The Code requires that all structures must comply with a maximum allowable height standard,<sup>18</sup> with the exception that single-family dwellings in specified zoning districts may increase in height by a maximum of ten feet without special approval, so long as side setbacks of fifteen feet or greater are provided.<sup>19</sup>

An affordable housing project may be granted a use permit in *any* zoning district, so long as residential uses are allowed under the Countywide Plan land use designation.<sup>20</sup>

Proposed residential developments with two or more units must provide 20 percent of the total number of housing units as inclusionary, affordable to low- or very low-income families, and provide 20 percent of the total number of parcels when land is subdivided for inclusionary units. If the development is of such small scale that application of the 20 percent requirement results in a fraction less than 0.50, the developer must pay an in-lieu fee.<sup>21</sup>

Under California Housing Element law, sites must be rezoned to meet shortfalls in very low- and low-income housing needs at recommended minimum densities.<sup>22</sup> “In Marin, that means a minimum density of 30 units per acre for the unincorporated County and its two largest cities, San Rafael and Novato. Remaining cities and towns must zone sites at a minimum density of 20 units per acre to meet the shortfall in the lower-income portion of their regional housing

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<sup>15</sup> *Marin County Housing Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County*, Kate Bristol Consulting, 02/05/10, pg. 14-15.

<sup>16</sup> *Marin County Housing Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County*, Kate Bristol Consulting, 02/05/10.

<sup>17</sup> It should be noted that the County code applies only to the unincorporated County. Similar provisions may be in effect in individual cities, but municipal codes are not examined in this Analysis.

<sup>18</sup> Marin County Dev’t Code § 22.20.060(A).

<sup>19</sup> Marin County Dev’t Code § 20.20.060(E)(2).

<sup>20</sup> Marin County Dev’t Code § 22.22.020(A). Note that residential use must also be allowed under the County Plan, which presents another obstacle to obtaining a use permit for affordable housing projects.

<sup>21</sup> Marin County Dev’t Code § 22.22.020(B).

<sup>22</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 11 (2009); *see also* AB 1233 (“if a city or county in the prior planning period failed to identify or make adequate sites to accommodate that portion of the regional housing need allocated pursuant to Section 65584, then the city or county shall, within the first year of the planning period of the new housing element, zone or rezone adequate sites to accommodate the unaccommodated portion of the regional housing need allocation from the prior planning period.”).

need.”<sup>23</sup> Current zoning regulations, however, provide that housing may be developed at a lower density. To wit, in Marin County, “two-story apartments can be built at densities of 15 to 25 units per acre.”<sup>24</sup>

Notwithstanding zoning regulations, parcel size may also detrimentally affect the development of affordable housing.

*Parcels that are too small pose difficulties for non-profit builders of affordable housing. In economic terms, very-low and low-income housing projects for families are at their most viable when they include between 50 and 80 units. (Special needs housing, by contrast, such as housing for people with disabilities, can sometimes succeed on a smaller scale.) At a density of 50 units per acre, this requires a site of at least an acre in size. While affordable housing can be built on smaller sites, these smaller projects are more difficult to fund, less efficient to operate, and benefit less from the economies of scale necessary to achieve the lower per-unit cost needed to keep housing affordable.... [Public Advocates] found that many Marin jurisdictions have placed undue reliance on sites too small to be economically feasible.”<sup>25</sup>*

In looking at 179 sites identified by jurisdictions in previous housing elements as potential development sites, Public Advocates found that “more than a third were under an acre, and more than a fifth under half an acre.”<sup>26</sup> Further, only one jurisdiction in Marin “provided a developable site of at least an acre with appropriate zoning: Corte Madera provided a 3.5 acre site with the Town’s “Affordable Housing Overlay” zoning.”<sup>27</sup> According to Roy Bateman, if a subsidized rental housing complex is too small, that limits economies of scale for both property management and support services for tenants, and there is a related effect on obtaining development financing. Institutions that make loans to support the development of subsidized housing want the complex to show that its revenue can cover its expenses for 15 years, assuming that rents increase by 2% per year and expenses increase by 3% per year. If a complex has per-unit operating expenses that are above the norm, that gap will be magnified by the assumption that expenses increase faster than rents, and the complex won’t pass the Lender’s underwriting criteria. Building small projects is not sustainable in the long run because those smaller projects

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<sup>23</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 11 (2009); see also Cal. Gov. Code § 65583.2(c)(3)(B).

<sup>24</sup> Marin Countywide Housing Element Workbook, *Density and Mixed Use*, April 7, 2009.

<sup>25</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 21 (2009).

<sup>26</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 21 (2009) (emphasis added).

<sup>27</sup> *Ibid.* at 22.

fail to achieve the economies of scale necessary to fund operating expenses and support services for residents. The general standard is that the minimum project size for long-term financial sustainability is 50 units.<sup>28</sup>

The County Development Code requires that 20 percent of the total number of housing units of all new residential developments containing two or more units should be required to be affordable by very low- or low-income households, and that commercial and industrial development provide affordable housing units for 25 percent of the total number of very low-, low-, and moderate-income jobs generated by the new commercial and industrial developments.<sup>29</sup>

In residential development projects of two or more units with units intended for sale, 20 percent of units must be inclusionary units affordable in perpetuity to households earning 60 percent of area median income.<sup>30</sup> The inclusionary requirement extends to lot subdivisions: in subdivisions of two or more parcels suitable for residential development, 20 percent of the developable parcels must be set aside for development of low- or very low-income rental or owner-occupied units.<sup>31</sup> The County has strict limitations on resale prices of inclusionary units.<sup>32</sup>

Inclusionary requirements also apply to commercial and industrial developments. Twenty-five percent of the total number of housing units for very low-, low-, and moderate-income households that are generated by the development must be provided within the development.<sup>33</sup>

The County provides several incentives for inclusionary and other affordable housing, including a county density bonus of up to ten percent of the number of units normally allowed, exceptions to standard interior design requirements, fee waivers, technical assistance, and priority processing. Further, in a residential project that contains single-family detached homes, inclusionary units may be attached living units or constructed on smaller lots. A developer of an ownership development has the option of constructing rental units to meet its inclusionary

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<sup>28</sup> Interview, Roy Bateman, Community Development Coordinator, County of Marin, Community Development Agency

<sup>29</sup> Marin County Dev't Code § 22.22.010(D).

<sup>30</sup> Marin County Dev't Code § 22.22.040(A).

<sup>31</sup> Marin County Dev't Code § 22.22.060.

<sup>32</sup> Marin County Dev't Code § 22.22.070.

<sup>33</sup> Marin County Dev't Code § 22.22.095(B)(1).

requirements.<sup>34</sup> Corte Madera, Larkspur, Mill Valley, Novato, San Anselmo, San Rafael, Tiburon, and the County of Marin all have inclusionary housing ordinances.

Inclusionary units should be “reasonably dispersed throughout the development, where feasible.”<sup>35</sup> If inclusionary units cannot be developed on-site, the developer may: (1) construct inclusionary units on one more locations off-site, after determination that overall project character, density, size, location, proximity to retail and service establishments, etc. support a finding that placement of inclusionary units within the larger development is not reasonable or appropriate; (2) dedicate suitable real property for the inclusionary housing to the County or an applicant; or (3) pay an in-lieu participation fee. Inclusionary rental units not constructed within the larger development must be constructed within the unincorporated areas of the County; inclusionary units may only be constructed within incorporated boundaries if there is a pre-existing interagency agreement with the County that defines the sharing of affordable housing resources and compliance with fair share housing allocations.<sup>36</sup> When the construction of inclusionary units is impractical or unreasonable within a residential development, the developer may pay an in-lieu participation fee instead. The in-lieu fee is calculated as the difference between the ability of low-income families to pay for housing and the estimated cost of a market rate unit of appropriate size, multiplied by the required number of inclusionary units.<sup>37</sup>

Any affordable housing units that qualify in a development for a density bonus under California Government Code section 65915 must be provided in addition to the required inclusionary units.<sup>38</sup> A density bonus is an incentive offered to developers that permits an increase in the number of market-rate units that may be constructed on a given property over the applicable density restrictions contained within zoning ordinances and land use elements of the general plan, in exchange for developing more affordable housing units. Under section 65915, a county or city must grant at least one density bonus and permit an additional housing incentive for developers who agree to construct affordable housing. The County density bonus is available to developments that result in a net increase of at least five dwelling units. A developer may receive a 20 percent density bonus for projects that include (1) ten percent low-income

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<sup>34</sup> Marin County Dev’t Code § 22.24.020.

<sup>35</sup> Marin County Dev’t Code § 22.22.020(D)(2).

<sup>36</sup> *Ibid.*

<sup>37</sup> Marin County Dev’t Code § 22.22.080.

<sup>38</sup> Marin County Dev’t Code § 22.22.020(H).

affordable units, (2) five percent very low-income affordable units, or (3) 35 or more senior living units. A developer may receive a five percent density bonus for projects that include ten percent affordable moderate-income units for ownership in a common interest development.<sup>39</sup> The density bonus increases if the percentage of units available to very low-, low-, and moderate-income households exceed prescribed percentages. For very low-income units, each one percent increase above five percent in the percentage of affordable units results in a corresponding two and a half percentage increase in density, up to 35 percent. For low-income units, each one percent increase above ten percent results in a corresponding one and one half percentage increase in density, up to 35 percent. For moderate-income units, each one percent increase above ten percent results in a corresponding one percent increase in density, up to 35 percent.<sup>40</sup>

However, one affordable housing advocate noted that inclusionary housing policies and second units do not create *deeply* affordable housing, i.e. housing affordable for extremely low- and very low-income people. Robert Hickey, program manager for the Marin Community Housing Initiative at the Non-Profit Housing Association of Northern California, believes that the bulk of affordable housing is skewed toward low-income, rather than very low- or extremely-low income families. Further, according to anecdotal reports, non-profit developers are reticent to undertake projects in Marin because of the tedious and unpredictable permitting process in the County, and often turn to Oakland or Richmond instead.<sup>41</sup>

In 2009, all of the towns, cities, and the County collaborated on a Housing Element Workbook (“the Workbook”), which provided background materials for developing local housing elements. The Workbook stated that to “protect [Marin’s] natural areas and community character, respect urban limits, and make the best use of the land that [Marin] commits to development, [the county’s] challenge is to find ways to make sure that vacant or redevelopable parcels are developed efficiently, under-used areas are put to better use, and new development

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<sup>39</sup> A common interest development can be a community apartment project, a condominium project, a planned development, or a stock cooperative. Cal. Civ. Code § 1351(c). A planned development is “a development (other than a community apartment project, a condominium project, or a stock cooperative) having either or both of the following features: (1) the common area is owned either by the association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area. (2) A power exists in the association to enforce an obligation of an owner of a separate interest with respect to the beneficial use and enjoyment of the common area by means of an assessment which may become a lien upon the separate interests in accordance with Section 1367.” Cal. Civ. Code § 1351(k).

<sup>40</sup> Marin County Dev’t Code § 22.24.030.

<sup>41</sup> Interview with Robert Hickey, Non-Profit Housing Association of Northern California.

‘fits in’ with existing neighborhoods.” The Workbook endorses the development of second or “in-law” units as one strategy towards maximizing Marin’s limited land resources.

Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, San Rafael, and the County of Marin “have encouraged second unit conversion as a means of providing affordable housing in existing built-out neighborhoods. Most communities limit the size of second units, which has the effect of limiting rents.”<sup>42</sup> In 2009, Public Advocates, a non-profit law firm and advocacy organization based in San Francisco, published a case study on zoning in Marin County as it relates to developing affordable housing. There, Public Advocates noted “a number of Marin jurisdictions relied heavily on second units as meeting a portion of their very-low income share of the Regional Housing Need Allocation. In particular, Mill Valley relied on second units for at least 36 of the 69 very-low income units. The rationale given, however, was not that the actual rents of existing second units were affordable, but instead that no rent was charged at all. The City provided no evidence that the reported units were actually made available to very-low income renters.”<sup>43</sup> Indeed, it is quite possible that many reported second units are rented to family members, who may or may not be low income. However, a 2008 survey conducted on second units in the unincorporated County found that they are a valuable resource for affordable housing for small households; 17% of the units were affordable to extremely low income households, 23% to very low and 31% to low income households (units charging no rent were taken out in order to not skew the results.<sup>44</sup> It is possible that second units are less likely than units in conventional apartment buildings to be broadly marketed. As a result, second units in practice may have limited availability to those who need affordable housing, particularly minorities. While second units are a viable option in some neighborhoods, they should not be relied upon as the sole source of affordable housing in Marin.

The Workbook also endorsed the use of Transit Oriented Development Overlay Districts as a means of ensuring efficient development of land.

*The purpose of the Transit Oriented Development (TOD) Overlay District is to encourage property owners to develop their property using transit oriented design principles through the use of incentives while preserving rights under the existing district*

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<sup>42</sup> Con Plan § 91.210(c), pg. 65.

<sup>43</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 18 (2009).

<sup>44</sup> Leelee Thomas, Marin County Community Development Agency

*designation. Although the underlying zoning remains in place, the TOD District designation can encourage mixed-use development close to transit systems while enhancing and complementing existing and adjacent development.*

As an example of the utility of TOD Overlay Districts, the Workbook spotlighted San Rafael.

*The City of San Rafael uses both a carrot and a stick to help meet its housing needs. The stick is an inclusionary policy which requires that a small number of affordable units be included in the development. The carrot is provided by policies creating an open ended density bonus for affordable units and incentives for housing downtown...that: (1) allow a height bonus for affordable housing; (2) encourage mixed-use development by allowing residential densities in addition to the floor area ratio for a site; and (3) reduce the parking requirements for downtown units.*

Examples of such TOD Overlay District projects in San Rafael include The Clocktower, 1 H Street, and Rafael Town Center. The City of San Rafael has municipal zoning regulations that allow affordable multi-family housing in most residential districts, and the City provides additional density bonus policies in its housing element.

The Workbook pointed to successful strategies in other jurisdictions as well, noting that Mill Valley and Sausalito “have been supportive of infill projects in their densely built communities.”<sup>45</sup> Marin County, Mill Valley, and Tiburon “have supported affordable housing using funds collected through their in-lieu fee programs....Mill Valley has sought cooperative development opportunities between the City and nonprofit developers, and has completed two such projects for low-income families.”<sup>46</sup>

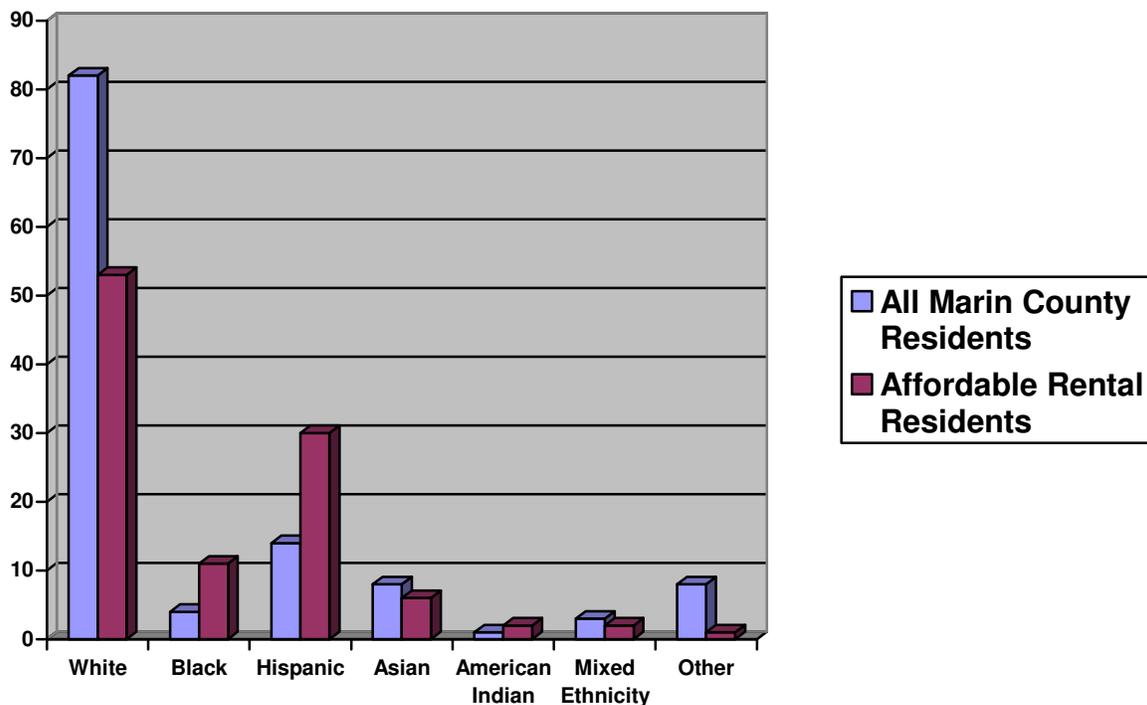
### **Current Policies for Placement of Low-Income Residents**

In its Affordable Housing Inventory of 2008, the Marin County Community Development Agency collected the following racial and ethnic data for 2,079 residents in affordable rental housing:

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<sup>45</sup> Con Plan § 91.210(c), pg. 65.

<sup>46</sup> *Ibid.*



In public housing specifically, “of the 1,220 residents for whom ethnicity was provided, 47 percent are White, 41 percent are African-American, 11 percent are Asian, and 1 percent are American-Indian. Hispanic ethnicity is counted as a separate category than race, and 17 percent of public housing residents identify as Hispanic, close to the countywide percentage of 13 percent. Ethnicity data has not been collected about home owners.”<sup>47</sup>

Looking broadly at the residents of all the complexes listed in the Affordable Housing Inventory, it is notable that the residents of affordable housing are significantly more racially and ethnically diverse than residents of the County as whole. While some argue that increasing the number of affordable housing units will likely increase the diversity of the county as a whole, the production of affordable housing is unlikely to increase neighborhood diversity unless the housing is located outside areas of minority concentration. Further, increased production of affordable housing is an ineffective means of increasing racial and ethnic diversity at the upper end of the economic spectrum. There is also a largely unexplored question of how to increase community diversity by attracting minorities who are not low-income.

<sup>47</sup> Marin County Affordable Housing Inventory 2008, pg. 28.

Some municipalities have attempted to utilize locality preferences to select residents for low-income housing developments. Debate over the effect of locality preferences has been contentious. All cities within Marin County have a majority White population; thus, when affordable housing developers and city governments give a preference in the application process to current residents of the municipality in which the development is located, people of color are disparately impacted. As part of its fair housing advocacy efforts, Fair Housing of Marin relied on a disparate impact theory to argue against the use of preferences in the affordable housing projects at the former Hamilton Air Field in Novato, San Clemente Place in Corte Madera, and an EAH development in Pt. Reyes Station. At San Clemente Place, for example, the town of Corte Madera originally intended to limit the new housing to Corte Madera residents, who are 90 percent White. Fair Housing of Marin broached the possibility of an administrative complaint or other legal action, and effectively persuaded each of three referenced developments to either substantially limit application the locality preference, or expand the preference parameters to include areas with large non-White populations. The Marin County Community Development Agency states that the use of locality preferences in Marin has become much less frequent than in the past.<sup>48</sup> FHOM also supports developers in designing and implementing affirmative marketing plans that target members of protected classes within a set income group.

As required by many funding sources, non-profit affordable housing providers employ comprehensive tenant screening criteria. For example, Eden Housing, the non-profit housing provider that manages Fireside Affordable Apartments in Mill Valley, screens tenants by running a credit check, criminal background check, and a check on court records for all applicants. Among other factors, an applicant will be disqualified for acceptance if she or he has a poor rental history, including a negative reference from a former landlord or past disturbance of neighbors, unpaid utility balances, a past unlawful detainer action, or bankruptcy within the preceding one-year period.<sup>49</sup> Individual tenant screening processes such as that employed by Eden Housing, and most other non-profit developers, may make it difficult for some people with mental disabilities and single mothers with children to secure housing.

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<sup>48</sup> Leelee Thomas, Marin County Community Development Agency.

<sup>49</sup> Eden Housing, Resident Selection Criteria, available at <http://edenhousing.org/edenhousing.asp?Page=96>, accessed 05/05/10.

## Efforts by the County to Determine the Existence of Problems Leading to Opposition to Housing

The 2009 Countywide Housing Workbook (“Workbook”) identified community resistance to new housing as the fourth most visible constraint to development, behind land costs, construction costs, and financing.<sup>50</sup>

*There are a number of concerns that are often expressed at meetings, including: 1) new developments will cause increased traffic, 2) additional housing or density will adversely affect the community character, 3) affordable housing will impact property values, and 4) valuable open space will be lost...Additionally, at times there is a tension between the desire to provide certain individuals (such as nurses, teachers, law enforcement, etc) preferential access to affordable housing, and Fair Housing Law...These concerns are often expressed during project review processes and can present significant political barriers to development.*<sup>51</sup>

Neighborhood opposition to specific affordable housing proposals is pervasive in Marin County.<sup>52</sup> One of the most recent examples is the strong opposition voiced by residents of an unincorporated area between Tiburon and Mill Valley to the proposed development of four affordable homeownership units by Habitat for Humanity. Although the housing was carefully designed so as to be consistent in character with surrounding residential and commercial buildings, residents of the area were still vocally opposed to its development. In fact, “opposition to affordable housing in the county was so fierce in the 1990s that a Marin chapter of Habitat for Humanity disbanded, former members say, after finding itself unable to get a single project built in five years.”<sup>53</sup> An article published by Mother Jones magazine in July 2007 neatly illustrated the rampant anti-development sentiment surrounding the Habitat project. The article quoted a homeowner in Marin County who referred to Habitat’s projects as “coming into an enhanced neighborhood and blighting it.”<sup>54</sup> Another neighbor, in reference to the nearby

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<sup>50</sup> Marin Countywide Housing Element Workbook, *Nongovernmental Constraints*, March 31, 2009.

<sup>51</sup> Marin Countywide Housing Element Workbook, *Nongovernmental Constraints*, March 31, 2009.

<sup>52</sup> Neighborhood opposition has often been termed the “Not in My Backyard” phenomenon, commonly referred to as “NIMBY-ism.” However, Roy Bateman of the Marin County Community Development Agency suggests that use of the term NIMBY as a pejorative can be a form of name-calling that implies motives that cannot be verified, and may tend to solidify positions that may actually be more fluid than project proponents believe.

<sup>53</sup> Harkinson, Josh, *NIMBY Notebook: Habitat for Hypocrisy*, Mother Jones, 07/17/07, available at <http://www.motherjones.com/politics/2007/08/nimby-notebook-habitat-hypocrisy>.

<sup>54</sup> *Ibid.*

Krueger Pines public housing development for seniors and disabled individuals, stated “[t]he characters in those units are not the best kind of people. People say some of them go down to the street and beg.”<sup>55</sup> Anonymous comments from online readers shed further light on the bigotry and racism underlying much of the opposition to affordable development:

*“[T]he poor, minorities, immigrants, or uneducated (read ‘white trash’)...move into a neighborhood and, inevitably, they destroy the property and drive up crime (vandalism, drug dealing, gangs, etc.)” – speakthetruth*

*“I have worked hard all my life to live AWAY from people who require low-cost housing. Because of the problems they usually bring to the neighborhood, I try to avoid living near areas like that. Why the hell should anyone be subjected to this?” – ccrashh<sup>56</sup>*

Housing advocates in the Marin community spoke of similar experiences, noting that “traffic” and “neighborhood character” often act as a pretextual cover for discrimination against low-income people of color. Dave Coury, of the Marin Continuum of Housing and Services, noted that “neighborhood character” is often invoked as a code to limit development to single-family homes, thereby bypassing most multi-family affordable housing development.<sup>57</sup> Similarly, Kathleen Harris at the Marin Community Foundation noted that there is always community resistance to the development of affordable housing, based in part on the public perception about the types of people who live in affordable housing. At a planning commission meeting convened to discuss a proposed 20-unit development in Mill Valley, slated to include four low- and moderate-income inclusionary units, residents voiced “vehement” opposition, citing a detrimental environmental impact, increased traffic congestion and safety hazards, and aesthetic and noise concerns.<sup>58</sup> One resident quoted in the local newspaper “asked why the city was even required to consider the development in the first place. ‘Why can’t you just say no now?’ he asked, to loud applause.”<sup>59</sup> The unstated subtext is that people who live in affordable housing – those identified as undesirable by neighbors – are minorities, people with disabilities, and female-headed households.

It bears mention, however, that some environmental concerns that may be pretextual in East Marin may be more legitimate in West Marin. Because of West Marin’s minimal

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<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, comments

<sup>57</sup> Interview, Dave Coury, Marin Continuum of Housing and Services.

<sup>58</sup> White, Ryan, “Residents Blast Kite Hill Plans,” Mill Valley Herald, May 12-19, 2010, A1-A2.

<sup>59</sup> *Ibid.*

infrastructure, its limited capacity in relation to traffic, water, and septic presents real constraints on development there.<sup>60</sup>

### Location of Facilities for Persons with Disabilities

The following table tracks the location of subsidized housing facilities for persons with disabilities.<sup>61</sup> Notes on accessibility are taken directly from material provided by the Marin Housing Authority.<sup>62</sup> The Marin Housing Authority states that it sends out a monthly e-mail to all the affordable housing providers asking them to update the information on the list before the list is posted.

Name	Location	Total Units	Wait List	Accessibility
Alto Station	Mill Valley	17	Open, 3-5 years	Wheelchair access
Art Works Downtown	San Rafael	17	Closed, 2-4 years	No wheelchair access, steep stairway, no parking
Bay Vista	Novato	220	Closed for studios/1 bdrms	Wheelchair access
Bee Street Housing	Sausalito	6	Closed	1 wheelchair accessible unit; seniors only
Belvedere Place	San Rafael	26	Closed	No wheelchair access
Bennett House	Fairfax	70	Open	Only seniors & mobility impaired adults; 7 accessible rooms; close to bus
Bradley House	Tiburon	15	Open	2 accessible units
Camino Alto	Mill Valley	24	Open	Only for persons with severe mobility impairments
Casa Nova	Novato	40	Closed	1 wheelchair accessible unit, 2 accessible parking spaces
Centertown	San Rafael	60	Closed	Wheelchair access, parking
Creekside at Meadow Park	Novato	76	Closed	2 bdrm units have wheelchair access
Ecology House	San Rafael	11	Open	Only for people with Multiple Chemical Sensitivities
Edgewater Place	Larkspur	28	Closed	3 units have wheelchair access
Fairfax Apartments	San Rafael	40	Open	No wheelchair access
Farley Place	Belvedere	11	Open	Seniors only; wheelchair access
Fireside Apartments	Mill Valley	49	Open	No wheelchair access
Golden Hinde	San Rafael	40	Closed	2 accessible units, 2 accessible

<sup>60</sup> Interview, Leelee Thomas, Marin County Community Development Agency.

<sup>61</sup> “Subsidized Housing,” compiled by the Marin Housing Assisline, 09/22/09; Marin Housing Authority data

<sup>62</sup> It appears that some of the information regarding accessibility is incorrect. For example, MHA reports that Fireside Apartments is not wheelchair accessible. However, the Fireside Apartment development was a substantial rehabilitation completed in 2009, and thus is required to comply with state and federal law regarding accessibility. If MHA provides inaccurate information to individuals with disabilities, thus further limiting their ability to find appropriate housing by unnecessarily narrowing their housing options, this constitutes another barrier to housing choice.

				parking spaces
Homestead Terrace	Mill Valley	28	Closed	1 accessible unit
Isabel Cook	San Anselmo	18	Open	2 units for seniors, 2 accessible units
Kruger Pines	Mill Valley	56	Closed	3 accessible units
Larkspur Isle	Larkspur	28	Closed	Wheelchair access
Mackey Terrace	Novato	49	Closed	5 wheelchair accessible units, 1 hearing impaired unit; at distance from public transportation
Marin City Family Housing	Marin City	294	Open only for 3 + 4 bdrms	15 wheelchair accessible units, 22 accessible parking spaces
Marin Lagoon	San Rafael	4	Closed	Wheelchair access
Parnow Friendship House	San Rafael	70	Closed	8 wheelchair accessible units for adults under 62
Pickleweed Apartments	Mill Valley	32	Open	Wheelchair access
Pilgrim Park	San Rafael	60	Closed	6 wheelchair accessible units, parking
Pt. Reyes Affordable Housing	Pt. Reyes Station	26	Open	Wheelchair access
Ponderosa Estates	Marin City	56	Open	No wheelchair access
Ridgeway Apartments	Marin City	255	Closed, 1-10 years	No wheelchair access
Riviera San Rafael	San Rafael	28	Open	Wheelchair access
San Clemente Place	Corte Madera	79	Closed	Wheelchair access
San Rafael Commons	San Rafael	83	Closed	9 wheelchair accessible units
St. Vincent de Paul	San Rafael	8	Closed	No elevator
Sundance Apartments	San Rafael	28	Open	No wheelchair access
The Hilarita	Tiburon	102	Closed	4 wheelchair accessible units, laundry room not accessible
Venetia Oaks	San Rafael	36	Closed	2 accessible units, 3 accessible parking spaces
Village Oduduwa	Marin City	25	Open	Seniors or people with disabilities age 55 +
West Marin Senior Housing	Pt. Reyes Station	24	Closed	2 accessible units for mobility-impaired younger adults

More than one-third of the total complexes identified as appropriate for persons with disabilities are located in San Rafael. Taken together, more than 70 percent of buildings for persons with disabilities are concentrated in San Rafael, Mill Valley, Marin City, and Novato. Only two housing complexes for persons with disabilities exist in the entirety of West Marin; this is particularly of concern to people with environmental illness and mental disabilities who seek out housing in less densely populated rural areas. Further, no such complexes exist in

Kentfield, and the cities of Sausalito, Belvedere, Corte Madera, Fairfax, and San Anselmo only have one such property each.

### **Sources of Revenue to Fund Affordable Housing**

According to EAH, a local non-profit housing developer formerly known as Ecumenical Association for Housing, the cost of building affordable rental housing can range from \$405,000 to \$565,000 per unit. The high cost of land in Marin County adds to the total development cost for new affordable housing.

The Marin County In-Lieu Housing Trust Fund (“Housing Trust”) acts as a local funding mechanism for affordable housing projects within the county. The Housing Trust is currently funded at three million dollars. The stated goal of the Housing Trust is to “advance the values of a balanced community,” and “increase the stock of homes affordable to low and very-low income families and individuals, local workers and people with special needs.”<sup>63</sup> The Housing Trust typically funds between \$10,000 and \$25,000 per unit, prioritizing projects that increase the stock of rental housing in unincorporated areas of the county and utilize long-term affordability restrictions. More specifically, the Housing Trust funds projects such as: affordable rental housing, single-room occupancy projects, agricultural worker housing, supportive or transitional housing, mixed-use and live/work projects, conversion of market-rate housing to affordable housing, and affordable homeownership projects. Funds are available for all stages of the construction process, including initial development, land acquisition, predevelopment costs, and construction/rehabilitation/conversion. Non-profit organizations, public agencies, and for-profit developers working in conjunction with non-profit organizations are all eligible to apply for funds. Every major affordable housing project in the unincorporated County receives Housing Trust funds. The Housing Trust permits funding in jurisdictions outside the unincorporated County as well, however, given the limited resources available, the County Board of Supervisors may be reticent to fund projects in incorporated areas.<sup>64</sup>

The Housing Trust is funded through in-lieu fees paid by developers of market-rate properties, as well as affordable housing impact fees assessed on property owners building or remodeling single-family homes. The affordable housing impact fee applies to all new single-family homes greater than 2,000 square feet, teardowns, and major remodels that result in more

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<sup>63</sup> Marin County Housing Trust Fund Implementation Guide.

<sup>64</sup> Interview, Leelee Thomas, Marin County Community Development Agency.

than 500 square feet of new space. Moderate sized homes between 2,000 and 3,000 square feet are required to pay a fee of \$5 per square foot over 2,000 square feet, and homes in excess of 3,000 square feet are assessed \$10 per square foot over 2,000 square feet.<sup>65</sup>

The Marin Workforce Housing Trust, a countywide housing trust fund, is another means of funding affordable housing. The Workforce Housing Trust was created through the collaborative efforts of a number of major employers, the Marin Community Foundation, and the County of Marin.<sup>66</sup> The Workforce Housing Trust has raised over three million dollars to assist in financing future affordable housing development.

The County also receives funds through the Housing Opportunities for Persons with AIDS Program (HOPWA), administered by HUD. HOPWA funds are used for rental assistance for low-income people with AIDS. The Marin Housing Authority currently serves 29 HOPWA participants; however, “the program is now closed to new applicants as the level of funding can support only those already in the program.”<sup>67</sup>

Further, Marin County receives approximately \$1.6 million annually in CDBG funding, as well as \$1.2 million in HOME funds. The County of Marin, Novato, San Rafael, and Tiburon “have established redevelopment districts, which produce funding earmarked for affordable housing. The County of Marin committed redevelopment funds to a mixed-use housing and retail project in Marin City. The City of San Rafael has used redevelopment funds to assist in the acquisition, rehabilitation, and development of affordable housing in the downtown area and the Canal neighborhood. The Town of Tiburon committed redevelopment funds to the development of subsidized senior housing and to the preservation of existing Section 236 subsidized family housing which had been threatened with conversion to market rents. The City of Novato has used redevelopment funds to assure affordability of housing built on the site of the former Hamilton Army Air Base.”<sup>68</sup>

The Marin Community Foundation (“MCF”), a large, private funder, makes both grants and loans for affordable housing projects. The majority of construction funds MCF provides go

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<sup>65</sup> Marin County Ordinance No. 3500, 10/14/08.

<sup>66</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 33 (2009).

<sup>67</sup> Con Plan § 901.205(b)(1), pg. 28.

<sup>68</sup> Con Plan § 91.210(c), pg. 64.

towards senior housing. As part of its Strategic Initiative, MCF is currently working to create and stabilize housing for farm workers in West Marin.<sup>69</sup>

### **Legal Precedents Affecting Site Selection**

In 1998, a coalition of Marin non-profit organizations, led by Marin Family Action, sued the town of Corte Madera over its failure to include an affordable housing plan in its housing element. The trial court invalidated Corte Madera's housing element, and enjoined the town from using any land use approvals for purposes of development, other than affordable housing development, until it adopted an adequate housing element.<sup>70</sup> As a result, four years later, Corte Madera had developed an ambitious plan with an affordable housing overlay zone that allows housing developers to exceed the standard density level by three times, so long as 50 percent of units are affordable.<sup>71</sup> After the Town's adoption of the overlay zone, EAH developed San Clemente Place in Corte Madera, a development with 79 units (all of which are affordable units). Housing advocates cite the Corte Madera precedent when they ask other jurisdictions to adopt similar affordable housing overlay zones.

### **THE HOUSING – EMPLOYMENT – TRANSPORTATION LINKAGE**

Between 1995 and 2005, the number of jobs in Marin County increased by 18 percent. However, the bulk of jobs in the County today are low-paying service jobs, filled mostly by “women and young people entering the workforce, people moving into Marin County, and commuters from neighboring counties.”<sup>72</sup> Quite simply, only persons who earn at least 80 percent to 100 percent of the median wage in the Bay Area can afford the average rent in Marin.<sup>73</sup> Further, “only three of the top twelve employment sectors in Marin offer an annual median salary that exceeds the income needed to afford the median rent price in the county. The employees in these three sectors represent 16 percent of the workforce. Two of the top five sectors, Retail and Hospitality/Recreation, have median salaries that place a single-person household in the very low-income category. These two sectors employ nearly 20,000 (24

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<sup>69</sup> Interview, Kathleen Harris, Marin Community Foundation.

<sup>70</sup> *Marin Family Action v. Town of Corte Madera*, Marin County Superior Court No. 17493 (1998).

<sup>71</sup> Ginsberg, Steve, “Affordable” Finds a Home, San Francisco Business Times, 09/23/05, available at <http://www.bizjournals.com/sanfrancisco/stories/2005/09/26/focus1.html>.

<sup>72</sup> Con Plan § 91.210(a), pg. 46.

<sup>73</sup> See Marin County Affordable Housing Inventory 2008, pg. 11.

percent) of workers in Marin. A household with two workers earning median salary in either sector cannot afford the median rent in Marin.”<sup>74</sup>

People employed within the county tend to commute from outlying areas with lower costs of housing.<sup>75</sup> On an average day, nearly 44,000 people commute into Marin from other counties for work.<sup>76</sup> The 2000 Census provided a snapshot of Marin’s workforce: at that time, only one-quarter of jobs in Marin were held by employees who lived and worked in the same city.<sup>77</sup> In Corte Madera, 81 percent of employees commuted from outside the city.<sup>78</sup> Workers commuting from other counties held more than one-third of jobs within the county; similarly, more than one-third of Marin County residents commuted outside the county for employment.<sup>79</sup> A great number of non-residents commute in to Marin for low-wage jobs, while an equal percentage of residents commute out of Marin for high-wage positions. This clearly illustrates the deficit of workforce housing in Marin County: many of those who work in the county cannot actually afford to live in it. Moreover, the majority of commuters use personal vehicles to travel an average of 32.9 miles per capita and do not carpool, to an increasingly detrimental effect on the environment.<sup>80</sup> Currently, a high number of employees commute to Marin from Sonoma County, where the cost of housing is lower. Further population projections estimate that commuters into Marin County will continue to increase, with the largest increases coming from individuals who reside in Alameda, Contra Costa, and Solano counties; all with notably less expensive housing than Marin County.<sup>81</sup>

Notably, however, “a 2008 Marin County Affordable Housing Inventory Report found that 91 percent of those who live in low-income homes in Marin work in Marin.”<sup>82</sup> Residents of affordable housing developments buck the trend towards commuting because “higher-density development makes more efficient use of Marin’s limited land stock while at the same time

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<sup>74</sup> *Ibid.* at 12.

<sup>75</sup> Con Plan § 91.210(a), pg. 46

<sup>76</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 7 (2009).

<sup>77</sup> Marin County Affordable Housing Inventory 2008, pg. 14.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 7 (2009).

reducing the amount of rent that hard-working families, seniors and people with disabilities must pay.”<sup>83</sup>

### **Location and Distribution of Transportation and Social Services**

Social service providers in Marin County tend to be concentrated in San Rafael and Novato. For example, Buckelew Programs, Marin Center for Independent Living, Ritter Center, St. Vincent de Paul, the Marin County Department of Health and Human Services, and the Marin Housing Authority are all located in San Rafael. The Marin Community Clinic also has a location in San Rafael, as well as Novato and Greenbrae. Marin General Hospital is located in Greenbrae.

The Transportation Authority of Marin (“TAM”) published a plan for San Rafael’s Canal neighborhood in 2007. TAM noted that the Canal is physically isolated from other parts of San Rafael by both the Canal waterway and Highway 101/Interstate 580. Further, TAM found that available services are limited in the Canal, and travel to other locations for services is constrained by poor bicycle, pedestrian, and motor vehicle connections.

Twenty percent of San Rafael’s total population resides in the Canal. As discussed previously, 70 percent of residents in the Canal are Latino, and most do not speak English at home. Canal residents are especially reliant on public transportation, as they “own fewer cars and ride transit more frequently than other residents of San Rafael and Marin County. Bus routes 35 and 36, which serve the Canal Neighborhood, are the most heavily used routes in Marin County. In previous outreach efforts, the community said that better connections were needed to other parts of San Rafael, that bus service should be improved, and that it should be safer to walk and ride a bike in the neighborhood.”<sup>84</sup>

As a result of its study, TAM identified six high priority projects in the Canal: (1) adjustments to bus transit service to include increased frequency and capacity of service; (2) crosswalk and lighting improvements; (3) a pedestrian/bicycle connection from the Canal to downtown, San Rafael High School, and shopping districts; (4) increased safety measures on routes to schools; (5) additional bus shelters; and (6) undertaking a neighborhood safety and streetscape improvement project. TAM identified two low-priority projects: reducing transit fare

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<sup>83</sup> *Ibid.*

<sup>84</sup> Transportation Authority of Marin Canal Neighborhood Community Based Transportation Plan, 09/07, available at <http://www.tam.ca.gov/index.aspx?page=160>.

for trips between the Canal and downtown, and subsidizing a car share program. TAM also conducted a similar study in Marin City; however, the agency declined to publish its draft findings, and has yet to adopt the plan. Marin Transit states that is planning to provide more local service within Marin City and to provide more service between Marin City and Marin General Hospital, service upgrades which would be consistent with the highest priorities of the Marin City transit plan.

Transportation authorities have stated that transportation in Marin effectively serves low-income neighborhoods.<sup>85</sup> However, this ignores a dilemma: if local public transportation service is concentrated in low-income communities where current demand and current ridership are greatest, it can have the unintended effect of confining residents to those same communities. Such a pattern can perpetuate the segregation of low-income people of color, people with disabilities, and single female head of household families who are dependent on public transportation are unable to move out of impacted neighborhoods because other, less impacted communities do not have adequate transit resources. But if subsidies for public transportation are limited, it is difficult to justify cutting service in low-income communities in order to provide more service in areas where there is currently not enough demand to justify a service increase. Funding constraints necessitate a balancing of transportation resources, but such balancing should not be conducted to the detriment of low-income communities. Clustering public transportation resources, though cost-effective, effectively corrals minorities, people with disabilities, and single mothers with children in a handful of already-segregated communities.<sup>86</sup> A way forward would be the pursuit of transit-rich development in non-impacted neighborhoods, but that would require local governments to allow development at densities high enough to create sufficient demand for public transportation. If higher densities are built, transportation officials can justify redistribution of transit capacity. Marin Transit is pursuing the vision of community-focused transit hubs (“Green Hubs”) throughout the County in cooperation with local jurisdictions to make transit both more visible and easier to use. TAM identified 17 potential Green Hub sites in its 2009 Central and Southern Marin Transit Study. However, implementation becomes feasible only if local jurisdictions allow for development at sufficient

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<sup>85</sup> In the 1994 AI, the then-transportation director states that public transportation “is focused in the areas with multi-family housing that serves minorities, single mothers with children, and the disabled.”

<sup>86</sup> See HUD Final Investigative Report at 65.

densities and if local jurisdictions simultaneously invest in accessible paths of travel to reach the Green Hubs.

### **MARIN HOUSING AUTHORITY: TENANT SELECTION AND HOUSING CHOICE**

Marin County has a total of 500 public housing units, 300 of which are in Marin City and 200 of which are in elderly/disabled complexes in Mill Valley, Novato, and San Rafael. The Marin Housing Authority (“MHA”) administers an extensive waiting list for its public housing units and Section 8 vouchers. As of 2010, the Housing Authority also has 2,100 Section 8 vouchers used for tenant-based and project-based assistance.<sup>87</sup> The Housing Authority Board of Commissioners, consisting of the five members of the County Board of Supervisors as well as two public housing tenants, has the power to appoint the Housing Authority Director.

Golden Gate Village in Marin City is the only public family housing complex in the County of Marin. Only 265, or 53 percent, of the public housing units in Marin County are appropriate for families. The following represents a complete accounting of all public housing units, as distributed by size:<sup>88</sup>

<b>Studio</b>	122 units
<b>1 – Bedroom</b>	113 units
<b>2 – Bedroom</b>	138 units
<b>3 – Bedroom</b>	119 units
<b>4 – Bedroom</b>	8 units

The Marin Housing Authority developments that participate in the HUD Capital Fund Program are as follows:<sup>89</sup>

<b>Name of Project</b>	<b>Address</b>
Casa Nova	35 Carmel Dr., Novato
Golden Hinde	5 Golden Hinde Blvd., San Rafael
Homestead Terrace	100 Linden Lane, Mill Valley
Krueger Pines	47 North Knoll Rd., Mill Valley
Marin City Public Housing	429 Drake Ave., Marin City
Venetia Oaks	263 North San Pedro Rd., San Rafael

#### **Marin Housing Authority Policies**

##### Public Housing

Although the public housing waiting list is less competitive than other assisted housing programs, it is currently closed. When the waiting list is open, the Marin Housing Authority

<sup>87</sup> Con Plan § 91.205(d) at 53.

<sup>88</sup> Reproduced from *Ibid.*

<sup>89</sup> *Ibid.*, Table N.

utilizes a local preference point system in the administration of its low rent public housing program. Under the preference system, involuntarily displaced persons, such as victims of domestic violence, victims of a natural disaster, victims of eminent domain, and participants in witness protection programs are awarded a substantial preference in the public housing program. Families of two or more persons, elderly persons, and people with disabilities also earn preference points. Lesser preferences are awarded to applicants who are currently homeless, defined as persons who lack a fixed, regular and adequate nighttime residence or reside temporarily at a homeless shelter or place not ordinarily used as an accommodation for human beings, or applicants who are veterans. Finally, minimal preference points are awarded to applicants who are employed, enrolled in a job training program full-time, current residents of Marin County, or currently employed at least 32 hours per week in Marin County.<sup>90</sup>

In the event of an emergency that necessitates that a tenant must immediately vacate his or her unit, the Marin Housing Authority will, at its own expense, relocate the affected tenant(s) to an available appropriate unit, or temporarily relocate the tenant to a hotel or similar accommodation.<sup>91</sup> The Housing Authority may require a resident to transfer to make an accessible unit available to a disabled resident, to comply with occupancy standards if a household is overcrowded or over-housed, or to undertake demolition, disposition, or major capital or rehabilitation work on site.

The Housing Authority will only consider transfer requests initiated by residents when the purpose of the transfer is “to alleviate a serious or life threatening medical condition,” due to the “threat of physical harm or criminal activity,” requested as a reasonable accommodation, to move to a different size unit in compliance with MHA occupancy standards, or to relocate closer to employment. The Housing Authority states that it will not consider any other transfer requests.<sup>92</sup> Not all tenants are eligible to request transfers; the Housing Authority will only consider transfer requests from residents with a “good record.” This includes no history of criminal activity that poses a threat to residents or staff, no back rent charges, and no housekeeping lease violations or history of damaging property.<sup>93</sup>

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<sup>90</sup> Marin Housing Authority Admissions and Continued Occupancy Policy (“MHA ACOP”), Attachment C, Local Preference Point System, Low Rent Public Housing Program.

<sup>91</sup> MHA ACOP Ch. 11-1.

<sup>92</sup> MHA ACOP Ch. 11-4.

<sup>93</sup> MHA ACOP Ch. 11-5.

The Housing Authority prioritizes transfer requests based on verified medical problems, verified threat of physical harm or criminal activity, and reasonable accommodations. Residents receive one offer of a transfer. If a resident refuses to accept a transfer required by the Housing Authority without good cause, MHA will terminate the resident's lease.<sup>94</sup> However, tenant may decline a unit offered as the result of a transfer request.<sup>95</sup> Residents who request a transfer, then refuse an offer without good cause must wait for one year to reapply for another transfer.<sup>96</sup>

Good cause for unit refusal includes:

*The unit is inappropriate for the applicant's disabilities...*

*Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an education institution or job training program, or take a child out of day care or an educational program for children with disabilities.*

*The family demonstrates to MHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court order, or risk assessment related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. **Refusals due to location alone do not qualify for this good cause exemption.***<sup>97</sup>

### Section 8 Housing Choice Voucher Program

When the Marin Housing Authority's Section 8 waitlist last opened in September 2008, 11,200 applications were received. 2,566 homeless individuals applied, while the remaining 8,634 applications came from families, disabled individuals and seniors.<sup>98</sup> The Housing Authority estimates that the Section 8 waiting list will likely remain closed for the next six to seven years.<sup>99</sup>

To apply for admission into the voucher program in Marin County, families must first complete a written pre-application form when the waiting list is open. When the family reaches

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<sup>94</sup> MHA ACOP Ch. 11-7.

<sup>95</sup> MHA ACOP Ch. 11-5 ("Transfers requested by the tenant are considered optional for the tenant.").

<sup>96</sup> MHA ACOP Ch. 11-7.

<sup>97</sup> MHA ACOP 11-IV.D (emphasis added).

<sup>98</sup> Con Plan § 91.205(b)(1) at 23.

<sup>99</sup> Interview, Kimberly Carroll, Marin Housing Authority.

the top of the waiting list, MHA will issue a final determination of eligibility; eligible families at the top of the waiting list then receive Section 8 vouchers.<sup>100</sup>

On the waiting list, applicants will be listed in sequence assigned through the local point preference system. Pre-applications equal in preference will be maintained in lottery-determined sequence of pre-application receipt. In making its annual determination of whether to open the waiting list, MHA will consider both the length of the current waiting list (i.e., whether the waiting period for current applicants is in excess of two years), and the availability of future funding. When the waiting list opens, MHA will make written announcements to various local housing and service organizations that assist homeless persons, low-income individuals, and people with disabilities. MHA will suspend acceptance of pre-applications if there are enough already submitted to fill anticipated openings within the next twelve months. MHA will not maintain a list of individuals who wish to be notified when the waiting list is open.<sup>101</sup>

Families are selected from the waiting list using the preference-determined sequence, regardless of family size. To be eligible for admission to the Section 8 voucher program, the applicant must be: (1) a family; (2) within appropriate income limits; (3) able to provide social security numbers; (4) a U.S. citizen or eligible immigrant; (5) able to show no violation of any family obligation during previous participation in Section 8; (6) able to show no commission of a criminal act in connection with federal housing programs over the last decade; (7) able to show no drug-related or violent criminal activity over the last five years; and (8) able to show no evictions from public housing over the past five years.<sup>102</sup>

The Marin Housing Authority employs a local preference point system in the administration of its housing choice voucher program, similar to that used in the public housing program.<sup>103</sup> The Housing Authority reserves its right to limit the number of applicants that may qualify for any local preference.<sup>104</sup> Under the preference system, involuntarily displaced persons, such as victims of domestic violence, victims of a natural disaster, victims of eminent domain, and participants in witness programs, are awarded substantial preference in the voucher program. Families of two or more persons, elderly persons, and people with disabilities also earn

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<sup>100</sup> MHA Section 8 Housing Choice Voucher Administrative Plan (“MHA Section 8 Admin Plan”).

<sup>101</sup> MHA Section 8 Admin Plan.

<sup>102</sup> MHA Section 8 Admin Plan, Ch. 3-1. The definition of “family” includes two or more persons related by blood or law who share the same dwelling; two or more persons who have a stable 6-month history as a family unit; an elderly person; a displaced person; a person with a disability; and any “other single” person.

<sup>103</sup> Local Preference Point System, Housing Choice Voucher Program, Revised 11-09.

<sup>104</sup> MHA Section 8 Admin Plan, Ch. 4-2.

preference points. Equivalent preference points are awarded to individuals or families who have successfully completed, or are currently participating in, a supportive housing program for disabled homeless persons. To qualify, an applicant must be homeless, disabled, a previous or current participant in a supportive housing program, and no longer in need of supportive services. Homeless applicants, defined as persons who lack a fixed, regular and adequate nighttime residence or reside temporarily at a homeless shelter or place not ordinarily used as an accommodation for human beings, merit a 4-point preference. In 2008, when the Section 8 waitlist opened, veterans qualified for a 1-point preference. Finally, applicants who are enrolled in school or a job training program full-time, current residents of Marin County, or currently work in Marin County receive 2 points, however if the head of household or sole member is age 62 or older or disabled they will also receive these 2 preference points, under the assumption that they will less likely to be enrolled in school or employed (MHA Admin Plan).

For HUD targeted funded programs (such as the Family Unification Program) from which admissions are handled separately, MHA also employs a local preference to its Section 8 voucher waiting list for families identified by the County as families for whom the lack of adequate housing is a primary factor in the imminent removal of a child from the home. However, the Housing Authority does not explicitly identify the amount of preference points awarded to families in this category.

The Housing Authority may make an offer of assistance to families ranked lower on the waiting list ahead of families ranked higher on the waiting list in the interest of achieving deconcentration of poverty.<sup>105</sup> In the past, the Housing Authority purged the waitlist annually, so that applicants who failed to respond to notice of purging were removed from the waitlist. (The Housing Authority's Admin Plan was revised in late 2010 through a public comment process, and as a result, this practice was dropped). The Marin Housing Authority maintains its Section 8 Voucher waitlist separately from its Public Housing Waitlist.

Participants in the housing choice voucher program may move to a new unit if a current lease has expired, or the owner agrees to terminate the lease during its term. Families are restricted to one move during a one-year period, although MHA may make exceptions for hardship.<sup>106</sup> Recipients of Section 8 vouchers may procure housing anywhere within the United

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<sup>105</sup> This is discussed in more detail in subsequent sections.

<sup>106</sup> MHA Section 8 Admin Plan, Ch. 15-1.

States, as long as they were Marin County residents when they applied to be added to the waitlist. HUD requires that families find an eligible unit, with an owner or landlord who will enter into a Housing Assistance Payments Contract with the Housing Authority.<sup>107</sup> Marin Housing Authority has a Housing Search Specialist available to those families and individuals who need support navigating the housing search process; in addition MHA offers generous time extensions to the voucher to give the voucher-holder more time to search for eligible units.

### **Demographics of Public Housing Developments**

According to HUD data, 3,318 households, accounting for 5,809 total individuals, reside in HUD-funded housing units in Marin County. The Marin Housing Authority's largest low-income housing development is located in Marin City. The population of Marin City is 46 percent Black, representing 16 percent of the County's total Black population.

Blacks and Latinos "are disproportionately represented in rental housing. Blacks are also disproportionately represented as renters of lower cost units, units that cost less than the median gross rent. Blacks are disproportionately represented in the family public housing complexes in Marin City."<sup>108</sup> In 2004, nearly 72 percent of public housing residents in Marin City were Black.<sup>109</sup> The County Consolidated Plan states "the county has fewer lower income Black families with housing problems than Hispanic families, since families in public housing live in standard quality housing and they tend not to be rent burdened or live in overcrowded conditions;" however, Black families in Marin city public housing face "significant neighborhood-related social problems, particularly related to unemployment and substance abuse."<sup>110</sup>

Between 1995 and 2000, the demographics of Marin City shifted because of the completion of the Marin City USA redevelopment project, which included 225 apartments and 85 town homes, as well as the 30-unit Braun Court affordable homeownership program. In 1999, property management staff for the new apartments at Marin City USA estimated that 40 percent of residents were Black, 35 percent were White, 15 percent were Latino, five percent were Asian/Pacific Islander, and five percent were "other."

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<sup>107</sup> MHA Section 8 Admin Plan, Ch. 9-1.

<sup>108</sup> Con Plan § 91.205(b)(2) at 30.

<sup>109</sup> Con Plan § 91.210(a) at 50-51.

<sup>110</sup> Con Plan § 91.205(b)(2) at 31.

As discussed previously, people of color were concentrated in Marin City because of historical restrictions on their right to own or lease land elsewhere in the county. One housing advocate noted that generations of Black families now live in Marin City as a result of restrictive housing practices elsewhere in the County, and that those families still feel unwelcome outside of Marin City.<sup>111</sup> Staff at the Marin Housing Authority noted that Marin City has become a “generational project,” wherein generations of families continue to reside in the same housing project.<sup>112</sup> Kimberly Carroll, Deputy Director at the Housing Authority, stated that one emerging problem in Marin City is that some older single adults continue to reside in multi-bedroom units well after their children move out, thus limiting the availability of larger units for families in need of housing.<sup>113</sup>

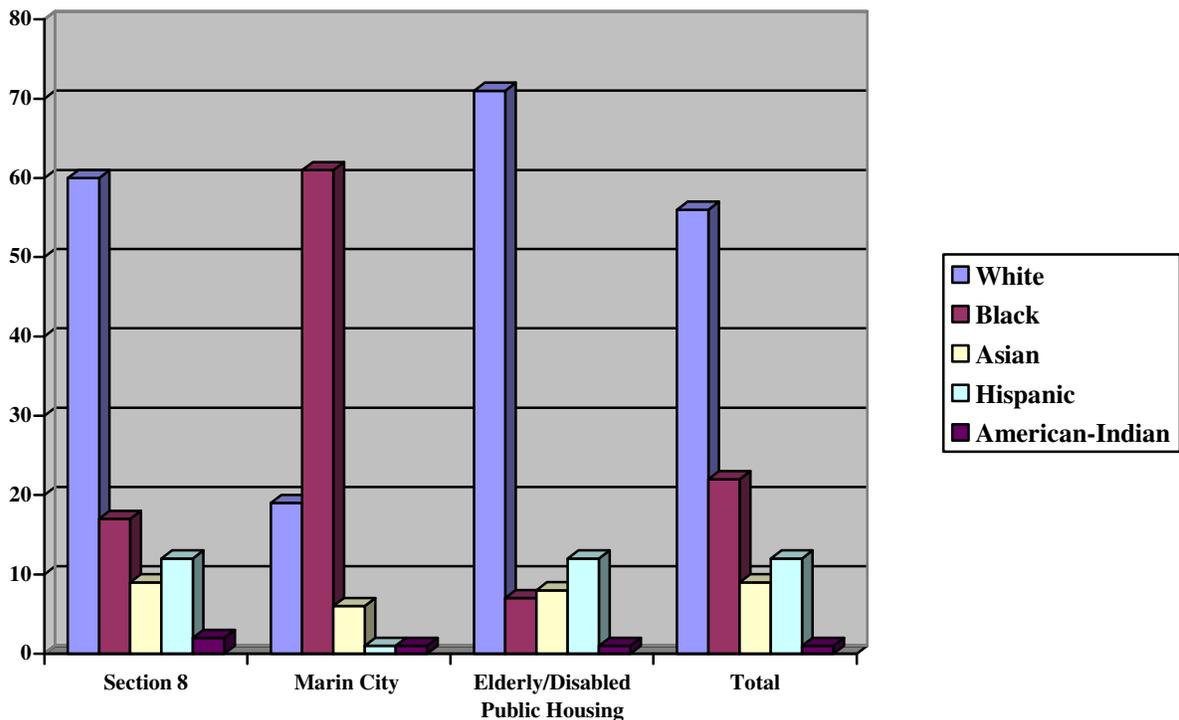
The following table, adapted from the Consolidated Plan 2010-2014, illustrates the race and ethnicity of recipients of public housing assistance by household, as of March 31, 2010.

<b>Race/Ethnicity</b>	<b>Section 8</b>	<b>Marin City Public Housing</b>	<b>Elderly/Disabled Public Housing</b>	<b>Total</b>
<b>White (Non-Hispanic)</b>	1243 60.01 percent	70 19.4 percent	173 71.19 percent	1486 55.6 percent
<b>Black</b>	345 16.7 percent	220 60.9 percent	17 7 percent	582 21.77 percent
<b>Asian</b>	189 9.13 percent	23 6.37 percent	20 8.2 percent	232 8.68 percent
<b>Hispanic</b>	251 12.13 percent	46 1.27 percent	30 12.34 percent	327 12.23 percent
<b>American Indian</b>	33 1.59 percent	2 0.55 percent	3 1.23 percent	38 1.42 percent
<b>Total Minority</b>	818 40 percent	291 82 percent	70 28.8 percent	1179 44.11 percent
<b>Total</b>	2,069	361	243	2,673

<sup>111</sup> Interview, Makini Hassan, Marin City Community Development Corporation.

<sup>112</sup> Interview, Kimberly Carroll, Marin Housing Authority.

<sup>113</sup> Interview, Kimberly Carroll, Paul Cummins, Marin Housing Authority.



More than half of Section 8 voucher recipients are non-Hispanic Whites. Although the majority of residents of elderly and/or disabled public housing are White, the majority of residents of public housing in Marin City are Black. Hispanics are statistically underrepresented in Marin City public housing.

**Inclusiveness of MHA Policies Regarding Persons with Disabilities**

According to the Marin Center for Independent Living, 50,000 to 55,000 persons with disabilities reside in Marin County. Further, it is estimated that this number will increase exponentially as the County’s senior population grows.<sup>114</sup>

People with physical disabilities enter the regular public housing or Section 8 voucher program pool. However, people with disabilities do earn some preference points on the waitlists for both public housing and vouchers. HUD gives Public Housing Authorities funding to provide 5% of the units as handicapped accessible. MHA received a highly competitive American Recovery and Reinvestment Act (ARRA) grant in order to provide 10 additional accessible units at its five elderly and disabled properties. This funding has allowed MHA to far

<sup>114</sup> Con Plan § 91.205(d), pg. 41.

exceed the 5% HUD requirement. At the five elderly/disabled complexes managed by the Marin Housing Authority, 15% of the units are handicapped accessible, but the need is greater. Currently, 5% of the units at the MHA family public housing complex are handicapped-accessible.<sup>115</sup> At two additional complexes, the Housing Authority “has made additional handicapped improvements to 84 units, by installing grab bars in bathrooms and installing hot water valves that prevent scalding.”<sup>116</sup>

An estimated 1,500 residents of Marin County are developmentally disabled.<sup>117</sup> Many live in group homes operated by nonprofit providers, but there is an increasing trend towards more independent living in individual apartments rented on the private market.

People with mental disabilities may benefit from the Shelter Plus Care program if their disability includes acute mental illness. Shelter Plus Care is a MHA program designed to “provide rental assistance and supportive services to homeless individuals and families where the head of household has a serious mental illness (and may also have other disabilities).”<sup>118</sup> Under Shelter Plus Care, the Housing Authority subsidizes rent at private apartments for participants. Housing Authority caseworkers collaborate with community-based service providers, including mental health case managers, nurse practitioners, and psychiatrists, to preserve participants’ housing. The Marin Housing Authority administers 75 Shelter Plus Care vouchers to individuals who are chronically homeless and suffer from an acute mental illness.<sup>119</sup>

MHA was awarded a HUD grant in 2006 to assist residents residing in its five senior and disabled complexes. The grant funds case management services for residents facing challenges. Many of the clients served through this program suffer from a mental health disability. In addition, MHA also offers case management services to families living in public housing to address mental health disabilities, which impact both their quality of life and the housing management services at MHA’s five senior/disabled properties.<sup>120</sup>

## **Fair Housing and Reasonable Accommodation Policy**

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<sup>115</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

<sup>116</sup> Con Plan § 91.205(d), pg. 41.

<sup>117</sup> *Ibid.*

<sup>118</sup> Marin Housing Authority website <http://www.marinhousing.org/seniorOrDisabled.htm>

<sup>119</sup> Interview, Kimberly Carroll, Marin Housing Authority.

<sup>120</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

MHA's "Fair Housing and Reasonable Accommodation Policy" states that the Housing Authority may "tak[e] affirmative steps to reduce racial and national origin concentrations by enforcing tenant selection and assignment plans." However, there is no information publicly available on whether MHA actually takes such affirmative steps. Further, even if MHA did affirmatively act to reduce racial concentrations, it would be stymied by institutional limitations, as all of the public housing for non-disabled, non-elderly residents is located in Marin City.

For residents of Marin City public housing, MHA has propounded a "Reasonable Accommodation Request" form for use in requesting reasonable accommodations. The form, among other onerous criteria, requires the resident's medical provider to aver that he or she would be "willing to testify under oath" to the information provided, and dedicates four large, bold, capitalized font lines to "warning" a medical provider that he or she may be liable for perjury under the Penal Code. Fair Housing of Marin is concerned that such language could act as a deterrent, and effectively dissuade a medical provider from attesting to the extent of a patient's disability for fear of future prosecution – a concern validated by anecdotal evidence from housing advocates. The form also asks a medical provider to state whether he or she recommends the requested accommodation for other individuals, a calculation which should be irrelevant as the law mandates that reasonable accommodations should be considered on a case-by-case basis. Further, the form states not once but twice that "Additional bedrooms require additional rent subsidy; this reduces the agency's ability to assist other families." A medical provider might infer that he or she should take into account the Housing Authority's internal operating budget allocations when determining the best course of medical treatment for a patient. The reasonable accommodation request form may have the effect of increasing the barriers to accommodation.

### **"One-Strike" Policy**

MHA's public dwelling lease, section 6, states:

*In an effort to make public housing communities safer, the MHA has implemented a "zero tolerance" policy towards the commission of criminal activities. Tenant agrees that the MHA may terminate this Lease if any Tenant, Household Member, guest, or other person under Tenant's control, whether a minor or adult, engages in criminal activity or drug-related activity...*

The lease defines criminal activity as “a violation of State or Federal law,” and extends the prohibition on criminal activity to cover activity “on or off MHA owned property.” An addendum to the “One-Strike Policy: Illegal Drug and Criminal Behavior” requires tenants to explicitly acknowledge the above lease provision.

While federal regulations require that all public housing authority dwelling leases contain a clause providing for termination of tenancy if a resident or person under the resident’s control engages in criminal activity that threatens the “health, safety, or right to peaceful enjoyment of the premises by other tenants” or drug-related criminal activity, public housing authorities are not *mandated* to evict all tenants suspected of engaging in *any* criminal activity.<sup>121</sup> U.S. Supreme Court precedent vests in a public housing authority the discretion to consider all the circumstances in an eviction for criminal activity; further, the Court emphasized that evictions should be based on criminal activity that poses a direct threat to the health or safety of others.<sup>122</sup>

According to MHA, in practice, MHA reviews all the facts of the case and exercises discretion before it will evict a family under its one-strike policy. MHA has evicted at total of 2 households or .006% of its tenants in 2009, and 5 or .016% of its tenants in 2010 due to “one strike” policies. Historically MHA has not actively evicted residents from Public Housing due to drug related or violent criminal activity which helps to perpetuate a unsafe living environment, thus limiting the choices for individuals with disabilities to remain in or find appropriate housing. MHA states that its “one strike” and “zero tolerance” policies are implemented only to target households involved in drug-related or violent criminal activities, and each situation is reviewed on case-by-case basis. However, the MHA policy, as written, does not preclude evictions for criminal activity which is neither drug-related nor violent.<sup>123</sup>

If applied literally, the “zero tolerance” or “one-strike” policy may have a disparate impact based on race or mental disability. As of March 2010, over 60 percent of public housing residents in Marin City were Black and a total of 82 percent of residents in Marin City are people of color. Further, 40 percent of all Section 8 recipients are minorities. If the “One-Strike” policy is enforced in such a way as to terminate the tenancy of residents for issues beyond those which

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<sup>121</sup> 42 U.S.C. § 1437(d)(1)(6).

<sup>122</sup> *Dep’t of Hous. and Urban Dev. v. Rucker*, 535 U.S. 125 (2002) (“Regardless of knowledge, a tenant who ‘cannot control drug crime, or other criminal activities by a household member which threaten the health or safety of other residents, is a threat to other residents of the project.’”).

<sup>123</sup> E-mail from Kimberly Carroll, Marin Housing Authority

pose a *direct threat* to other residents, this may disproportionately impact Black public housing residents and Section 8 recipients. Because a disproportionately high number of public housing residents are Black, it is statistically likely that, through consistently strict enforcement of the policy, a similarly disproportionately high number of Black residents will be at risk of losing their housing. Further, some residents report that local law enforcement personnel engage in racial profiling in the public housing projects in Marin City, heightening the possibility that Black residents, simply by virtue of their skin color, will be illegally questioned or detained by police in relation to suspected criminal activity; activity which could ostensibly constitute the basis for the Housing Authority's termination of tenancy.

Mental disability is also a protected class. MHA administers 200 elderly/disabled public housing units, which are open to both seniors and younger disabled people. MHA has not evicted any residents from these elderly/disabled complexes in 2009 and 2010 due to the one-strike policy.<sup>124</sup> People with mental disabilities, especially people who have serious mental illness, may be more likely to engage in unusual and possibly criminal behavior. For example, a person with a mental illness may vandalize property, trespass, or commit criminal nuisance as a direct effect of his or her disability. Although the aforementioned criminal activity would not be violent or drug-related, it could still form the basis for termination of assistance under an inflexible application of the MHA One-Strike policy. Further, even a resident who posed a one-time threat to the health or safety of others may be neutralized through medical treatment. For example, a resident who is suspected of harassing a neighbor as a result of a psychotic episode may be able to eliminate the risk of future potential outbursts through proper medical care. MHA's supportive housing case manager works closely to provide support services and coordination for these residents with special needs, and MHA's practice is to perform a discretionary case-by-case review before proceeding with a "One-Strike" eviction.<sup>125</sup> However, a written "One-Strike" policy that does not explicitly recommend the exercise of discretion in circumstances where a person with mental disabilities engages in criminal activity that does not pose a direct threat to other residents, or is demonstrably a treatable symptom of the individual's disability, could disparately impact residents with mental disabilities.

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<sup>124</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

<sup>125</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

Finally, it is of concern that the “One-Strike” Policy does not explicitly exempt victims of domestic violence. The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) provides that:

*Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of the tenant’s household, or any guest or other person under the tenant’s control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate family member of the tenant’s family is the victim or threatened victim of that domestic violence, dating violence, or stalking.*<sup>126</sup>

Although MHA includes an addendum statement in its “Fair Housing and Reasonable Accommodation Policy” that “instances of domestic and similar violence” will be exempted from “good cause” for eviction, or as a barrier to housing eligibility for the affected victim, the domestic violence victim exemption is not referenced in the dwelling lease itself. This could foster two problems: (1) inconsistent enforcement of the “One-Strike” Policy, perhaps against victims who have not been adequately apprised of their rights under VAWA, and (2) the emergence of a misperception among residents that if they report domestic violence, they will be evicted. Residents’ perceptions are especially important, as fear of eviction could engender a cycle of further victimization.

### **Limited English Proficient Persons**

Title VI of the Civil Rights Act of 1964 requires that public housing providers take reasonable steps to ensure meaningful access by Limited English Proficient (LEP) persons. Failure to ensure that LEP persons can participate in or benefit from federally assisted programs may constitute illegal national origin discrimination under Title VI. Further, the U.S. Supreme Court in *Lau v. Nichols* held that conduct that has a disproportionate effect on LEP persons constitutes national origin discrimination, and is prohibited under Title VI.<sup>127</sup> Pursuant to Executive Order 13166, the Department of Housing and Urban Development (HUD) published formal guidance to clarify the obligations held towards LEP persons by recipients of federal funds.<sup>128</sup> As recipients of federal funds, public housing authorities are covered.

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<sup>126</sup> 42 U.S.C.A. §§ 1437(d)(1)(6)(A), 1437(f)(d)(1)(B)(iii).

<sup>127</sup> *Lau v. Nichols*, 414 U.S. 563 (1974).

<sup>128</sup> Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, (“HUD Final Guidance”), Fed. Reg. vol. 72, no. 13, 01/22/07.

Under the guidance published by HUD, a public housing authority should balance four factors to determine the extent of its obligation to provide LEP services:<sup>129</sup>

- (1) *The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;*
- (2) *The frequency with which LEP persons come in contact with the program;*
- (3) *The nature and importance of the program, activity, or service provided by the program to people's lives; and*
- (4) *The resources available to the grantee/recipient and costs.*

Oral language interpreters must meet competency standards stricter than merely language fluency; although formal certification is not required, language competency necessitates more than “self-identification as bilingual.”<sup>130</sup> HUD recommends the use of certified interpreters in any circumstance “where individual rights depend on precise, complete, and accurate interpretation or translation.”<sup>131</sup>

In addition to oral interpretation, all vital written information should be translated. To wit, “[t]he obligations to communicate rights to a person who is being evicted differ, for example, from those to provide recreational programming.”<sup>132</sup> To determine whether information is vital, a housing authority should consider the importance of the information or service provided, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.<sup>133</sup> Vital information includes leases and tenant rules, consent forms, intake forms, written notices of rights, denial, loss, or decreases in benefits or services, notices of eviction, notices advising LEP persons of free language assistance, and applications to participate in a public housing authority program or activity, or to receive benefits or services.<sup>134</sup>

As discussed previously, Marin County has sizeable Latino and Vietnamese populations, a large number of whom are LEP.<sup>135</sup> According to Vinh Luu at the Asian Advocacy Organization, over 3,000 Vietnamese persons reside in Marin County as of 2010. In addition to having limited English proficiency, a large number of Latino and Vietnamese immigrants in the

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<sup>129</sup> *Ibid.* at 2740.

<sup>130</sup> *See ibid.* at 2742.

<sup>131</sup> *See ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.* at 2744.

<sup>134</sup> *See* HUD Final Guidance at 2741.

<sup>135</sup> *See* “Demographics,” *supra*.

county are low- or very-low income:<sup>136</sup> the very population most in need of public housing assistance and benefits.<sup>137</sup> Based on estimates provided by Asian Advocacy, 30 to 40 percent of low- to moderate-income clients serviced by that organization receive some sort of housing subsidy, whether that is rental assistance or public housing.<sup>138</sup> However, LEP persons are often least likely to apply for a benefit.<sup>139</sup>

MHA's published Admissions and Continued Occupancy Policy recognizes that language proficiency may be a barrier to accessing benefits, understanding rights, and complying with responsibilities for LEP persons.<sup>140</sup> MHA's policy states that the agency will take "affirmative steps" to communicate with LEP persons, including offering competent interpretation services in any situations in which access to important benefits and services is at stake. MHA's policy on providing written translations utilizes language from the HUD Guidance's "Safe Harbor" provision, which states:<sup>141</sup>

*The following actions will be considered strong evidence of compliance with the recipient's written-translation requirements: (a) The HUD recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or (b) If there are fewer than 50 persons in a language group that reaches the 5 percent trigger in (a), the recipient does not translate vital written materials but instead provides written notice in the primary language of the LEP language group on the right to receive competent oral interpretation of those written materials, free of cost...*

The MHA policy does not, however, include reiteration of HUD's statement that the "safe harbor" provisions "do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and are reasonable."<sup>142</sup>

In contrast to the MHA's stated policy, some legal service providers and housing advocates report that many LEP persons encounter language accessibility barriers in communications with the MHA. For example, Fair Housing of Marin worked with a

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<sup>136</sup> Asian Advocacy estimates that over 80% of the Asian population it services are low- or moderate-income individuals.

<sup>137</sup> See "Demographics," *supra*.

<sup>138</sup> Interview with Vinh Luu, Asian Advocacy Organization.

<sup>139</sup> HUD Final Guidance at 2748.

<sup>140</sup> MHA ACOP, Ch. 2-III.A at 20.

<sup>141</sup> MHA ACOP, Ch. 2-III.C, at 22; HUD Final Guidance at 2745.

<sup>142</sup> HUD Final Guidance at 2745.

monolingual Vietnamese resident of public housing; although the Housing Authority was aware that the resident did not speak English from the inception of the tenancy, upon review of the resident's file none of the documents relevant to the resident's lease were available in the resident's language of fluency. According to MHA, it provides oral and written translation services in both Spanish and Vietnamese and is in the process of updating its procedures through a Voluntary Compliance Agreement with HUD so that all clients are aware this service is available to them at no charge.<sup>143</sup>

According to some legal service providers, many LEP persons do not understand MHA paperwork provided to them only in English, and experience difficulty because they rely on family members to translate or interpret vital information. One local housing advocate stated that after questioning MHA staff about the absence of translated vital documents or interpreters available for important meetings or hearings, MHA staff blamed the LEP person for failing to ask for translation or interpretation services; however, many LEP persons say they are unaware of the availability of translation or interpretation from MHA, and feel like they bear the burden of providing an interpreter. That same advocate noted that on some occasions when MHA has provided an interpreter, interpretation has been inadequate, and related an incident where a Spanish-speaking staff member attempted to interpret for an LEP client, but the interpretation was informal and the LEP person had difficulty understanding the information at hand. According to the housing advocate, the Spanish-speaking staff member stated that the Housing Authority would send an LEP applicant only documents in English relating to status on the Section 8 waiting list, that it was the LEP applicant's responsibility to have a friend or family member translate, and that the LEP applicant would be held responsible for missing a meeting or task even though the information was only available in English.

Further, although the MHA website includes a Google translation bar, and many forms are posted in English, Spanish, and Vietnamese, MHA's website navigation and most links are only available in English. Although the embedded Google translation bar makes some of the MHA website available in 50 languages, the subsidized housing list and directions to the Housing Authority office are available only in English on the website.

### **Pattern by Location of Minority and Non-Minority Voucher Holders**

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<sup>143</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

Currently, the Housing Authority administers Section 8 vouchers for 2,104 households distributed across all jurisdictions in Marin.<sup>144</sup> As stated previously, MHA last opened its Section 8 waiting list for one week during September 2008, during which approximately 11,200 households applied. According to data supplied by the County, only 25 percent of applicants were residents of cities within Marin County. Sixty-one percent of applicants were Black, 32 percent of applicants were White, and 14 percent were Latino. Approximately one-fourth of applicants were disabled, and another estimated one-quarter of applicants were homeless. Nine percent of applicants were elderly.

It is important to note that when the wait list last opened, three-quarters of applicants for Section 8 in Marin were not current residents of the county; this indicates that people from other counties, and quite possibly, people of color from the neighboring counties of Alameda, Contra Costa, San Francisco, Solano, and Sonoma, are interested in moving to Marin County.

Data provided by the county shows that the majority of Section 8 recipients live in San Rafael, Novato, and the unincorporated county (predominately Marin City).<sup>145</sup> Together, the three preceding jurisdictions account for 80 percent of all voucher holders and constitute 70% of the county’s population. The towns of Belvedere, Ross, and Sausalito have the lowest percentages of voucher holders: combined, less than three percent of all voucher holders live in those jurisdictions, although the three communities include approximately 4% of the county’s population. The following chart provides a comparison of the percentage of all Section 8 voucher holders that live within a jurisdiction, versus the percentage of the total county population that resides within that jurisdiction. Comparison of the two percentages may shed light on whether certain jurisdictions have a disproportionately high, or a disproportionately low, number of Section 8 voucher holders based on the total population within the jurisdiction.

**Location of Section 8 Voucher Holders by Jurisdiction<sup>146</sup>**

<b>City</b>	<b>Total Section 8 Vouchers</b>	<b>Percentage of All Section 8 Voucher Holders in City</b>	<b>Percentage of Total County Population in City</b>

<sup>144</sup> Marin Countywide Housing Element Workbook, Section 8 Statistics, February 2, 2009.

<sup>145</sup> Though “unincorporated county” includes all unincorporated areas, Marin City accounts for almost half of the vouchers within the unincorporated planning areas. Greenbrae comes in as a distant second, with less than 15 percent of vouchers. See Marin Countywide Housing Element Workbook, Section 8 Statistics, February 2, 2009, Table 1, Current Section 8 Vouchers by Jurisdiction.

<sup>146</sup> Data provided by MHA, “Distribution of Section 8 Units as of 6/23/10.”

Belvedere	6	0.3%	0.8%
Bolinas	12	0.6%	0.5%
Corte Madera	36	1.7%	3.7%
Fairfax	84	4.1%	2.8%
Forest Knolls	8	0.4%	0.7%
Greenbrae	22	1.0%	4.9%
Inverness	3	0.1%	0.6%
Kentfield	18	0.9%	2.5%
Larkspur	47	2.3%	4.7%
Marin City	110	5.3%	1.0%
Mill Valley	104	5.0%	5.3%
Novato	707	34.6%	21.2%
Ross	1	0.05%	0.9%
San Anselmo	121	5.8%	4.8%
San Geronimo	4	0.2%	0.2%
San Rafael	708	34.1%	22.3%
Sausalito	13	0.6%	2.9%
Tiburon	27	1.3%	3.5%

Given the data above, it is clear that Section 8 voucher holders are overrepresented in Bolinas, Marin City, San Anselmo, San Rafael, Novato, and Fairfax, while they are underrepresented in almost every other jurisdiction in Marin County. It should be noted that some jurisdictions have a much larger stock of rental housing and greater availability of public transportation, however, which probably affect distribution of rental voucher holders. Information on the race and ethnicity of voucher holders by municipality was not available. MHA does submit data annually to HUD about the proportion of its Section 8 voucher holders who live in poverty areas; those reports show that 77% of Section 8 voucher holders reside in low poverty census tracts within Marin County.<sup>147</sup>

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<sup>147</sup> E-mail from Kimberly Carroll, Marin Housing Authority.

## **Steps Taken by MHA to Promote Choice**

According to MHA, all of its Section 8 program participants are told at their intake briefing that they may use their voucher nationwide. In addition, MHA has recently started providing this information to all participants at the time of the annual recertification.

### Family Self-Sufficiency Program

The Family Self-Sufficiency Program (FSS) promotes the development of local strategies to coordinate the use of housing choice vouchers and public housing with public and private resources, so as to enable participating families to earn increased income and progress toward economic independence and housing self-sufficiency. The FSS program has 130 slots for housing choice voucher participants, and 25 slots for public housing participants. MHA selects participants without regard to race, familial status, or disability. To be eligible, a resident must be the head-of-household, and receiving either voucher or public housing assistance in good standing. The program lasts approximately five to seven years, and includes employment training, education, and employment referrals, as well as other support services. To provide incentives for residents to participate, the Housing Authority establishes an interest-bearing escrow account for participating families who have an increase in earned income during the time period of participation. The Housing Authority also coordinates with community partners to provide workshops on credit repair, financial literacy, preparation for homeownership, and asset building.<sup>148</sup>

FSS participants, as well as all Housing Choice participants, are eligible to move their vouchers to another jurisdiction after they have lived in Marin for at least one year. The only restriction HUD has regarding portability is that the applicant must have been a Marin resident at the time of application. Demographic data on program participants was not available for analysis.

### Project-Based Assistance Program

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<sup>148</sup> MHA Section 8 Admin Plan, Ch. 24.

As part of the Section 8 Housing Choice Voucher program, the Marin Housing Authority administers a Section 8 Project-Based Assistance Program. In this program, the rental subsidy is attached to the unit or building, rather than to the tenant. New construction, rehabilitated housing units, and existing housing units are all eligible under the program. Further, single-family homes, multi-family dwellings, cooperatives, PHA-owned properties, and group homes are all eligible. Towards the goal of “promot[ing] mixed-income neighborhoods and prevent[ing] the concentration of low-income housing, projects assisted under [the program] must be located in census tracts with poverty rates of less than 20 percent.”<sup>149</sup> To select tenants, MHA utilizes its housing voucher waiting list. The rental contract between the private housing provider and the program participant must allow the tenant to move out at any time after the first 12 months of assisted occupancy. Recently, MHA has awarded 60 project-based vouchers for a 61-unit senior development in Novato (Warner Creek Senior Housing) and has also provided 13 vouchers for a senior housing project in Kentfield (Toussin Senior Apartments). The Toussin Senior Apartments, located in the unincorporated community of Kentfield, provide housing to extremely low income seniors in an area with an average household income of over \$120,000. All of the units have project-based Section 8 vouchers and the residents are formerly homeless seniors selected from the MHA wait list.

## **Assistance in the Home Search Process**

### **Rental**

The Marin Housing Authority formerly maintained the Housing Assistline, a phone number that home seekers could call for information on locating and procuring available affordable rental housing. However, the Assistline was de-funded by the County and the Marin Community Foundation, and the Housing Authority now refers home seekers to 211. For recipients of Section 8 vouchers, the Marin Housing Authority updates apartment availability weekly, and refers many tenants to Craigslist.<sup>150</sup> The Housing Authority also publishes a list of subsidized housing throughout the County, though a number of properties included therein do not have open waitlists. Although MHA has a goal of updating the list monthly, the list posted on its website does not appear to meet that standard.

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<sup>149</sup> MHA Section 8 Admin Plan, Ch. 26-3.

<sup>150</sup> Interview, Kimberly Carroll, Leslie Klor, Marin Housing Authority.

## Ownership

The Marin Housing Authority administers a Section 8 Housing Choice Voucher Homeownership Program, which allows the voucher payment to be applied towards a mortgage payment rather than rental assistance. To be eligible, an applicant must have been on Section 8 for at least one year, the head of household/responsible adult must demonstrate a minimum of one year's employment, and the applicant must be a first-time homebuyer. To meet the minimum income requirements, an applicant must demonstrate a gross annual income of twice the payment standard for the size voucher held, as well as a sufficient sum to cover a down payment and closing costs. The program carves out several exceptions for elderly and disabled households, including exempting those applicants from minimum work requirements. However, applicant households must qualify and secure their own lender financing, and assistance from MHA is limited to 15 years for non-disabled or elderly households. Further, the program is essentially only effective in communities where housing is available in the \$100,000 range; almost unheard of in Marin County. Notwithstanding the potential barriers, there have been over 20 first-time homeowners through Marin's Section 8 homeownership program.

The Marin Housing Authority also administers a Below Market Rate (BMR) Home Ownership Program, which offers low and moderate-income, first-time homebuyers the opportunity to purchase specified condominium units in Marin County at less than market value; there are approximately 300 homes in the program. However, some housing advocates state BMR owners, predominately people of color and the elderly, are targeted by predatory lenders and conned into taking out second mortgages. Despite MHA's efforts to educate BMR buyers about the dangers of predatory lenders and second loans, the problem persists. Because additional mortgages are not permitted under the terms of the BMR deed restrictions, MHA pursues lenders to forgive unauthorized loans that were improperly provided to BMR homeowners with deed restrictions in place. In addition, MHA has taken steps to reduce lenders from providing second loans on BMR units by instituting the use of a "Notice of Affordability Restriction" that is recorded on the property. MHA has asked that all title companies notify MHA of any second loans on BMR properties. Marin Housing works with BMR families to assist them to modify their loans in order to continue to make homeownership sustainable. One housing advocate expressed concern that the Marin Housing Authority was too aggressive in its

actions to enforce BMR deed restrictions.<sup>151</sup> Makini Hassan, Executive Director at the Marin City Community Development Corporation, noted that her organization has encountered growing hostility from homeowner’s associations against BMR homeowners. Ms. Hassan stated that other owners may resent BMR owners, and HOAs sometimes discriminate against BMR owners.<sup>152</sup>

Marin City USA contains a mix of market rate and subsidized rental and ownership units. Of the 225 Marin City USA apartment units, 66 are available to very low-income households and 28 to low-income families. Of the 85 town homes, 74 are part of the below market rate program and will have resale restrictions for 30 years. Half of the BMR units were sold to low- and moderate-income Marin City residents, which fulfilled the project’s goal of providing homeownership opportunities to Marin City residents. At least three of the new homebuyers were former public housing residents.

A new 82-unit development located in San Rafael and known as “33 North” includes 16 affordable inclusionary units. At present, the Marin Housing Authority is accepting applications from prospective homeowners. The waiting list currently has approximately 70 applicants; the Housing Authority will administer a lottery to offer units to applicants for occupancy in September 2010.<sup>153</sup> San Rafael city officials pointed to the complex’s close proximity to the to-be-developed SMART transit station as well as the Civic Center (home to one of the County’s largest employers), as beneficial.<sup>154</sup> An aside in a newspaper article about the complex noted that it was approved “despite neighborhood concerns over density, scale and traffic;”<sup>155</sup> as discussed earlier in this chapter, such concerns are often a pretext for community opposition to the development of affordable housing based on underlying discriminatory motives.

### **Incentives Provided to Landlords to Encourage Participation in the Section 8 Program**

The Housing Authority engages in some outreach on its website, touting the benefits of the voucher program to potential landlords as “guaranteed rent,” the security of having a greater assurance that a tenant will be able to afford the unit, and attracting long-term tenants and thus

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<sup>151</sup> Interview, Makini Hassan, Marin City Community Development Corporation.

<sup>152</sup> Interview, Makini Hassan, Marin City Community Development Corporation.

<sup>153</sup> Swartz, Jennifer Upshaw, “Affordable Condos Available,” *Marin Independent Journal*, 06/04/10, A3.

<sup>154</sup> Swartz, Jennifer Upshaw, “Affordable Condos Available,” *Marin Independent Journal*, 06/04/10, A3.

<sup>155</sup> *Ibid.*

experiencing lower turnover rate and associated costs. The Housing Authority also offers that owners may list their vacant units with MHA's Vacancy Hotline referral at no cost.<sup>156</sup>

The Housing Authority also provides information regarding an applicant's current address, as well as the names and addresses of the applicant's previous landlords, if available. MHA also provides written information regarding eviction history, damage to rental units, and drug trafficking by family members in any MHA program over a five-year period to prospective landlords upon request.<sup>157</sup>

Leslie Klor, housing advocate at the Marin Housing Authority, actively works with landlords and prospective landlords to encourage participation in the Section 8 program. To promote participation, Ms. Klor offers herself to landlords as a troubleshooter or intermediary.<sup>158</sup> The Marin Housing Authority provides a quarterly newsletter for participating landlords, and is currently considering the possibility of putting on seminars for landlords as well as training programs for tenants to encourage successful habits.<sup>159</sup> However, it is still a challenge to find landlords willing to accept Section 8 vouchers. Section 8 participants still have to find rental units offered at a rental rate within the program's price parameters. MHA states that the price parameters do not currently seem to be a major problem because the Fair Market Rents established by HUD for the San Francisco-San Mateo-Marín area reflect market realities, and MHA has the ability to raise the payment standard when appropriate. However, some landlords may be reticent to participate in the program based on negative stereotypes about Section 8 tenants; stereotypes which may be rooted in underlying prejudices about race, ethnicity, or economic class. Sometimes, concerns about economic class may be a proxy for prejudice on the basis of race or ethnicity.

## **SALE OF SUBSIDIZED HOUSING AND POSSIBLE DISPLACEMENT**

Marin County espouses a stated policy of working to "minimize the displacement of persons as a result of community development activities," and "whenever possible, avoid using HUD funds to undertake or support activities which would result in involuntary displacement of

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<sup>156</sup> <http://marinhousing.org/rentalOwners.htm#12>, accessed 05/28/10.

<sup>157</sup> MHA Section 8 Admin Plan, Ch. 9-6.

<sup>158</sup> Interview, Leslie Klor, Marin Housing Authority.

<sup>159</sup> *Ibid.*

persons from their homes and neighborhoods.”<sup>160</sup> Further, Marin County has a policy of providing assistance to “persons actually displaced by community development activities.”<sup>161</sup> For those persons who experience involuntary displacement, “Marin County will attempt to assist displaced persons to relocate within their own neighborhoods or in newly constructed or substantially rehabilitated publicly assisted housing. Marin County will provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of HUD funds to acquire or substantially relocate property. This assistance may take the form of technical assistance and/or financial assistance, depending on the circumstances.”<sup>162</sup> The County also pledges to comply with HUD regulations requiring relocation assistance, as well as the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.<sup>163</sup>

Recent events relating to the sale of the Highlands of Marin illustrate some of the impediments to housing choice created after the sale of subsidized housing.<sup>164</sup> The Highlands of Marin, a 104-unit property in San Rafael, was sold in 2007 to Northbay Properties II, L.P. (“Northbay”), a subsidiary of United Dominion Realty Trust. In 2009, Northbay won approval to undertake large-scale renovation at the property, including substantial remodeling of residential units. Approximately 380 tenants were or will be displaced because of the renovation process, many of whom are residents of BMR rental units. Although the City of San Rafael requires relocation assistance to be paid to low-income residents forced out of their homes as a result of a development project, Northbay is free to raise rents on renovated units to market rate, thus denying many low-income residents the ability to return to their homes once construction is completed.<sup>165</sup>

Golden Gate Village in Marin City is another site oft referenced in the discussion of the sale of subsidized housing and displacement of current residents. Despite pervasive rumors to the contrary, Marin Housing Authority stated that it has no intention to sell subsidized or public housing in Marin City to private developers. However, the Housing Authority is considering

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<sup>160</sup> Con Plan § 91.105(X)(A),(B).

<sup>161</sup> *Ibid.*

<sup>162</sup> *Ibid.*

<sup>163</sup> *Ibid.*

<sup>164</sup> “Subsidized” as used here refers to properties that received a tax credit.

<sup>165</sup> Upshaw, Jennifer, “Highlands of Marin Residents Lose Renovation Appeal, Marin Independent Journal,” 04/07/09 [http://www.marinij.com/ci\\_12093240](http://www.marinij.com/ci_12093240)

redeveloping its Marin City property into a mixed-income property.<sup>166</sup> Many Marin City residents have expressed concerns about displacement. In the event that a public housing site is sold, the Marin Housing Authority's relocation plan "may or may not require transferring affected families to other available public housing units. If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list."<sup>167</sup> However, HUD would require that all displaced tenants be provided housing. It merits noting that if public housing in Marin City is sold in the future, MHA's relocation plan would prove very difficult to implement in practice, given the scarcity of apartments suitable for large families in Marin County. MHA states that it does not intend to sell public housing, and if it redevelops the Golden Gate Village, the work would likely be done in stages to minimize displacement and provide housing for all as the renovations take place.

## TAX POLICIES

The federal Low-Income Housing Tax Credit, a competitive grant program that considers a proposed development's proximity to transit, retail, and public amenities, acts as a significant source of funding for affordable housing development.<sup>168</sup> However, the Low-Income Housing Tax Credit, as implemented in California, has a priority for proximity to transit. Because of intense competition for Tax Credits, projects typically have to meet all priority criteria to have a chance of obtaining a Tax Credit allocation. As a result, developments that are not within the required proximity to public transportation do not qualify for the credit; this is a serious and recurrent problem in Marin. At the state level, California provides a Low-Income Housing Tax Credit Program to encourage private investment in affordable rental housing for households meeting certain income requirements.<sup>169</sup> Marin County does not have any specific low-income exemption or credit.<sup>170</sup>

According to the County, local tax policies generally:

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<sup>166</sup> Interview, Kimberly Carroll, Marin Housing Authority.

<sup>167</sup> MHA ACOP Ch. 11-4.

<sup>168</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 21 (2009).

<sup>169</sup> [http://www.treasurer.ca.gov/ctcac/programreg/20100217\\_nonstrikeout.pdf](http://www.treasurer.ca.gov/ctcac/programreg/20100217_nonstrikeout.pdf)

<sup>170</sup> [http://www.co.marin.ca.us/depts./AR/main/real\\_property.cfm](http://www.co.marin.ca.us/depts./AR/main/real_property.cfm)

*Facilitate the development and preservation of subsidized housing. Most subsidized housing qualifies for an exemption from local property taxes, and Marin County has been cooperative in processing applications for tax exemptions. Proposition 13, a statewide policy, has resulted in property tax rates that vary minimally across municipal boundaries. Because tax rates vary so little among jurisdictions, differences in tax rates have no effect on housing prices or on the availability of affordable homeownership opportunities. Proposition 13 has, however, put communities in fiscal competition for retail development that generates sales tax revenues, and may result in more land being zoned for retail development than is needed, thereby reducing the amount of land zoned for housing. However, much of the land zoned for retail use in Marin is not desirable for housing use, because of traffic, noise, or toxic contamination.<sup>171</sup>*

## **PLANNING AND ZONING BOARDS**

Under the Marin County Municipal Code, the planning commission consists of seven members appointed by the Board of Supervisors.<sup>172</sup> Five members of the commission are from each of the five supervisorial districts, and the remaining two members serve at large. District members serve for four years, while at large members serve for two years.<sup>173</sup> The County does not collect demographic information on planning commission members. Two of the stated purposes of the Development Code are to “protect the character and social and economic stability of agriculture, residential, commercial, industrial, and other areas within the County and ensure the orderly and beneficial development of those areas as part of a well-coordinated community,” and to “provide a diversity of areas characterized by differing land use activity, scale and intensity, while maintaining a community identity and quality development.”<sup>174</sup>

## **BUILDING CODES AND STATE LAW**

### **Accessibility**

Building codes in Marin County do not vary substantially from other jurisdictions in the region. The County endorses strict enforcement of building codes, as a means of ensuring “quality construction and lower long-term maintenance and upkeep expenses.”<sup>175</sup>

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<sup>171</sup> Con Plan § 91.210(c), pg. 64.

<sup>172</sup> This Analysis looks only at County Planning and Zoning Boards, not individual city boards and the issues that may stem from the structure of those boards.

<sup>173</sup> Marin County Dev’t Code § 0.04.020.

<sup>174</sup> Marin County Dev’t Code § 22.01.020.

<sup>175</sup> Con Plan § 91.210(c), pg. 64.

Although building code provisions guaranteeing accessibility govern the construction of new residential properties in Marin County, many properties built prior to 1991 do not comply with contemporary accessibility requirements. This presents a problem in Marin, as a great number of residential properties, particularly rental properties, were constructed prior to 1991. The age of Marin’s housing stock constitutes a substantial barrier to accessibility: because so many residential properties were built prior to 1991, many properties are not in compliance with current ADA requirements. Because new housing development occurs infrequently in the County, it is rare that new multi-family homes that would be required to comply with contemporary design accessibility are actually constructed. Thus, it is difficult for people with mobility impairments to find appropriate housing. Often, people with disabilities must modify existing structures. However, modifications are not an ideal solution, as the cost of renovations can be high, and according to anecdotal reports, some landlords are reticent to allow for modifications.<sup>176</sup>

### **Visitability**

While not required under local building codes, HUD has set a standard for visitability that encourages public jurisdictions to incorporate additional accessible design and construction features into all housing the jurisdiction develops with HOME funds. Housing that is “visitable” is accessible at a basic level, enabling persons with disabilities to visit the homes of their friends, relatives, and neighbors. Visitability can be achieved at little cost by utilizing two simple design standards: (1) providing a 32-inch clear opening in all interior and bathroom doorways; and (2) providing at least one accessible means of ingress and egress for each unit. By adopting these visitability standards, public jurisdictions can vastly increase the ability of a disabled person to independently visit others.

## **RECOMMENDATIONS**

1. Additional affordable rental housing is needed, but current zoning ordinances impose onerous restrictions on the development of high-density, multifamily housing. In its analysis of efforts at residential development in commercial zones, Public Advocates

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<sup>176</sup> More detailed discussion of reasonable modifications, including financial resources available to low-income persons with disabilities for making necessary modifications, can be found in the “Enforcement” chapter *supra*.

found that zoning regulations related to density, height, parking, and limitations of ground-floor space to commercial uses act as a significant hurdle to development of affordable housing.<sup>177</sup> The County and other local jurisdictions should undertake comprehensive reviews of zoning regulations, taking into consideration research already conducted on the matter. The County and other local jurisdictions should consider adopting design guidelines for multi-family developments that could be used to review and permit affordable housing projects either “by right” (meaning ministerial review) or through a streamlined process of discretionary design review limited to design aspects of the site and the proposed improvements. Local jurisdictions should consider the creation of affordable housing overlay zones. Local jurisdictions can establish a list of sites where affordable developments may benefit from increased residential density standards, fee waivers, and relaxation of other development standards such as parking requirements.<sup>178</sup> Further, all jurisdictions should ensure that within the overlay zone, the general zoning code permits either “by right” development of multifamily dwellings or allows such development through a streamlined discretionary review process that is limited to site and building design considerations based upon multi-family design guidelines. Marin can look to the Town of Corte Madera’s Affordable Housing Overlay (AHO) zone and San Rafael’s Transit Overlay District as successful exemplars.<sup>179</sup> None of the jurisdictions with high-density multifamily “by right” zoning districts currently has a minimum density requirement; the effect is that sites zoned to permit higher-density residential use may instead be used to develop low-density housing. Local jurisdictions should consider imposing zoning restrictions that include a density floor to prevent lower-density development of a site.<sup>180</sup>

2. Countywide, most jurisdictions have inclusionary zoning, which requires a percentage of new development to be set aside as below-market-rate housing. A number of jurisdictions still do not have inclusionary policies, while others have policies that are in need of updating to ensure they are promoting fair housing. The jurisdictions that do not

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<sup>177</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 27 (2009).

<sup>178</sup> *Marin County Housing Study: Analysis of Best Practices to Meet the Housing Needs of Homeless and Precariously Housed People in Marin County*, Kate Bristol Consulting, 02/05/10, pg. 18.

<sup>179</sup> *Ibid.*

<sup>180</sup> Marcantonio, Richard, *Zoning for Affordable and Sustainable Communities: A Case Study in the Implementation of Housing Elements in Marin County*, Public Advocates, Inc., pg. 24 (2009).

have inclusionary zoning policies should evaluate the potential effects of adopting inclusionary zoning ordinances as a strategy for developing more affordable housing. Current inclusionary zoning regulations should be studied and changed if necessary to remove policies which may act as a barrier to increasing housing options for low income and minority households. For example, in the County, inclusionary units may be allowed to be developed off-site if they do not fit with the “overall project character.” This exception may be exercised as a pretext for discrimination against very-low and low-income residents, predominantly people of color, families, and people with disabilities. Local jurisdictions should define “overall project character” and develop clear criteria for determining when inclusionary units would not fit with overall project character and therefore may be built off-site, so that the regulation is applied consistently and not in a manner as to disparately impact minorities, families, and people with disabilities. Finally, in-lieu fees should be assessed in direct proportion to the cost to construct a unit.

3. Inclusionary zoning requirements are only effective at creating affordable housing during times when substantial market-rate development takes place; inclusionary zoning requirements are, however, ineffective during a real estate downturn. Other options for providing affordable housing and funding for local housing trusts should be explored, including considering adopting affordable housing impact fees, similar to the County’s fee. More generally, local schedules of in-lieu fees and impact fees should be periodically reviewed to determine whether they should be adjusted.
4. Second units can supply only a limited portion of needed affordable housing, as the units are often small. Some second units are not broadly marketed, and those that are on the rental market are often inadequate housing for people with disabilities and the elderly, as many units do not meet accessibility standards or cannot pass Section 8 housing choice voucher inspection requirements. While second units are a viable option in some neighborhoods, they should not be relied upon as the sole source of affordable housing in Marin. The County and other local jurisdictions must diversify development of affordable housing beyond second units.
5. Redevelopment funds are often committed to project areas that are already highly segregated, which might perpetuate the concentration of minorities in certain communities. However, redevelopment funds have also been used for projects which

increase neighborhood diversity. Further, affordable housing is disproportionately senior housing. Senior housing comports with the idea of a “deserving poor,” whereas housing for minorities and families does not.<sup>181</sup> Finally, affordable housing development tends to be studios and one-bedroom units – generally inappropriate for families with children. The County and its jurisdictions should encourage and facilitate the development of more subsidized and affordable housing for families with children, particularly in areas with low concentrations of minorities. Substantial investment in acquisition and rehabilitation may also be a successful strategy for developing more affordable housing for families outside impacted areas; the County and other local jurisdictions should also consider working with community advocates and developers to develop non-traditional housing arrangements such as shared housing. However, the market for shared housing may be limited to tenants who prefer more involvement with their neighbors than occurs in traditional housing.<sup>182</sup>

6. Almost all properties identified as appropriate for people with disabilities are at capacity, and many properties have closed their waiting lists completely. Additionally, many properties for people with disabilities are not wheelchair accessible. Further, the properties for people with disabilities are concentrated in certain localities; only two properties exist in West Marin. The Housing Authority should review information it provides regarding accessibility to ensure accuracy. Funders and the County should devote resources to developing more housing for persons with disabilities in diverse geographic locations, especially underserved communities such as West Marin.
7. Local public transportation service is concentrated in low-income communities where current demand and current ridership are greatest, but this can perpetuate the segregation of minorities in those neighborhoods. A way forward would be the pursuit of transit-rich development in non-impacted neighborhoods (for example, the “Green Hubs” concept), but that would require local governments to allow development at densities high enough to create sufficient demand for public transportation. The Transportation Authority of Marin should approve and implement the Marin City transportation plan it commissioned in 2007. The Transportation Authority of Marin should work with local public transit

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<sup>181</sup> Interview, Richard Marcantonio, Public Advocates.

<sup>182</sup> Interview, Roy Bateman, Marin County Community Development Agency.

providers to increase transportation options in higher-income, less impacted communities as well as to broaden opportunity for all residents.

8. The County does not regularly update data collected on the race or ethnicity of residents of affordable housing projects, and therefore cannot measure whether these developments have the long-term effect of further concentrating racial minorities in certain localities. Marin County should institute a system for tracking the racial and ethnic demographics of residents of all housing developed with County funds and federal funds that pass through the County. The County should consider conducting regular surveys of those privately developed affordable housing properties which are subject to local government restrictions on household income, to determine racial and ethnic demographics of residents.<sup>183</sup>
9. All tenants in Marin Housing Authority properties must sign a lease before they can live in public housing; the dwelling lease sets forth rules and requirements for tenancy. MHA should ensure that its public housing lease and rental notices are translated into Spanish and Vietnamese and should make them available on a consistent basis when needed. MHA should have a procedure to access interpreters if oral discussion is necessary.<sup>184</sup>
10. When the Section 8 Housing Choice Voucher or Public Housing wait lists are open, MHA should affirmatively market the availability of units to all families within the jurisdiction by placing a public service announcement in English, Spanish, and Vietnamese in local circulation language-specific newspapers, radio, and/or television.<sup>185</sup>
11. Section 8 voucher holders are disproportionately represented in localities with higher-than-average proportions of minorities<sup>186</sup>, which may perpetuate patterns of residential segregation. However, these are also the localities where there are higher-than-average concentrations of rental housing and greater availability of public transit service. As many Section 8 voucher holders are people of color, people with disabilities, and families with children, this perpetuates patterns of segregation. Some landlords are reticent to participate in the program, in part due to negative stereotypes about race, ethnicity, and recipients of public assistance, which exacerbates the concentration of protected classes

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<sup>183</sup> This recommendation is also propounded in “Compliance” chapter.

<sup>184</sup> See HUD Final Guidance at 2750.

<sup>185</sup> *Ibid.*

<sup>186</sup> HUD internal guidelines define areas with over 40% minority population as racially impacted.

in certain neighborhoods and communities. The County and other local jurisdictions should collaborate with the Housing Authority and community housing advocates to strategize ways to encourage landlord participation and expand housing choice.

12. Disproportionately high numbers of Black residents receive Section 8 housing voucher subsidies or reside in Marin City Public Housing. In fact, the majority of Marin City public housing tenants are Black. Although public housing applicants with families express the desire to live outside Marin City, there is no other family public housing in the county. Public housing effectively perpetuates segregation based on race and familial status, although there has been some increase in racial diversity in the family public housing in the last 15 years, and the most recent redevelopment project has made Marin City a more diverse community. The County and other local jurisdictions should devote resources to developing more subsidized housing outside impacted areas. Given current funding patterns, new subsidized housing is unlikely to be public housing, and instead will most likely be owned or sponsored by non-profit organizations.
13. The MHA's "One-Strike" Policy, if implemented as written, could disproportionately affect Black residents, women who are victims of domestic violence, and people with mental disabilities, jeopardizing their tenancies and destabilizing housing opportunities. The Marin Housing Authority should consider modifying its written policy to make it clear that only residents who present a direct threat to the health or safety of others will be evicted from public housing or terminated from public housing assistance, and that there will be an opportunity for case-by-case review of specific circumstances. The MHA should include specific language in its lease alerting victims of domestic violence to their rights under the Violence Against Women Act. The administration of the One-Strike Policy should be monitored to ensure that it does not disparately impact any protected classes.
14. BMR homeowners may fall prey to predatory lending and may ultimately lose their homes for failure to abide by their deed provisions restricting additional encumbrances. BMR owners need advocacy and education. Local jurisdictions with BMR programs should be sensitive to this issue and ensure that BMR homeowners receive adequate pre-purchase and post-purchase counseling and education.

15. Few resources exist to assist precariously housed persons with finding stable, permanent housing. Funders and local jurisdictions should consider providing funding for improved housing information and referral services, which might include reviving the Housing Assistline.
16. Outreach to English as a Second-Language communities is insufficient. Large numbers of Spanish-speaking and Vietnamese-speaking households could benefit from Housing Authority programs, yet information about those programs is not always easily accessible in a language other than English. For example, the MHA should include Spanish and Vietnamese translations on [www.marinhousing.org](http://www.marinhousing.org), list contact information for staff fluent in Spanish and Vietnamese in prominent locations, and ensure compliance with federal regulations by publishing all relevant or vital documents relating to tenancy in Spanish, Vietnamese, and any other language as needed. Other housing and service providers should review whether their services are accessible in multiple languages as needed.
17. Developers cannot always take advantage of the available Low-Income Housing Tax Credit because of poor proximity of developments to public transportation. Further, commercial development is more appealing to many municipalities than residential development because of the increased sales tax revenue. Local jurisdictions should continue their inclusionary zoning policies to ensure that commercial developments include affordable housing units. The Transportation Authority of Marin should also secure more resources for developing transportation hubs outside racially-impacted areas so that properties located near those hubs which are suited for higher-density housing can qualify for the Low-Income Housing Tax Credit. Other public transportation improvements which would qualify infill housing opportunity sites for tax credits would facilitate the financing of needed affordable housing.
18. Some of the stated purposes of local jurisdictions' development codes may be interpreted as potentially conflicting with affirmatively furthering fair housing. . For example, the County's Development Code includes language to "protect the character and social and economic stability" and maintain "community identity and quality development."<sup>187</sup> The County should consider amending its Development Code to limit the language that could

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<sup>187</sup> Marin County Development Code, Section 22.01.020.

be used as a pretext for discrimination against minorities, people with disabilities, and families with children, and add clarifying language noting that the code is intended to expand housing opportunities for all people, regardless of their membership in a protected class, as well as to implement other public policy objectives. Other local jurisdictions should undertake similar amendments where needed.

19. The aging housing stock limits accessibility of units to people with disabilities, despite new construction's compliance with contemporary building codes. The County and other local jurisdictions should consider providing incentives for property owners to make residential properties constructed before 1991 accessible, thus increasing the available housing stock for people with disabilities and the elderly. Incentives could take the form of financial rebates or credits, or education and outreach.

## **CHAPTER 5**

### **HOME PURCHASE, LENDING PATTERNS AND FORECLOSURES IN MARIN COUNTY**

Home sales and lending are covered under the Fair Housing Act. Analysis of the general characteristics of the housing marketplace is a necessary preliminary step towards determining fair housing compliance within the sales and lending marketplaces.<sup>1</sup> The Home Mortgage Disclosure Act (HMDA), enacted by Congress in 1975, requires lending institutions to report public loan data. This regulation provides public loan data that can assist:

- In determining whether financial institutions are serving the housing needs of their communities;
- Public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- In identifying possible discriminatory lending patterns.

The HMDA applies to certain financial institutions, including banks, savings associations, credit unions, and other mortgage lending institutions. In addition, the Community Reinvestment Act (CRA) of 1977 mandates that deposit-taking financial institutions must offer equal access to lending, investment and services to all those in an institution's geographic assessment area (at least three to five miles from each branch).

Before the CRA, many bankers engaged in a practice known as “redlining,” intentionally excluding low-income neighborhoods and people of color from their lending products, investments, and financial services. Since its passage, the CRA has provided the opportunity for tens of billions of dollars in new lending, investments, and services for communities across the United States.

#### **Subprime Lending and the Foreclosure Crisis**

In the early 2000s, the housing market expanded rapidly, made possible to a large extent by the subprime lending market. The subprime lending market was poorly regulated, and subprime lenders failed to adequately scrutinize the risk associated with those loans. As a result, many borrowers took out loans they could not afford, particularly after interest rates reset after the initial two-year period following loan origination. Beginning in 2006, foreclosure rates

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<sup>1</sup> See “Enforcement, Education, and Education,” *supra*.

spiked sharply. The ensuing collapse of the subprime market instigated the eventual nationwide economic crisis. As traditionally stable homeowners began to lose their jobs and sources of income due to the recession, foreclosure rates continued to skyrocket.

While Marin County has not been immune to the effects of the economic downturn and foreclosure crisis, the county has not been hit with the severity experienced by other communities in California, as evidenced by the chart below. Marin County has the lowest number of defaults and bank repossessions, and the second lowest number of trustee sales (after Napa County) in the Bay Area. In March 2010, Marin County listed 345 properties with foreclosure filings.<sup>2</sup>

Foreclosure Activity by County in February 2010<sup>3</sup>:

<b>County</b>	<b>Notice of Default</b>	<b>Notice of Trustee Sale</b>	<b>Back to Bank</b>	<b>Sold to 3<sup>rd</sup> Party</b>
<b>Alameda</b>	1,081	928	424	116
<b>Contra Costa</b>	1,255	1,081	471	151
<b>Marin</b>	109	109	43	11
<b>Napa</b>	118	85	52	6
<b>San Francisco</b>	240	157	65	25
<b>San Mateo</b>	351	269	101	37
<b>Santa Clara</b>	975	788	290	112
<b>Solano</b>	568	538	253	68
<b>Sonoma</b>	390	283	143	28

In Marin County, the city of Novato has been hit the hardest by the foreclosure crisis. According to RealtyTrac, Novato listed 76 foreclosed properties (one in every 294 housing units), while San Rafael listed 60 (one in every 477 housing units) in April 2010.<sup>4</sup> Foreclosure

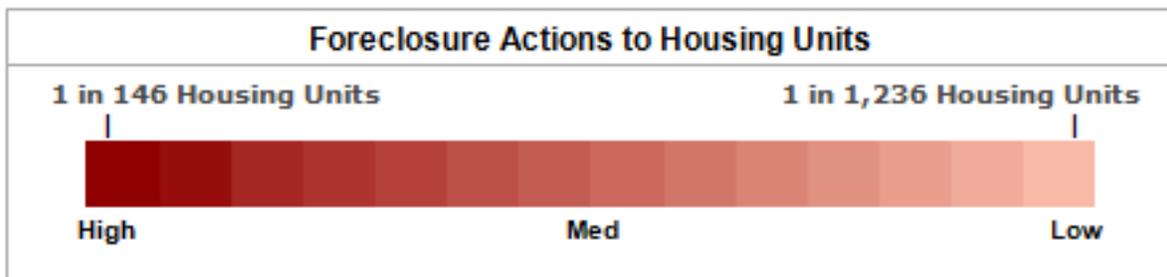
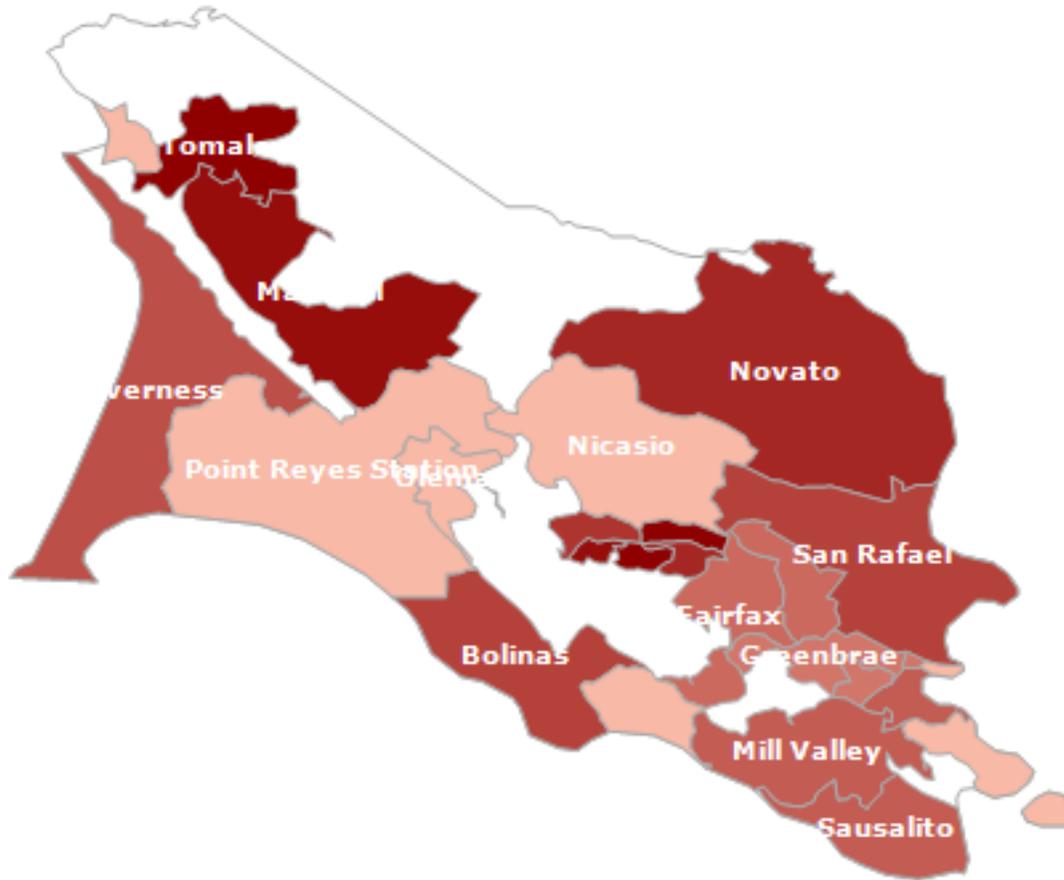
<sup>2</sup> Foreclosure Trends, RealtyTrac <http://www.realtytrac.com/trendcenter/ca/marin-county-trend.html>

<sup>3</sup> “Foreclosure Starts Up Nearly 20 percent in California”, California Foreclosure Report, Foreclosure Radar, [www.foreclosureradar.com](http://www.foreclosureradar.com)

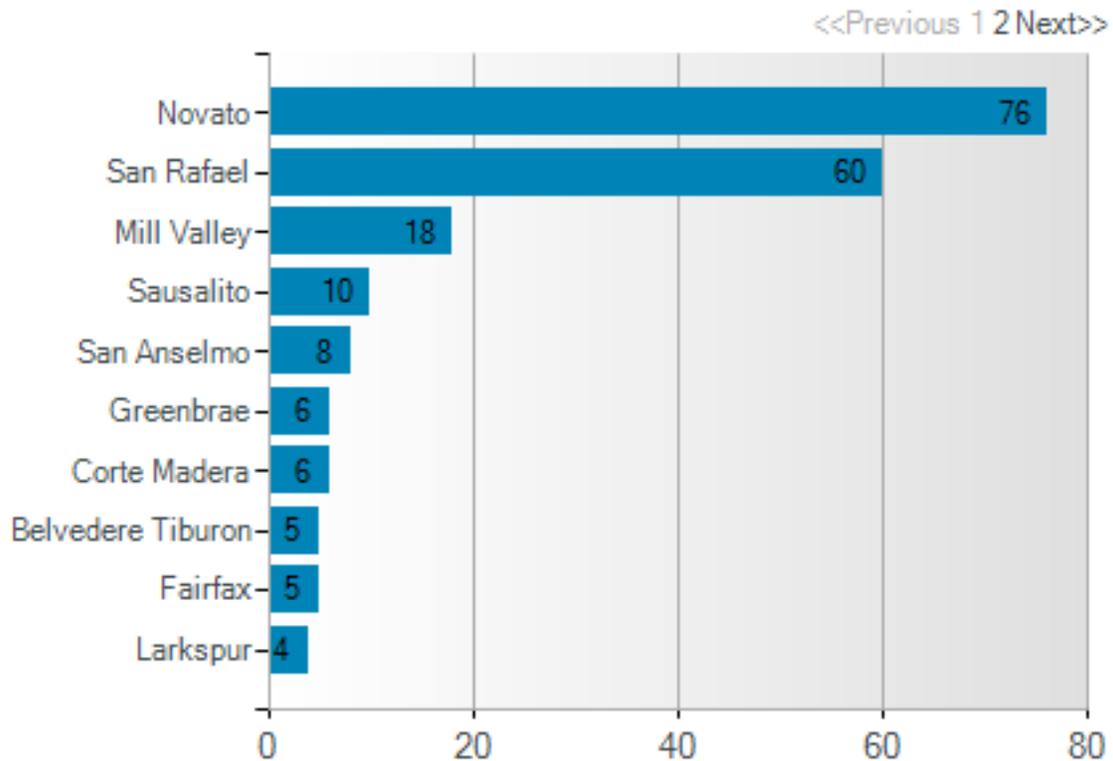
<sup>4</sup> Foreclosure Trends, RealtyTrac <http://www.realtytrac.com/trendcenter/ca/marin-county-trend.html>

activity and trends are illustrated in the “Foreclosure Rate Heat Map” and “Foreclosure Activity Counts” bar graph below.

***April 2010 Foreclosure Rate Heat Map***



## Foreclosure Activity Counts - Marin County, CA



Source: <http://www.realtytrac.com/trendcenter/ca/marin-county-trend.html>

\*Not included in the graph above are Forest Knolls, Woodacre, Bolinas (with two foreclosure actions each), San Geronimo, Lagunitas, Inverness, Marshall, and Tomales (with one foreclosure action each).

Marin has also experienced an increase in short sales. A short sale occurs when the seller owes in excess of the home's current value, but the lender accepts a sale price less than the remaining mortgage debt in order to avoid potentially lengthy and costly foreclosure proceedings. According to Foreclosure Radar's California Foreclosure Report for February 2010, Marin County recorded a rise in notices of trustee sale from 47 in February 2009 to 109 in February 2010. Properties returned to the bank increased from 34 to 43 during that time period.

There are over 39,000 homeowner households in Marin County with below 80 percent of the median income. The foreclosure crisis is especially severe for the fastest growing household types in Marin – younger households under 34 and senior households above 65. Younger households comprise 15 percent of Marin's population, while seniors comprise 20 percent. More than half (53 percent) of younger households are lower income or below. Similarly, nearly half (44 percent) of senior households are lower income or below. The U.S. Census Bureau estimates that 44 percent of homeowners pay more than a third of their household income towards their

housing costs.<sup>5</sup> It is this group that faces the greatest risk of foreclosure. According to a real estate tracking firm, MDA DataQuick of San Diego, Marin home foreclosures more than tripled in 2008. The data documents 440 trustees' deeds recorded in 2008 in Marin County, which represents actual loss of homes to foreclosure. This number tripled from 133 foreclosures in 2007.<sup>6</sup>

The wave of foreclosures is predicted to last well beyond 2010. Statistics show that the serious delinquency rate for prime fixed rate loans in the first quarter of 2009 was about 300 percent higher than the same period in 2008. A very high percentage of seriously delinquent loans go into foreclosure. As more homes go into foreclosure, the value of neighboring homes subsequently drops. Decreases in home sales prices translate into decrease in equity. Loss of equity gives homeowners fewer options such as refinancing or selling a property; and this can lead to more defaults, which in turn lead to increased foreclosures.

According to Realty Trac Inc., the number of households facing foreclosure nationwide (one in 504 housing units receiving a foreclosure filing) in April 2010 dropped two percent from the previous year, which is the first time in five years that the foreclosure rate fell.<sup>7</sup> However, according to an article posted in May 2010 that quoted the drop, the news is not good:

*While the number of new delinquencies is dropping, the number of borrowers losing their homes is still rising. Banks seized a record 92,000 homes last month. And there are millions more potential foreclosures ahead. Nearly 7.4 million borrowers, or 12 percent of all households with a mortgage, had missed at least one month of payments or were in foreclosure as of March, according to Lender Processing Services Inc., a mortgage data research firm. RealtyTrac, a foreclosure-listing firm in Irvine, Calif., reported that nearly 334,000 households, or one in every 387 homes, received a foreclosure-related notice in April. That was down more than 9 percent from March.*

Overall numbers in Marin County show a decline in prices. According to a Marin Independent Journal article posted in December 2009<sup>8</sup>:

*The median price for 49 condo sales in Marin in November, \$285,000, was down from the \$324,000 median a year ago. For all Marin home sales, the median was \$600,000, down from the \$625,000 median a year ago. Marin had a total of 237 home sales last*

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<sup>5</sup> U.S. Census, 2006-2008 American Community Survey

<sup>6</sup> Staats, Jim, "Marin Foreclosures tripled in 2008", Marin Independent Journal, 1/27/09, [http://www.marinij.com/ci\\_11564640?IADID=Search-www.marinij.com-www.marinij.com](http://www.marinij.com/ci_11564640?IADID=Search-www.marinij.com-www.marinij.com) accessed 5/20/10.

<sup>7</sup> Zibel, Alan, "Foreclosures down 2 percent from last year," Marin Independent Journal, posted 5/12/10, [http://www.marinij.com/business/ci\\_15074630](http://www.marinij.com/business/ci_15074630) accessed 5/22/10.

<sup>8</sup> Staats, Jim, "Marin Home Prices Buck Bay Area Trend of Increases," Marin Independent Journal posted 12/17/09, [http://www.marinij.com/marinnews/ci\\_14018255](http://www.marinij.com/marinnews/ci_14018255)

*month, up 53 percent from 155 sales in November 2008, but down from the 264 total sales in October this year.*

### **Foreclosures, High Cost Loans, and Protected Classes**

As part of its foreclosure prevention program, Fair Housing of Marin staff conducted interviews of local borrowers with loans from subprime lenders. Many borrowers had loans with predatory features, and some borrowers were unaware of the high cost of their loans. The median price of a home in Marin was \$825,000 in March 2008. In 2008, the average annual salary in Marin County was \$59,185. A household with this income could afford to spend approximately \$292,600 on buying a home, less than one-third of the median sales price for a single family in the county. Due to high housing costs in Marin County, 75 percent of families spend more than the recommended 30 percent of their income on housing, and 64 percent spend more than 50 percent. High housing costs are a particular burden for seniors and low-income families. Persons paying more than 50 percent of their income towards housing cost are especially likely to be displaced or become homeless. Latino borrowers receive a disproportionately high share of high-cost loans, as evidenced in the National Community Reinvestment Coalition's analysis below. Therefore, Latinos face greater risk of defaulting on their loans, particularly during an economic downturn.

Predatory lenders target the poor, elderly, and people of color for higher cost home loans. A California Reinvestment Committee (CRC) study in 2006 reported that HMDA data revealed Black and Latino borrowers pay more than other borrowers, as do residents of minority and low-income neighborhoods.<sup>9</sup> Statewide, residents of minority neighborhoods were nearly four times as likely as residents of White neighborhoods to receive higher-cost home purchase loans. Latino homebuyers account for a significant portion of new and resale home purchases. The National Association of Hispanic Real Estate Professionals predicts that Latinos will represent 40 percent of first-time homebuyers by 2012. While subprime lending can be legitimate and help people access credit, most predatory lending occurs in the subprime market. CRC found that prime lenders are not serving low-income communities, communities of color and seniors, and that subprime lenders are targeting elderly and minority borrowers and communities.

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<sup>9</sup> "Who Really Gets Higher-Cost Home Loans? Home Loan Disparities By Income, Race and Ethnicity of Borrowers and Neighborhoods in 14 California Communities in 2005," California Reinvestment Coalition, December 2006, <http://www.calreinvest.org/publications>

In 2009, CRC and other consumer groups across the country issued a report indicating that higher-cost lending remains concentrated in communities of color. Although CRA-obligated depositories were less likely to make higher-cost loans in communities of color than lenders not covered by CRA, banks covered by the CRA still made a disproportionate share of their higher-cost loans in communities with large minority populations.<sup>10</sup>

Yet exactly which protected classes of people in Marin County are most impacted by foreclosures – and to what extent – is unclear. For example, Fair Housing of Marin’s foreclosure prevention program serves a disproportionately large number of monolingual Spanish-speaking Latinos who are at the delinquency, default, or foreclosure stage. Yet FHOM’s clients are only a small percentage of people who are delinquent, in default, or going through foreclosure. In order to understand the fair housing implications of how foreclosures impact protected classes of people, foreclosure data must be analyzed according to race and ethnicity, as well as by neighborhood. Such an analysis should also include the number of loan modifications across race and ethnic lines. In a February 2010 study of foreclosures in five California cities in 2008, the California Reinvestment Coalition found that many banks flooded neighborhoods of predominantly Black and Latino residents with high-cost, possibly predatory loans during the subprime explosion in 2006, failed at preventing foreclosures, then returned to disparately high rates of loan denial for applicants of color in 2008.<sup>11</sup> The result: a trend of dispossession in neighborhoods with high concentrations of Black and Latino residents. Not only are there a disproportionate number of predatory loans and subsequent defaults, but Blacks and Latinos also receive fewer loan modifications and fewer originations in prime loans than other populations.

Analyzing foreclosure data may be predictive in detecting discrimination. If a lender had a much higher percentage of loans going through foreclosure in the last three years, particularly subprime, high-cost loans, this could indicate discrimination based on race or national origin. One could then look at the lender’s HMDA data for the past years along with the foreclosure data to ascertain if there were unusual HMDA patterns mixed with a high foreclosure rate, and whether the lender’s underwriting practices result in predatory lending for a protected group.

### **NCRC’s 2006 and 2008 Home Lending Analysis for Marin County, CA**

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<sup>10</sup> “Paying More for the American Dream III: Promoting Responsible Lending to Lower-Income Communities and Communities of Color,” California Reinvestment Coalition et al, April 2009, <http://www.calreinvest.org/publications>

<sup>11</sup> “From Foreclosure to Re-Redlining: How America’s Largest Financial Institutions Devastated California Communities,” California Reinvestment Coalition, February 2010, <http://www.calreinvest.org>

Using 2006 and 2008 Home Mortgage Disclosure Act (HMDA) data, the National Community Reinvestment Coalition (NCRC) conducted a home lending analysis for Marin County, CA. The analysis is based on the following specifications: all single family home loans to owner-occupants, and first lien loans only. All single-family loans include loans for home purchase, home improvement, and refinances. The analysis also compares Marin County to adjacent Sonoma County, which is demographically similar to Marin.

A portfolio share analysis evaluates the prime (or market-rate) and subprime (or high-cost) lending trends by race and ethnicity of borrower (i.e. Black, White, Asian, or Hispanic); by income level of borrower and census tract (i.e. low-income, moderate-income, middle-income and upper-income); and by minority level of census tract (predominantly minority or predominantly White census tracts). Lending patterns are then compared to the demographics of Marin County, CA, to illustrate potential lending disparities.

The market share analysis compares the portion of high-cost loans made to a particular group of borrowers to all loans (market-rate loans plus high-cost loans) made to that same borrower group. The disparity ratio illustrates how much more often lenders made high-cost loans to one borrower group compared to another.

Market-rate loans are loans made at prevailing interest rate to borrowers with good credit histories. In contrast, high-cost loans are loans with rates higher than the prevailing rates. High cost loans are usually issued to borrowers with credit blemishes. The higher rates are said to compensate lenders for the added risks of lending to borrowers with credit blemishes. While responsible high-cost lending serves legitimate credit needs, public policy concerns arise when certain groups in the population receive a disproportionate number of high-cost loans. When high-cost lending crowds out market-rate lending in traditionally underserved communities, price discrimination and other predatory practices become more likely, as residents face fewer product choices.

### **Portfolio Share Analysis of All Single Family Lending by Race and Ethnicity of Borrower<sup>12</sup>**

Overall, minorities constitute a small percentage of Marin County's population (about 10 percent according to Census 2000). Hispanic or Latino households were the largest minority group comprising 6.5 percent of the county's households. In 2008, Hispanics received a

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<sup>12</sup> Note that all Tables referred to in these sections can be found in Appendix II.

disproportionately small number of prime home loans (less than 1.9 percent), as compared to their share of Marin County's households (Table 1.1a). Comparing the share of prime loans issued to Hispanics in 2008 (Table 1.1a) to the share of prime loans issued to the same group in 2006 (Table 2.1a) reveals a notable drop in prime lending. Namely, in 2006, Hispanics received 7.8 percent of all prime loans issued that year in Marin County. Yet, the same borrower group also received a disproportionate number of high-cost loans: as many as 29.9 percent of all high cost loans issued in Marin County in 2006 went to Hispanic borrowers, which is more than four times their share of Marin County's households (Table 2.1a).

Similar trends were observed in Sonoma County, where the share of prime loans issued to Hispanics dropped from 19 percent in 2006 to under 7 percent in 2008 (Tables 3.1a & 4.1a). In addition, Hispanics, who comprised 10 percent of Sonoma County's households, received as many as 41.2 percent of all high-cost loans issued in 2006 in Sonoma County.

While high-cost lending in 2008 has been significantly reduced due to the recent mortgage crisis<sup>13</sup>, 2006 home lending trends suggest that Hispanic borrowers have received a disproportionate number of high-cost lending in both Marin and Sonoma counties, as well as the state of California as a whole (Tables 1.1a, 3.1a, and 5a for CA).

In comparison, prime lending to White borrowers in Marin County did not register as significant a drop from 2006 to 2008. About 89.6 percent of all households in Marin County were headed by a White householder, while this group of borrowers received 91.7 percent of all prime home loans issued in 2006 and 91.3 percent of all prime loans issued in 2008 (Tables 1.1a & 2.1a). Thus, lending trends in both 2006 and 2008 suggest that Whites have received a larger share of prime loans compared to their share of Marin County's population (see Chart 1.1a & 2.1a). The same trends were observed in Sonoma County during 2006 and 2008 (Tables 4.1a & 3.1a), as well as the state of California (Tables 5a & 6a).

It is also worth noting that Blacks, who comprised approximately 1.6 percent of Marin County's population, received a disproportionately small share of prime loans, as compared to their share of Marin County's households. Namely, Blacks received less than 0.4 percent of all prime loans issued in Marin County in 2008 (Table 1.1a) and about 0.8 percent of all prime loans issued in Marin County in 2006 (Table 2.1a).

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<sup>13</sup> In 2008, there was only one subprime loan made to a Black borrower, and two to Hispanic borrowers. Only one was made in a minority census tract.

### **Portfolio Share Analysis of All Single Family Lending by Income of Borrower**

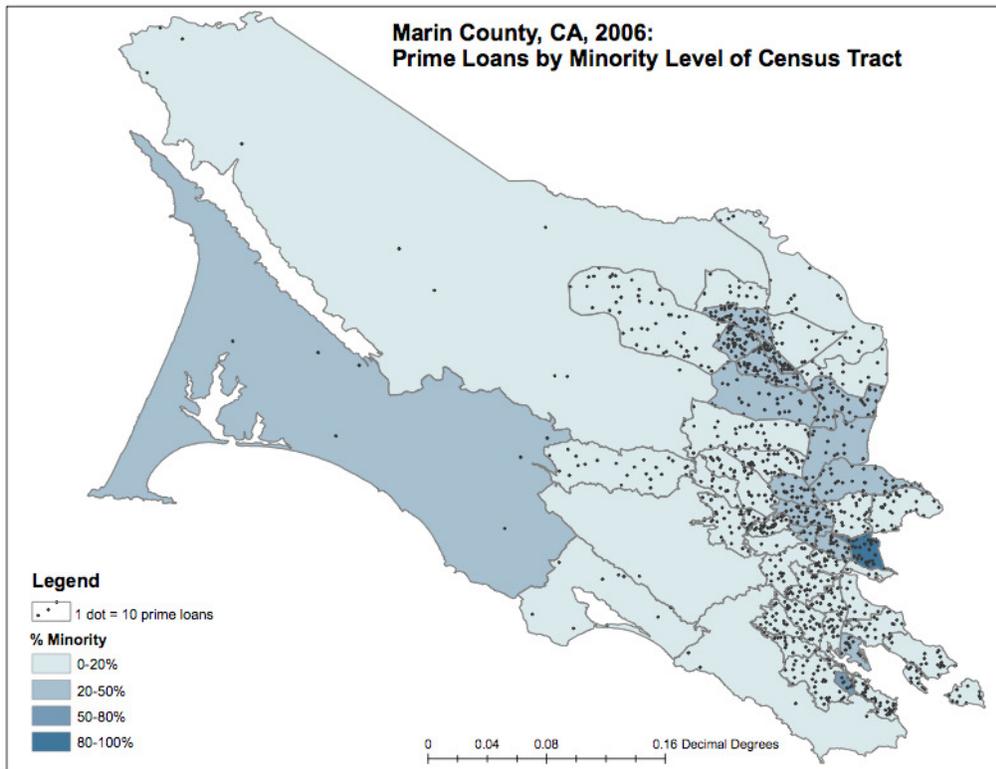
Home lending trends in Marin County in 2008 and 2006 show that lenders seemed to favor middle- and upper-income borrowers over low- and moderate-income borrowers. Low- and moderate-income borrowers received respectively 2.7 and 8.7 percent of all prime loans issued in 2008 while they constituted respectively 19.5 and 15 percent of all households in Marin County. In comparison, upper-income borrowers received 71.6 percent of all prime loans issued in 2008 while they constituted 47.4 percent of all households in Marin County (see Table 1.2a & Chart 1.2a).

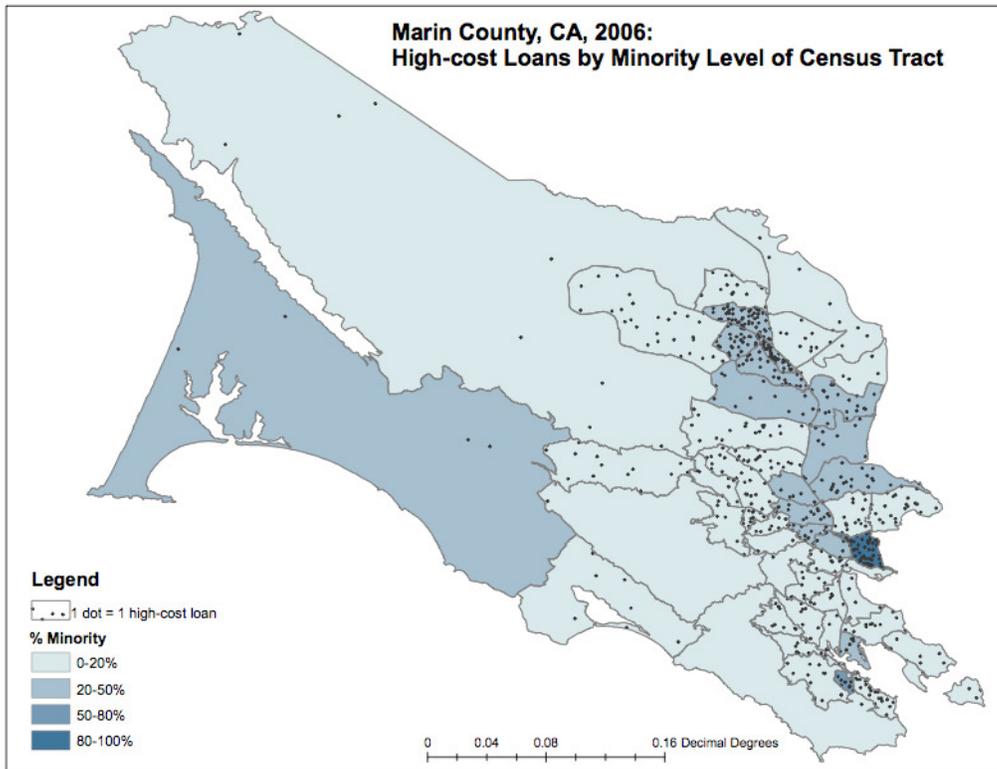
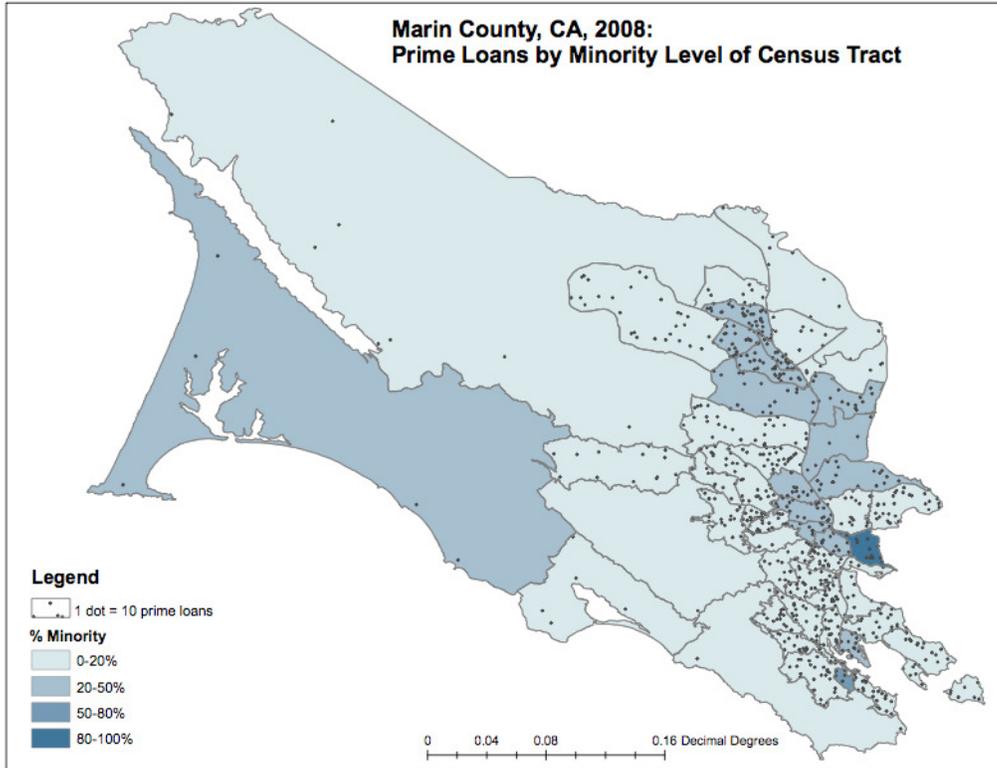
Home lending disparities by income of borrower were even starker in 2006, when low- and moderate-income borrowers received respectively 1.7 and 5.9 percent of all prime loans issued in Marin County in 2006 (Table 1.2a). Upper-income borrowers, on the other hand, received 78.8 percent of all prime loans issued in Marin County in 2006, while comprising 47.4 percent of the county's population. Yet, upper-income borrowers also received the bulk (i.e. 82.2 percent) of all high-cost loans issued in the county in 2006 (Table 2.2a), while low- and moderate-income borrowers received notably smaller shares of high-cost loans. These findings may suggest that higher-priced loans were issued to borrowers who could have qualified for market-rate loans, on the basis of their income. Alternatively, upper-income borrowers may have overextended themselves taking riskier loans to be able to afford expensive homes during the boom years of subprime and exotic lending.

A comparison with Sonoma County shows that low-income borrowers in this county also received a disproportionately small share of prime loans (4.6 percent) in 2008 compared to the share of households (21.4 percent) that were low-income (Table 3.2a). Yet, moderate-, middle-, and upper-income borrowers in Sonoma County in 2008 all received a share of prime loans that was higher than their share of households (Table 3.2a).

### **Portfolio Share Analysis of All Single Family Lending by Income and Minority Level of Census Tract**

According to Census 2000, the bulk of owner-occupied units in Marin County were located in predominantly White tracts (i.e. neighborhoods where less than half of the population is minority). Namely, 98.3 percent of all owner-occupied units were located in predominantly White tracts, and borrowers in these tracts received 98 percent of all prime loans issued in 2008 (Table 1.3a) and 97.7 percent of all prime loans issued in 2006 (Table 2.3a). Meanwhile, about 1.7 percent of Marin’s owner-occupied housing units were located in predominantly minority neighborhoods (i.e. tracts with 50 or more percent minority population), and these tracts received about 2 percent of all prime loans in both 2008 and 2006. Yet, in 2006, borrowers residing in predominantly minority tracts also received a disproportionate number of high-cost loans: as many as 8.8 percent of all high-cost loans issued in Marin County in 2006 went to borrowers in predominantly minority tracts (Table 2.3a).





Tables 3.3a and 4.3a show the same trends for home lending in 2008 and 2006, respectively, for Sonoma County.

Home lending by income level of tract shows prime lending in Marin County in 2008 matching the share of owner-occupied units located in low-, moderate-, middle-, and upper-income neighborhoods (Table 1.4a). However, lending trends in 2006 (Table 2.4a) reveal a disproportionately large share of high-cost lending to low-, moderate-, and middle-income tracts (8.8, 9.4, and 41.8 percent, respectively) as compared to the share of owner-occupied units located in these tracts (i.e. 1.7 percent located in low-income tracts, 3.4 percent located in moderate-income tracts, and 39.3 percent located in middle-income tracts).

### **Market Share Analysis of All Single Family Lending in Marin County**

As high-cost lending shrank significantly in 2008, this part of the analysis focuses on home lending in 2006.

In 2006, the share of high-cost loans out of all loans originated to Hispanic or Latino borrowers in Marin County was significantly greater than the share for non-Hispanic White borrowers. Hispanic borrowers were about 3.2 times more likely than Non-Hispanic White borrowers to receive a high-cost loan (this ratio is calculated by dividing the percentage of all loans to Hispanics that were high-cost, 27.9 percent, by the percentage of all loans to Non-Hispanic Whites that were high-cost, 8.8 percent). Similarly, Black and Asian borrowers were respectively 2.9 and 1.5 times more likely to receive a high-cost loan than their Non-Hispanic White counterparts (see Table 2.1b& Chart 2.1b). There was not enough data in 2008 to do the same analysis – there were too few loans.

The above disparities in lending were also evident, though not as stark, in Sonoma County, where Hispanics were 1.9 times more likely than Non-Hispanic Whites to receive a high-cost loan and Blacks were over 1.8 times more likely than Non-Hispanic Whites to get a higher-priced loan in 2006 (Table 4.1b).

A breakdown of loans by income level shows that, in 2006, low- and middle-income borrowers were almost equally likely to receive high-cost loans as were upper-income borrowers (possibly due to the observation that upper-income borrowers in Marin county received a disproportionately large share of high-cost loans compared to their share of households). See Table 2.2b and Chart 2.2b.

Interestingly enough, in Sonoma County in 2006, low-, moderate-, and middle-income borrowers were less likely than upper-income borrowers to receive a high-cost loan. Once again, it was observed that despite their high income, upper-income borrowers in Sonoma County received a disproportionate number of high-cost loans during 2006, as compared to their share of the county's households.

Finally, borrowers residing in predominantly minority neighborhoods in Marin County were more than three (3.3) times more likely to get a high-cost loan than borrowers residing in predominantly Non-Hispanic White tracts (Table 2.3b). Trends were similar, though not as stark in Sonoma County, where residents of predominantly minority tracts were 1.8 times more likely to receive high-cost loans than were residents of predominantly Non-Hispanic White tracts (Table 4.3b).

### **Denial Disparity Analysis of Loan Applications in Marin County**

As indicated in Chart 1.1c, denial rates in Marin County in 2008 were notably higher for Hispanic and Black borrowers than for Non-Hispanic Whites (i.e. the denial rate is calculated by dividing the number of denials by the total number of loan applications). Compared to Non-Hispanic White borrowers, Black and Hispanic loan applicants were 2.2 and 1.8 times more likely to be denied (though Asian applicants were less likely to be denied compared to Non-Hispanic White borrowers). In other words, over 31.4 percent of Black and over 37.9 percent of Hispanic home loan applications were denied in 2008, while 17.5 percent of Non-Hispanic White applications resulted in a denial (Table 1.1c).

The same trends were observed in Marin County in 2006, with Blacks, Hispanics, and Asians being respectively, 2.1, 1.7, and 1.3 times more likely than Non-Hispanic Whites to receive a denial for a home loan (Table 2.1c).

Similar disparities in denial rates were observed in Sonoma County and are displayed in tables 3.1c for the year 2008 and 4.1c for the year 2006.

Disparities in denial rates were also evident by minority level of tract. In 2008, 25.8 percent of the applications from Marin County's predominantly minority tracts resulted in denials (Table 1.3c). Thus, residents of predominantly minority tracts in Marin County were approximately one-and-a-half times more likely than residents of predominantly Non-Hispanic

White tracts to receive a denial. Moreover, borrowers residing in predominantly minority tracts had the same probability of receiving a denial in 2006 (Table 2.3c).

Denials by income level of borrower show low-income borrowers to be more likely to receive a denial of their home loan applications, in comparison to upper-income borrowers. Table 1.2c shows that low-income applicants received a denial 30.7 percent of the time in Marin County in 2008. Moreover, in Marin County in 2006, low-income applicants were denied almost twice as often as upper-income applicants (Table 2.2c).

Denial trends by income of borrower were similar in Sonoma County, where low-income borrowers were about 1.4 times more likely than upper-income borrowers to receive a loan denial in both 2008 and 2006 (Tables 3.2c & 4.2c respectively).

The overall denial rate of single-family loan applications in Marin County in 2008 was higher than in 2006, jumping from 15.6 percent in 2006 to over 18 percent in 2008. Among the highest increases in denial rates were observed for Hispanic borrowers: from 23 percent of loan denials in 2006 to over 37.9 percent in 2008 (compare Tables 2.1c and 1.1c).

## CONCLUSIONS

1. Hispanic or Latino borrowers received a disproportionate share of high-cost loans, as compared to their share of Marin County's households: almost 30 percent of all high cost loans issued in Marin County in 2006 went to Hispanic borrowers, which is more than four times their share of Marin County's households. A similar trend was observed in Sonoma County where Hispanics comprised 10 percent of the County's households, yet received more than 41 percent of all high-cost loans issued in Sonoma County in 2006. These disparities in high-cost lending were also visible, yet less pronounced, on a state level: 22.4 percent of California's households were Hispanic and they received twice the share (i.e. 49.4 percent) of all high-cost loans issued in California in 2006.
2. The share of prime loans issued to Hispanic or Latino borrowers in 2008 registered a notable drop from 2006: Hispanics received less than 2 percent of all prime loans issued in Marin County in 2008, while this share was 7.8 percent in 2006. Similar trends were observed in Sonoma County, where the share of prime loans issued to Hispanics dropped from 19 percent in 2006 to under 7 percent in 2008. This drop was also biggest for Hispanics than any other borrower group.

3. Upper-income borrowers received a disproportionately large share of high-cost loans in Marin County in 2006: while comprising 47.4 percent of the County's population, upper-income borrowers received over 82 percent of all high-cost loans issued in the County in 2006.
4. Denial rates in Marin County were notably higher for minorities (i.e. Hispanics and Blacks) than for Non-Hispanic White borrowers. These observations were true for both 2008 and 2006. High denial rates were also observed in lending to minority tracts.

### **RECOMMENDATIONS**

1. Given higher denial rates for Blacks and Latinos, it is important that consumer protection groups within Marin County work with County officials and Fair Housing of Marin staff to target marketing of responsible loan products and counseling targeted to communities and borrowers experiencing unequal access to loans, tapping into the expertise of organizations such as the California Reinvestment Coalition whenever possible.
2. Further fair lending investigations/testing into the disparities identified through the HMDA data analysis is crucial to understanding and addressing the inequities in lending across races and ethnicities.
3. More generally, HMDA data for Marin County should be monitored on an ongoing basis to analyze overall lending patterns in the county. In addition (and what has not been studied for this AI), lending patterns of individual lenders should be analyzed, to gauge how effective the CRA programs of individual lenders are in reaching all communities to ensure that people of all races and ethnicities have equal access to loans.
4. There is currently one certified HUD Housing Counseling agency in Marin County, Fair Housing of Marin, which employs a bilingual part-time foreclosure counselor. FHOM holds workshops and investigates possible predatory lending to ascertain if there are fair housing violations. Other agencies provide foreclosure assistance: Marin Family Action provides foreclosure advocacy, Legal Aid provides legal advice, and the District Attorney's office investigates criminal activity. The County should take a leadership role in encouraging collaboration among these agencies, particularly

- those focusing on protected classes targeted by predatory lenders. This includes outreach through the agencies serving the Latino and Black communities. Existing financial literacy education programs should incorporate predatory lending education, and the organizations offering those programs should become versed in recognizing predatory lending practices.
5. Currently, there are not enough legitimate and affordable resources for all victims of predatory loans to have their needs addressed, starting with negotiating and analyzing the confusing stacks of loan documents. Enforcement – prosecuting offenders after investigating them – is therefore difficult, particularly as many agencies and attorneys, purporting to be consumer advocates, further victimize borrowers desperate to save their homes by charging exorbitant rates to accomplish little. The return for the enormous investment of time makes it economically prohibitive for many attorneys to represent clients in these cases. It becomes extremely important, therefore, for consumer advocates to join with local and state enforcement agencies to coordinate an effective strategy to address predatory lenders.
  6. The County should join consumer advocates in supporting any legislation that would help clarify the outreach, notice, and process that homeowners seeking loan modifications are due, as well as provide recourse to homeowners whose homes are foreclosed on improperly. In addition, the County and advocates should support legislation to prevent lending practices which can lead to abuse: prepayment penalties which trap borrowers in unaffordable loans; unsuitable loans that borrowers cannot afford to repay; extra payments that lenders make to brokers for giving borrowers higher interest rate loans; and loans that do not require proof of actual income.
  7. The County, in cooperation with funders and consumer groups, should support local studies of foreclosure data in Marin County, to analyze foreclosures according to race and ethnicity, as well as neighborhoods. Such an analysis should also include the number of loan modifications across race and ethnic lines so as to better understand the fair lending implications of foreclosure trends in Marin.
  8. The County and local funders should support the expansion of financial literacy and counseling programs. Nonprofit home loan counselors are on the front line for staving off foreclosures, working with borrowers and negotiating with lenders to

modify unaffordable loans. These agencies need consistent financial resources to educate the public about financial matters. Most importantly, services should be available in languages other than English, particularly Spanish. The County should work with community groups to target neighborhoods of color in education efforts.

## CHAPTER 6

### PREVIOUS IMPEDIMENTS IDENTIFIED, COMPLIANCE REVIEWS, AND AFFIRMATIVELY FURTHERING FAIR HOUSING IN MARIN COUNTY

Marin County's previous Analysis of Impediments (AI) was conducted in 1994. This analysis was undertaken prior to the development of HUD's Fair Housing Planning Guide, which provides a section outlining the components of the AI. The Fair Housing Planning Guide also helps jurisdictions to understand not only how to affirmatively further fair housing, but also how to develop and implement strategies to overcome any identified impediments with measurable progress. As a result, the 1994 AI is not as sophisticated in its analysis as those of other jurisdictions who revised their AIs according to the Guide.

#### Impediments Identified in the 1994 Analysis of Impediments

HUD officials summarized the impediments identified in the 1994 AI in the Final Investigative Report (FIR) of HUD's compliance review of Marin County's Community Development Block Grant Program (CDBG).<sup>1</sup> The FIR states "the failure to prominently summarize these other impediments has apparently resulted in the fact that, by and large, they have not been translated into issues to be addressed with corresponding remedies or measurable goals in the county's 1994 or successive Consolidated Plans. Through interviews and documentary information collected during this compliance review, FHEO<sup>2</sup> believes that most all of these impediments summarized ... remain valid as impediments even as of 2009."<sup>3</sup> Below is a list of these impediments. It should be noted that HUD identified nine additional impediments during the course of the compliance review; those have been included throughout the rest of this AI.

- *There are too few rental units in Marin County, driving up prices and demand and increasing competition, and this can lead to discriminatory practices with potentially negative consequences, particularly for minorities, families with children, or persons on fixed incomes (elderly, people with disabilities).*
- *There is a dearth of larger rental units, which are traditionally desirable to many Asian and Latino households with more children or multi-generational households.*

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<sup>1</sup> HUD FIR at 66-67.

<sup>2</sup> The Office of Fair Housing and Equal Opportunity

<sup>3</sup> *Ibid.*

- *The county’s Latino population doubled from 1980 to 1990 and may have given rise to anti-immigration sentiment, which in turn may have led to segregation of Latino and some Asian families, with many settling in the Canal Area of San Rafael.*
- *Single female–headed households are particularly impacted by the high cost of housing in the county because they have half the mean incomes of male–headed households and only a third of the income in married households.*
- *Marin City’s population is 59 percent Black, and 47 percent of the Canal Area residents are Latino. Both areas are racially segregated; Marin City’s has shown historic patterns of racial segregation dating back to World War II.*
- *Marin’s elderly population is growing by 23 percent, far more rapidly (seven times more) than the national increase. The elderly and persons with disabilities, both groups more likely to be on fixed incomes, will be impacted by the rising cost of housing and put at risk of homelessness.*
- *Marin’s transportation director at the time had stated that public transportation “is focused in the areas with multi-family housing that serves minorities, single mothers with children, and the disabled,” and therefore not a significant impediment in the county. HUD noted in its FIR that “this comment appears to fail to recognize the effects of perpetuating segregation and clustering that is implicit in the statement.”*
- *People in middle- and lower-income levels working within the county are more likely to live outside the county because of the high cost of housing, and this is more likely to impact racial and ethnic minorities.*
- *Non-Latino whites and Asians account for most of Marin’s homeowners, while Blacks and Latinos together represent less than five percent of the homeowners.*
- *Because of the high cost of land and development, the federal subsidy formulas and limits are not enough for the development of new subsidized housing units, and this particularly impacts minorities, families with children, and persons on fixed incomes.*
- *The increase from one percent to two percent granted by CDBG from 1993 to 1994 was insufficient for Fair Housing of Marin to combat the significant racial and ethnic discrimination existing in the county.*
- *Interviews of Blacks, Latinos, and Asians revealed the following: Blacks perceived that they would experience discrimination in housing if they were to move outside Marin City; Latinos and Asians had similar perceptions if they were to move out of the Canal Area; all groups were unlikely to search in other areas even if they could find better quality housing at comparable prices.*
- *Marin’s high cost of housing made it difficult for the Marin Housing Authority’s Section 8 voucher-holders to find housing within the authorized rental ranges, often resulting in “porting” the vouchers to other counties with more affordable housing; and because the number of Blacks and Latinos in the Section 8 program had grown due to MHA’s affirmative marketing, this meant that the county was becoming less, rather than more, diverse.*
- *As identified by the Director of MHA, the 30 units supported by Shelter-plus-Care were completely insufficient to serve the needs of persons with disabilities in Marin.*
- *As identified by the Director of MHA, Blacks in Marin City resisted MHA’s attempts to place non-Blacks in what had been historically Black developments.*

- *Much of the county is zoned as open space or for agriculture, or is not suitable terrain for building, leaving very little land for residential development, mostly around major transportation corridors.*
- *Residential development in Marin has slowed down drastically (in the 1980s and even more in the 1990s), because anti-development sentiment either leads to litigation or there is a threat of litigation, which not only has a dampening effect on building, but also drives up the cost of doing so.*

## **HUD’s Compliance Review of Marin County and its Final Investigative Report**

In July 2009, staff from HUD’s Fair Housing and Equal Opportunity Division conducted an onsite compliance review of Marin County’s CDBG program to determine whether it was being administered free from the effects of discrimination based on race, color, national origin, religion, gender, and disability. As a result of its compliance review, HUD issued a FIR.<sup>4</sup>

The review focused on four issues:

1. citizen participation
2. benefits, services, and methods of administration
3. Section 504 program requirements
4. limited site accessibility analysis

In terms of the second issue listed above, HUD staff considered specifically whether Marin County “and its sub-recipients have affirmatively furthered fair housing choice through policies, practices, procedures and methods of administration which promote effective participation in funded programs, and promote integrated communities, regardless of race, color, national origin, gender or disability.”<sup>5</sup> It is this issue and its relation to Affirmatively Furthering Fair Housing (AFFH) on which this AI has focused when referring to the FIR throughout several sections of the AI. HUD noted in the FIR, “Marin County’s failure to update its AI in response to these several recommendations by FHEO, coupled with the historically low minority population of the county, were factors of elevated risk that played a role in FHEO’s selection of this relatively small CDBG program for a compliance review this year.”<sup>6</sup> Even as the FIR was being written, negotiations were underway between Marin County’s Program Coordinator and Fair Housing of Marin to undertake the development of a revised AI.

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<sup>4</sup> HUD’s 2009 Final Investigative Report: Section 109, Title VI and Section 504 Compliance Review, County of Marin, California CDBG Program Final Investigative Report, Case Numbers 09-09-R003-9 (Section 109), 09-09-R008-6 (Title VI), 09-09-R009-4 (Section 504), Compliance Review Team: Sharon Chan, Team Leader, Celia Bobisud (Headquarters-FHEO), Jeff Jackson, Patricia Miskovich, and Donald Roby.

<sup>5</sup> *Ibid.* at pg. 3.

<sup>6</sup> *Ibid.* at pg. 63.

## **Affirmatively Furthering Fair Housing and the Precedent Set by *Westchester***

In 2006, the Anti-Discrimination Center brought suit against Westchester County on a precedent-setting charge, alleging that the County's failure to include race as an impediment to housing choice in multiple analyses of impediments constituted failure by the County to meet its obligation to affirmatively further fair housing. Westchester County, located just north of New York City, includes 45 municipal entities. At the time of the 2000 Census, 15 percent of residents in the county were Black. However, over half the county municipalities had Black populations of three percent or less, and Black residents were highly concentrated in four communities: Mt. Vernon, Peerskill, New Rochelle, and Yonkers. In fact, Blacks made up the majority of residents in Mt. Vernon. Although the County identified areas of minority concentration in its consolidated plan, further noting that minorities were priced out of the expensive home market and that many jurisdictions had enacted restrictive and exclusionary zoning ordinances, the County did not identify any barriers to housing choice based on race in its analyses of impediments. Instead, the County argued that any discrimination in the county was a problem of income discrimination, not racial discrimination, and that income was arguably a better proxy than race for determining housing need.

In February 2009, the U.S. District Court for the Southern District of New York ruled on the Anti-Discrimination Center's motion for partial summary judgment and agreed with the plaintiff's allegations, finding that Westchester County had "utterly failed" to meet its AFFH certification requirements. The court noted that Westchester County conducted its two previous analyses of impediments "through the lens of affordable housing, rather than fair housing and its focus on protected classes such as race. Both AIs [2000 and 2004] are devoted entirely to the lack of affordable housing in the county...[T]here is simply no evidence that either of the county's AIs...analyzed race-based impediments to fair housing." Further, the court noted that although Westchester County was aware of the racial makeup of its municipalities, it did not consider whether its production of affordable housing had the effect of increasing or decreasing racial diversity in the neighborhood in which the housing was built, and that, in fact, the production and placement of affordable housing *increased* segregation in each jurisdiction. The court also noted that Westchester failed to require its participating municipalities to take any steps to affirmatively further fair housing, and refused to monitor the efforts of participating

municipalities to further fair housing. After the court granted the Anti-Discrimination Center's motion, the County ultimately chose to settle the case for an unprecedented sum of \$62.5 million.

In the wake of the Westchester case, it is clear that recipients of federal funding must demonstrate that they are, in fact, affirmatively furthering fair housing. On its face, Marin County bears many similarities to Westchester County. Like Westchester, Marin's overall minority population is very small. And like Westchester, Black and Latino residents are overwhelmingly concentrated in only a few communities within the county. Compounding the problem of racial concentration, the few future developments planned are, by large, slated for locales that may perpetuate segregation.

Marin is notably dissimilar from Westchester in several key respects. Affirmatively furthering fair housing requires more from a jurisdiction than simply funding affordable housing development. Marin County has taken some notable steps towards that end. First, the Marin County Board of Supervisors funded a Housing Discrimination Taskforce, a consortium of community groups dedicated to identifying and combating discrimination against people of color, people with disabilities, and members of other protected classes. The County also supports (through funding and other mechanisms) Fair Housing of Marin, the fair housing agency within the jurisdiction. In addition, though Marin County has waited perhaps longer than it should have to update its AI, the County has allocated resources to contract with a third party with fair housing expertise to produce its 2010 AI. Further, though Westchester County refused to pursue housing development within any municipality that expressed opposition, Marin County has provided funding for development of affordable housing in every municipality, and Marin County staff have taken a role in educating municipal officials on fair housing laws.<sup>7</sup>

However, some similarities between Westchester County and Marin County give rise to issues that merit serious consideration by Marin. The analysis undertaken in this AI demonstrates that opposition to affordable housing may often be a pretext for discrimination against minority groups. Given that the majority of the few developable parcels in the county tend to be in close proximity areas that are already highly segregated, new development in Marin may often have the effect of perpetuating segregation. A troubling question then arises: is it better policy to try to integrate difficult-to-develop outlying municipalities and thus disperse the currently concentrated populations of Black residents in Marin City (and Latinos in the Canal in

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<sup>7</sup> Interview with Roy Bateman and Reid Thaler.

San Rafael) by developing small projects across the rest of the county, or to continue to focus development in concentrated neighborhoods but aim for increased integration within those communities? According to anecdotal reports documented in interviews for this AI as well as other sources, many Black residents characterize Marin City as a tightly knit, insular community. Although historically many Black residents had few, if any, housing choices beyond Marin City because of the restrictive covenants and racial discrimination in the county, the community now exhibits a fierce sense of ownership. As stated by one resident, “We’ve got this one little piece of land here, and this is where we’ve got to maintain ourselves.”<sup>8</sup> Further, one community advocate has received reports regarding the increase of ethnic tension between established Black residents and Latinos moving in to Marin City, which may be supported by the sharp growth of Latino residents and the percentage decrease of Black residents over the last decade.<sup>9</sup> Developing low-income housing elsewhere in the county with the intention of relocating current Marin City residents may be viewed as an attempt to devitalize a strong minority community, while attempts to integrate Marin City with residents of other racial and ethnic backgrounds suggests gentrification that may result in the “economic eviction” of lower-income residents and threaten a community’s sense of self.

In Westchester County, despite the County’s stated goal of the creation of 5,000 affordable housing units, at least 16 municipalities had not created a single affordable housing unit 12 years later. Under the current Regional Housing Needs Allocation (RHNA), all jurisdictions in Marin County must supply a total of 4,882 new housing units. Unincorporated Marin County’s allocation for the 2007-2014 RHNA cycle is 773 units.<sup>10</sup> The table below illustrates distribution of units by income level. Although the County does not bear responsibility for constructing units outside of the unincorporated areas, it must ensure that its own zoning regulations and development policies are sufficient to allow for such development.<sup>11</sup>

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<sup>8</sup> Perrigan, Dana, “Marin City Looks to Better Days,” San Francisco Chronicle, 03/15/09, accessed 05/03/10 at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/03/15/BU2H16DH7A.DTL>

<sup>9</sup> Interview with Cecilia Zamora, Latino Council.

<sup>10</sup> Marin County Planning Commission, Housing Element Working Session Staff Report, October 12, 2009.

<sup>11</sup> *Ibid.*

### ABAG Regional Housing Needs Allocation 2007-2014<sup>12</sup>

Jurisdiction	Very Low-Income	Low-Income	Subtotal Lower-Income	Moderate-Income	Above Moderate-Income	Total Units
Belvedere	5	4	9	4	4	17
Corte Madera	68	38	106	46	92	244
Fairfax	23	12	35	19	54	108
Larkspur	90	55	145	75	162	382
Mill Valley	74	54	128	68	96	292
Novato	275	171	446	221	574	1241
Ross	8	6	14	5	8	27
San Anselmo	26	19	45	21	47	113
San Rafael	262	207	469	288	646	1403
Sausalito	45	30	75	34	56	165
Tiburon	36	21	57	27	33	117
Unincorporated	183	137	320	169	284	773
<b>Total</b>	<b>1095</b>	<b>754</b>	<b>1849</b>	<b>977</b>	<b>2056</b>	<b>4882</b>
<b>Percent</b>	<b>22.4%</b>	<b>15.4%</b>	<b>37.9%</b>	<b>20.0%</b>	<b>42.1%</b>	<b>100%</b>

Compare the preceding, then, with the number of housing permits issued in 2008.

### 2008 Housing Permits Issued<sup>13</sup>

Jurisdiction	Very Low R	Very Low NR	Low R	Low NR	Moderate R	Moderate NR	Above Moderate	TOTAL
Belvedere	0	0	0	0	0	3	1	4
Corte Madera	0	0	0	0	0	0	0	0
Fairfax	0	0	0	0	0	0	0	0
Larkspur	24	0	0	0	0	0	6	30
Mill Valley	0	4	2	2	3	3	9	23
Novato	7	0	0	0	0	0	121	128
Ross	0	2	0	1	0	1	0	4
San Anselmo	0	0	1	0	2	0	16	19
San Rafael	0	1	0	1	0	3	2	7
Sausalito	0	0	1	0	0	0	7	8
Tiburon	0	0	0	1	0	0	7	8
Unincorporated	0	0	0	0	0	0	56	56
<b>County Total</b>	<b>31</b>	<b>7</b>	<b>4</b>	<b>5</b>	<b>5</b>	<b>10</b>	<b>225</b>	<b>287</b>

<sup>12</sup> [http://www.abag.ca.gov/planning/housingneeds/pdfs/Final\\_RHNA.pdf](http://www.abag.ca.gov/planning/housingneeds/pdfs/Final_RHNA.pdf)

<sup>13</sup> Association of Bay Area Governments, San Francisco Bay Area Housing Data 2009 (R: Restricted Affordable, NR: Non-Restricted; from ABAG: “Restricted units are those that, because they receive financial assistance (such as HUD or redevelopment agency funds) or are otherwise subject to deed restrictions, or have protections that require the units to remain affordable to households at lower income levels. All non-restricted units are included in the market rate category. Many market rate units — especially second units, mobile homes, and apartments — are undoubtedly affordable to lower income households, but do not have the same protections as restricted units.”).

Using 2008 as a representative year, it is clear that some jurisdictions are falling short of meeting their RHNA needs. Four jurisdictions did not develop any very low- or low-income housing in 2008: Belvedere, Corte Madera, Fairfax, and the Unincorporated County. Further, an additional four jurisdictions developed only one or two very low- or low-income units in 2008: San Anselmo, San Rafael, Sausalito, and Tiburon. If 2008 is a snapshot of development trends in Marin County, then it would appear that a number of jurisdictions within the County will not meet their housing needs allocations by 2014. However, it should be noted that there was an unusually small amount of development in Marin in 2008, so 2008 may not be a representative year. More troubling, those jurisdictions not on track to meet their housing needs allocations are also the least racially integrated jurisdictions within the County. However, it should be noted that a snapshot of a single year may not account for affordable housing developments built prior to 2008, or slated for construction shortly thereafter.

### **RECOMMENDATIONS**

1. The County of Marin and other local jurisdictions should track the development of affordable housing towards meeting RHNA needs. Further, the County should require municipalities to report on actions they have taken to affirmatively further fair housing (AFFH). To ensure compliance, the County should be prepared to implement enforcement measures such as withholding funding from municipalities that it deems to be failing to affirmatively further fair housing.
2. Marin County should institute a system for tracking the racial and ethnic demographics of residents of all housing developed with County funds and federal funds that pass through the County. The County should consider conducting regular surveys of those privately developed affordable housing properties which are subject to local government restrictions on household income, to determine racial and ethnic demographics of residents.
3. The County of Marin should rank recommendations contained within the 2010 Analysis of Impediments and amend its Consolidated Plan 2010-2014 to incorporate those prioritized recommendations as part of its action plan.
4. Marin County should undertake to update its AI within two years of the release of the 2010 Census data.

5. The County should utilize the public hearing and AI adoption process to raise community awareness of the barriers to fair housing choice by publicizing the hearing and inviting all segments of the community to participate.
6. The County should include the community as part of the solution to fair housing rights education and monitoring, and should incorporate community recommendations in the final version of the AI.
7. The County should explore the expansion of the Marin County Task Force on Housing Discrimination to include fair housing advocates, governmental representatives, community and business leaders, Realtors, lenders, and academics to explore and lend urgency to fair housing issues and their potential effect on Marin County's economic and social future.
8. The County should ensure that one County department consistently monitors and tracks progress in meeting the AI recommendations.
9. As the 2010 AI is considerably more comprehensive than the 1994 AI, the AI should be updated every two to five years, with updates to be funded such that they do not detract from resources for fair housing counseling and enforcement.

**APPENDIX I:**

**MARIN COUNTY REGIONAL HISTORY, DEMOGRAPHICS,**

**INCOME, EDUCATION, AND HOUSING CHOICE**

**CENSUS 2000  
CENSUS TRACTS**

MARIN COUNTY TOTAL	247,289	238,710	207,800	7,142	1,061	11,203	388	11,116	8,579	27,351
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CENSUS TRACTS	Total Population	One Race Total	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Some Other Race	Two or More Races	Hispanic or Latino (of any race)	Total # Minorities	Percentage Minorities
1011	2,539	2,468	2,326	19	4	81	10	28	71	88	301	11.855061
1012	2,584	2,504	2,228	16	12	171	10	67	80	225	581	22.48452
1021	2,347	2,263	2,025	41	6	110	5	76	84	162	484	20.622071
1022.01	9,981	9,601	8,128	255	64	558	5	591	380	1457	3,310	33.16301
1031	7,682	7,439	6,985	61	30	248	1	114	243	472	1,169	15.217391
1032	6,590	6,341	5489	95	28	384	9	336	249	732	1,833	27.814871
1041.01	6,666	6,423	5527	113	25	419	10	329	243	731	1,870	28.052805
1041.02	4,959	4,646	3622	173	24	288	6	533	313	1111	2,448	49.364791
1042	5,722	5,506	4798	89	32	221	17	349	216	942	1,866	32.610975
1043	1,665	1,624	1530	8	5	48	1	32	41	81	216	12.972973
1050	3,771	3,634	3,047	113	27	178	21	248	137	592	1,316	34.897905
1060.01	3,826	3,638	3,110	127	11	268	7	115	188	264	980	25.614219
1060.02	5,745	5,460	4500	179	41	390	12	338	285	871	2,116	36.832028
1070	6,400	6,210	5685	51	14	382	6	72	190	267	982	15.34375
1081	6,524	6,337	5894	55	16	326	3	43	187	289	919	14.08645
1082	6,120	5,900	5022	150	36	437	24	231	220	529	1,627	26.584967
1090	7,778	7,487	6527	159	28	260	15	498	291	1055	2,306	29.647724
1101	5,643	5,478	4928	95	11	231	15	198	165	614	1,329	23.551302
1102	5432	5293	4993	24	5	224	5	42	139	193	632	11.634757
1110	5528	5260	4271	147	39	232	8	563	268	1041	2,298	41.570188
1121	4,018	3,849	3361	82	17	131	3	255	169	622	1,279	31.831757
1122	11,679	10,829	5077	393	144	977	11	4227	850	8192	14,794	126.6718
1130	3797	3672	3430	37	27	49	5	124	125	232	599	15.775612
1141	5,142	4,969	4735	53	22	102	3	54	173	261	668	12.991054
1142	3,092	2,991	2803	36	14	67	12	59	101	185	474	15.329884
1150	7048	6834	6534	44	17	187	7	45	214	267	781	11.081158
1160	3,031	2,946	2831	27	12	39	3	34	85	115	315	10.39261
1170	4,655	4,508	4165	70	21	194	5	53	147	191	681	14.629431
1181	2,329	2,289	2238	3	2	33	4	9	40	54	145	6.225848
1182	319	305	288	1	1	11	0	4	14	16	47	14.733542
1191	4,627	4,512	4362	15	8	100	6	21	115	109	374	8.0829911

CENSUS TRACTS	Total Population	One Race Total	White	Black or African American	American Indian and Alaska Native	Asian	Native Hawaiian and Other Pacific Islander	Some Other Race	Two or More Races	Hispanic or Latino (of any race)	Total # Minorities	Percentage Minorities
1192	6538	6389	6016	47	17	267	6	36	149	193	715	10.936066
1200	6,040	5,899	5625	30	6	176	8	54	141	225	640	10.596026
1211	4,958	4,775	4,417	45	24	217	11	61	183	269	810	16.337233
1212	5,521	5,322	4,733	61	11	397	8	112	199	307	1,095	19.833364
1220	6,362	6,090	3,229	2,528	89	116	13	115	272	1325	4,458	70.072304
1230	2,106	2,094	2,041	2	1	38	1	11	12	46	111	5.2706553
1241	5,377	5,191	4,745	53	8	329	10	46	186	183	815	15.157151
1242	5,431	5,312	5,028	48	11	179	7	39	119	221	624	11.489597
1250	3,931	3,812	3,261	86	10	398	1	56	119	171	841	21.394047
1261	5,527	5,405	5,202	28	8	140	12	15	122	144	469	8.4856161
1262	4,335	4,209	3,678	88	19	345	8	71	126	232	889	20.507497
1270	4,428	4,331	4,172	19	9	106	9	16	97	134	390	8.8075881
1281	6,188	6,013	5,522	60	18	346	9	58	175	265	931	15.045249
1282	4,513	4,382	4,106	43	4	190	2	37	131	147	554	12.275648
1290	2,500	2,381	910	1149	13	189	4	116	119	207	1,797	71.88
1302	7,758	7,580	7,115	55	24	310	18	58	178	259	902	11.626708
1310	648	632	582	6	4	20	2	18	16	40	106	16.358025
1321	2,337	2,285	2,167	32	7	30	6	43	52	122	292	12.494651
1322	2,332	2,272	1,961	16	14	32	2	247	60	436	807	34.605489
1330	3,220	3,120	2,831	15	21	32	2	219	100	465	854	26.521739

Association of Bay Area Governments  
[census.abag.ca.gov](http://census.abag.ca.gov)

Metropolitan Transportation Commission  
[census.mtc.ca.gov](http://census.mtc.ca.gov)

Source: U.S. Census, PL94-171 (March 2001)

## Demographics of the Ten Most populated Cities/Towns in Marin County

		Total	Check	White	Black	Asian	Hispanic	Other	AI and AN	NH and OPI	Some other race	2 or More
Novato	# people	47,630	47,630	39,414	948	2479	6229	4,789	246	82	2,587	1,874
	%	100	100	82.8	2.0	5.2	13.1	10	0.5	0.2	5.4	3.9
San Rafael	# people	56,063	56,063	42,472	1257	3133	13,070	9,201	312	95	6256	2538
	%		100	75.8	2.2	5.6	23.3	16.5	0.6	0.2	11.2	4.5
Mill Valley	# people	13,600	13,600	12,435	135	563	472	467	34	29	89	315
	%		100	91.4	1	4.1	3.5	3.5	0.3	0.2	0.7	2.3
San Anselmo	# people	12,378	2,171	1,134	130	361	513	546	50	15	118	363
	%		100	91.6	1.1	2.9	4.1	4.4	0.4	0.1	1	2.9
Larkspur	# people	12,014	12,014	10,963	96	466	515	489	26	15	131	317
	%		100	91.3	0.8	3.9	4.3	4.0	0.2	0.1	1.1	2.6
Corte Madera	# people	9100	9,100	7,977	80	553	436	490	29	17	118	326
	%		100	87.7	0.9	6.1	4.8	5.4	0.3	0.2	1.3	3.6
Tiburon	# people	8666	8,666	7,879	75	383	317	329	19	10	65	235
	%		100	90.9	0.9	4.4	3.7	3.8	0.2	0.1	0.8	2.7
Sausalito	# people	7330	7,330	6,718	48	306	244	258	21	18	52	167
	%		100	91.7	0.7	4.3	3.3	3.5	0.3	0.2	0.7	2.3
Fairfax	# people	7319	7,319	6,689	85	144	418	401	35	12	112	242
	%		100	91.4	1.2	2.0	5.7	5.5	0.5	0.2	1.5	3.3
Kentfield	# people	6351	6,351	6004	22	136	141	189	11	7	29	142
	%		100	94.5	0.3	2.1	2.2	3.0	0.2	0.1	0.5	2.2
Marin County	# people	247,289	247,289	207,800	7,142	11,203	27,351	21,144.0	1,061	388	11,116	8,579
	%		100	84	2.9	4.5	11.1	8.6	0.4	0.2	4.5	3.5

Source: <http://factfinder.census.gov/> Census 2000 Demographic Profile

### Highlights

Other = One Race: American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, Some other race and Two or More Races

### English Language Arts STAR Test Scores per County for Non-Economically Disadvantaged Students

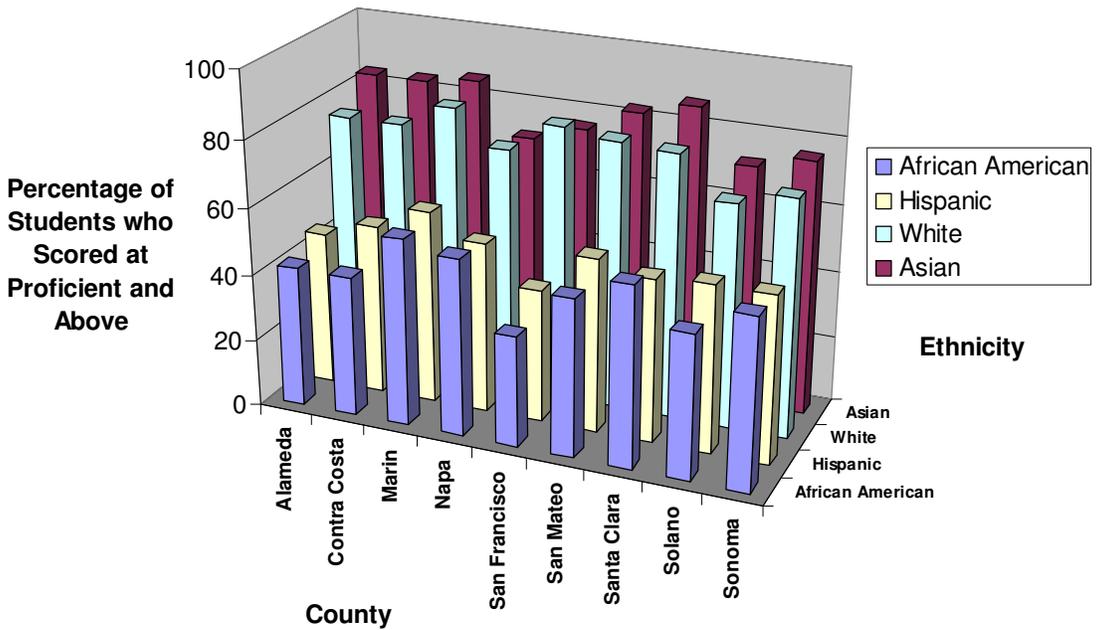


Chart 1 Non-Economically Disadvantaged

### English Language Arts STAR Test Scores per County for Economically Disadvantaged Students

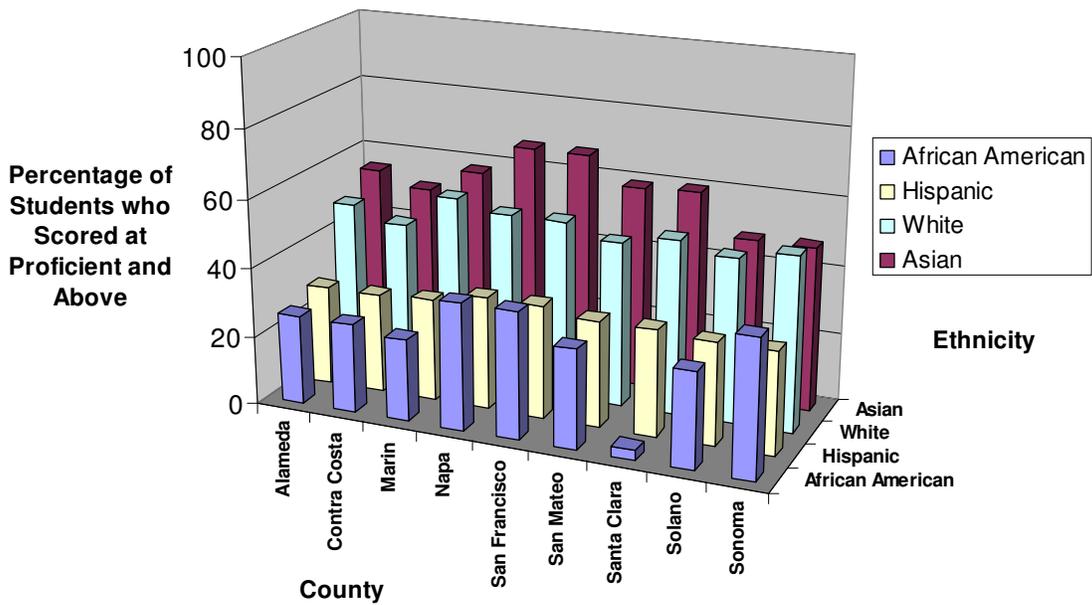
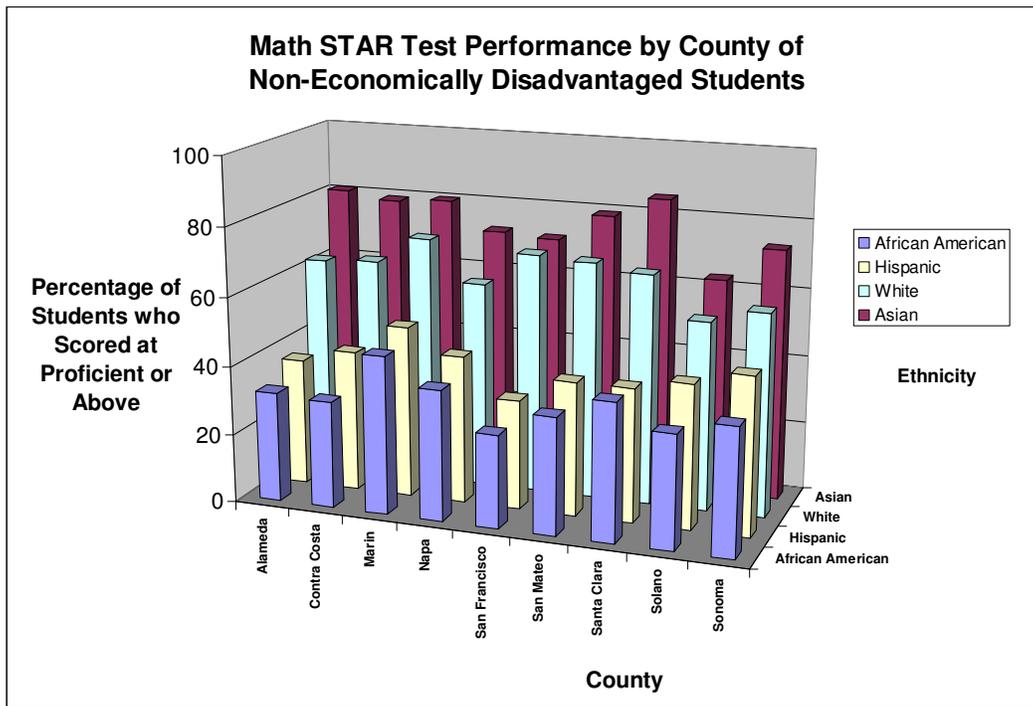
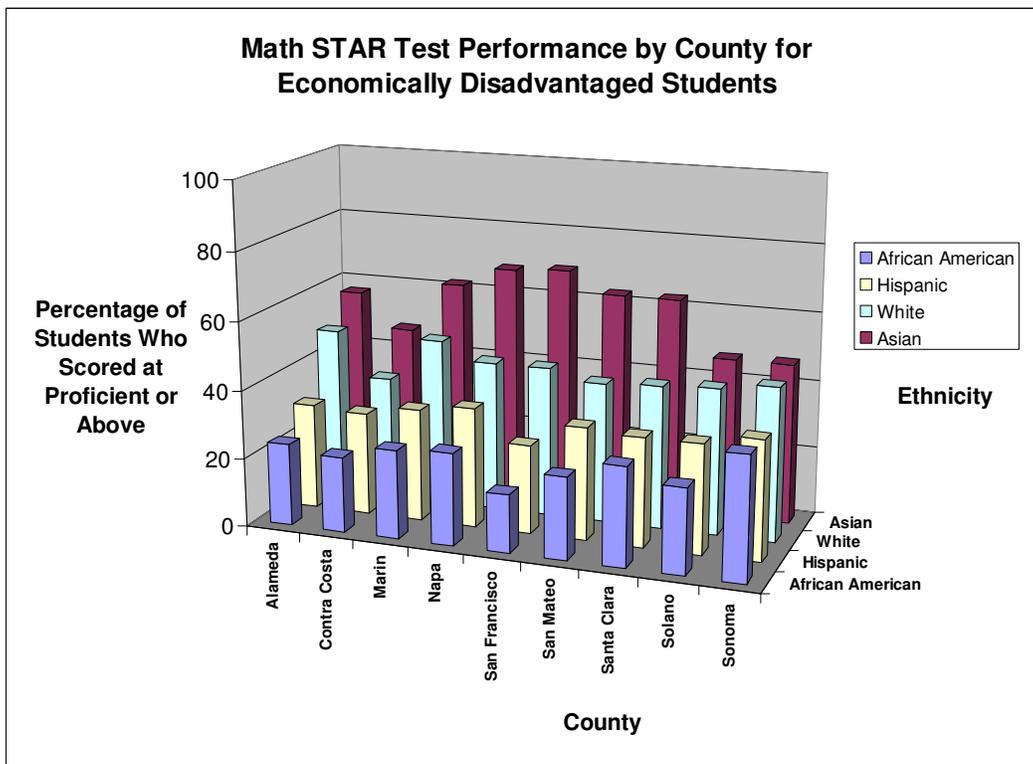


Chart 2 Economically Disadvantaged



**Chart 1 Non-Economically Disadvantaged**



**Chart 2 Economically Disadvantaged**

Source: <http://star.cde.ca.gov/summaryreports2009.asp>, retrieved 5/11/2010  
 HUDUSER. 2006. Fair Market Rents, FMR's 2010.  
 US Dept of HUD, Office of Policy Development and Research.  
 Retrieved from: <http://www.huduser.org/portal/datasets/fmr.html>

## California Standards Test (CST) and California Alternate Performance Assessment (CAPA) Summary Reports by Economic Status and Ethnicity by County - last update: January 14, 2010

These summary charts provide information on the students who scored at proficient and advanced in all grades by economic status and ethnicity in Marin county in 2009. The performance data are based on STAR test results from the CSTs and CAPA. The test content areas displayed on these reports include:

- English-language arts (grade-level tests): Chart 1
- Mathematics (grade-level tests and end-of-course tests): Chart 2

Comparing results: You may compare the percentage of students in each ethnic group and economic status who scored at proficient and above. The state target is for all students to score at or above proficient. "Economically disadvantaged" is defined as participating in free or reduced price lunch, or the parent education level was coded as "not high school graduate". In order to protect student confidentiality, no results are reported for any group of 10 or fewer students.

Economic Group	Economically Disadvantaged					Non-Economically Disadvantaged			
	African American	Asian	Hispanic	White		African American	Asian	Hispanic	White
Ethnicity									
County									
Alameda	26	55	29	49	Alameda	42	84	46	76
Contra Costa	26	51	29	45	Contra Costa	42	84	51	76
Marin	24	58	30	55	Marin	56	86	58	83
Napa	37	67	33	52	Napa	53	71	51	73
San Francisco	37	67	33	52	San Francisco	33	76	40	82
San Mateo	29	59	31	48	San Mateo	47	83	52	80
Santa Clara	3	60	31	51	Santa Clara	54	87	49	79
Solano	28	48	30	48	Solano	43	72	50	67
Sonoma	40	48	30	51	Sonoma	51	76	50	71

Chart 1: English Language Arts (ELA)

Economic Group	Economically Disadvantaged					Non-Economically Disadvantaged			
	African American	Asian	Hispanic	White		African American	Asian	Hispanic	White
Ethnicity									
County									
Alameda	24	57	31	49	Alameda	32	81	37	63
Contra Costa	22	47	30	36	Contra Costa	31	79	41	64
Marin	26	62	33	49	Marin	46	80	50	72
Napa	27	68	35	44	Napa	38	72	43	60
San Francisco	17	69	26	44	San Francisco	27	71	32	70
San Mateo	24	63	33	41	San Mateo	34	79	39	69
Santa Clara	29	63	32	42	Santa Clara	40	85	39	67
Solano	25	47	32	43	Solano	33	63	42	55
Sonoma	36	47	35	45	Sonoma	37	73	46	59

Chart 2: Mathematics

Source: <http://star.cde.ca.gov/summaryreports2009.asp>, retrieved 5/11/2010

## California Standards Test (CST) and California Alternate Performance Assessment (CAPA) Summary Reports by Economic Status and Ethnicity by School Districts in Marin County - last update: January 14, 2010

These summary charts provide information on the students who scored at proficient and advanced in all grades by economic status and ethnicity in different school districts in Marin county in 2009. The performance data are based on STAR test results from the CSTs and CAPA. The test content areas displayed on these reports include:

- English-language arts (grade-level tests): Chart 1
- Mathematics (grade-level tests and end-of-course tests): Chart 2

Comparing results: You may compare the percentage of students in each ethnic group and economic status who scored at proficient and above. The state target is for all students to score at or above proficient. "Economically disadvantaged" is defined as participating in free or reduced price lunch, or the parent education level was coded as "not high school graduate". In order to protect student confidentiality, no results are reported for any group of 10 or fewer students.

Economic Group	Economically Disadvantaged				Non-Economically Disadvantaged			
	African American	Asian	Hispanic	White	African American	Asian	Hispanic	White
Ethnicity								
District								
Marin County Office of Ed.	4	--	8	28	14	--	6	23
Bolinas-Stinson Union	--	--	--	60	--	--	--	61
Dixie Elementary	25	55	38	68	67	85	67	85
Kentfield Elementary	--	--	--	--	80	84	48	91
Laguna Joint Elementary	--	--	--	--	--	--	--	--
Lagunitas Elementary	--	--	--	43	--	--	--	69
Larkspur	--	--	48	78	--	93	73	88
Lincoln Elem.	--	--	--	--	--	--	--	--
Mill Valley Elem.		86	36	62	75	91	76	86
Nicasio	--	--	--	--	--	--	--	92
Novato Unified	26	54	32	55	55	87	59	79
Marin School of Arts & Tech.	--	--	--	--	--	--	--	--
Reed Union Elementary	--	--	--	--	--	94	64	90
Ross Elementary	--	--	--	--	--	--	--	85
San Rafael City Elem.	33	55	30	52	56	86	52	85
San Rafael City High	24	56	18	47	53	72	44	80
Sausalito Marin City	26	--	47	--	--	--	--	--
Willow Creek Academy	35	--	58	67	--	--	--	82
Tamalpais Union High	12	--	31	56	46	81	68	82
Union Joint Elementary	--	--	--	--	--	--	--	--
Shoreline Unified	--	--	37	40	--	--	48	76
Ross Valley Elementary	25	73	44	65	--	80	52	85

**Chart 1: English Language Arts (ELA)**

Economic Group	Economically Disadvantaged				Non-Economically Disadvantaged			
	African American	Asian	Hispanic	White	African American	Asian	Hispanic	White
Ethnicity								
District								
Marin County Office of Ed.	0	--	10	6	--	--	--	24
Bolinas-Stinson Union	--	--	--	--	--	--	--	46
Dixie Elementary	43	83	42	48	50	85	67	79
Kentfield Elementary	--	--	--	--	62	78	62	86
Laguna Joint Elementary	--	--	--	--	--	--	--	--
Lagunitas Elementary	--	--	--	29	--	--	--	43
Larkspur	--	--	45	25	82	95	60	83
Lincoln Elem.	--	--	--	--	--	--	--	--
Mill Valley Elem.	--	--	47	76	64	89	70	85
Nicasio	--	--	--	--	--	-	--	72
Novato Unified	31	60	34	51	44	80	47	70
Marin School of Arts & Tech.	--	--	--	--	--	--	--	--
Reed Union Elementary	--	--	--	--	64	96	58	88
Ross Elementary	--	--	--	--	--	--	--	81
San Rafael City Elem.	21	72	38	65	43	85	46	84
San Rafael City High	--	4	7	11	8	35	12	34
Sausalito Marin City	36	--	53	--	--	--	--	--
Willow Creek Academy	41	--	81	--	--	--	--	76
Tamalpais Union High	12	--	17	21	21	58	34	43
Union Joint Elementary	--	--	--	--	--	--	--	--
Shoreline Unified	--	--	40	55	--	--	23	67
Ross Valley Elementary	--	83	33	64	50	89	53	78

**Chart 2: Mathematics**

Source: <http://star.cde.ca.gov/summaryreports2009.asp>, retrieved 5/11/2010

**APPENDIX II:**

**HOME PURCHASE, LENDING PATTERNS, AND**

**FORECLOSURES IN MARIN COUNTY**

**Table 1.1. All Single Family Lending to Owner-Occupants, Marin County, CA, 2008**

**By Race of Borrower**

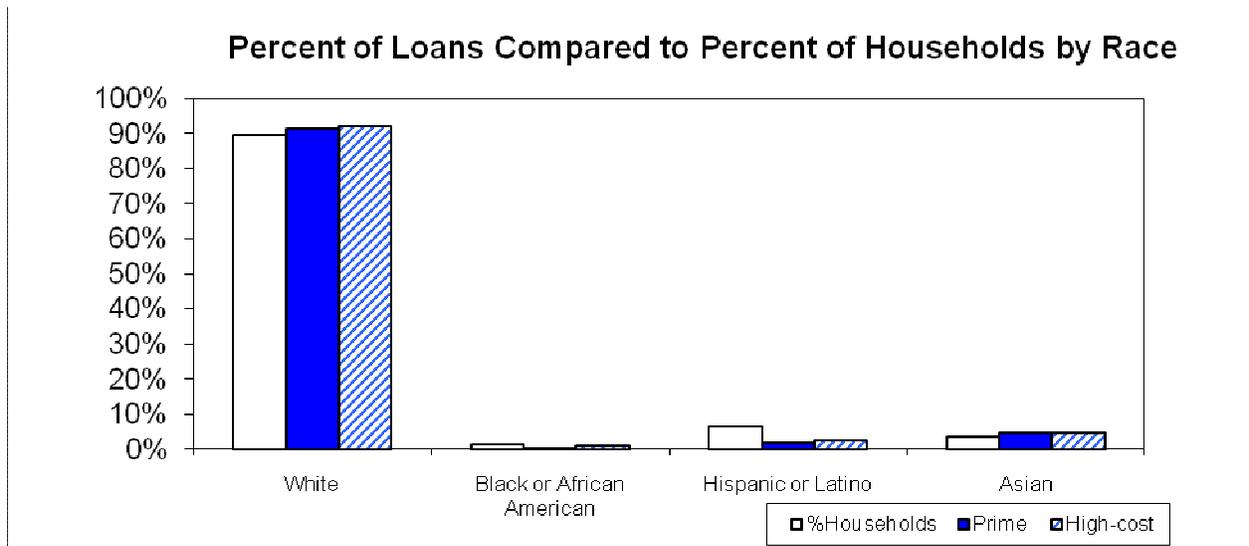
Table 1.1a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	3,217	79	3,296	91.34%	91.86%	91.35%	90,253	89.59%	1.02	1.03
Black or African American	13	1	14	0.37%	1.16%	0.39%	1,569	1.56%	0.24	0.75
Hispanic or Latino	66	2	68	1.88%	2.44%	1.89%	6,539	6.49%	0.29	0.38
Asian	160	4	164	4.54%	4.65%	4.55%	3,743	3.72%	1.22	1.25
<b>Total<sup>1</sup></b>	4,459	107	4,566	100%	100%	100%	100,736	100%	n/a	n/a

Table 1.1b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	3,217	79	3,296	97.6%	2.4%	1.00	1.00
Black or African American	13	1	14	92.9%	7.1%	0.95	2.98
Hispanic or Latino	66	2	68	97.1%	2.9%	0.99	1.23
Asian	160	4	164	97.6%	2.4%	1.00	1.02
<b>Total<sup>1</sup></b>	4,459	107	4,566	n/a	n/a	n/a	n/a

Table 1.1c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	5,909	1,037	17.55%	1.00
Black or African American	35	11	31.43%	1.79
Hispanic or Latino	195	74	37.95%	2.16
Asian	303	51	16.83%	0.96
<b>Total<sup>1</sup></b>	8,260	1,490	18.04%	n/a

<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian." This note holds true for both the lending analysis and the number of households.

**Chart 1.1a.**



**Chart 1.1b.**

### High-cost Market Share of Loans by Race

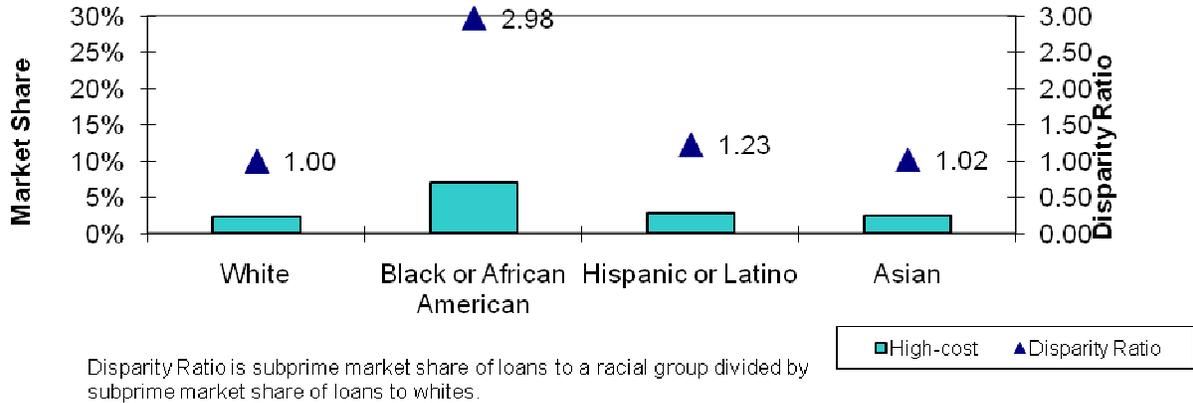
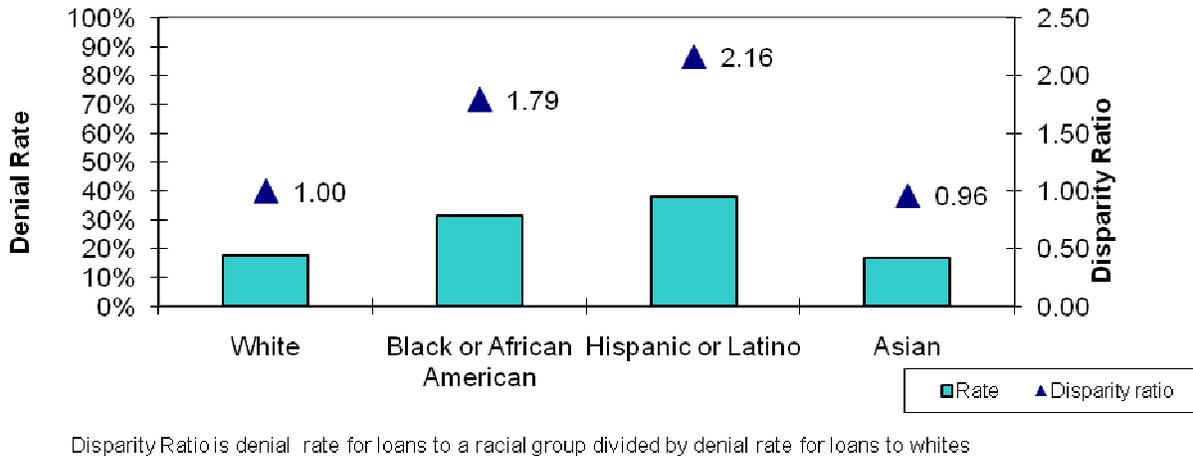


Chart 1.1c.

### Denial Rates and Disparity Ratios by Race



**Table 1.2. All Single Family Lending to Owner-Occupants, Marin County, CA, 2008**

**By Income Level of Borrower**

Table 1.2a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Income Level</b>										
Low-income	119	5	124	2.73%	4.76%	2.78%	19,605	19.46%	0.14	0.24
Moderate-income	380	5	385	8.71%	4.76%	8.62%	15,117	15.01%	0.58	0.32
Middle-income	738	17	755	16.91%	16.19%	16.90%	18,226	18.09%	0.93	0.89
Upper-income	3,126	78	3,204	71.65%	74.29%	71.71%	47,788	47.44%	1.51	1.57
<b>Total</b>	4,459	107	4,566	100%	100%	100%	100,736	100%	n/a	n/a

Table 1.2b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
Low-income	119	5	124	95.97%	4.03%	0.98	1.66
Moderate-income	380	5	385	98.70%	1.30%	1.01	0.53
Middle-income	738	17	755	97.75%	2.25%	1.00	0.92
Upper-income	3,126	78	3,204	97.57%	2.43%	1.00	1.00
<b>Total</b>	4,459	107	4,566	n/a	n/a	n/a	n/a

Table 1.2c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
Low-income	267	82	30.71%	1.77
Moderate-income	739	156	21.11%	1.22
Middle-income	1,334	235	17.62%	1.02
Upper-income	5,760	998	17.33%	1.00
<b>Total</b>	8,260	1,490	18.04%	n/a

Chart 1.2a

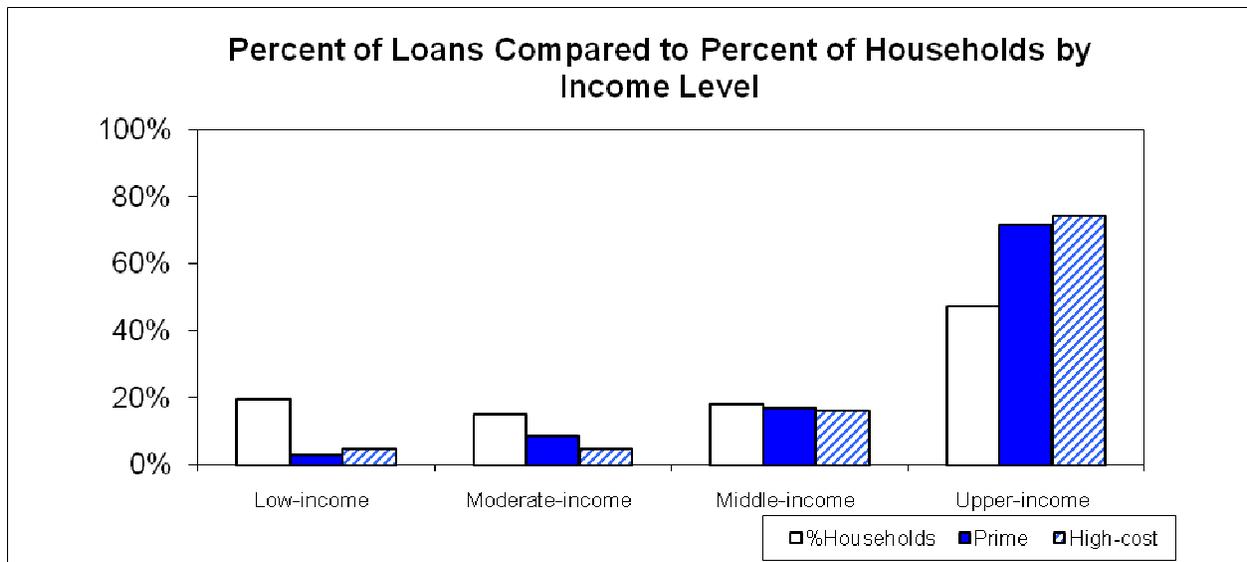
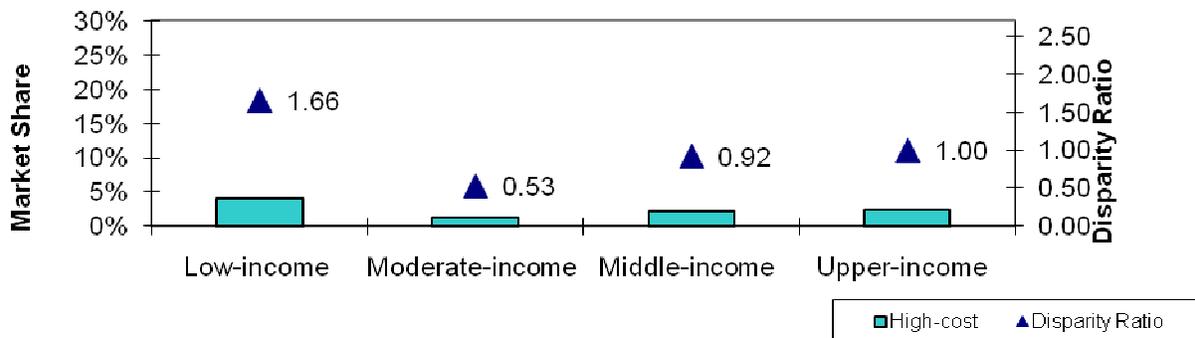


Chart 1.2b

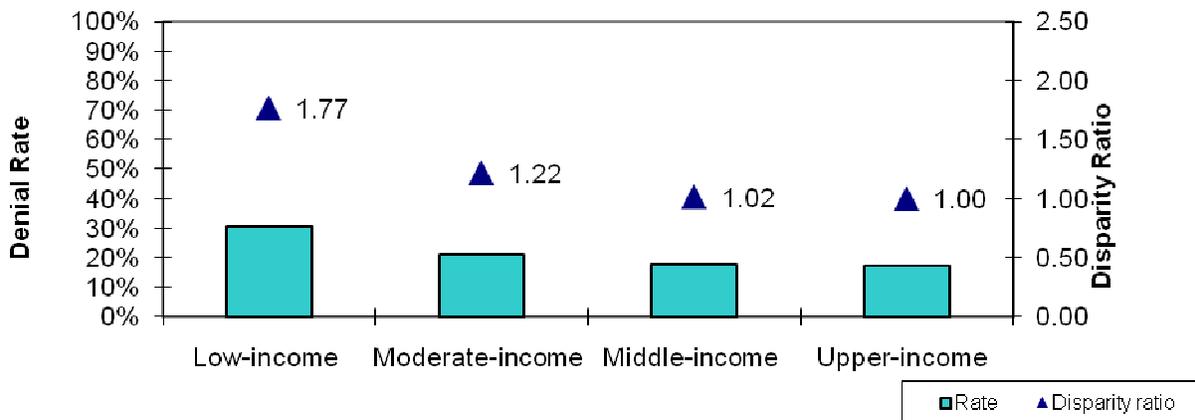
### High-cost Market Share of Loans by Income Level



Disparity Ratio is subprime market share of loans to a racial group divided by subprime market share of loans to whites.

Chart 1.2c

### Denial Rates and Disparity Ratios by Income Level



Disparity Ratio is denial rate for loans to a racial group divided by denial rate for loans to whites

**Table 1.3. All Single Family Lending to Owner-Occupants, Marin County, CA, 2008**

**By Minority Level of Census Tract**

Table 1.3a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Minority Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Minority Level</b>										
0-49% Minority	4,371	106	4,477	98.03%	99.07%	98.05%	62,958	98.34%	1.00	1.01
50-100% Minority	88	1	89	1.97%	0.93%	1.95%	1,060	1.66%	1.19	0.56
<b>Total</b>	4,459	107	4,566	100%	100%	100%	64,018	100%	n/a	n/a

Table 1.3b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Minority Level (Market Share)		Ratio of that Minority Level to 0-49% Minority (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Minority Level</b>							
0-49% Minority	4,371	106	4,477	97.63%	2.37%	1.00	1.00
50-100% Minority	88	1	89	98.88%	1.12%	1.01	0.47
<b>Total</b>	4,459	107	4,566	n/a	n/a	n/a	n/a

Table 1.3c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Minority Level to 0-49% Minority (Denial Ratio)
	Applications	Denials	Percent Denied	
<b>Minority Level</b>				
0-49% Minority	8,078	1,443	17.86%	1.00
50-100% Minority	182	47	25.82%	1.45
<b>Total</b>	8,260	1,490	18.04%	n/a

**Table 1.4. All Single Family Lending to Owner-Occupants, Marin County, CA, 2008**

**By Income Level of Census Tract**

Table 1.4a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
	<b>Income Level</b>									
Low-income tract	88	1	89	1.97%	0.93%	1.95%	1,060	1.66%	1.19	0.56
Moderate-income tract	159	1	160	3.57%	0.93%	3.50%	2,146	3.35%	1.06	0.28
Middle-income tract	1,649	45	1,694	36.98%	42.06%	37.10%	25,177	39.33%	0.94	1.07
Upper-income tract	2,563	60	2,623	57.48%	56.07%	57.45%	35,635	55.66%	1.03	1.01
<b>Total</b>	<b>4,459</b>	<b>107</b>	<b>4,566</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>64,018</b>	<b>100%</b>	<b>n/a</b>	<b>n/a</b>

Table 1.4b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Income Level</b>							
Low-income tract	88	1	89	98.88%	1.12%	1.01	0.49
Moderate-income tract	159	1	160	99.38%	0.63%	1.02	0.27
Middle-income tract	1,649	45	1,694	97.34%	2.66%	1.00	1.16
Upper-income tract	2,563	60	2,623	97.71%	2.29%	1.00	1.00
<b>Total</b>	<b>4,459</b>	<b>107</b>	<b>4,566</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>

Table 1.4c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percent Denied	
	<b>Income Level</b>			
Low-income tract	182	47	25.82%	1.50
Moderate-income tract	305	67	21.97%	1.28
Middle-income tract	3,054	566	18.53%	1.08
Upper-income tract	4,719	810	17.16%	1.00
<b>Total</b>	8,260	1,490	18.04%	n/a

## Disposition Summary

### 2008 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA and MSA is San Francisco-San Mateo-Redwood City, CA MD and County is Marin)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	28	5	5	16	2	0	5	0	0	0
Asian	303	164	39	51	39	10	160	4	3.35	3.23
Black or African American	35	14	3	11	4	3	13	1	4.28	4.28
Native Hawaiian / Other Pacific Islander	16	7	1	7	1	0	7	0	0	0
White	5,909	3,296	790	1,037	620	166	3,217	79	3.45	3.31
2 or More Minority Races	4	0	1	2	1	0	0	0	0	0
Joint (White/Minority Race)	197	122	18	35	16	6	120	2	4.19	4.19
Race Not Available	1,768	958	194	331	236	49	937	21	3.8	3.64
<b>Ethnicity</b>										
Hispanic or Latino	195	68	21	74	24	8	66	2	3.39	3.38
Not Hispanic or Latino	6,218	3,447	830	1,106	659	176	3,367	80	3.48	3.31
Joint (Hisp or Lat/Not Hisp or Lat)	111	74	12	16	8	1	74	0	0	0
Ethnicity Not Available	1,736	977	188	294	228	49	952	25	3.73	3.61
<b>Minority Status</b>										
White Non-Hispanic	5,564	3,113	750	963	583	155	3,040	73	3.46	3.31
Others, Including Hispanic	853	441	95	196	94	27	432	9	3.65	3.24
<b>Income</b>										
Low - < 50% MSA/MD Median	267	124	17	82	37	7	119	5	3.79	3.42
Moderate - 50-79.99% MSA/MD Median	739	385	81	156	101	16	380	5	3.42	3.46
Middle - 80-119.99% MSA/MD Median	1,334	755	151	235	167	26	738	17	3.64	3.46
Upper - 120% or More MSA/MD Median	5,760	3,204	793	998	584	181	3,126	78	3.47	3.31
Income Not Available	160	98	9	19	30	4	96	2	4.76	4.76
<b>Gender</b>										
Male	1,752	851	226	388	223	64	828	23	3.44	3.36
Female	1,714	930	202	320	201	61	896	34	3.46	3.33
Joint (Male/Female)	3,701	2,166	518	580	354	83	2,122	44	3.6	3.27
Gender Not Available	1,093	619	105	202	141	26	613	6	3.79	3.66

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	1,374	798	181	209	145	41	778	20	3.6	3.38
10-19% Minority	4,608	2,528	586	840	523	131	2,469	59	3.46	3.31
20-49% Minority	2,096	1,151	261	394	233	57	1,124	27	3.65	3.36
50-79% Minority	49	22	6	16	4	1	22	0	0	0
80-100% Minority	133	67	17	31	14	4	66	1	3.74	3.74
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	182	89	23	47	18	5	88	1	3.74	3.74
Moderate - 50-79.99% MSA/MD Median	305	160	35	67	36	7	159	1	3.22	3.22
Middle - 80-119.99% MSA/MD Median	3,054	1,694	383	566	329	82	1,649	45	3.58	3.36
Upper - 120% or More MSA/MD Median	4,719	2,623	610	810	536	140	2,563	60	3.5	3.34
Income Not Available	0	0	0	0	0	0	0	0	0	0
Total Applications	8,260	4,566	1,051	1,490	919	234	4,459	107	3.53	3.36

**Footnotes**

1. Two or More Minority Races: At least 2 minority race categories must be reported
2. Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
3. Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
4. Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
5. Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
6. Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
7. Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
8. Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
9. Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

**Table 2.1. All Single Family Lending to Owner-Occupants, Marin County, CA, 2006**

**By Race of Borrower**

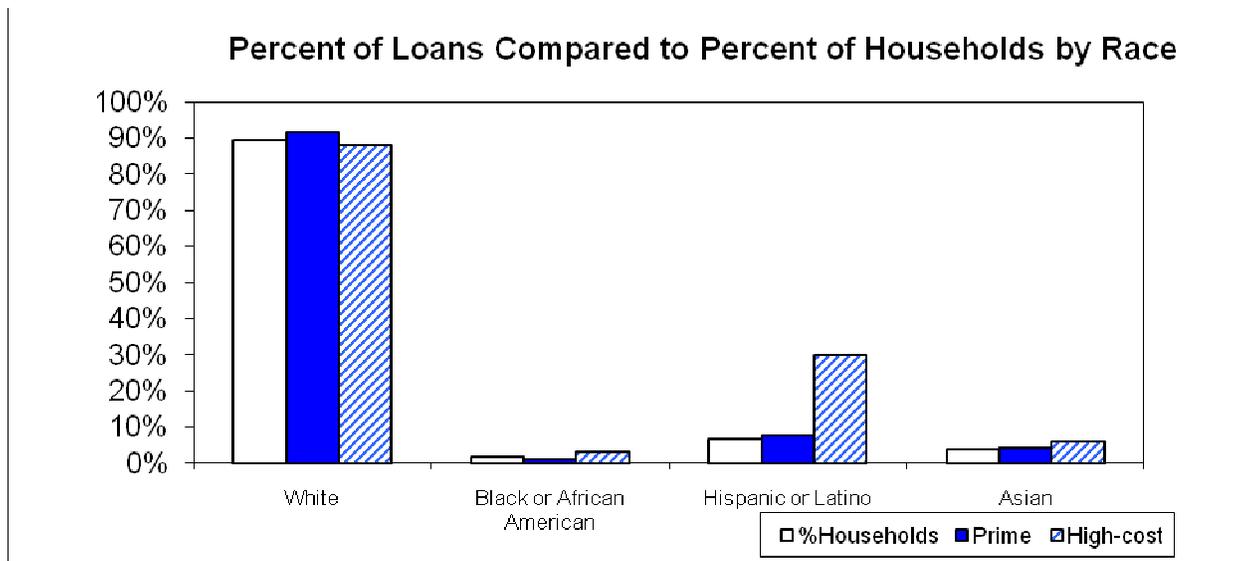
Table 2.1a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	5,415	520	5,935	91.69%	87.84%	91.34%	90,253	89.59%	1.02	0.98
Black or African American	50	17	67	0.85%	2.87%	1.03%	1,569	1.56%	0.54	1.84
Hispanic or Latino	462	179	641	7.83%	29.88%	9.87%	6,539	6.49%	1.21	4.60
Asian	237	35	272	4.01%	5.91%	4.19%	3,743	3.72%	1.08	1.59
<b>Total<sup>1</sup></b>	7,212	706	7,918	100%	100%	100%	100,736	100%		

Table 2.1b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	5,415	520	5,935	91.2%	8.8%	1.00	1.00
Black or African American	50	17	67	74.6%	25.4%	0.82	2.90
Hispanic or Latino	462	179	641	72.1%	27.9%	0.79	3.19
Asian	237	35	272	87.1%	12.9%	0.95	1.47
<b>Total<sup>1</sup></b>	7,212	706	7,918	n/a	n/a	n/a	n/a

Table 2.1c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	9,140	1,263	13.82%	1.00
Black or African American	178	51	28.65%	2.07
Hispanic or Latino	1,245	287	23.05%	1.67
Asian	472	87	18.43%	1.33
<b>Total<sup>1</sup></b>	12,938	2,013	16%	n/a

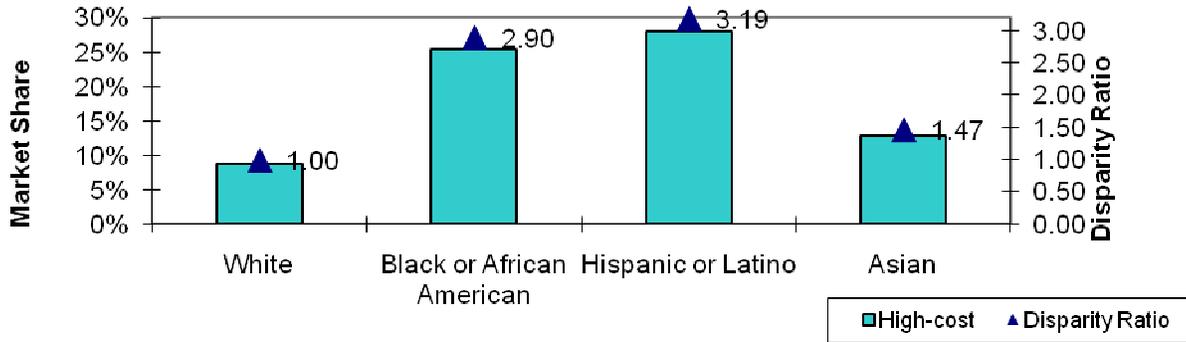
<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian." This note holds true for both the lending analysis and the number of households.

**Chart 2.1a**



**Chart 2.1b**

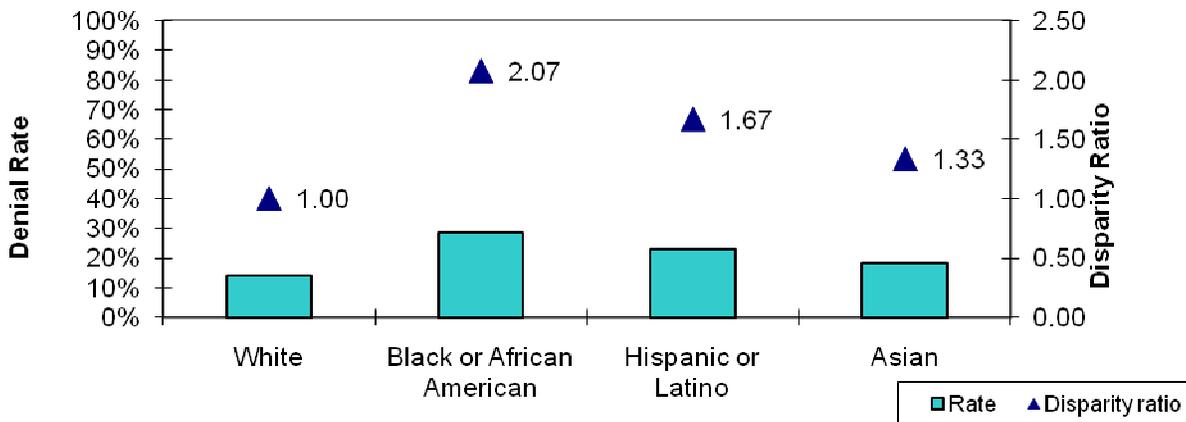
### High-cost Market Share of Loans by Race



Disparity Ratio is subprime market share of loans to a racial group divided by subprime market share of loans to whites.

Chart 2.1c

### Denial Rates and Disparity Ratios by Race



Disparity Ratio is denial rate for loans to a racial group divided by denial rate for loans to whites

**Table 2.2. All Single Family Lending to Owner-Occupants, Marin County, CA, 2006**

**By Income Level of Borrower**

Table 2.2a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Income Level</b>										
Low-income	115	11	126	1.68%	1.72%	1.68%	19,605	19.46%	0.09	0.09
Moderate-income	404	18	422	5.91%	2.81%	5.64%	15,117	15.01%	0.39	0.19
Middle-income	933	85	1,018	13.64%	13.28%	13.61%	18,226	18.09%	0.75	0.73
Upper-income	5,389	526	5,915	78.78%	82.19%	79.07%	47,788	47.44%	1.66	1.73
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100,736</b>	<b>100%</b>	<b>n/a</b>	<b>n/a</b>

Table 2.2b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
Low-income	115	11	126	91.27%	8.73%	1.00	0.98
Moderate-income	404	18	422	95.73%	4.27%	1.05	0.48
Middle-income	933	85	1,018	91.65%	8.35%	1.01	0.94
Upper-income	5,389	526	5,915	91.11%	8.89%	1.00	1.00
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>

Table 2.2c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
Low-income	278	82	29.50%	1.91
Moderate-income	731	106	14.50%	0.94
Middle-income	1,686	259	15.36%	1.00
Upper-income	9,465	1,461	15.44%	1.00
<b>Total</b>	12,938	2,013	15.56%	n/a

Chart 2.2a

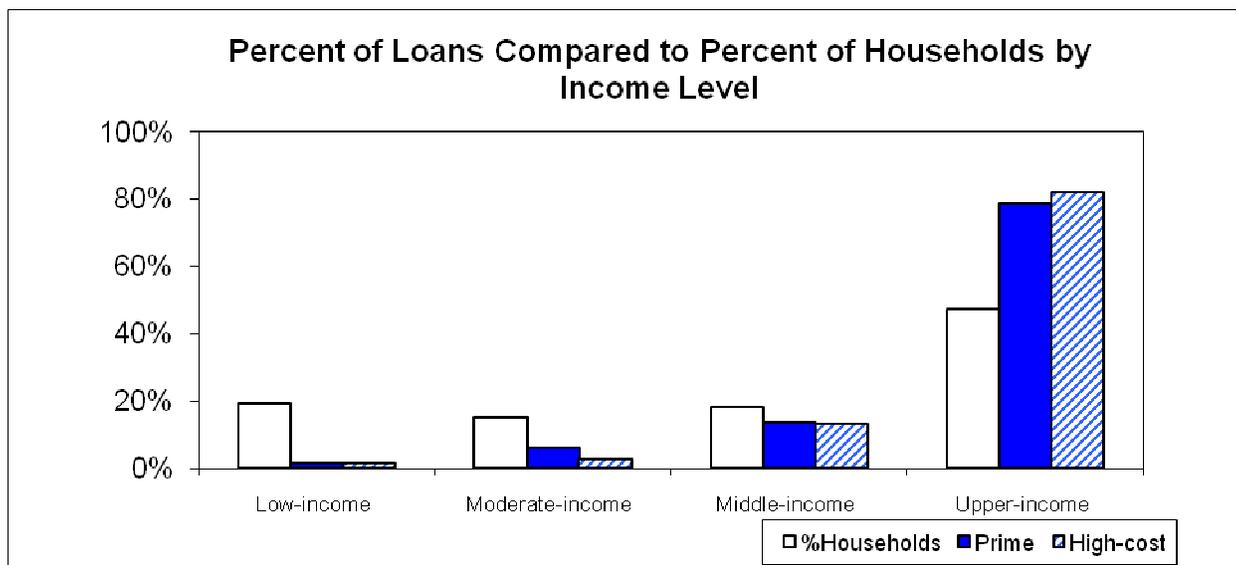
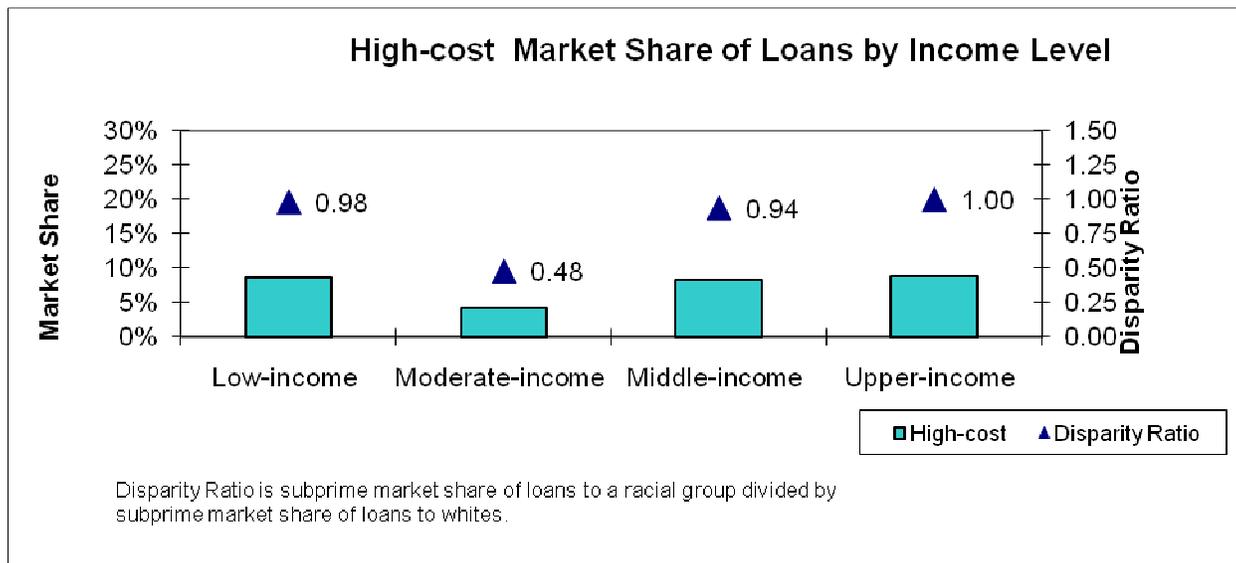


Chart 2.2b





**Table 2.3. All Single Family Lending to Owner-Occupants, Marin County, CA, 2006**

**By Minority Level of Census Tract**

Table 2.3a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Minority Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Minority Level</b>										
0-49% Minority	7,048	644	7,692	97.73%	91.22%	97.15%	62,958	98.34%	0.99	0.93
50-100% Minority	164	62	226	2.27%	8.78%	2.85%	1,060	1.66%	1.37	5.30
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>64,018</b>	<b>100%</b>	<b>n/a</b>	<b>n/a</b>

Table 2.3b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Minority Level (Market Share)		Ratio of that Minority Level to 0-49% Minority (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Minority Level</b>							
0-49% Minority	7,048	644	7,692	91.63%	8.37%	1.00	1.00
50-100% Minority	164	62	226	72.57%	27.43%	0.79	3.28
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>	<b>n/a</b>

Table 2.3c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Minority Level to 0-49% Minority (Denial Ratio)
	Applications	Denials	Percent Denied	
<b>Minority Level</b>				
0-49% Minority	12,508	1,914	15.30%	1.00
50-100% Minority	430	99	23.02%	1.50
<b>Total</b>	<b>12,938</b>	<b>2,013</b>	<b>15.56%</b>	<b>n/a</b>

**Table 2.4. All Single Family Lending to Owner-Occupants, Marin County, CA, 2006**

**By Income Level of Census Tract**

Table 2.4a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Income Level</b>										
Low-income tract	164	62	226	2.27%	8.78%	2.85%	1,060	1.66%	1.37	5.30
Moderate-income tract	420	66	486	5.82%	9.35%	6.14%	2,146	3.35%	1.74	2.79
Middle-income tract	2,881	295	3,176	39.95%	41.78%	40.11%	25,177	39.33%	1.02	1.06
Upper-income tract	3,747	283	4,030	51.96%	40.08%	50.90%	35,635	55.66%	0.93	0.72
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>64,018</b>	<b>100%</b>	n/a	n/a

Table 2.4b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Income Level</b>							
Low-income tract	164	62	226	72.57%	27.43%	0.78	3.91
Moderate-income tract	420	66	486	86.42%	13.58%	0.93	1.93
Middle-income tract	2,881	295	3,176	90.71%	9.29%	0.98	1.32
Upper-income tract	3,747	283	4,030	92.98%	7.02%	1.00	1.00
<b>Total</b>	<b>7,212</b>	<b>706</b>	<b>7,918</b>	n/a	n/a	n/a	n/a

Table 2.4c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percent Denied	
<b>Income Level</b>				
Low-income tract	430	99	23.02%	1.66
Moderate-income tract	850	165	19.41%	1.40
Middle-income tract	5,303	867	16.35%	1.18
Upper-income tract	6,355	882	13.88%	1.00
<b>Total</b>	<b>12,938</b>	<b>2,013</b>	<b>15.56%</b>	<b>n/a</b>

## Disposition Summary

### 2006 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA and MSA is San Francisco-San Mateo-Redwood City, CA MD and County is Marin)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	103	51	15	25	9	3	46	5	4.73	4.91
Asian	472	272	51	87	47	15	237	35	4.47	3.9
Black or African American	178	67	22	51	30	8	50	17	4.7	4.86
Native Hawaiian / Other Pacific Islander	71	24	13	23	10	1	19	5	4.33	3.5
White	9,140	5,935	968	1,263	786	188	5,415	520	4.78	4.89
2 or More Minority Races	2	2	0	0	0	0	2	0	0	0
Joint (White/Minority Race)	219	147	21	27	18	6	137	10	4.68	4.75
Race Not Available	2,753	1,420	264	537	435	97	1,306	114	4.4	3.96
<b>Ethnicity</b>										
Hispanic or Latino	1,245	641	142	287	139	36	462	179	5	5.15
Not Hispanic or Latino	8,873	5,769	927	1,217	773	187	5,356	413	4.63	4.53
Joint (Hisp or Lat/Not Hisp or Lat)	130	87	10	14	16	3	80	7	5.23	3
Ethnicity Not Available	2,690	1,421	275	495	407	92	1,314	107	4.39	3.97
<b>Minority Status</b>										
White Non-Hispanic	7,777	5,188	805	996	634	154	4,846	342	4.66	4.62
Others, Including Hispanic	2,308	1,236	263	487	253	69	985	251	4.89	5.04
<b>Income</b>										
Low - < 50% MSA/MD Median	278	126	23	82	41	6	115	11	5.1	5.05
Moderate - 50-79.99% MSA/MD Median	731	422	70	106	114	19	404	18	5.1	5.57
Middle - 80-119.99% MSA/MD Median	1,686	1,018	164	259	201	44	933	85	5.07	5.21
Upper - 120% or More MSA/MD Median	9,465	5,915	994	1,461	868	227	5,389	526	4.76	4.89
Income Not Available	778	437	103	105	111	22	371	66	3.56	3.45
<b>Gender</b>										
Male	3,666	2,026	387	709	433	111	1,754	272	4.77	4.89
Female	3,342	1,982	383	565	333	79	1,776	206	4.81	4.84
Joint (Male/Female)	4,616	3,149	458	526	385	98	2,952	197	4.57	4.63
Gender Not Available	1,314	761	126	213	184	30	730	31	4.13	3.46

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	1,743	1,139	191	211	167	35	1,066	73	4.17	3.53
10-19% Minority	6,500	4,068	669	973	629	161	3,760	308	4.67	4.64
20-49% Minority	4,265	2,485	452	730	487	111	2,222	263	4.84	4.99
50-79% Minority	80	42	6	20	12	0	34	8	5.79	6.23
80-100% Minority	350	184	36	79	40	11	130	54	4.7	4.95
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	430	226	42	99	52	11	164	62	4.84	5.05
Moderate - 50-79.99% MSA/MD Median	850	486	95	165	83	21	420	66	4.97	5.24
Middle - 80-119.99% MSA/MD Median	5,303	3,176	541	867	586	133	2,881	295	4.77	4.84
Upper - 120% or More MSA/MD Median	6,355	4,030	676	882	614	153	3,747	283	4.53	4.47
Income Not Available	0	0	0	0	0	0	0	0	0	0
Total Applications	12,938	7,918	1,354	2,013	1,335	318	7,212	706	4.7	4.78

**Footnotes**

1. Two or More Minority Races: At least 2 minority race categories must be reported
2. Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
3. Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
4. Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
5. Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
6. Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
7. Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
8. Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
9. Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

**Table 3.1. All Single Family Lending to Owner-Occupants, Sonoma County, CA, 2008**

**By Race of Borrower**

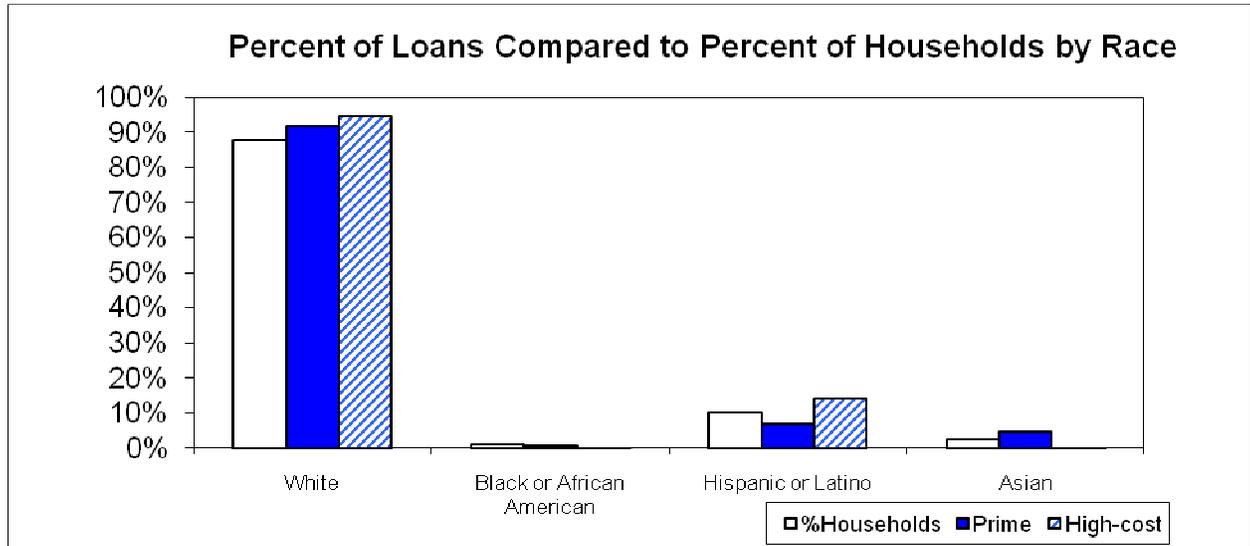
Table 3.1a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	5,123	153	5,276	91.74%	94.44%	91.82%	151,580	87.78%	1.05	1.08
Black or African American	35	1	36	0.63%	0.62%	0.63%	2,038	1.18%	0.53	0.52
Hispanic or Latino	388	23	411	6.96%	13.94%	7.16%	17,272	10.00%	0.70	1.39
Asian	251	1	252	4.49%	0.62%	4.39%	4,136	2.40%	1.88	0.26
<b>Total<sup>1</sup></b>	6,586	194	6,780	100%	100%	100%	172,690	100%	n/a	n/a

Table 3.1b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	5,123	153	5,276	97.1%	2.9%	1.00	1.00
Black or African American	35	1	36	97.2%	2.8%	1.00	0.96
Hispanic or Latino	388	23	411	94.4%	5.6%	0.97	1.93
Asian	251	1	252	99.6%	0.4%	1.03	0.14
<b>Total<sup>1</sup></b>	6,586	194	6,780	n/a	n/a	n/a	n/a

Table 3.1c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	9,652	1,908	19.77%	1.00
Black or African American	85	27	31.76%	1.61
Hispanic or Latino	1,003	313	31.21%	1.58
Asian	470	82	17.45%	0.88
<b>Total<sup>1</sup></b>	12,745	2,602	20.42%	n/a

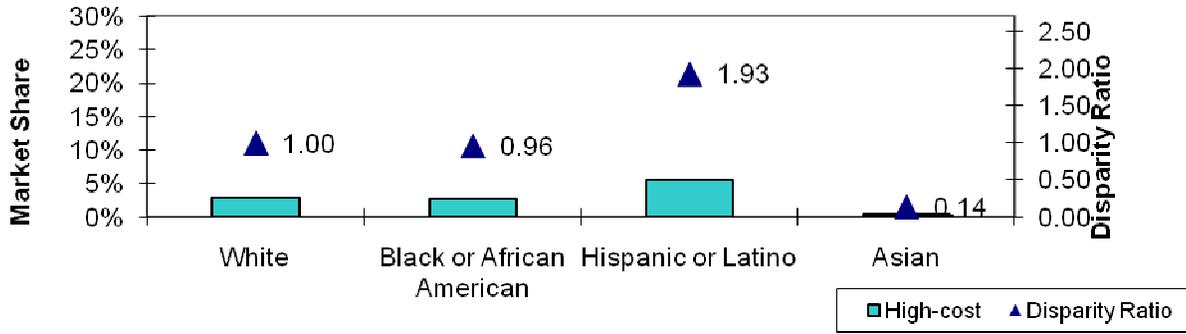
<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian."

**Chart 1.a**



**Chart 1.b**

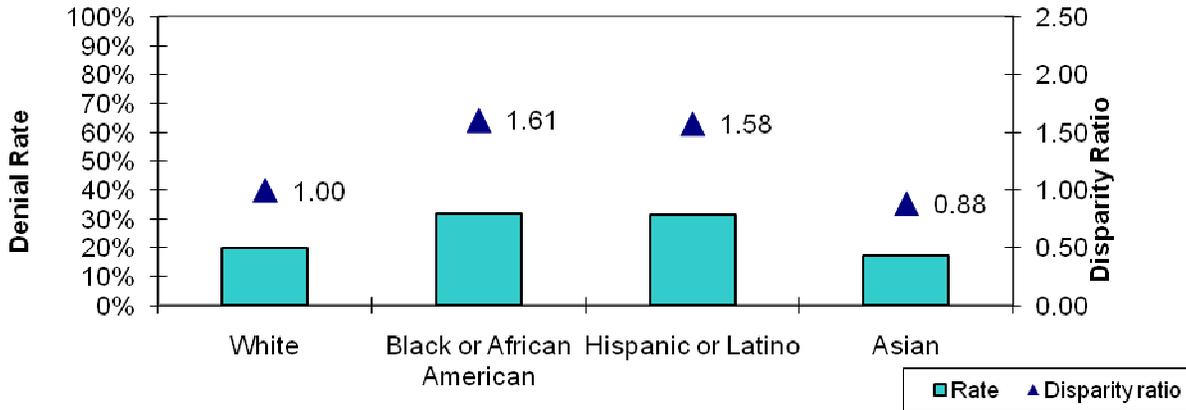
### High-cost Market Share of Loans by Race



Disparity Ratio is subprime market share of loans to a racial group divided by subprime market share of loans to whites.

Chart 1.c

### Denial Rates and Disparity Ratios by Race



Disparity Ratio is denial rate for loans to a racial group divided by denial rate for loans to whites

**Table 3.2. All Single Family Lending to Owner-Occupants, Sonoma County, CA, 2008**

**By Income Level of Borrower**

Table 3.2a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Income Level</b>										
Low-income	294	9	303	4.56%	4.66%	4.56%	36,957	21.40%	0.21	0.22
Moderate-income	1,165	29	1,194	18.06%	15.03%	17.97%	29,708	17.20%	1.05	0.87
Middle-income	1,727	54	1,781	26.77%	27.98%	26.80%	35,709	20.68%	1.29	1.35
Upper-income	3,266	101	3,367	50.62%	52.33%	50.67%	70,316	40.72%	1.24	1.29
<b>Total</b>	6,586	194	6,780	100%	100%	100%	172,690	100%	n/a	n/a

Table 3.2b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
Low-income	294	9	303	97.03%	2.97%	1.00	0.99
Moderate-income	1,165	29	1,194	97.57%	2.43%	1.01	0.81
Middle-income	1,727	54	1,781	96.97%	3.03%	1.00	1.01
Upper-income	3,266	101	3,367	97.00%	3.00%	1.00	1.00
<b>Total</b>	6,586	194	6,780	n/a	n/a	n/a	n/a

Table 3.2c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
Low-income	643	189	29.39%	1.43
Moderate-income	2,127	376	17.68%	0.86
Middle-income	3,303	679	20.56%	1.00
Upper-income	6,435	1,325	20.59%	1.00
<b>Total</b>	12,745	2,602	20.42%	n/a

Chart 1a.

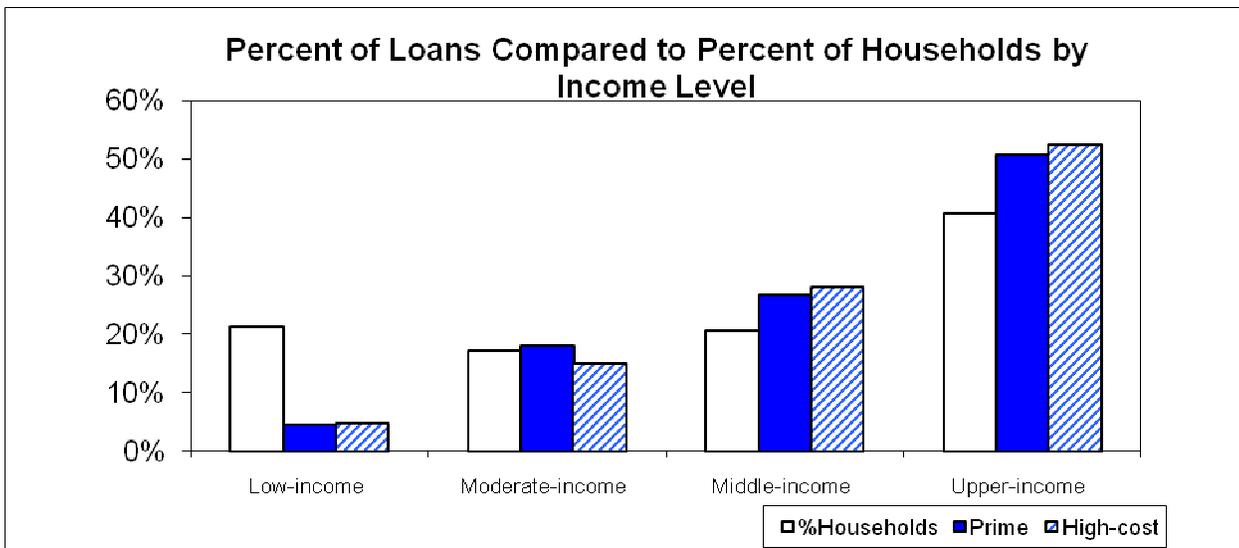


Chart 1b.

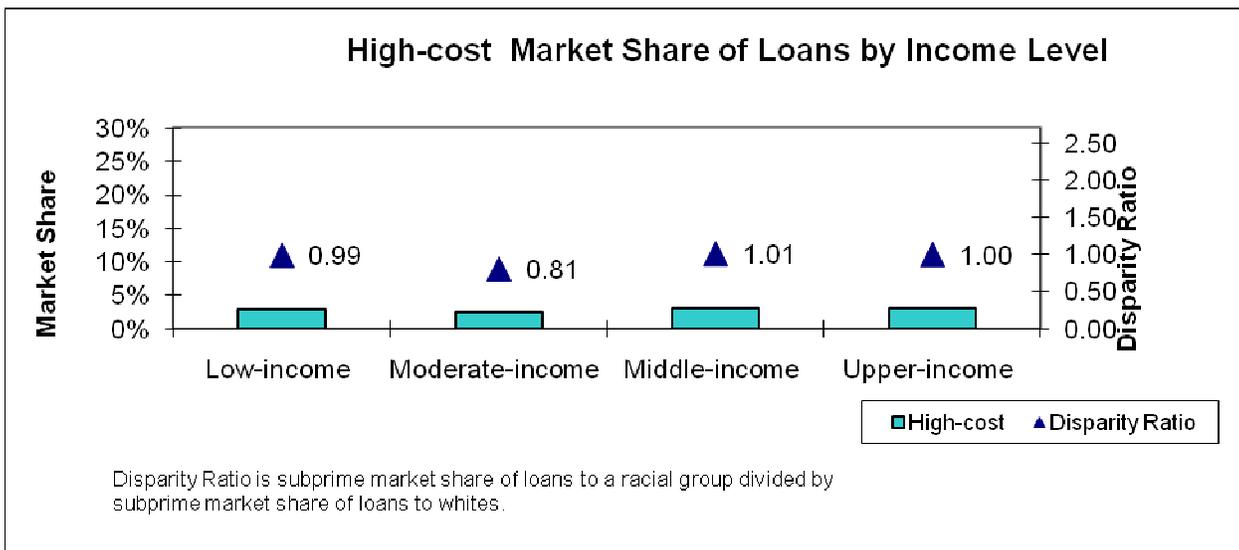
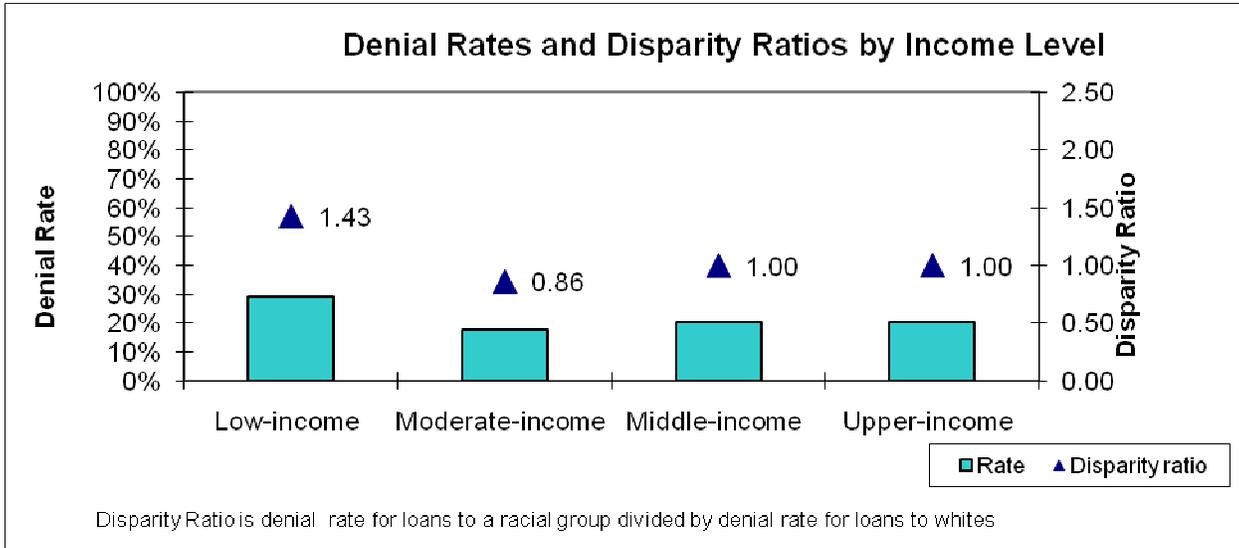


Chart 1c.



**Table 3.3. All Single-Family Lending to Owner Occupants, Sonoma County, CA, 2008**

**By Minority Level of Census Tract**

Table 3.3a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Minority Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Minority Level</b>										
0-49% Minority	6,299	179	6,478	95.64%	92.27%	95.55%	105,246	95.24%	1.00	0.97
50-100% Minority	287	15	302	4.36%	7.73%	4.45%	5,265	4.76%	0.91	1.62
<b>Total</b>	6,586	194	6,780	100%	100%	100%	110,511	100%	n/a	n/a

Table 3.3b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Minority Level (Market Share)		Ratio of that Minority Level to 0-49% Minority (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Minority Level</b>							
0-49% Minority	6,299	179	6,478	97.24%	2.76%	1.00	1.00
50-100% Minority	287	15	302	95.03%	4.97%	0.98	1.80
<b>Total</b>	6,586	194	6,780	n/a	n/a	n/a	n/a

Table 3.3c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Minority Level to 0-49% Minority (Denial Ratio)
	Applications	Denials	Percent Denied	
<b>Minority Level</b>				
0-49% Minority	12,064	2,413	20.00%	1.00
50-100% Minority	681	189	27.75%	1.39
<b>Total</b>	12,745	2,602	20.42%	n/a

**Table 3.4. All Single-Family Lending to Owner Occupants, Sonoma County, CA, 2008**

**By Income Level of Census Tract**

Table 3.4a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Income Level</b>										
Low-income tract	0	0	0	0.00%	0.00%	0.00%	0	0.00%	-	-
Moderate-income tract	506	23	529	7.68%	11.86%	7.80%	10,137	9.17%	0.84	1.29
Middle-income tract	4,591	149	4,740	69.71%	76.80%	69.91%	78,761	71.27%	0.98	1.08
Upper-income tract	1,489	22	1,511	22.61%	11.34%	22.29%	21,613	19.56%	1.16	0.58
<b>Total</b>	<b>6,586</b>	<b>194</b>	<b>6,780</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>110,511</b>	<b>100%</b>	n/a	n/a

Table 3.4b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Income Level</b>							
Low-income tract	0	0	0	-	-	-	-
Moderate-income tract	506	23	529	95.65%	4.35%	0.97	2.99
Middle-income tract	4,591	149	4,740	96.86%	3.14%	0.98	2.16
Upper-income tract	1,489	22	1,511	98.54%	1.46%	1.00	1.00
<b>Total</b>	<b>6,586</b>	<b>194</b>	<b>6,780</b>	n/a	n/a	n/a	n/a

Table 3.4c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Income Level to Upper-income Level (Denial Ratio)
	Applications	Denials	Percent Denied	
	Income Level			
Low-income tract	0	0	-	-
Moderate-income tract	1,102	264	23.96%	1.36
Middle-income tract	9,015	1,875	20.80%	1.18
Upper-income tract	2,628	463	17.62%	1.00
<b>Total</b>	12,745	2,602	20.42%	n/a

## Disposition Summary

### 2008 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA and MSA is Santa Rosa-Petaluma, CA MSA and County is Sonoma)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	111	42	5	50	10	4	40	2	3.21	3.21
Asian	470	252	55	82	69	12	251	1	3.29	3.29
Black or African American	85	36	9	27	10	3	35	1	6.65	6.65
Native Hawaiian / Other Pacific Islander	41	17	2	13	6	3	14	3	3.48	3.44
White	9,652	5,276	1,159	1,908	1,074	235	5,123	153	3.57	3.3
2 or More Minority Races	5	3	1	1	0	0	3	0	0	0
Joint (White/Minority Race)	220	120	21	46	28	5	118	2	3.27	3.27
Race Not Available	2,161	1,034	223	475	374	55	1,002	32	3.67	3.48
<b>Ethnicity</b>										
Hispanic or Latino	1,003	411	137	313	112	30	388	23	3.64	3.19
Not Hispanic or Latino	9,419	5,230	1,100	1,797	1,064	228	5,095	135	3.61	3.35
Joint (Hisp or Lat/Not Hisp or Lat)	206	98	26	55	22	5	91	7	3.56	3
Ethnicity Not Available	2,117	1,041	212	437	373	54	1,012	29	3.5	3.31
<b>Minority Status</b>										
White Non-Hispanic	8,448	4,746	988	1,585	929	200	4,625	121	3.59	3.3
Others, Including Hispanic	2,045	943	252	543	248	59	905	38	3.65	3.29
<b>Income</b>										
Low - < 50% MSA/MD Median	643	303	54	189	85	12	294	9	3.49	3.41
Moderate - 50-79.99% MSA/MD Median	2,127	1,194	233	376	281	43	1,165	29	3.72	3.33
Middle - 80-119.99% MSA/MD Median	3,303	1,781	417	679	360	66	1,727	54	3.43	3.25
Upper - 120% or More MSA/MD Median	6,435	3,367	750	1,325	802	191	3,266	101	3.63	3.38
Income Not Available	237	135	21	33	43	5	134	1	5.68	5.68
<b>Gender</b>										
Male	3,095	1,511	384	734	375	91	1,457	54	3.65	3.28
Female	2,796	1,473	343	569	334	77	1,426	47	3.46	3.35
Joint (Male/Female)	5,652	3,214	649	1,031	630	128	3,137	77	3.63	3.31
Gender Not Available	1,202	582	99	268	232	21	566	16	3.58	3.34

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	694	417	79	103	78	17	406	11	3.52	3.46
10-19% Minority	4,978	2,677	579	961	625	136	2,611	66	3.75	3.38
20-49% Minority	6,392	3,384	747	1,349	775	137	3,282	102	3.53	3.26
50-79% Minority	681	302	70	189	93	27	287	15	3.39	3.31
80-100% Minority	0	0	0	0	0	0	0	0	0	0
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	0	0	0	0	0	0	0	0	0	0
Moderate - 50-79.99% MSA/MD Median	1,102	529	122	264	156	31	506	23	3.49	3.36
Middle - 80-119.99% MSA/MD Median	9,015	4,740	1,073	1,875	1,115	212	4,591	149	3.58	3.31
Upper - 120% or More MSA/MD Median	2,628	1,511	280	463	300	74	1,489	22	3.8	3.35
Income Not Available	0	0	0	0	0	0	0	0	0	0
Total Applications	12,745	6,780	1,475	2,602	1,571	317	6,586	194	3.59	3.31

**Footnotes**

1. Two or More Minority Races: At least 2 minority race categories must be reported
2. Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
3. Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
4. Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
5. Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
6. Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
7. Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
8. Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
9. Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

**Table 4.1. All Single Family Lending to Owner-Occupants, Sonoma County, CA, 2006**

**By Race of Borrower**

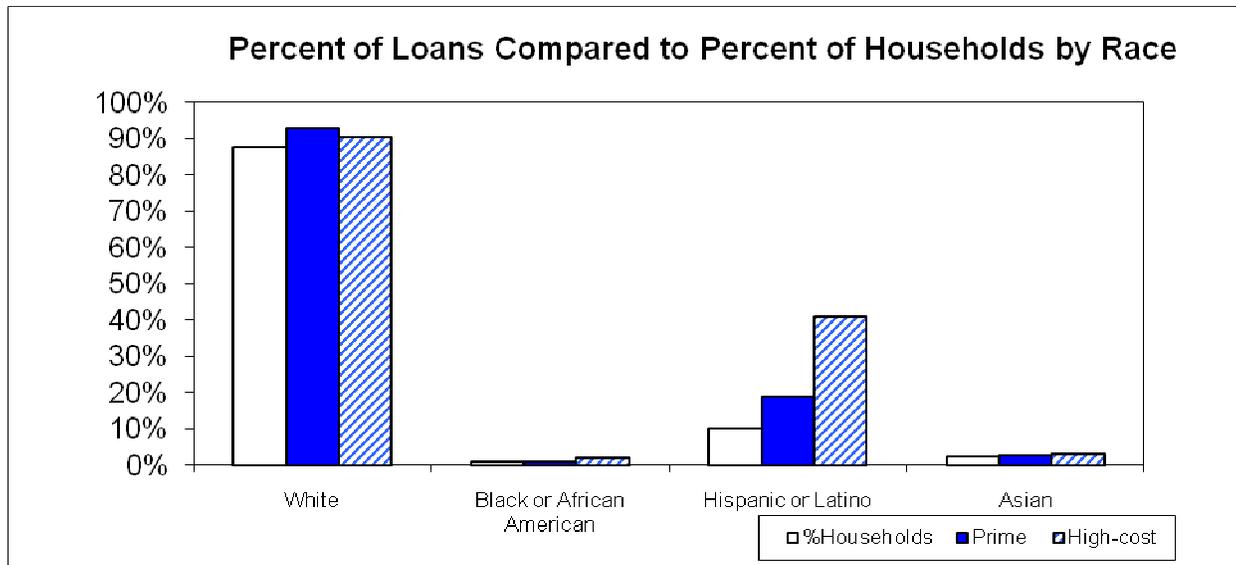
Table 4.1a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	10,985	1,787	12,772	92.83%	90.57%	92.50%	151,580	87.78%	1.06	1.03
Black or African American	124	43	167	1.05%	2.18%	1.21%	2,038	1.18%	0.89	1.85
Hispanic or Latino	2,267	832	3,099	19.04%	41.17%	22.25%	17,272	10.00%	1.90	4.12
Asian	334	65	399	2.82%	3.29%	2.89%	4,136	2.40%	1.18	1.38
<b>Total<sup>1</sup></b>	13,872	2,325	16,197	100%	100%	100%	172,690	100%	n/a	n/a

Table 4.1b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	10,985	1,787	12,772	86.0%	14.0%	1.00	1.00
Black or African American	124	43	167	74.3%	25.7%	0.86	1.84
Hispanic or Latino	2,267	832	3,099	73.2%	26.8%	0.85	1.92
Asian	334	65	399	83.7%	16.3%	0.97	1.16
<b>Total<sup>1</sup></b>	13,872	2,325	16,197	n/a	n/a	n/a	n/a

Table 4.1c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	21,798	3,826	17.55%	1.00
Black or African American	438	89	20.32%	1.16
Hispanic or Latino	6,243	1,545	24.75%	1.41
Asian	761	167	21.94%	1.25
<b>Total<sup>1</sup></b>	29,475	5,626	19.09%	n/a

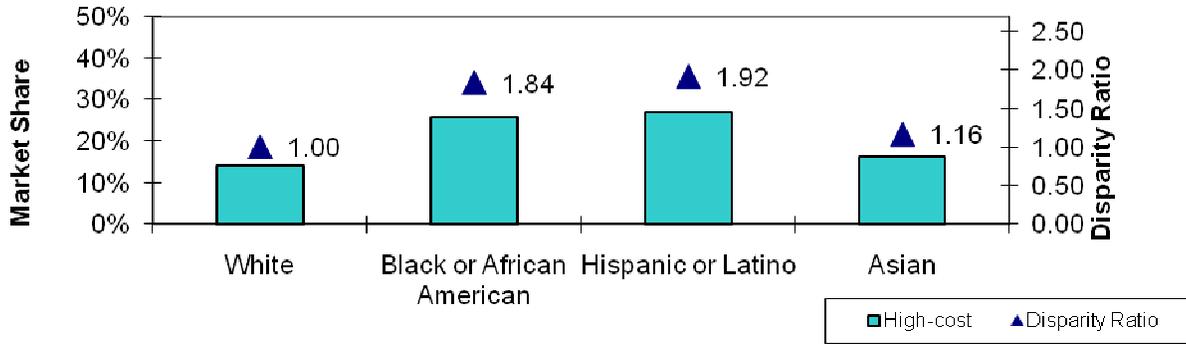
<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian."

**Chart 4.1a**



**Chart 4.1b**

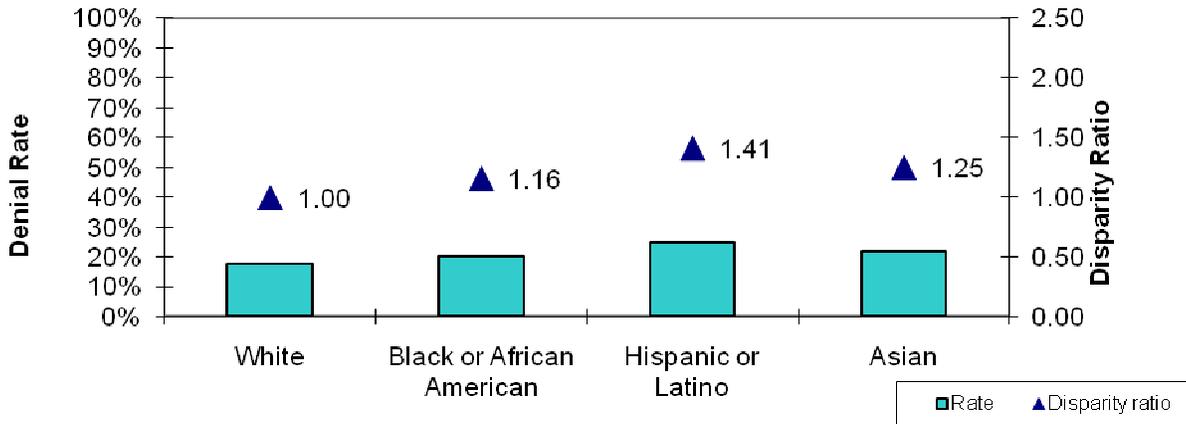
### High-cost Market Share of Loans by Race



Disparity Ratio is subprime market share of loans to a racial group divided by subprime market share of loans to whites.

Chart 4.1c

### Denial Rates and Disparity Ratios by Race



Disparity Ratio is denial rate for loans to a racial group divided by denial rate for loans to whites

**Table 4.2. All Single Family Lending to Owner-Occupants, Sonoma County, CA, 2006**

**By Income Level of Borrower**

Table 4.2a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Income Level</b>										
Low-income	269	17	286	2.07%	0.79%	1.89%	36,957	21.40%	0.10	0.04
Moderate-income	1,055	126	1,181	8.13%	5.84%	7.80%	29,708	17.20%	0.47	0.34
Middle-income	2,548	327	2,875	19.63%	15.15%	18.99%	35,709	20.68%	0.95	0.73
Upper-income	9,109	1,688	10,797	70.17%	78.22%	71.32%	70,316	40.72%	1.72	1.92
<b>Total</b>	13,872	2,325	16,197	100%	100%	100%	172,690	100%	n/a	n/a

Table 4.2b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
Low-income	269	17	286	94.06%	5.94%	1.11	0.38
Moderate-income	1,055	126	1,181	89.33%	10.67%	1.06	0.68
Middle-income	2,548	327	2,875	88.63%	11.37%	1.05	0.73
Upper-income	9,109	1,688	10,797	84.37%	15.63%	1.00	1.00
<b>Total</b>	13,872	2,325	16,197	n/a	n/a	n/a	n/a

Table 4.2c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Income Level to Upper-income (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
Low-income	754	210	27.85%	1.42
Moderate-income	2,342	495	21.14%	1.08
Middle-income	5,022	850	16.93%	0.87
Upper-income	19,293	3,774	19.56%	1.00
<b>Total</b>	<b>29,475</b>	<b>5,626</b>	<b>19.09%</b>	<b>n/a</b>

Chart 4.2a

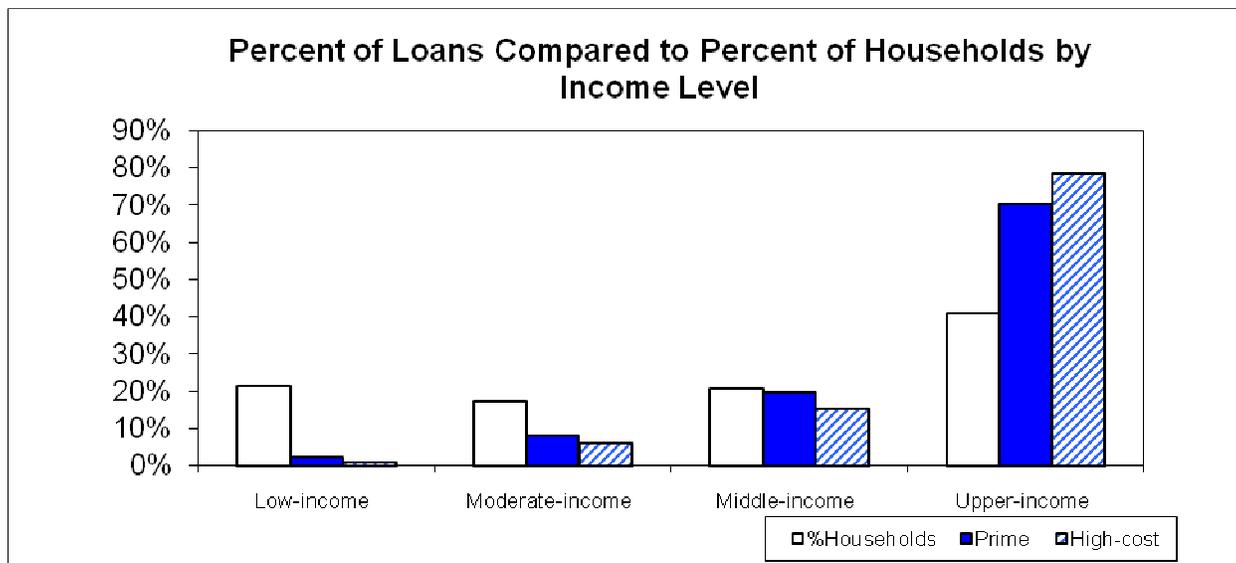


Chart 4.2b

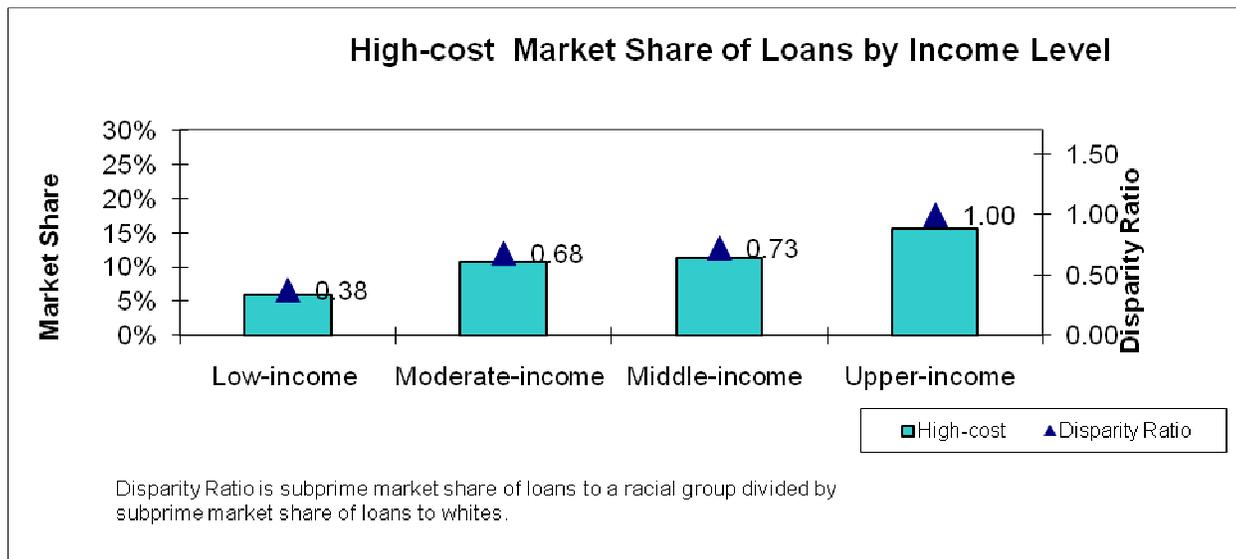
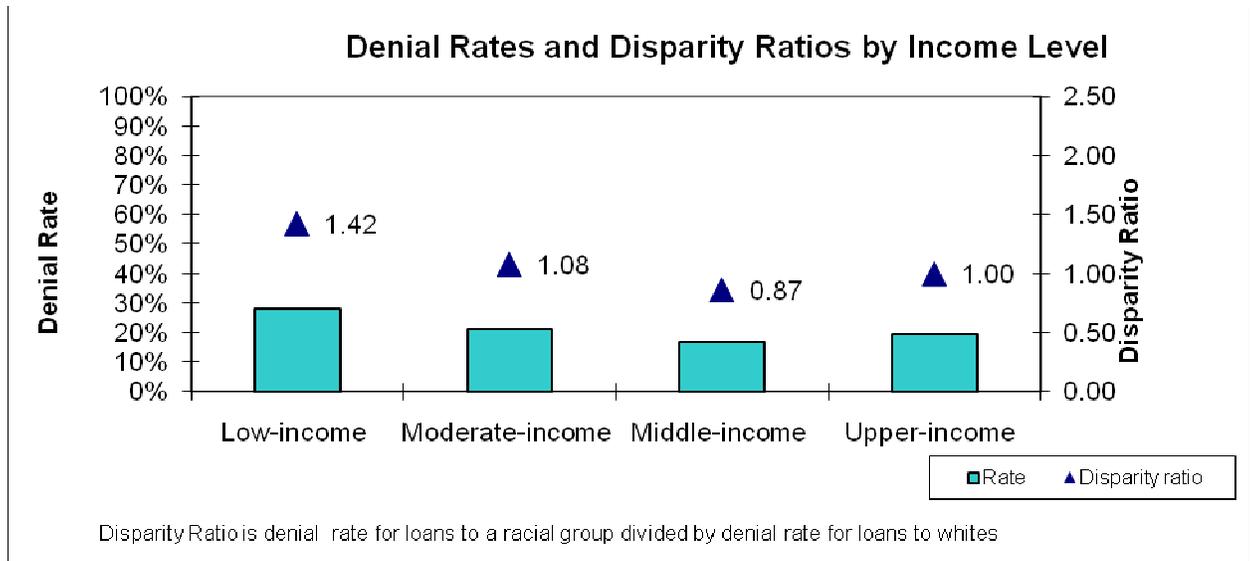


Chart 4.2c



**Table 4.3. All Single-Family Lending to Owner Occupants, Sonoma County, CA, 2006**

**By Minority Level of Census Tract**

Table 4.3a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Minority Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Minority Level</b>										
0-49% Minority	12,936	2,030	14,966	93.25%	87.31%	92.40%	105,246	95.24%	0.98	0.92
50-100% Minority	936	295	1,231	6.75%	12.69%	7.60%	5,265	4.76%	1.42	2.66
<b>Total</b>	13,872	2,325	16,197	100%	100%	100%	110,511	100%	n/a	n/a

Table 4.3b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Minority Level (Market Share)		Ratio of that Minority Level to 0-49% Minority (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Minority Level</b>							
0-49% Minority	12,936	2,030	14,966	86.44%	13.56%	1.00	1.00
50-100% Minority	936	295	1,231	76.04%	23.96%	0.88	1.77
<b>Total</b>	13,872	2,325	16,197	n/a	n/a	n/a	n/a

Table 4.3c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Minority Level to 0-49% Minority (Denial Ratio)
	Applications	Denials	Percent Denied	
<b>Minority Level</b>				
0-49% Minority	26,920	5,049	18.76%	1.00
50-100% Minority	2,555	577	22.58%	1.20
<b>Total</b>	29,475	5,626	19.09%	n/a

**Table 4.4. All Single-Family Lending to Owner Occupants, Sonoma County, CA, 2006**

**By Income Level of Census Tract**

Table 4.4a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Income Levels (Portfolio Share)			Owner-Occupied Housing Units (OOHU)		Ratio of Prime Loans to Percent of OOHU	Ratio of High-cost Loans to Percent of OOHU
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Income Level</b>										
Low-income tract	0	0	0	0.00%	0.00%	0.00%	0	0.00%	-	-
Moderate-income tract	1,392	376	1,768	10.03%	16.17%	10.92%	10,137	9.17%	1.09	1.76
Middle-income tract	9,753	1,602	11,355	70.31%	68.90%	70.11%	78,761	71.27%	0.99	0.97
Upper-income tract	2,727	347	3,074	19.66%	14.92%	18.98%	21,613	19.56%	1.01	0.76
<b>Total</b>	<b>13,872</b>	<b>2,325</b>	<b>16,197</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>110,511</b>	<b>100%</b>	n/a	n/a

Table 4.4b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Income Level (Market Share)		Ratio of that Income Level to Upper-income (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Income Level</b>							
Low-income tract	0	0	0	-	-	-	-
Moderate-income tract	1,392	376	1,768	78.73%	21.27%	0.89	1.88
Middle-income tract	9,753	1,602	11,355	85.89%	14.11%	0.97	1.25
Upper-income tract	2,727	347	3,074	88.71%	11.29%	1.00	1.00
<b>Total</b>	<b>13,872</b>	<b>2,325</b>	<b>16,197</b>	n/a	n/a	n/a	n/a

Table 4.4c. Loan Denial Disparity Ratio	Denial Rate			Ratio of that Income Level to Upper-income Level (Denial Ratio)
	Applications	Denials	Percent Denied	
	<b>Income Level</b>			
Low-income tract	0	0	-	-
Moderate-income tract	3,652	821	22.48%	1.34
Middle-income tract	20,549	3,920	19.08%	1.14
Upper-income tract	5,274	885	16.78%	1.00
<b>Total</b>	<b>29,475</b>	<b>5,626</b>	<b>19.09%</b>	<b>n/a</b>

## Disposition Summary

### 2006 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA and MSA is Santa Rosa-Petaluma, CA MSA and County is Sonoma)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	360	180	32	87	46	15	142	38	4.9	5.2
Asian	761	399	85	167	89	21	334	65	4.78	4.97
Black or African American	438	167	32	89	142	8	124	43	5.14	5.45
Native Hawaiian / Other Pacific Islander	142	60	20	38	21	3	47	13	4.74	4.76
White	21,798	12,772	2,249	3,826	2,305	646	10,985	1,787	4.84	5.02
2 or More Minority Races	14	8	0	4	2	0	8	0	0	0
Joint (White/Minority Race)	351	221	19	73	29	9	194	27	5.09	5.26
Race Not Available	5,611	2,390	565	1,342	1,083	231	2,038	352	4.93	5.09
<b>Ethnicity</b>										
Hispanic or Latino	6,243	3,099	752	1,545	660	187	2,267	832	5.02	5.21
Not Hispanic or Latino	17,519	10,563	1,706	2,802	1,942	506	9,415	1,148	4.73	4.82
Joint (Hisp or Lat/Not Hisp or Lat)	454	268	30	96	47	13	227	41	4.97	3
Ethnicity Not Available	5,259	2,267	514	1,183	1,068	227	1,963	304	4.9	5.04
<b>Minority Status</b>										
White Non-Hispanic	15,632	9,626	1,528	2,378	1,642	458	8,632	994	4.69	4.76
Others, Including Hispanic	8,388	4,204	932	2,008	1,002	242	3,194	1,010	5.01	5.21
<b>Income</b>										
Low - < 50% MSA/MD Median	754	286	43	210	182	33	269	17	5.29	5.3
Moderate - 50-79.99% MSA/MD Median	2,342	1,181	183	495	399	84	1,055	126	5.05	5.33
Middle - 80-119.99% MSA/MD Median	5,022	2,875	445	850	678	174	2,548	327	5.13	5.26
Upper - 120% or More MSA/MD Median	19,293	10,797	1,989	3,774	2,162	571	9,109	1,688	4.91	5.09
Income Not Available	2,064	1,058	342	297	296	71	891	167	3.6	3.32
<b>Gender</b>										
Male	9,209	4,644	1,031	2,030	1,172	332	3,730	914	4.91	5.12
Female	7,248	4,013	755	1,382	843	255	3,384	629	4.84	5.03
Joint (Male/Female)	10,798	6,577	1,004	1,765	1,179	273	5,877	700	4.78	4.88
Gender Not Available	2,220	963	212	449	523	73	881	82	5.09	5.29

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	1,113	674	122	172	117	28	631	43	4.32	3.74
10-19% Minority	10,250	5,804	1,032	1,848	1,271	295	5,194	610	4.76	4.92
20-49% Minority	15,557	8,488	1,552	3,029	1,972	516	7,111	1,377	4.88	5.04
50-79% Minority	2,555	1,231	296	577	357	94	936	295	5.02	5.25
80-100% Minority	0	0	0	0	0	0	0	0	0	0
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	0	0	0	0	0	0	0	0	0	0
Moderate - 50-79.99% MSA/MD Median	3,652	1,768	407	821	517	139	1,392	376	4.92	5.09
Middle - 80-119.99% MSA/MD Median	20,549	11,355	2,092	3,920	2,546	636	9,753	1,602	4.88	5.04
Upper - 120% or More MSA/MD Median	5,274	3,074	503	885	654	158	2,727	347	4.7	4.76
Income Not Available	0	0	0	0	0	0	0	0	0	0
Total Applications	29,475	16,197	3,002	5,626	3,717	933	13,872	2,325	4.86	5.03

**Footnotes**

1. Two or More Minority Races: At least 2 minority race categories must be reported
2. Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
3. Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
4. Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
5. Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
6. Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
7. Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
8. Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
9. Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

**Table 5. All Single Family Lending to Owner-Occupants, California, 2006**

**By Race of Borrower**

Table 5a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	634,250	206,518	840,768	77.55%	75.89%	77.13%	7,767,132	67.47%	1.15	1.12
Black or African American	41,703	29,046	70,749	5.10%	10.67%	6.49%	788,392	6.85%	0.74	1.56
Hispanic or Latino	235,627	140,074	375,701	28.30%	49.43%	33.66%	2,574,994	22.37%	1.27	2.21
Asian	96,797	21,795	118,592	11.83%	8.01%	10.88%	1,107,388	9.62%	1.23	0.83
<b>Total<sup>1</sup></b>	972,529	334,947	1,307,476	100%	100%	100%	11,512,020	100%		

Table 5b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	634,250	206,518	840,768	75.4%	24.6%	1.00	1.00
Black or African American	41,703	29,046	70,749	58.9%	41.1%	0.78	1.67
Hispanic or Latino	235,627	140,074	375,701	62.7%	37.3%	0.83	1.52
Asian	96,797	21,795	118,592	81.6%	18.4%	1.08	0.75
<b>Total<sup>1</sup></b>	972,529	334,947	1,307,476	n/a	n/a	n/a	n/a

Table 5c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	1,568,825	326,209	20.79%	1.00
Black or African American	173,387	47,472	27.38%	1.32
Hispanic or Latino	787,376	198,794	25.25%	1.21
Asian	218,080	43,754	20.06%	0.96
<b>Total<sup>1</sup></b>	2,679,006	596,219	22%	n/a

<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian."

## Disposition Summary

### 2006 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	51,666	21,821	5,050	16,211	7,241	1,343	15,824	5,997	5.04	5.29
Asian	218,080	118,592	26,598	43,754	22,937	6,199	96,797	21,795	4.86	5.06
Black or African American	173,387	70,749	15,417	47,472	34,643	5,106	41,703	29,046	5.31	5.57
Native Hawaiian / Other Pacific Islander	37,461	17,335	4,289	9,541	5,136	1,160	12,200	5,135	5.07	5.35
White	1,568,825	840,768	156,529	326,209	197,880	47,439	634,250	206,518	5.08	5.35
2 or More Minority Races	2,217	990	202	603	329	93	717	273	5.08	5.42
Joint (White/Minority Race)	34,888	19,770	3,186	6,737	4,362	833	16,399	3,371	4.95	5.15
Race Not Available	592,482	217,451	61,062	145,692	136,729	31,548	154,639	62,812	5.21	5.47
<b>Ethnicity</b>										
Hispanic or Latino	787,376	375,701	85,914	198,794	101,037	25,930	235,627	140,074	5.19	5.45
Not Hispanic or Latino	1,324,976	715,603	130,196	264,905	175,816	38,456	576,907	138,696	5.01	5.27
Joint (Hispanic or Latino/Not Hispanic or Latino)	44,505	24,699	4,038	9,033	5,606	1,129	20,107	4,592	4.98	3.35
Ethnicity Not Available	522,149	191,473	52,185	123,487	126,798	28,206	139,888	51,585	5.16	5.42
<b>Minority Status</b>										
White Non-Hispanic	849,655	486,725	79,668	153,713	105,234	24,315	407,565	79,160	4.94	5.18
Others, Including Hispanic	1,282,591	620,042	137,888	312,281	172,375	40,005	418,093	201,949	5.16	5.43
<b>Income</b>										
Low - < 50% MSA/MD Median	55,744	16,289	3,666	19,893	13,690	2,206	13,471	2,818	4.95	4.93
Moderate - 50-79.99% MSA/MD Median	174,681	74,054	13,624	45,834	34,503	6,666	59,306	14,748	5.25	5.47
Middle - 80-119.99% MSA/MD Median	443,589	212,811	39,557	101,115	74,165	15,941	160,522	52,289	5.31	5.55
Upper - 120% or More MSA/MD Median	1,833,452	932,064	191,794	400,453	247,272	61,869	682,665	249,399	5.14	5.42
Income Not Available	171,540	72,258	23,692	28,924	39,627	7,039	56,565	15,693	3.76	3.43
<b>Gender</b>										
Male	913,589	426,695	97,871	222,481	133,392	33,150	294,450	132,245	5.14	5.42
Female	713,394	347,650	73,166	168,125	100,515	23,938	245,037	102,613	5.14	5.44
Joint (Male/Female)	844,477	462,879	79,389	161,246	114,630	26,333	379,366	83,513	4.99	5.19
Gender Not Available	207,546	70,252	21,907	44,367	60,720	10,300	53,676	16,576	5.24	5.53

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	34,505	19,129	3,213	6,204	4,886	1,073	16,565	2,564	4.84	4.93
10-19% Minority	319,619	171,996	30,853	61,170	45,709	9,891	145,961	26,035	4.91	5.08
20-49% Minority	1,034,689	526,295	103,882	215,052	154,519	34,941	412,935	113,360	5.05	5.31
50-79% Minority	769,296	360,051	79,345	182,127	119,619	28,154	250,535	109,516	5.15	5.43
80-100% Minority	509,438	227,919	53,434	129,226	79,684	19,175	144,794	83,125	5.2	5.48
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	83,535	35,275	8,892	22,935	13,335	3,098	21,146	14,129	5.25	5.53
Moderate - 50-79.99% MSA/MD Median	564,901	252,984	57,771	142,809	89,874	21,463	164,022	88,962	5.21	5.49
Middle - 80-119.99% MSA/MD Median	1,129,104	546,458	114,145	254,252	174,219	40,030	399,075	147,383	5.12	5.39
Upper - 120% or More MSA/MD Median	889,830	470,643	89,908	173,739	126,897	28,643	386,527	84,116	4.95	5.2
Income Not Available	11,636	2,116	1,617	2,484	4,932	487	1,759	357	4.58	4.19
Total Applications	2,679,006	1,307,476	272,333	596,219	409,257	93,721	972,529	334,947	5.11	5.38

**Footnotes**

1. Two or More Minority Races: At least 2 minority race categories must be reported
2. Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
3. Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
4. Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
5. Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
6. Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
7. Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
8. Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
9. Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

**Table 6. All Single Family Lending to Owner-Occupants, California, 2008**

**By Race of Borrower**

Table 6a. Portfolio Share Analysis	Count of Loans			As a Percent of Loans to All Races (Portfolio Share)			Households		Ratio of Prime Loans to Percent of Households	Ratio of High-cost Loans to Percent of Households
	Prime	High-cost	All	Prime	High-cost	All	Count	Percent		
<b>Borrower Race</b>										
White	265,671	11,978	277,649	74.33%	79.09%	74.52%	7,767,132	67.47%	1.10	1.17
Black or African American	8,820	980	9,800	2.47%	6.47%	2.63%	788,392	6.85%	0.36	0.94
Hispanic or Latino	57,533	5,448	62,981	15.92%	35.50%	16.71%	2,574,994	22.37%	0.71	1.59
Asian	65,802	1,355	67,157	18.41%	8.95%	18.02%	1,107,388	9.62%	1.91	0.93
<b>Total<sup>1</sup></b>	423,979	17,561	441,540	100%	100%	100%	11,512,020	100%		

Table 6b. Market Share Analysis	Count of Loans			As a Percent of Loans to that Race (Market Share)		Ratio of that Race to White (Market Share Ratio)	
	Prime	High-cost	All	Prime	High-cost	Prime	High-cost
<b>Borrower Race</b>							
White	265,671	11,978	277,649	95.7%	4.3%	1.00	1.00
Black or African American	8,820	980	9,800	90.0%	10.0%	0.94	2.32
Hispanic or Latino	57,533	5,448	62,981	91.3%	8.7%	0.95	2.01
Asian	65,802	1,355	67,157	98.0%	2.0%	1.02	0.47
<b>Total<sup>1</sup></b>	423,979	17,561	441,540	n/a	n/a	n/a	n/a

Table 6c. Loan Denial Disparity Ratios	Denial Rate			Ratio of that Race to White (Denial Ratio)
	Applications	Denials	Percentage	
<b>Borrower Race</b>				
White	592,997	159,671	26.93%	1.00
Black or African American	34,129	15,706	46.02%	1.71
Hispanic or Latino	192,098	75,198	39.15%	1.45
Asian	130,563	27,191	20.83%	0.77
<b>Total<sup>1</sup></b>	977,940	270,085	28%	n/a

<sup>1</sup> "Total" refers to total of all races, which includes races in addition to the four included in this analysis. Therefore, the "Total" may not equal the sum of "White," "Black or African American," "Hispanic or Latino," and "Asian."

## Disposition Summary

### 2008 Peer Mortgage Data (USPR)

#### Active Filter

( State is CA)

Loan Type is Conventional and (Property Type is One to Four-Family) and (Occupancy is Owner Occupied) and (Lien Status is First lien) and (Transition Status is Not Transition Application)

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Borrower Characteristics</b>										
<b>Race</b>										
American Indian / Alaska Native	20,250	4,574	1,331	11,259	2,636	450	4,243	331	4.03	3.6
Asian	130,563	67,157	15,940	27,191	14,977	5,298	65,802	1,355	3.62	3.29
Black or African American	34,129	9,800	2,981	15,706	4,205	1,437	8,820	980	3.99	3.49
Native Hawaiian / Other Pacific Islander	9,958	3,375	1,089	3,805	1,273	416	3,163	212	3.71	3.38
White	592,997	277,649	66,005	159,671	68,558	21,114	265,671	11,978	3.81	3.39
2 or More Minority Races	1,404	470	85	585	228	36	444	26	3.83	3.33
Joint (White/Minority Race)	19,642	9,558	1,817	5,374	2,339	554	9,295	263	3.84	3.41
Race Not Available	168,997	68,957	18,709	46,494	26,671	8,166	66,541	2,416	3.93	3.44
<b>Ethnicity</b>										
Hispanic or Latino	192,098	62,981	23,927	75,198	21,667	8,325	57,533	5,448	3.82	3.4
Not Hispanic or Latino	612,024	304,200	65,011	148,659	72,920	21,234	294,664	9,536	3.81	3.39
Joint (Hispanic or Latino/Not Hispanic or Latino)	21,490	9,618	2,019	6,607	2,623	623	9,256	362	3.85	3.02
Ethnicity Not Available	152,328	64,741	17,000	39,621	23,677	7,289	62,526	2,215	3.92	3.43
<b>Minority Status</b>										
White Non-Hispanic	412,335	211,951	42,563	95,465	49,065	13,291	205,266	6,685	3.82	3.39
Others, Including Hispanic	403,969	160,959	47,292	132,504	46,672	16,542	152,407	8,552	3.81	3.39
<b>Income</b>										
Low - < 50% MSA/MD Median	39,665	13,940	3,001	16,709	4,987	1,028	12,978	962	4.17	3.51
Moderate - 50-79.99% MSA/MD Median	120,465	53,531	12,223	37,403	13,845	3,463	50,741	2,790	3.98	3.45
Middle - 80-119.99% MSA/MD Median	223,342	100,459	25,052	64,002	26,634	7,195	95,928	4,531	3.81	3.39
Upper - 120% or More MSA/MD Median	572,353	265,453	65,329	146,918	70,296	24,357	256,345	9,108	3.74	3.37
Income Not Available	22,115	8,157	2,352	5,053	5,125	1,428	7,987	170	4.7	3.64
<b>Gender</b>										
Male	281,213	115,907	32,824	84,301	35,742	12,439	110,108	5,799	3.74	3.37
Female	214,951	93,512	23,814	63,534	25,606	8,485	88,717	4,795	3.85	3.41
Joint (Male/Female)	399,306	198,680	42,163	99,888	45,763	12,812	192,474	6,206	3.84	3.41
Gender Not Available	82,470	33,441	9,156	22,362	13,776	3,735	32,680	761	4.27	3.45

Count	Disposition of Applications						Pricing Data (7)		Percentage Points above the Treasury Rate (8, 9)	
	Applications Received	Loans Originated	Approved but Not Accepted	Denied	Withdrawn	File Closed for Incompleteness	Not Reported	Reported	Mean Value	Median Value
<b>Census Tract Characteristics</b>										
<b>Racial / Ethnic Composition</b>										
< 10% Minority	18,729	9,758	1,874	4,111	2,302	684	9,440	318	3.77	3.41
10-19% Minority	156,447	79,819	16,460	35,354	19,451	5,363	77,789	2,030	3.85	3.39
20-49% Minority	406,358	197,406	43,701	100,677	50,244	14,330	191,291	6,115	3.81	3.38
50-79% Minority	244,038	102,021	27,614	75,189	29,606	9,608	97,097	4,924	3.84	3.4
80-100% Minority	146,204	51,580	17,528	53,066	17,372	6,658	47,426	4,154	3.85	3.43
<b>Income Characteristics</b>										
Low - < 50% MSA/MD Median	22,370	7,497	2,750	8,363	2,834	926	6,857	640	3.78	3.4
Moderate - 50-79.99% MSA/MD Median	154,916	56,716	17,259	55,386	19,075	6,480	52,729	3,987	3.89	3.43
Middle - 80-119.99% MSA/MD Median	386,151	169,922	42,324	112,102	47,236	14,567	162,405	7,517	3.83	3.41
Upper - 120% or More MSA/MD Median	408,317	206,442	44,842	92,539	49,825	14,669	201,046	5,396	3.78	3.35
Income Not Available	6,186	963	782	1,695	1,917	829	942	21	3.41	3.35
Total Applications	977,940	441,540	107,957	270,085	120,887	37,471	423,979	17,561	3.83	3.4

**Footnotes**

- Two or More Minority Races: At least 2 minority race categories must be reported
- Joint Race (White/Minority Race): Both Applicant and Co-Applicant must be reported and one must be White only, and the other must be a Minority, in either order
- Joint Ethnicity: Both Applicant and Co-Applicant must be reported and one must be Hispanic or Latino, and the other must be Not Hispanic or Latino, in either order
- Joint Gender: Both Applicant and Co-Applicant must be reported and one must be Female and the other must be Male, in either order
- Total Minority: Composite of non-White Race total and Hispanic or Latino Ethnicity; if one record meets both conditions, it will only be counted once
- Rate Spread: Only considers originated loans; "Not Reported" represents rate spread value as 'NA'; "Reported" represents those with rate spread as a numeric value.
- Rate Spread: Only considers originated loans; "Mean Value" represents the average rate spread value for all records with a reported numeric rate spread value.
- Rate Spread: Only considers originated loans; "Median Value" represents the midpoint of rate spread values for all records with a reported numeric rate spread value.
- Only records that specifically meet the definition for each cell on the report will be included. If your data contains validity errors, you may have difficulty in resolving subtotals.

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