

COMMUNITY DEVELOPMENT AGENCY

February 11, 2020

Brian C. Crawford
DIRECTOR

Marin County Civic Center
3501 Civic Center Drive
Suite 308
San Rafael, CA 94903
415 473 6269 T
415 473 7880 F
415 473 2255 TTY

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Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Analysis of Impediments To Fair Housing Choice

Dear Board Members:

RECOMMENDATION: Approval of the County's Analysis of Impediments to Fair Housing Choice

SUMMARY:

The U.S. Department of Housing and Urban Development (HUD) requires jurisdictions receiving federal grant funds for housing and community development to certify that they are taking actions to affirmatively further fair housing (AFFH). Marin County receives federal grant funds from HUD for the Community Development Block Grant (CDBG) program and the Home Investment Partnership (HOME) program that provide funding for housing, community facilities, and public services for low and moderate-income households. Recent examples of CDBG and HOME funded projects throughout the County include:

- Rehabilitating Pickleweed Park playground in San Rafael's Canal Neighborhood;
- Predevelopment expenses for the Marin City Health and Wellness Center's new health hub complex;
- Rehabilitation of 26, 2- and 3-bedroom units of family housing recently deed restricted as affordable in Fairfax; and
- Funding for the Marin Center for Independent Living and Marin Housing Authority's Residential Rehabilitation Loan Program that allows people with disabilities and mobility challenges to remain in their homes.

Under both the CDBG and HOME programs, the County is required to certify it is taking actions and documenting those actions that affirmatively further fair housing. Affirmatively further fair housing means, according to HUD, "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics." Specifically, affirmatively furthering fair housing means taking meaningful actions that, when taken together,

- Address significant disparities in housing needs and in access to opportunities;
- Replace segregated living patterns with truly integrated and balanced living patterns;
- Transform racially and ethnically concentrated areas of poverty into areas of opportunity; and
- Foster and maintain compliance with civil rights and fair housing laws.

To attain the goal of affirmatively furthering fair housing, HUD requires jurisdictions to engage in fair housing planning by:

1. Conducting and updating their Analysis of Impediments to Fair Housing Choice (AI);
2. Developing appropriate actions to overcome the effects of the identified impediments; and
3. Developing a system for record keeping and monitoring the activities undertaken to reduce or overcome the identified impediments.

HUD defines an Analysis of Impediments as “a review of impediments or barriers that affect the rights of fair housing choice. It covers public and private policies, practices, and procedures affecting 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 County staff, housing providers, lenders, and fair housing advocates, and assists in building public support for fair housing efforts.”

While the County’s 2020 AI meets HUD’s requirements to conduct a fair housing analysis, the approach and perspective on how to conduct the analysis and the review of its fair housing policies and programs go beyond the mandates of HUD. This AI reflects an expanded community engagement process that included residents and communities who are members of the protected classes, but also those individuals who are not members of the protected classes yet also face housing challenges. The voices and concerns of seniors, agricultural workers, youth and people experiencing homelessness were part of the process of developing recommendations which can impact their opportunities for fair housing choice as residents in Marin. In addition, the County not only reviewed and analyzed its efforts to affirmatively furthering fair housing, but went beyond the requirement to address illegal discrimination by recommending it continue to work with communities to identify resources to create affordable housing and homeownership, particularly for those who have been directly affected by historic housing inequities and discrimination.

BACKGROUND

In 2009, HUD conducted a comprehensive review of the County’s compliance with its fair housing and equal opportunity regulations, which concluded with an agreement in 2010 between the County and HUD, known as a Voluntary Compliance Agreement (VCA). The VCA included a process for compliance activities, monitoring reports, analysis of the demographics of beneficiaries of our Federal grant projects, a review of the County’s affirmative marketing for fair housing choice, a completion of an Analysis of Impediments to Fair Housing Choice, and ongoing activities that address issues raised by the AI.

On October 11, 2011, the Board of Supervisors approved the County’s Analysis of Impediments to Fair Housing Choice and the Implementation Plan that identified 37 specific recommendations to address barriers to fair housing choice in Marin.

The 2010 VCA was in effect for a 5-year period, expiring on December 22, 2015. The County subsequently agreed to enter into a new VCA with HUD that acknowledges progress made by the County to implement fair housing law as well as to advance the County's ongoing commitment in this area, and in particular, to encourage and facilitate the creation of family rental housing. On May 7, 2019, the Board of Supervisors approved the 2019 Voluntary Compliance Agreement between the U.S. Department of Housing and Urban Development and the County of Marin, which will expire in May 2022. As part of that agreement, the County committed to submit an Analysis of Impediments to Fair Housing Choice to HUD by January 30, 2020, which was subsequently extended to February 15, 2020.

From 2016 to 2019, County staff engaged with over 2,700 individual residents, community groups, nonprofits, youth, and County employees, among others, to develop a comprehensive understanding of housing challenges in Marin and to hear recommendations for addressing those housing challenges. The recommendations and findings contained in this report are a direct result of the County's robust community engagement process and its commitment to setting locally-determined fair housing priorities and goals. This 2020 AI also provides an update on the recommendations from the 2011 Analysis of Impediments and the Implementation Plan.

The 2020 AI will help prepare and support the County's Consolidated Plan, which is required every five years, to identify the County's affordable housing and community development needs and to inform the priorities for Community Development Block Grant (CDBG) and HOME Partnership grant funds. As recipients of CDBG and HOME grants, the County is required to certify that it is affirmatively furthering fair housing and identify funding priorities that align with housing policies. The 2020 AI helps identify and define the impediments to fair housing, provides a review of County demographics and other relevant data, exemplifies a community engagement process, and includes recommendations to address barriers to fair housing choice in Marin. In addition, this AI is timely insofar as it will help inform the County's Housing Element and will serve as the foundation for the reporting requirements for California Assembly Bill 686, which requires public agencies to administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing. Housing Elements, including a response to CA Bill 686, are due in December 2022.

With your Board's approval, Staff will submit the County's Analysis of Impediments to Fair Housing Choice to the U.S. Department of Housing and Urban Development.

DISCUSSION

The purpose of the Analysis of Impediments to Fair Housing Choice is to analyze fair housing information, identify any existing impediments to fair housing choice, and recommend actions to overcome those impediments. In addition to reviewing public and private policies, practices, and procedures affecting housing choice, it is also intended to serve as the basis for the County to evaluate and plan for fair housing needs while providing valuable information to policymakers, fair housing advocates,

service providers, and lenders in their efforts to build and support fair housing policies and practices.

As part of the County's community engagement process that included over 2,700 residents, community groups, nonprofits, youth, and County employees, among others, County staff invited residents of Marin to serve on a Community Advisory Group with a focus on identifying barriers to housing and developing recommendations that address those barriers. The invitation to join the Community Advisory Group was prepared both in English and Spanish and was sent out through the County's email system as well as to local groups, organizations, individual residents and nonprofits who had expressed interest in housing-related policies and programs. A key component for selection was to identify individuals who had not previously had a seat at the table for public policy development. The eleven selected residents represented communities from San Rafael, Marin City/Sausalito, Novato, Larkspur, West Marin and San Anselmo. Members of the group included females, males, and LGBTQ; White, African American, and Latinx residents; a member of the disabled community, and a high school student. Meetings began in December 2016 and continued through June 2018 and were held in the evening.

County staff also created a Steering Committee to provide oversight for the fair housing community engagement process. As with the composition of the Community Advisory Group, the selection of committee members was based in part on intentional outreach to individuals who had not previously participated in County conversations. The Steering Committee consisted of 20 people representing public housing residents, faith-based organizations, the Housing Authority, cities and towns within Marin, business, members of the disabled community, children, legal aid, people experiencing homelessness, Latino, African American and Asian communities and philanthropy. The Steering Committee was formed in January 2017 and met regularly with County staff through June 2018 to develop recommendations to address barriers to fair housing choice in Marin.

Both the Community Advisory Group and the Steering Committee analyzed local, demographic data and engaged in comprehensive discussions about race, segregation and integration patterns in the County, and why where you live matters. The groups reviewed and discussed data and subjects including homeowners and renters in Marin, legal and illegal housing advertisement, the cost of housing in Marin, household incomes, the results of the County's 2015 Rental Housing Survey, and anticipated housing needs as the number of adults age 60 and over in Marin continues to grow.

Throughout the community engagement process, both groups became more familiar with and educated about disability and ableism, fair housing laws, publicly supported housing programs including the various Marin Housing Authority programs, shared and received additional resources including updates to County policies, articles about housing in Marin, reading recommendations and other information about housing-related topics. The Steering Committee reviewed and discussed the April 2017 Grand Jury Report - Overcoming Barriers to Housing Affordability and gained knowledge and insight through discussions about the effects of racism and gentrification in African American communities.

Youth groups were also engaged. Students from the Marin School of Environmental Leadership (MarinSEL) made a presentation to the Community Advisory Group, which included a video they created that depicted transportation challenges for residents in the Canal neighborhood of San Rafael. The Marin County Youth Commission's Housing Subcommittee facilitated focus groups to collect information on how renting and evictions affect youth and prepared a presentation on Just Cause for Eviction for the Board of Supervisors.

In June 2018, County staff presented a progress report to the Marin County Board of Supervisors, which included three specific recommendations that were developed jointly by members of the community, the Community Advisory Group, and Steering Committee. The progress report and recommendations reflected the community engagement and outreach process from July 2016 to March 2018 and included an analysis of data and other information about historic segregation and integration policies, racially and ethnically concentrated areas of poverty, and significant contributing factors that are related to publicly supported housing, disability and access issues. On June 12, 2018 the Community Advisory Group and Steering Committee identified two recommendations to present to the Board of Supervisors:

1. Request the Board of Supervisors vote on a Just Cause for Eviction ordinance in 2018 to reinforce and complement renter protection measures already adopted by the Board for residents in unincorporated areas of Marin. If the Board decides to approve a Just Cause for Eviction ordinance, County staff should provide public education for the ordinance and administrative support to cities and towns to help them implement a Just for Cause Eviction ordinance.

Update

The Board of Supervisors adopted a Just Cause for Eviction Ordinance on December 18, 2018, and County staff has created a rental registry program for affected landlords and property owners.

2. Develop an Housing Oversight Committee that includes members of the public, representatives from all cities and towns, mayors, Aides to the Board of Supervisors, professional realtors and investors, Marin Housing Authority, Marin Community Foundation, Office of Education, Marin Economic Forum, homeowners and renters, and members of the protected classes to affirmatively further fair housing, increase affordable housing in Marin and develop model ordinances for cities and towns. Utilize and include existing housing-related organizations including Marin Chronic Homelessness Action Taskforce (MCHAT), the Landlord Incentive Program, the Marin Community Foundation Acquisition team, among others, to develop policies, programs and practices with an equity and racial equity lens that address housing challenges in Marin. This recommendation is consistent with the Marin County Grand Jury Report's recommendation for the creation of a County Regional Housing Coordinator.

Update

While an official housing oversight committee has not been formed, a multi-jurisdictional and stakeholder group (Open Doors Marin) continues to work on

addressing affordable housing issues affecting the entire county. Also, County staff has formed a working group comprised of local Community Development Directors to collaborate on cross jurisdictional housing programs in Marin.

In addition to the above recommendations, members of the Community Advisory Group were also asked to identify a priority for their specific communities. The recommendations from the Community Advisory Group were:

- Develop a Community Land Trust in Marin City;
- Regulate, tax, license and/or limit the number of short-term rentals allowed in West Marin;
- Review how the County's parking and traffic policies disproportionately affect low-income residents and people of color, and develop alternate ways for payment of fees; and
- Develop ways to increase the County's ability to attract affordable housing in Marin.

The June 12, 2018 staff presentation to the Board of Supervisors as well as the staff report which is available in English, Spanish and Vietnamese can be viewed at the following link:

<https://www.marincounty.org/depts/cd/divisions/housing/fair-housing/assessment-of-fair-housing>

In December 2018, the Marin County Community Development Agency recommended the Marin County Board of Supervisors approve the continuation of the community engagement and outreach process that started in July 2016 and continued through July 2018. In addition to identifying barriers to housing, specific attention would be focused on identifying disparities in transportation, education, employment, environmentally healthy neighborhoods and community assets for certain populations and communities in Marin County.

In December 2018, County staff convened a new Steering Committee and Community Advisory Group and invited residents of Marin who had not previously had a seat at the table for public policy development to develop recommendations that address barriers to fair housing choice. Residents for the Community Advisory Group represent communities from Marin City, San Rafael, Novato, Mill Valley, Fairfax, Inverness, Tiburon, Corte Madera, Larkspur and Lagunitas.

Beginning in 2019, the Community Advisory Group and Steering Committees met regularly to discuss specific disparities in the County, and to develop recommendations to address those disparities. These recommendations are part of the process for determining final recommendations to be presented to the Marin County Board of Supervisors and are included in this 2020 AI.

In December 2019, the 2020 AI was submitted to the CDBG Priority Setting Committee for review and the Staff Report and this AI were translated in Spanish and Vietnamese and were posted for public comment.

Summary of Key Findings, Conclusions and Recommendations

The 2020 Analysis of Impediments to Fair Housing Choice provides information on the current population and housing needs of Marin County, with an emphasis and focus on the needs of racial and ethnic minorities, families with children, persons with disabilities, and other members of the protected classes.

The general conclusion is that whether assessed on a national, regional or local level, where you live matters - particularly for people of color, those with disabilities, families and other members of the protected classes. A person's zip code can predict their life expectancy, their ability to attend good schools, opportunities for employment, transportation options and quality housing.

The County's goal is to increase, expand and maintain its affordable housing inventory and to increase opportunities for housing choice for low income residents, people of color, people with disabilities and residents who have specifically been impacted by historic government policies and practices that created segregated communities in Marin and who continue to be marginalized today. To that end, after years of community engagement and changes in the County's development codes, zoning policies, funding strategies and collaborations with cities and towns, four overarching priorities were identified to address impediments to fair housing choice:

- Community opposition;
- Cost of developing affordable housing and the lack of available land for development;
- Lack of affordable housing, particularly family rental housing;
- Lack of homeownership, particularly for African Americans.

Impediment #1 - Community Opposition to Affordable Housing

Through the County's community engagement and outreach process, which included the County's Community Advisory Group, Steering Committee, and voices from individual residents, local groups, organizations, and nonprofits, among others, community opposition was identified as the number one reason for the lack of affordable housing development in the County, particularly for families and in areas outside of minority concentration. Opposition to any new housing development can arise in all neighborhoods of the County, but it is especially the case in majority White neighborhoods, and particularly when the proposed development is affordable rental housing for families. The opposition is often based primarily on common growth issues such as traffic congestion, perceived threats to open space preservation, water demand versus supply, and increased school enrollment. However, opposition can also reflect underlying fears of reduced property values, safety concerns, the misperceptions of the type of housing that would be created, and the stereotyped impressions of the people who will occupy the housing.

An increased understanding about affordable rental housing and the positive impact it has on individuals, families, and the community at large is instrumental to gaining wider community support. The more informed the public, local government, County staff, and elected officials are about the need for affordable rental housing and the benefits of avoiding housing insecurity and homelessness, the more leverage supporters will have to advance the development of affordable rental homes.

Recommendations

1. Provide ongoing community engagement to educate, include and inform residents about the challenges with housing in Marin, and to highlight the County's prior achievements in developing affordable housing and addressing racial disparities in housing choice.
2. Develop strategies and talking points to address opposition for development including the impact on schools, water, transportation and traffic.
3. Include and expand the number of participants who engage in discussions about barriers to fair housing and disparities in access and opportunities in Marin's communities, and provide opportunities to advance recommendations to address housing challenges in the County.
4. In keeping with the County's 2019 Voluntary Compliance Agreement with the Department of Housing and Urban Development, prioritize the development and funding for rental housing for families, particularly in areas outside of minority concentration.

Impediment #2 - The Cost of Developing Affordable Housing

The cost of developing affordable housing in Marin is prohibitive even after accounting for funding from grants, loans, direct and indirect subsidies, tax credits and private donors. While many Marin communities require that developers of multi-unit housing set aside a percentage of units as affordable housing, and the County's Housing Trust Fund provides financial assistance to help affordable housing developers create and preserve affordable housing for low and very-low income households, some cities and towns do not have inclusionary policies or affordable housing impact fees, and for some jurisdictions, the housing trust account balances are too low to be useful. In addition, in-lieu fees which, in some cases may be paid by developers instead of constructing affordable housing, do not reflect the actual cost of building affordable housing in the County.

Recommendations

1. The County should consider ways to provide a local dedicated source of funding for affordable housing. Options could include bonds, local sales tax, transit occupancy tax, vacant home tax or other measure to raise funds that create and preserve local affordable housing for low-income households, veterans, seniors, teachers, first responders, persons with disabilities, and those experiencing homelessness.
2. The County should work with cities and towns to pool in-lieu fees to increase funds available for affordable housing and determine whether to increase the amount of in-lieu fees to better reflect the actual cost of affordable housing development.
3. The County, cities and towns should consider a sub-regional approach for the allocation of housing (Regional Housing Needs Allocation), to share resources and possibly units to increase collaboration and production of housing.
4. The County should work with cities and towns to adopt inclusionary housing policies to bolster funds available to support affordable housing.
5. The County should encourage cities and towns to reduce or waive fees for affordable housing.

Impediment #3 - Lack of Affordable Housing Sites

Developers and members of the community are unaware of potential affordable housing sites across the County. Because of this lack of knowledge, opportunities to

purchase land or properties may reduce the availability for affordable housing development.

Recommendations

1. Prepare and publicize available and easily obtainable maps of all incorporated and unincorporated vacant and underutilized parcels in Marin. Housing sites identified by the County, cities and towns in their respective Housing Elements could be the basis for this information. Additional potential housing sites should also be considered when preparing the maps.
 - a. Provide public updates and market to affordable housing developers, and
 - b. Prioritize the VCA commitment to 100 units for family housing for these parcels.
2. Identify underutilized parcels in the County to acquire, convert and develop into affordable housing.
 - a. Post/advertise information on the County's website and update continuously.
 - b. Identify whether parcels are privately or publicly held and if there are any public right of ways.
3. Create a public database of potential sites that can be updated regularly.
4. As part of the County's next Housing Element, consider rezoning sites to increase density to accommodate multi-family housing in areas outside of areas of minority concentration to further local housing goals and to comply with State housing law, and consider objective development and design standards for housing development projects that qualify for streamlined permit review.

Impediment # 4 - Lack of Opportunities for Home Ownership by People of Color and On-going Concerns of Gentrification

The price of housing in Marin is unaffordable for most residents, but because of historic, discriminatory practices and government policies, African Americans – in particular, people who lived in Marin City during the Marinship years -- have been particularly affected by policies that have created segregated communities with limited access to opportunities.

In addition, gentrification of some Marin communities is forcing people of color and low-income residents to be priced out of their own neighborhoods. Designating land for the purpose of developing affordable housing that will remain affordable in perpetuity will create opportunities for home ownership while acknowledging and affirmatively furthering fair housing. Transforming racially and ethnically concentrated areas of poverty into areas of opportunity can preserve existing affordable housing and protect existing residents from displacement.

Recommendations

Work with communities to provide resources to support a community land trust for low income residents of Marin that create opportunities for affordable housing and home ownership, with specific inclusion for African Americans with historic connections to Marin City. Model after the Community Land Trust of West Marin (CLAM) to ensure long-term housing affordability.

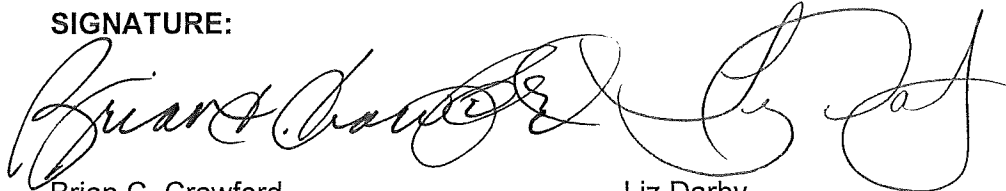
FISCAL IMPACT

Available funding for this work is part of the current FY 2019-2020 budget.

REVIEWED BY: (These boxes must be checked)

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A

SIGNATURE:



Brian C. Crawford
Director

Liz Darby
Social Equity Program and Policy
Coordinator