

Analysis of Impediments to Fair Housing Choice

State of Vermont 2017 Update

Executive Summary (Replaces 2012 AI, pages 1-9)

The State of Vermont has updated its 2012 Analysis of Impediments to Fair Housing Choice (AI) to satisfy requirements of the Housing and Community Development Act of 1974, as amended. Every state or community that receives Community Development Block Grant (CDBG) funds must commit to affirmatively furthering fair housing. To carry out its responsibility to affirmatively further fair housing, once every five years the state analyzes the impediments to fair housing in Vermont and develops an action plan to address those impediments. Many of its findings, observations, and proposed actions in Vermont's 2012 Analysis of Impediments remain valid and important for guiding our work. This update is intended to supplement, not replace, the 2012 AI.

Demographic and Fair Housing Observations

Vermont's population has continued to grow, although slowly, and has continued to become more diverse. The percentage of Vermont's population with at least one disability has increased from the 13.6% reported in the 2012 AI to 15.5% of the population under age 65. Testing performed by the Housing Discrimination Law Project of Vermont Legal Aid indicates that housing providers generally disfavor African American renters, renters of foreign origin, renters with children and renters with disabilities. Accessibility audits on newly constructed multi-family housing units indicated that as many as 70% had minor issues with compliance and another 10% had significant compliance issues. Nearly 1/2 of renter households and nearly 1/3 of owner households in Vermont are cost burdened, meaning that more than 30% of their household income goes to housing costs.

Between January 2013 and July 2016, 46 fair housing complaints were filed with the Federal Office of Fair Housing and Equal Opportunity or dual-filed with that office and the Vermont Human Rights Commission. Of those, 26 alleged discrimination on the basis of disability and 6 on the basis of familial status, or the presence of minor children. Three complaints alleged discrimination on the basis of race and color and 2 on sex. Several complaints alleged discrimination on multiple bases.

Fair Housing Legislative Achievements

In 2012, the Vermont Legislature adopted changes to the Mobile Home Park Statute to protect residents and preserve mobile home parks as a source of affordable housing (Act 137, 2012). In the same bill, the legislature enhanced protections for all by forbidding municipalities from discriminating in the permitting of housing based on any of the protected classes in the State's Fair Housing Law. In 2014 the Legislature adopted changes to the State's Land Use Law, Act 250, to facilitate the development of affordable housing within the State's designated downtowns, new town centers, growth centers, and village centers. Projects up to a certain size, which varies depending on the population of the town in which the project will be located, are exempted from Act 250 altogether if the project contains a specified minimum number and proportion of affordable housing units.

2017 Impediments to Fair Housing in Vermont

1. The State's supply of decent, affordable housing is inadequate. "Not in My Backyard" (NIMBYism) is a significant factor affecting the development of affordable housing.
2. The State's supply of affordable housing that is accessible to persons with disabilities is inadequate.
3. Discrimination based on disability, familial status (e.g. presence of minors), and other protected categories continues to impact fair housing choice in Vermont.
4. There continue to be barriers that make it difficult for minority households and new Americans to become homeowners.
5. Members of the protected classes should be more fully represented on State boards and commissions dealing with housing issues.
6. Lack of public transit service outside higher-density, developed areas limits housing choice, especially for low income Vermonters, including a disproportionate number of those in protected classes.
7. Underemployment and lack of jobs that pay a livable wage limit housing choices.

Introduction (Replaces 2012 AI, pages 10-21)

The State of Vermont has updated its 2012 Analysis of Impediments to Fair Housing Choice (AI) to satisfy requirements of the Housing and Community Development Act of 1974, as amended. The 2012 AI remains a valuable resource. Many of its findings, observations, and proposed actions remain valid and important for guiding our work. This update is intended to supplement, not replace, the 2012 AI.

On July 16, 2015, HUD published the Affirmatively Furthering Fair Housing (AFFH) final rule. This rule establishes a new process that HUD program participants must use to plan for fair housing outcomes that will assist them in meeting their statutory obligation to affirmatively further fair housing. HUD's process will include an assessment tool that must be used by program participants to evaluate fair housing choice and access to opportunity in their jurisdictions, to identify barriers to fair housing choice and opportunity at the local and regional levels, and to set fair housing goals to overcome such barriers and advance fair housing choice. The Assessment Tool for States is not yet available.

Vermont will have the opportunity to make use of HUD's new tool and develop its Assessment of Fair Housing in 2018-19. That report will be due to HUD no later than October 5, 2019, 270 days before the start of the program year for which a new Consolidated Plan is due, July 1, 2020. This AI Update will inform our work in the interim.

The process of developing this AI Update included a consultation process with public agencies, nonprofit organizations, and other interested parties. Initial drafting was undertaken in consultation with the members of the Fair Housing Committee of the State's Housing Council. The organizations included in the Fair Housing Committee are identified in Appendix One. The Committee reviewed the 2012 AI and updated background information where needed. The Committee then reviewed the list of impediments identified in the 2012 AI as well as the various strategies designed to address those impediments. The Committee evaluated whether the strategies were completed and whether the impediment and any associated strategies should be carried through into this Update. Once a draft was complete, DHCD presented the draft to the Housing Council and solicited public input. The members of the Housing Council are identified in Appendix One. A public hearing was held on January 30, 2017, which led to additional revisions. The revised draft was presented to the Fair Housing Committee in February 2017 and finalized in March 2017.

Population Trends

Vermont's population has continued to grow, although slowly, and our population has continued to become more diverse. The information in the 2012 AI reflects the most current census data. American Community Survey data through 2015 informs us that the State added approximately 800 people overall. Chittenden County (not including Burlington) added more than 4,000 people, and Franklin County added almost 1,000. Bennington, Caledonia, Essex, Rutland, Washington, Windham, and Windsor Counties all lost population over this time.

Areas of Racial and Ethnic Minority Concentration, Race/Ethnicity and Income

The data available from HUD as part of the Assessment of Fair Housing template/tool shows that Vermont does not have any areas of racial and ethnic minority concentration. The 2012 AI identified areas of minority concentration by defining such areas as any place with more than double the statewide proportion of a given minority group; however, even in these areas the minority population is below HUD's definition of "concentration."

Vermont remains approximately 95% White only. Racial and ethnic minority households make up only 4% of Vermont households. Many of the state's minority households live in and near the City of Burlington, in Chittenden County, which is Vermont's largest city and is a HUD entitlement community.

Concentrations of LMI Persons

As Vermont is predominately rural there are few concentrated areas of minority or low income population. If we consider an area of concentration to be a county with a significant percentage of minority or low income families relative to the population as a whole, it does not appear that any particular county has a disproportionately high share of minorities. However, median household income is generally lower in the three "Northeast Kingdom" counties of Caledonia, Essex and Orleans, which all have poverty rates above 12%.

Disability and Income, Familial Status and Income

According to data from the American Community Survey for 2014, the percentage of Vermont's population with at least one disability has increased from the 13.6% reported in the 2012 AI to 15.5% of the population under age 65.

The Housing Discrimination Law Project (HDLP), a project of Vermont Legal Aid, conducted accessibility audits on newly constructed multi-family housing units to measure compliance with design and construction accessibility standards required under the federal Fair Housing Act (FHA). FHA requirements include: 1) accessible entrances on an accessible route (including accessible parking); 2) accessible public and common-use areas, such as lobbies and laundry rooms; 3) accessible and usable doors; 4) accessible route into and through the housing unit; 5) accessible light switches, outlets, and

environmental controls; 6) reinforced walls in bathrooms (to accommodate grab bars near toilets or in showers/tubs); and 7) accessible and usable kitchens and bathrooms. These FHA accessibility requirements are separate from those mandated under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973. HDLP testing only examined compliance with FHA standards.

The HDLP reports that 10% of the newly-constructed, multi-family buildings surveyed had significant noncompliance issues and another 70% had minor noncompliance issues. Minor noncompliance issues were items such as (1) a few noncompliant interior controls; (2) an entry-threshold having a raised lip that was a little too high; or (3) some of the accessible aisles in the parking area lacking sufficient width. These issues are reported as “minor” because they can be remedied relatively inexpensively. Significant noncompliance issues are expensive or difficult to fix (e.g., unit lacked requisite clear floor space in bathroom, kitchen, or common laundry room; complex lacked accessible route from parking lot into building or complex). This category also includes buildings with numerous minor issues that, when taken together, would pose significant expense or effort to fix.

Housing Market

The [Vermont Housing Needs Assessment](#) reported an estimated statewide vacancy rate of 4.5% for all rental housing, both in multi-family projects and smaller, single and dual-unit rentals. Owner housing had a 1.9% vacancy rate. These low vacancy rates indicate that there is an insufficient supply of housing in the state. The lack of available rental housing is even more pronounced among government-subsidized rental housing. Based on a survey of 134 government-subsidized rental properties in the Vermont Housing Needs Assessment, only 0.7% of such units are vacant. Most properties maintain long wait lists.

According to the Housing Needs Assessment, approximately 1,300 households are on wait lists for local public housing units and vouchers and approximately 400 households are on VSHA’s wait lists for Housing Choice Vouchers. The limited availability in government-subsidized projects, the wait lists at a majority of such properties and the wait lists for Housing Choice Vouchers demonstrate that there is an insufficient supply of affordable housing in Vermont.

The Housing Needs Assessment reported that approximately 35,000 renters and 60,000 owners are cost burdened by housing, meaning that they allocate more than 30% of their income towards housing costs. These cost burdened households represent nearly half (48%) of all renter households and nearly one-third (33%) of all owner households. Approximately 16,500 (22%) of all renter households and 22,000 (12%) of all owner households are severely cost burdened, paying over 50% of their income towards housing costs. As housing prices and rents continue to increase, it may become even more difficult for many households to reasonably afford housing.

Homelessness was not specifically addressed in the 2012 AI. In 2015 Governor Peter Shumlin established a commitment to end family homelessness in Vermont by 2020. In 2016, Governor Shumlin signed an executive order that requires owners of housing that receive state funds to make available at least 15% of their portfolio of housing units to people who are homeless.

Vermont’s 2016 Point-In-Time Count showed an overall decrease in homelessness of 28% compared to the 2015 Point-in-Time Count. The annual Point-in-Time Count found 1,102 persons experiencing homelessness in Vermont on the night of January 26, 2016. 20% of homeless households on that night included children. Significant portions of those in the homeless count have disabilities: 29% of the

people counted identified as having a serious mental illness; 19% identified as having a substance abuse disorder; 16% as having a physical disability; and 5% as having a developmental disability. (Note that some people identified as having more than one disability.)

Fair Housing Complaints

The Office of Fair Housing and Equal Opportunity (FHEO) at HUD processes complaints regarding alleged violations of the federal Fair Housing Act. Between January 2013 and July 2016, 46 complaints were either directly filed with FHEO, or dual-filed with the Vermont Human Rights Commission (VHRC) alleging violations of both state and federal fair housing laws in Vermont. Such dual-filed complaints are routinely referred from FHEO to the VHRC for processing and investigation.

Of the 46 complaints in Vermont, 26 alleged discrimination on the basis of disability, 6 alleged discrimination on the basis of familial status or the presence of minor children, 3 alleged discrimination on the basis of race and color, and 2 alleged discrimination based on sex. Several complaints alleged discrimination on multiple bases.

The status of the complaints filed through FHEO was not provided by HUD, so we have no information regarding the outcome of the complaints, whether probable cause was found, whether the complainants withdrew their complaints, or whether a settlement was reached between the parties.

Between July 2014 and March 2016, VHRC resolved 36 housing complaints. Of these complaints, one resulted in findings by the Commission that reasonable grounds existed to believe unlawful discrimination occurred. In addition, 16 complaints were resolved by agreement of the parties.

As was reported in the 2012 AI, disability remains the most frequently alleged basis of discrimination in Vermont. Familial status (generally the presence of minor children) remains the second most frequently alleged basis of discrimination.

Eight complaints filed with the VHRC between July 2014 and March 2016 alleged discrimination based on the receipt of public assistance (e.g., a Section 8 Housing Choice Voucher), which is a protected class under the Vermont Fair Housing and Public Accommodations Act, but not under federal law.

Vermont Legal Aid also receives housing discrimination complaints. Between March 2015 and November 2016 (21 months), 189 people called Legal Aid with a housing discrimination complaint. That number is slightly higher than Vermont Legal Aid's typical average of 85 to 100 housing discrimination complaints per year. Vermont Legal Aid's count includes only those complaints in which the person complaining is within a class likely to be discriminated against on a prohibited basis, the alleged discrimination occurred in a transaction about a dwelling, and some adverse action was taken against the person.

Most of the complaints received by Vermont Legal Aid in this period included discrimination on the basis of disability (68%). The majority of these involved the denial of a reasonable accommodation or modification request. The next largest category involved discrimination against African Americans, including African immigrants (16%), followed by discrimination on the basis of having minor children (12%), discrimination on the basis of national origin (10%: 6% Hispanic; 2% African; and 2% Native American), sex discrimination (9%), and religious discrimination (2%). (It is common for a person to be discriminated against on multiple bases, so the percentages exceed 100%.) Vermont Legal Aid has one case pending in state court and one case pending at the Vermont Human Rights Commission. They are also monitoring the settlement of one federal court action.

As the 2012 AI noted, the number of formal complaints may not accurately reflect the extent of housing discrimination. Some persons may not file complaints because they are not aware of how to do so. Others may fear reprisal from their landlord or potential landlord. Additionally, the length of time required to see a complaint through to resolution may not meet the needs of a person who has an immediate need for housing. Once housing is secured, the person may not prioritize following up on a complaint.

Fair Housing Testing

From January 1, 2012, through December 31, 2013, the Housing Discrimination Law Project (HDLP), a project of Vermont Legal Aid, conducted fair housing testing audits measuring housing discrimination that renters may face in Vermont. Through linguistic telephone tests, systematic audit tests, and complaint-based rental inquiry tests, the HDLP measured the differences in renters' preliminary experiences with rental providers throughout the state. [Overall testing results](#) indicated that housing providers generally disfavored African American renters, renters of foreign origin, renters with children, and renters with disabilities. In 44% of the tests, housing providers either demonstrated preferential treatment toward the control testers in comparison to the subject testers, or evinced unambiguous discrimination against the subject testers. The highest rate of discrimination was against women whose voices indicated that they were of Black Kenyan origin. In 39% of paired tests, in which telephone calls were made to the same property owner by a woman with this accent and a woman whose voice sounded like a white woman of U.S. origin, the woman whose voice indicated that she was Kenyan was either subjected to discrimination, defined as "significant, demonstrable differences in how the housing provider treat[ed] the subject tester in comparison to how the housing provider treat[ed] the control tester." In another 17% of paired tests the control tester was favored over the Kenyan woman, for a total discrimination rate of 56%. The discrimination rate against a woman with a Romanian accent (compared to a woman who sounded like a white woman of U.S. origin) was 49%. The discrimination rate against a Bhutanese man was 43%, and against a Hispanic man was 38%.

Other Concerns

In addition to permanent housing, there is a significant amount of opposition to homeless shelters, warming shelters, transitional housing, and other housing that is not single family residences. Vermont Legal Aid routinely comments on such opposition. In the period June 1, 2015 - November 30, 2016 (18 months), Legal Aid observed five Vermont municipalities with strong local opposition to such housing, including, in some cases, opposition by local officials through zoning and planning mechanisms.

Finally, the shortage of housing that is affordable to low and moderate income Vermonters, discussed above, creates concerns about fair housing choice. First, a disproportionate number of Vermont's lowest income residents are members of one or more protected classes. The shortage of affordable housing has a disproportionate impact on the disabled, racial and ethnic minorities, and women, all of whom have incomes below the state average. Additionally, according to Vermont Legal Aid, based on their testing work, there is a high degree of correlation between being poor and being discriminated against on a basis prohibited by law. In addition, Legal Aid's testing indicated that if a person is perceived as being poor or working class, whether that class is actual or imagined, they are more likely to be discriminated against.

Public Housing Authorities

Vermont's Public Housing Authorities have confirmed that their Admissions and Continued Occupancy Plans address all of the key issues related to affirmatively furthering fair housing and otherwise comply with the Fair Housing Act (reference pages 70-71 of 2012 AI). They have also confirmed that their Section 8 Housing Choice Voucher Administrative Plans cover all of the necessary topics and are in compliance with the Fair Housing Act (reference pages 74-75 of the 2012 AI).

In the 2015 Consolidated Plan, Vermont local public housing directors, excluding the Vermont State Housing Authority, reported that wait lists for public housing include 189 seniors, 179 people with disabilities, 77 individuals, and 167 families. Wait times for public housing units range from 3 months to 5 years depending on bedroom size desired and location. Wait lists for Section 8 rental assistance include 128 seniors, 130 people with disabilities, 146 individuals, and 302 families. Wait times for Section 8 vouchers range from one to five years. In addition, according to the Vermont Housing Needs Assessment, the State Housing Authority has a wait list of approximately 400 people.

According to local public housing directors, the needs of public housing residents and voucher holders are varied and include poor credit, lack of transportation, case management for mental health support, youth programs, parenting classes, support for skills to succeed in housing (e.g. setting priorities, getting along with others, cleaning, hygiene, pet care, budgeting), support for seniors transitioning back to housing from hospitals or rehabilitation, and employment and job training.

Policies Governing Investment of Federal Funds

According to Vermont's Directory of Affordable Rental Housing (DoARH), there are approximately 13,500 government-subsidized units in the State of Vermont. Of these units, 2,981 are age-restricted and another 3,299 units are restricted to seniors and people with disabilities. These units generally target households with incomes of up to 50% of Area Median Household Income (AMHI). In addition to these units, there are approximately 264 projects developed or renovated under the Low Income Housing Tax Credit program (LIHTC). These projects total approximately 7,227 units restricted to households with incomes of up to 60% of AMHI. It should be noted that some of these LIHTC units also operate under a concurrent subsidy.

The Housing Needs Assessment identified 141 projects with a total of 3,257 units that could potentially lose their subsidy or tax credits by 2020 and possibly no longer serve the low-income and very low-income household segments. A total of 1,288 of these units operate under a government subsidy serving households with incomes of up to 50% of AMHI and 1,969 units that serve households with incomes of up to 60% of AMHI. Based on past experience, many of the subsidized projects will likely renew their subsidy (assuming sufficient federal funding exists) and Tax Credit projects will either re-apply for credits or at least maintain their affordability requirements beyond the expiration of the 15-year credit period. However, given Vermont's lack of housing options, particularly for extremely low income households, it is critically important to preserve projects with rental subsidies at any risk of loss due to conversion or deterioration.

In addition to the HUD programs described on pages 76-77 of the 2012 AI, the National Housing Trust Fund (HTF) is a new federal grant program established under Title I of the Housing and Economic Recovery Act of 2008, Section 1131, to complement existing federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families and individuals. The HTF program is administered by the Vermont Housing and Conservation Board (VHCB).

Community Development Block Grant (CDBG) Funds

Vermont issued a new Consolidated Plan for Housing and Community Development programs in 2015, to guide its use of HUD funds from 2015 through 2020. The State's top priorities in the 2015-2020 Five-Year Consolidated Plan are: (1) increase the supply and quality of affordable housing; (2) decrease the number of people experiencing homelessness; (3) create and retain jobs; and (4) strengthen communities and improve the quality of life of Vermonters. More specifically, Vermont will use CDBG, HOME and ESG funds for housing, homelessness, job and community strengthening activities. Outcomes over the next five years will include:

- Housing: 450 rental units being constructed or rehabilitated, 520 homeowner units being developed and rehabilitated and 25 housing units for the homeless added.
- Homelessness: 2,000 households assisted with rental and rapid rehousing assistance and 10,000 nights of shelter provided.
- Jobs: 175 jobs being created or retained and 10 businesses being assisted.
- Communities: 19,525 persons served by improved public facilities or infrastructure, 875 persons assisted by public services, 5 acres of brownfields being remediated and two blighted buildings being demolished.

Home Investment Partnerships Program (HOME) Funds

The requirements for HOME projects have been modified since the 2012 AI. In addition to the five threshold criteria listed on page 80 of the 2012 AI, VHCB requires that "the development team has the experience developing affordable housing and the property manager has experience managing such housing." This is based on the revised VHCB Affordable Housing Policy dated March 2012:

<http://www.vhcb.org/pdfs/hsgpolicy/housing.pdf>

VHCB has also modified its housing policy priorities. The current priorities are as follows:

- There is a demonstrated need for the type of housing proposed as compared to the need for other types of housing in the community.
- The project involves neighborhood or downtown revitalization. This means that rehabilitation will generally take priority over new construction unless the new construction is infill housing or contributes towards cleaning up a blighted neighborhood.
- The project is in a location that is accessible to services and meets the other priorities of the VHCB Board.
- A portion of the project serves very low income households and/or households with special housing needs. Affordability to this population and presence of support services or a social service component are additional considerations under this priority.

- The project represents "at risk housing" or housing where there has already been an investment of public funds.
- The project fulfills dual or multiple goals of the VHCB Board, including but not limited to historic preservation.
- The project replaces housing lost to a natural or other disaster, or, if there are existing identified and severe health or safety threats to lower income households, the project would correct those conditions.
- The project meets the Roadmap for Housing Energy Affordability's long-term goals for energy affordability as outlined in the "Vermont Multifamily Energy Design Standards".

Since 2012 the HOME application review process has included an explicit review of the racial and ethnic characteristics of the area, as well whether the project is located in an area of low income concentration, in accord with VHCB's Site & Neighborhood Standards Policy & Procedures:

<http://www.vhcb.org/pdfs/homehandbook/7a.pdf> and checklist:

<http://www.vhcb.org/pdfs/homehandbook/7b.pdf>

VHCB has continued to require fair housing training for developers through a standard HOME loan/grant condition that requires that, "[p]rior to disbursement, Developer shall demonstrate that its staff has attended a Fair Housing training session within at least the last three years, to ensure the Developer has received adequate education and information for compliance with affirmatively furthering fair housing requirements, including those applicable to the marketing and leasing of HOME-funded housing units."

In accord with the 2015 Consolidated Plan, the HOME program application checklist has been revised. All projects must be perpetually affordable to be considered for a commitment of HOME funds. The project must meet at least one of these key goals: (a) increase the supply and quality of affordable housing; (b) decrease the number of people experiencing homelessness; or (c) strengthen communities and improve the quality of life for Vermonters. Preference is given to projects located in the State's designated downtowns, village centers, neighborhood development areas and other areas that are consistent with the state's historic settlement pattern.

HOME program applications that meet the threshold criteria described are then evaluated and ranked based on how many of the following Consolidated Plan Affordable Housing strategies are addressed in each application:

- House lower income families and individuals, with special preference to projects housing extremely-low income families and individuals at or below 30% of area median income.
- Increase the supply of affordable rental housing through the acquisition and/or rehabilitation of existing units especially in communities where there are tight housing markets, very low vacancy rates or there is a high incidence of distressed housing.
- Increase the supply of affordable rental housing through the construction of new units especially in communities where there are tight housing markets, very low vacancy rates or there is a high incidence of distressed housing.
- Promote mixed income developments to create integrated communities.
- Promote the development of new rental housing designed and built to a level of energy efficiency that meets or exceeds the levels required to qualify for the Energy Star label.
- Preserve existing affordable housing projects in a manner consistent with prudent investment criteria.

- Redevelop existing properties with consideration given for projects that leverage other resources specific to the preservation of historic structures.
- Redevelop foreclosed properties for affordable rental housing.
- Provide accessible or adaptable housing for persons with disabilities.
- Provide service enriched housing serving persons with disabilities.
- Produce affordable senior rental units in regions where a market analysis identifies a shortage of elderly housing affordable to lower income seniors.
- Provide service enriched housing that allows seniors the opportunity to age in place.
- Locate affordable rental housing in close proximity to public transportation services with access to employment centers, services, recreational opportunities, and schools.

Appointed Boards and Commissions

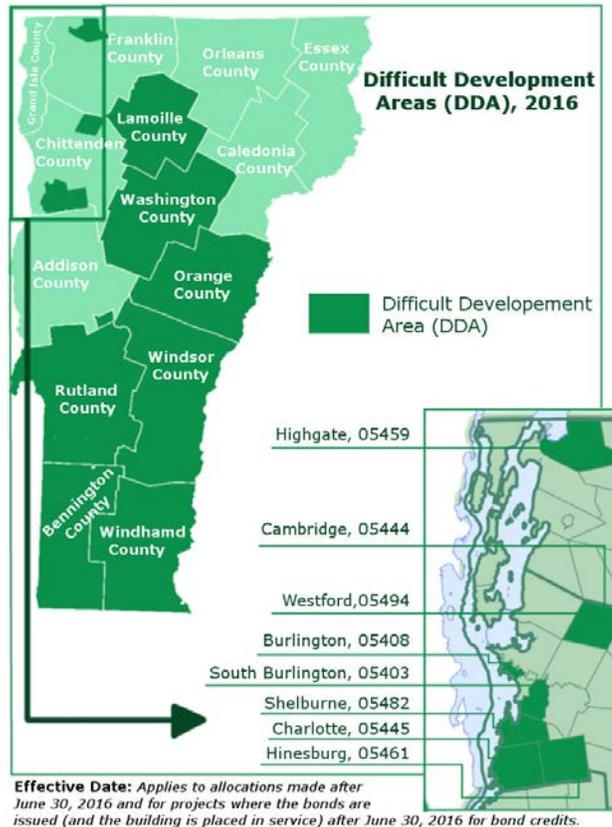
The composition of the various State Boards that are involved with fair housing issues (Vermont Human Rights Commission, Vermont Community Development Board, Vermont Housing and Conservation Board, and Vermont Housing Finance Agency) has not changed significantly since the 2012 Analysis of Impediments. Appointing board members who are members of various protected categories under Fair Housing Law remains a priority for the State.

Qualified Allocation Plan

The 2012 AI evaluated VHFA's 2011 Qualified Allocation Plan (QAP). Since then, VHFA has adjusted its priority selection criteria in light of the 2015 Consolidated Plan. The criteria now require that applications meet two Top Tier Priorities and two other (top tier or lower tier) evaluation categories contained in the QAP in order to be considered. VHFA recognizes any project that dedicates at least 25% of the housing credit units as supportive housing units for the homeless or those at risk of homelessness as meeting a Top Tier priority. The designated units may be in the proposed project or within the sponsor's existing portfolio provided they are not already dedicated as supportive housing.

In addition to the priorities identified in the 2012 AI, VHFA has added a Second Tier Priority of projects that offer comprehensive services that are voluntary and free of charge to promote the goals of the Support and Services at Home (SASH) program.

The 2012 AI included a list of Qualified Census Tracts (QCT). A Qualified Census Tract is any census tract in which at least 50% of households have an income less than 60% of the Area Median Gross Income. As of July 1, 2016, HUD has identified the following as Qualified Census Tracts: Bennington County (9709), Chittenden County (3, 4, 5, 6, 9, 10, 25, 39), Essex County (9502), Franklin County (103, 107), Lamoille County (9532), Orleans County (9515), Rutland County (9631), and Windsor County (9653). Additionally, the following regions have been identified as Difficult Development Areas as of 2016:



Difficult Development Areas are those areas with higher construction, land, and utility costs relative to the area median income.

Accessibility of Residential Dwelling Units

Since the 2012 AI, Vermont has adopted various updates to its housing construction codes, some of which will improve the accessibility and visitability of Vermont’s housing stock to individuals with disabilities. As of October 2016, the following Codes will be in effect as updates to the list on page 99 of the 2012 AI:

International Building Code (IBC)	2015
International Plumbing Code (IPC)	2015
Uniform Fire Code (NFPA 1)	2015
Life Safety Code (NFPA 101)	2015
National Electrical Code (NFPA 70)	2014 (will be updated again in 2017)
Federal ADA Handicap Standard	2010

The statutory requirements for new residential construction described on page 99 of the 2012 AI have been strengthened by a new requirement, effective May 2016, that prior to the sale of residential construction, the seller must provide written disclosure to a prospective buyer regarding compliance with the statutory standards.

Act 250

In 2014 the Legislature adopted changes to the State's Land Use Law, Act 250, to facilitate the development of affordable housing within the State's designated downtowns, new town centers, growth centers, and village centers. Projects up to a certain size, which varies depending on the population of the town in which the project will be located, are exempted from Act 250 altogether if the project contains a specified minimum number and proportion of affordable housing units.

NIMBYism

In 2012, the Vermont Legislature adopted changes to the Mobile Home Park Statute to protect residents and preserve mobile home parks as a source of affordable housing (Act 137, 2012). In the same bill, the legislature enhanced protections for all by forbidding municipalities from discriminating in the permitting of housing based on any of the protected classes in the State's Fair Housing Law.

Update to Potential Impediments to Fair Housing (Updates 2012 AI pages 147-155)

The 2012 AI identified 14 impediments to fair housing choice in Vermont, with various proposed actions to address each impediment. Appendix Two contains a summary of the 2012 impediments and proposed actions, with a current assessment of the progress made on each proposed action.

Impediments to Fair Housing and Strategies to Combat Impediments

(Replaces 2012 AI pages 147-162)

VERMONT FAIR HOUSING ACTION PLAN 2017

1. The State's supply of decent, affordable housing is inadequate. "Not in My Backyard" (NIMBYism) is a significant factor affecting the development of affordable housing.

Investment Strategies:

- a. *Proposed Action:* Through the efforts of DHCD, VHFA, and VHCB, the State should continue to strike a balance in investing in both concentrated areas of poverty and areas of opportunity. Investment in housing that is available to families with children is especially important.
- b. *Proposed Action:* DHCD should continue to refuse to grant funding requests for municipalities found to have discriminatory land use provisions.
- c. *Proposed Action:* Anecdotal evidence suggests that difficulties in evicting tenants lead property owners to withdraw housing units from the rental market. DHCD and others should evaluate the extent to which difficulties in the eviction process decrease the availability of rental housing. If it is found that these challenges are affecting the supply of housing, DHCD should recommend and support solutions to that problem, including solutions that will improve housing stability and eviction prevention.

Education Strategies:

- d. *Proposed Action:* DHCD and other agencies should continue to promote fair housing training, education, and outreach services for various stakeholders, including code officials, tenants, municipal officials, landlords, land trusts, CHDOs, various property management companies, and realtors. Training should specifically include Vermont's legal prohibition on discrimination in housing based on receipt of public assistance
- e. *Proposed Action:* The State, through DHCD, should expand fair housing training opportunities by creating an online training course more easily accessible to municipal officials and grantees of federal funds.
- f. *Proposed Action:* The State, through DHCD, should develop a Fair Housing Training Guide for permitting officials and affordable housing developers to ensure everyone involved in the development of affordable housing is aware of their legal rights and obligations under the federal and state Fair Housing Acts.

Planning Strategies:

- g. *Proposed Action:* The State should build upon VHFA's Directory of Affordable Rental Housing to create a statewide database of all identified publicly and privately-funded affordable housing units to better serve the identified need, including real-time availability data and detail about accessibility features of available units and any restrictions on residency, e.g. by age of resident.
- h. *Proposed Action:* DHCD and others should continue to encourage municipalities to address the need for affordable housing in Town Plans and modify zoning requirements as needed to facilitate the development of affordable housing.

- i. *Proposed Action:* DHCD and others should increase awareness of Vermont’s legal prohibition on making zoning decisions based on income or receipt of public assistance.
 - j. *Proposed Action:* DHCD should require VCDP applicants to certify their compliance with 24 V.S.A. sec. 4412, which prohibits any zoning bylaws that would have the effect of (a) excluding housing that meets the needs of the population as reflected in the municipal plan, (b) excluding mobile homes, modular housing, or prefabricated housing, (c) excluding mobile home parks from the municipality, (d) excluding multiunit or multifamily dwellings from the municipality; (e) excluding accessory dwelling units from areas zoned for single family dwellings; and (f) excluding residential care homes or group homes from areas zoned for single family dwellings.
 - k. *Proposed Action:* DHCD should require VCDP applicants to explain how their Town Plan supports efforts to affirmatively further fair housing.
2. The State’s supply of affordable housing that is accessible to persons with disabilities is inadequate.
- a. *Proposed Action:* The State should promote the development of training for architects and interior designers regarding compliance with the State’s accessibility standards for residential construction (20 VSA sec. 2907) as well as HUD’s Fair Housing Design Manual.
 - b. *Proposed Action:* The Vermont Human Rights Commission should work with the New England ADA Center, the Department of Fire Safety, and others to develop an inspection protocol and appropriate training for compliance with the accessibility standards for residential construction.
 - c. *Proposed Action:* The State should continue to provide funding to VCIL for its Home Access Program. This will enable VCIL to maintain its efforts to keep persons with disabilities housed in accessible units.
3. Discrimination based on disability, familial status (e.g. presence of minors), and other protected categories continues to impact fair housing choice in Vermont.
- a. *Proposed Action:* The Fair Housing Committee of the Vermont Housing Council should collaborate to develop education and outreach regarding Fair Housing targeted at landlords and condominium associations.
 - b. *Proposed Action:* The Fair Housing Committee should work with local television stations to produce and promote Public Service Announcements to educate the public on Reasonable Accommodations and Reasonable Modification, to combat discrimination based on disability.
 - c. *Proposed Action:* VHCB should continue to require Fair Housing training for recipients of HOME funds.
 - d. *Proposed Action:* Vermont Legal Aid or others should continue testing for discrimination in rental and other housing, because often people may not realize they are victims of discrimination or may not complain. If possible, testing should include State-protected classes, such as receipt of public benefits, as well as federally protected classes.

4. There continue to be barriers that make it difficult for minority households and new Americans to become homeowners.
 - a. *Proposed Action:* The State, local units of government, fair housing advocates, certified housing counselors, and financial lenders should continue their work to increase home ownership among minorities, residents of LMI census tracts, and LMI residents through methods including:
 - i. Continuing to expand sustainable home ownership opportunities through financial literacy education, including credit counseling and pre- and post-home purchase education.
 - ii. Providing lending, credit, and banking services in LMI census tracts and minority census tracts.
 - iii. Continuing marketing and outreach efforts of affordable mortgage products that are targeted for residents of LMI census tracts, LMI residents, and minorities.
 - b. *Proposed Action:* DHCD should encourage Homeownership Centers to target outreach to minority groups, perhaps making connections with organizations such as NAACP, Refugee Resettlement, and other groups that represent or work with members of protected classes.
 - c. *Proposed Action:* The Fair Housing Committee should work with the Vermont Association of Realtors to encourage the inclusion of an “affirmative marketing” statement in all real estate marketing.

5. Members of the protected classes should be more fully represented on State boards and commissions dealing with housing issues.
 - a. *Proposed Action:* The State should ensure that its outreach efforts in making gubernatorial appointments to boards and commissions includes a directed effort to solicit applications from members of classes protected by the federal and state Fair Housing Acts.

6. Lack of public transit service outside higher-density, developed areas limits housing choice, especially for low income Vermonters, including a disproportionate number of those in protected classes.
 - a. *Proposed Action:* Identify opportunities for the development of medium density affordable family housing along existing transit routes. Collaborate with VTrans and public transportation providers throughout the State to serve these areas with public transit.

7. Underemployment and lack of jobs that pay a livable wage limit housing choices.
 - a. *Proposed Action:* The Fair Housing Committee should continue to support a variety of anti-poverty and economic development initiatives, including increases to the minimum wage.

APPENDIX ONE

Fair Housing Committee

Barre Housing
Burlington: Community and Economic Development Office
Champlain Housing Trust
Champlain Valley Office of Economic Opportunity: Fair Housing Project
Department of Corrections
Department of Housing and Community Development
Montpelier Housing
US Department of Agriculture – Rural Development
Vermont Affordable Housing Coalition
Vermont Center for Independent Living
Vermont Housing and Conservation Board
Vermont Housing Finance Agency
Vermont Human Rights Commission
Vermont Legal Aid
Vermont State Housing Authority
Winooski Housing

Housing Council 2016

Organization:

Dept. Housing and Community Development
Dept. of Public Safety
Agency of Human Services
VT Housing and Conservation Board
Public Housing Authorities
Division for Historic Preservation
Housing and Urban Development
VT State Housing Authority
VT Housing Finance Agency
Statewide Affordable Housing Developer
Regional Affordable Housing Developer
Private Housing Developer
Low-Income Advocate

Representative:

Josh Hanford
Joe Benard
Angus Chaney
Gus Seelig
JoAnn Troiano
Laura Trieschmann
Mike McNamara
Richard Williams
Sarah Carpenter
Kenn Sassorossi (Housing Vermont)
Brenda Torpy (Champlain Housing Trust)
Chris Snyder (Snyder Homes)
Christopher Curtis (VT Legal Aid)

APPENDIX TWO

Impediments and Proposed Actions from the 2012 AI and current status of each

Impediment	Proposed Action	Status
Minority households in Vermont have greater difficulty becoming homeowners.		
	Identify effective ways for the State, local units of government, fair housing advocates, certified housing counselors, and financial lenders to continue their work to increase home ownership among minorities, residents of LMI census tracts, and LMI residents.	Ongoing
	DEHCD should adopt a Section 3 policy to ensure that employment and other economic and business opportunities generated by HUD assistance, to the greatest extent feasible, are directed to public housing residents and other LMI residents, particularly persons receiving government housing assistance, and business concerns that provide economic opportunities to low and very low- income residents.	Complete
The State's supply of affordable housing that is accessible to persons with disabilities may be inadequate.		
	DEHCD, in partnership with state agencies, fair housing organizations, and disability advocacy organizations, should coordinate monitoring efforts to ensure that publicly-financed new residential construction and rehabilitation projects comply with all applicable federal and state accessibility requirements and are adaptable and visitable, at least to the extent required by law, for persons with disabilities.	Ongoing
	DEHCD should partner with disability advocacy organizations to develop a Request for Qualifications for ADA consultants to provide technical assistance to CDBG and HOME grantees and to certify upon completion of each funded project that it is ADA compliant.	Ongoing
	DEHCD, the Vermont Department of Public Safety, VCIL, and the Vermont Chapter of the American Institute of Architects (AIA) should work together on the creation and promotion of education and training sessions relative to federal and state accessibility requirements and the state's plan review processes. Accessibility compliance training, especially among architects throughout the State, is needed. Additional education and training will lead to a better understanding of various codes, requirements, and plan review processes and ultimately, insurance that new and rehabilitated housing units adhere to all applicable laws and regulations.	Ongoing

	DEHCD should partner with advocacy organizations and other state agencies and departments to identify existing publicly- and privately-funded accessible units and to survey the existing and projected demand for such units, including the types of disabilities that need to be provided for. The State should also build upon VHFA’s Directory of Affordable Rental Housing to create a statewide database of all identified publicly and privately-funded accessible housing units to better serve the identified need.	Ongoing
	The State should continue to provide funding to VCIL for its Home Access Program. This will enable VCIL to maintain its efforts to keep persons with disabilities housed in accessible units.	Ongoing
	VHFA should continue to incorporate Universal Design as a Top Tier Priority in its QAP.	Ongoing; policy under review to incentivize greater use of Universal Design.
The State’s supply of decent, affordable housing remains inadequate.		
	Through the efforts of DEHCD, VHFA, and VHCB, the State should continue to strike a balance in investing in both impacted and non-impacted areas. Specifically, the State should continue to balance its CDBG and HOME investments between the revitalization of impacted areas and the creation of new housing in non-impacted areas, such as in more rural, affluent communities.	Ongoing
	VHCB should implement its newly drafted HOME Site and Neighborhood Standards Policy and Checklist.	Complete
	Whenever feasible, local government entities throughout the State of Vermont should reduce or waive impact fees for area developers and nonprofit organizations seeking to build affordable housing units, including both renter and owner units. This practice will encourage additional affordable housing development and promote greater housing choice.	Ongoing
The State’s process for allocating and reporting CDBG and HOME funds could be improved from a fair housing perspective.		
	DEHCD should continue to require municipal recipients of CDBG funds to attend a fair housing training as a condition of receiving CDBG funds. This requirement was recently expanded to include recipients of HOME funds and VHFA-funded project developers.	Ongoing; policy under review
	DECHD should continue to submit municipal CDBG applicants to the VHRC to confirm whether or not there are any fair housing concerns in a jurisdiction prior to approving funding requests.	Ongoing

	In its yearly CAPER documents submitted to HUD, DEHCD should map the addresses of all new affordable housing initiatives financed with public funds to depict their location relative to impacted areas.	Not completed; HUD's reporting has changed.
	DEHCD and VHCB should amend the HOME Affirmative Marketing Plan so that it also explicitly applies to CDBG-assisted housing with five or more units.	Additional work needed
	DEHCD should initiate a Fair Housing Log to record activities undertaken throughout the year to affirmatively further fair housing. This action will achieve the State's regulatory obligation to maintain records reflecting the actions taken to eliminate housing discrimination and affirmatively further fair housing choice.	Incomplete; activities are reported to HUD but not in a designated free-standing Log
	DEHCD should develop an MOU among all of the State's Fair Housing stakeholders, such as VHCB, VHFA, VHRC, the Public Housing Authorities, Vermont Legal Aid, and CVOEO, to provide for a systematic annual reporting of each organization's fair housing activities and the establishment of a unified database of such activities.	Incomplete; stakeholders track activities independently but no unified database exists.
Several State policies could be improved from a fair housing perspective.		
	VHFA should continue the Top Tier Priorities that encourage affordable housing development in non-impacted areas.	Ongoing; policy under review to support investment in high opportunity areas.
	DEHCD should continue to work with CVOEO to develop and implement a monitoring process through which they review a select number of municipal bylaws and plans of CDBG grantees each year for best fair housing practices and potential discriminatory provisions. DEHCD should provide adequate funding for this yearly activity and should not approve funding requests for municipalities found to have discriminatory land use provisions.	Ongoing, in part. DHCD was not able to provide funding to CVOEO in FY2016.
	DEHCD and CVOEO should continue to partner with regional planning commissions throughout the State to complete additional reviews of municipal fair housing and land use planning regulations to ensure these communities are affirmatively furthering fair housing choice. Furthermore, the checklists included in the Chittenden County review should be replicated and distributed for use by other counties and regions throughout the State.	Ongoing

	The State, including DEHCD, should support the NRB's and ANR's efforts to further improve the Act 250 process as outlined in the "Report on Improving Vermont's Environmental Protection Process" allowing for transparency and accountability while at the same time streamlining the appeals process.	Ongoing
Policy documents utilized by Public Housing Authorities throughout the State could be improved from a fair housing perspective.		
	With the exception of the Rutland Housing Authority, as the various PHAs review and update their respective ACOPs, these policies should be revised to address all nine necessary topics to ensure that all Vermont PHAs have in place policies that affirmatively further fair housing.	Complete (confirm re Barre and Bennington)
	As the various PHAs review and update their respective Section 8 Admin Plans, the Barre, Bennington, Montpelier, St. Alban's City, and Springfield Housing Authorities should revise their plans to address all nine topics to ensure that all Vermont PHAs have in place policies that affirmatively further fair housing.	Complete (confirm re Barre and Bennington)
The majority of fair housing complaints filed through HUD and VHRC involved disability and familial status (e.g. presence of minors).		
	DEHCD should continue to provide funding to the Fair Housing Project of CVOEO to provide fair housing training, education, and outreach services.	DHCD funded this work for several years but was not able to provide funding in FY2016.
	CVOEO should conduct outreach, research, and analysis regarding national origin/ancestry discrimination and public assistance/Section 8 discrimination among landlords and property management companies in the rental housing market.	Done by CVOEO for several years; currently Legal Aid does some of this work.
Members of the protected classes could be more fully represented on State boards and commissions dealing with housing issues.		
	The State should ensure that its outreach efforts in making gubernatorial appointments to boards and commissions includes a directed effort to solicit applications from members of classes protected by the federal and state Fair Housing Acts.	Ongoing
There is a need for continued fair housing testing, education, training, and outreach.		
	DEHCD should continue to provide funding to the Fair Housing Project of CVOEO to provide fair housing training, education, and outreach services. The Fair Housing Project should provide these services to code officials, tenants, municipal officials, landlords, land trusts, CHDOs, various property management companies, and realtors.	Ongoing, in part.

	DEHCD should continue to require municipal recipients of CDBG funds to attend a fair housing training as a condition of receiving CDBG funds. This requirement was recently expanded to include recipients of HOME funds and VHFA-funded project developers.	Ongoing
	DEHCD should expand its fair housing training opportunities by creating an online training course more easily accessible to municipal officials and grantees of federal funds.	Incomplete
	The State, through DEHCD, should develop a Fair Housing Training Guide for permitting officials and affordable housing developers to ensure everyone involved in the development of affordable housing is aware of their legal rights and obligations under the federal and state Fair Housing Acts.	Incomplete
“Not in My Backyard” (NIMBY) can be found in any community and has a direct effect on the ability to develop affordable housing.		
	At the urging of the State of Vermont, committees in both the Vermont House of Representatives and the Vermont Senate approved bills that would make it unlawful to discriminate in land use decisions and permitting of housing because a project would contain affordable housing during the 2012 legislative session. The State of Vermont should continue to support the enactment of this important legislation that would serve as a tool against NIMBYism, arising from the general public and from permitting officials.	Complete
Public transit service is largely limited to higher-density, developed areas and does not accommodate persons working second/third shifts.		
	Identify opportunities for the development of medium density affordable family housing along existing transit routes. Collaborate with VTrans and public transportation providers throughout the State to serve these areas with public transit.	Ongoing
	VTrans should continue to offer innovative programs to address the transit and commuting needs of households throughout the State, including the “Go Vermont” program.	Ongoing
Mobile homes and mobile home parks are often located in floodplains and areas vulnerable to severe impacts from natural disasters.		
	The State should continue supporting First Stop Grant funding for CVOEO’s Mobile Home Project to provide technical assistance to mobile home residents on financing the purchase of mobile homes and mobile home parks.	Ongoing
	The State should address delays in FEMA’s appeal process due to lack of condemnation by developing a state process to condemn homes or declare them uninhabitable.	Complete
	DEHCD should work with its partners to assist in identifying appropriate locations to relocate mobile homes and mobile home parks located in floodplains.	Incomplete

The Vermont Association of Realtors (VAR) does not have an established relationship with VHRC or CVOEO.		
	The Vermont Association of Realtors should partner with the Vermont Human Rights Commission to reinstitute regularly scheduled fair housing education opportunities available through the VHRC to VAR members.	Incomplete
	CVOEO should establish a partnership with local Realtor associations throughout the State to provide fair housing training that is mandated as part of Realtors' continuing education requirements.	Incomplete, but realtors have fair housing training.
Several newspapers throughout the State do not comply with federal fair housing requirements.		
	The Fair Housing Project of CVOEO and Vermont Legal Aid should continue to monitor real estate ads placed in newspaper publications, both print and online versions, to educate publishers of the legal requirements for such ads and to ensure compliance with the Fair Housing Act.	Complete