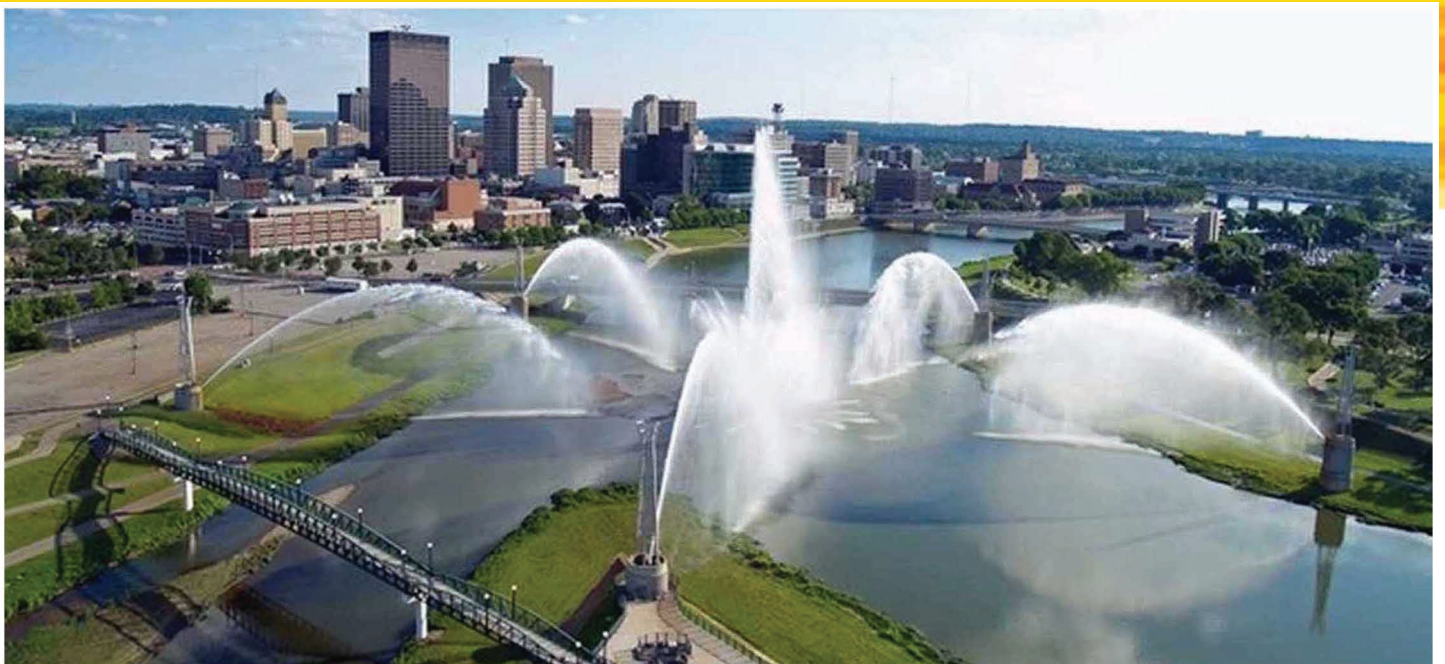


2015

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



October 23, 2015

Prepared by:
Miami Valley Fair Housing Center, Inc.
505 Riverside Drive
Dayton, OH 45405
www.mvfairhousing.com

MIAMI VALLEY

FAIR HOUSING
Equal Opportunity Specialists

The Miami Valley Fair Housing Center (MVFHC) is a private, non-profit corporation with a mission to eliminate housing discrimination and ensure equal housing opportunity for all people in our region. Specifically, MVFHC seeks to eliminate housing discrimination against all persons because of race, color, religion, national origin, sex, disability, familial status, or any other characteristic protected under state or local laws. In furthering this goal, MVFHC engages in activities designed to encourage fair housing practices through educational efforts; assists person who believe they have been victims of housing discrimination; identifies barriers to fair housing in order to help counteract and eliminate discriminatory housing practices; works with elected and government representatives to protect and improve fair housing laws; and takes all appropriate and necessary action to ensure that fair housing laws are properly and fairly enforced throughout the Miami Valley. MVFHC is an Operating Member of the National Fair Housing Alliance and maintains status as a Qualified Fair Housing Organization with the U.S. Department of Housing and Urban Development.

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This analysis and report was made possible by the efforts and contributions of the following staff members:

David Lauri
Jim McCarthy
Anita Schmaltz
Randall Smith
Tom Toberen

Sarah Weber
Miranda Wilson
John Zimmerman
Karl Zimmerman

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Introduction

The Consolidated Plan for Housing and Community Development¹ in large and small municipalities contains a certification to affirmatively further fair housing (AFFH) that requires all entitlement communities to implement a Fair Housing Plan and to update that plan periodically.

The U. S. Department of Housing and Urban Development (HUD) suggests that entitlement communities—such as Montgomery County, the City of Dayton and the City of Kettering—conduct fair housing planning at least once every five years. Fair housing planning consists of three components: (1) conducting an Analysis of Impediments (AI) to Fair Housing Choice, (2) identifying actions to eliminate any identified impediments, and (3) maintaining AFFH records. HUD also suggests that contiguous entitlement communities that regularly work together form a joint effort to conduct a Regional AI and a Regional Fair Housing Plan. Montgomery County, the City of Dayton and the City of Kettering completed that process in 2009 resulting in the *2010 Regional Fair Housing Plan*. In 2014 these three jurisdictions contracted with the **Miami Valley Fair Housing Center (MVFHC)**² to develop the 2015 Regional AI.³

Additional guidance on fair housing planning comes from the Home Investment Partnership and Community Development Block Grant (CDBG) programs' statutes and guiding regulations. These statutes and rules emphasize the need to analyze both **housing choice** and **housing availability** in all neighborhoods for all of the fair housing protected classes within a jurisdiction. MVFHC accomplished this by using existing studies and data, culling for analysis of data, and involving the public and stakeholders through public meetings, focus groups, interviews and surveys.

Once the AI is complete, a Fair Housing Plan must be developed and implemented in order to inform more accurately the Consolidated Plan (ConPlans) process and implementation. Montgomery County, the City of Dayton and the City of Kettering must certify to HUD that an AI was conducted and fair housing action steps are being implemented. Goals and objectives must be designed to identify and mitigate obstacles to fair housing choice and poor housing availability for the protected classes covered in each jurisdiction.

MVFHC has a long and successful history in the Miami Valley. Originally a program of Montgomery County, MVFHC became a private non-profit 501(c)(3) Ohio corporation in 1993. MVFHC's mission is to eliminate housing discrimination and ensure equal housing opportunity for all people in our region.

MVFHC is governed by a fourteen-member volunteer board of trustees who meet regularly to set and review policy for the organization. A professional staff of seventeen people work on MVFHC's overall programs as well as specific grant projects. The 2015 Regional AI was funded jointly by the City of Dayton, the City of Kettering and Montgomery County using CDBG program and Fair Housing Assistance Program partnership funds.

Executive Summary

This 2015 Regional AI is a comprehensive review of municipal housing, economic conditions and transportation conditions as well as public and private sector policies to determine whether they support or impede housing choice and opportunities for all persons in the region.

The AI process involves a thorough examination of a variety of sources related to housing, fair housing education and enforcement, and housing transactions—particularly for persons protected under fair housing law. HUD provides a definition of impediments to fair housing choice in its *Fair Housing Planning Guide*:

- 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 [and]
- Any actions, omissions, or decisions which have [this] effect.”⁴

Ohio has added military status, ancestry, and age (40 and over) as additional classes. The City of Dayton protects age (40 and over), marital status, sexual orientation, and gender identity. Moreover, in 2012 HUD offered guidance protecting sexual orientation and gender identity in the provision of all HUD programs, including, for example, homeless shelters funded by grants from the Emergency Solutions Grant program and the Housing Opportunities for Persons with AIDS program, federally-funded public housing, and mortgages provided through the Federal Housing Administration.⁵

MVFHC assessed a number of quantitative and qualitative sources to develop this AI. Also, an AI Advisory Group⁶ formed during the project reviewed progress regularly and provided input and guidance. Staff and board members from MVFHC, staff from the three participating jurisdictions, and staff from Greater Dayton Premier Management (the agency that administers public housing and the Housing Choice Voucher program in the region) served in the group (see Appendix 3).

Quantitative sources used in analyzing fair housing choice included data from:

- Socio-economic and housing data from the U.S. Census Bureau
- Employment data from the U.S. Bureau of Labor Statistics
- Economic data from the U.S. Bureau of Economic Analysis
- Investment data from the Community Reinvestment Act
- Home loan application data from the Home Mortgage Disclosure Act
- Housing complaint data from MVFHC, the City of Dayton Human Relations Commission, the Ohio Civil Rights Commission, and HUD
- Surveys conducted online, in town meetings, and in focus groups
- Data from local and national research projects
- Earlier analyses of impediments to fair housing

Qualitative sources used in analyzing fair housing choice and housing availability:

- Interviews with community stakeholders
- Minutes from a town hall meeting
- Focus groups meeting minutes
- Notes from five community assessment panels conducted in May 2015
- Local and national news sources
- Information and minutes from meetings of the AI Advisory Group

Through this methodology MVFHC developed a list of impediments to fair housing choice and housing availability, which will be addressed by the three jurisdictions as they implement the second component of fair housing planning—identifying actions to eliminate these impediments.

Overview of Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

¹ Consolidated Planning. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/about/conplan.

The Consolidated Plan is designed to help states and local jurisdictions to assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding provided by programs offered by HUD's Office of Community Planning and Development: Community Development Block Grant program, HOME Investment Partnerships, Emergency Solutions Grant program, and Housing Opportunities for Persons with AIDS program. The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan. Grantees report on accomplishments and progress toward Consolidated Plan goals in the Consolidated Annual Performance and Evaluation Report.

² See Appendix B — About the Miami Valley Fair Housing Center on page 176.

³ See Appendix C — Scope of Services on page 198.

⁴ Chapter 2: Preparing for Fair Housing Planning, pp. 2–8. *Fair Housing Planning Guide* (vol. 1). U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. Retrieved from <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

See also: Top Seven Keys to Affirmatively Furthering Fair Housing. U.S. Department of Housing and Urban Development. Retrieved from https://www.hudexchange.info/resources/documents/Module5_TopSevenAFFH.pdf.

⁵ Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, pp. 5662–676. (2012, February 3) *Federal Register*, 77.23. Retrieved from <http://portal.hud.gov/hudportal/documents/huddoc?id=12lgbtfinalrule.pdf>.

⁶ See Appendix D — Advisory Committee on page 202.

Section 1 — Jurisdictional Background Data

A. Introduction

The Family and Children First Council and the United Way of the Greater Dayton Area assessed Montgomery County’s human services, finding that compared to the state and the nation Montgomery County has:

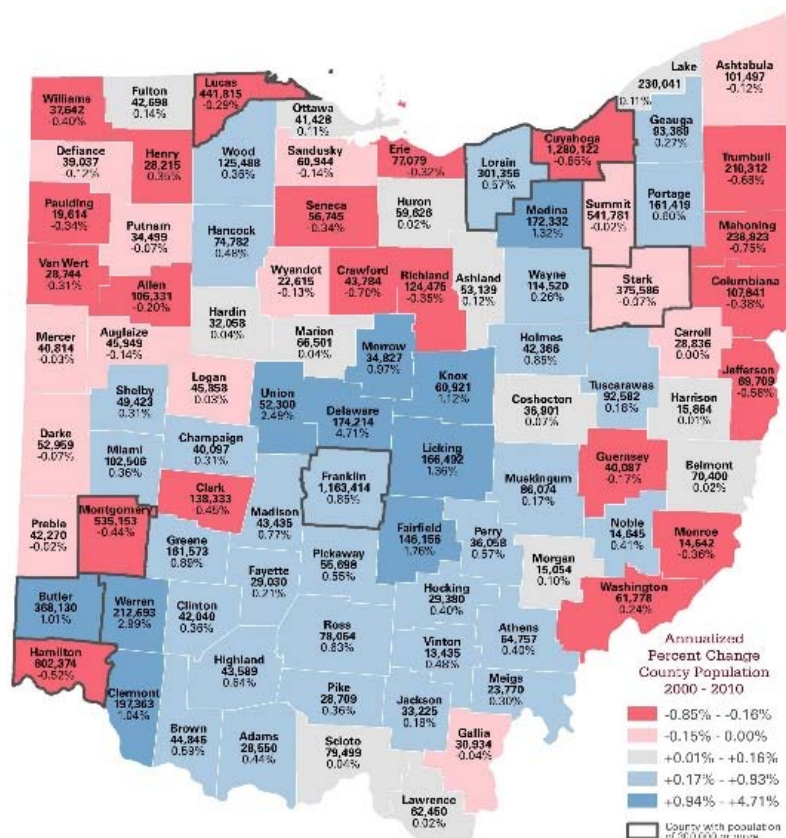
- “a slightly older population;
- a higher proportion of residents who are Black or African American;
- higher poverty and unemployment rates;
- lower household incomes;
- a higher proportion of residents who receive public benefits;
- older housing stock;
- less access to affordable rent; and
- more affordable housing for homeowners.”¹

Not only does this assessment provide an important framework for this analysis of impediments to fair housing choice, but it also indicates areas on which the jurisdictions can focus as they look to affirmatively further fair housing.

In this section we present demographic, economic, transportation and housing information that we collected from the U.S. Census Bureau, the Ohio Department of Development, the U.S. Census Bureau’s American Community Survey (ACS), the *Montgomery County Community Needs Assessment*, and other sources. While ACS data is similar to that accumulated in each census, the ACS data does not provide a snapshot from counts at a single point in time but instead is a five-year average of annual data estimates. We have analyzed information not only on a county level but also, where appropriate and available, by comparing the three entitlement jurisdictions: Montgomery County and the Cities of Dayton and Kettering.

B. Demographics

Although the population for Ohio as a whole increased slightly in the past decade, Montgomery County's population declined 4.47% from 559,062² people in 2000 to 535,153³ in 2010. As shown in Map 1.1, Montgomery County's annualized population decline of -0.44% was the third highest in southwest Ohio, behind only Clark County at -0.45% and Hamilton County at -0.52%.⁴ The two counties south of Montgomery County—Warren and Butler—both experienced population growth; indeed Warren County's increase of 2.99% was the second highest in the state, behind only that of Delaware County, north of Columbus, at 4.71%.



Map 1.1: Ohio county populations, annualized percentage change 2000–2010⁴

Between 2000 and 2010, all three AI jurisdictions lost population. Montgomery County lost 4.64% of its population, Kettering 2.26% and Dayton 13.74%. According to population estimates, however, population decline since 2010 has been significantly reduced in Montgomery County to only 0.38% and Kettering to only 0.07%, and it has been reversed in Dayton with a population increase of 1.36%. Factors contributing to this change may be more

immigrants moving into the area, students remaining in the area after college, people living longer, and workers moving to the area because of the improved job market.

Montgomery County			City of Dayton			City of Kettering		
2000	559,062		2000	166,303		2000	57,502	
2010	535,153	-4.28%	2010	141,527	-14.90%	2010	56,163	-2.33%
2011	534,979	-0.03%	2011	144,044	1.78%	2011	56,209	0.08%
2012	534,971	0.00%	2012	142,670	-0.95%	2012	56,109	-0.18%
2013	534,764	-0.04%	2013	143,446	0.54%	2013	56,202	0.17%
2014	533,116	-0.31%	2014	n/a		2014	n/a	
Change 2010–2014		-0.38%	Change 2010–2013		1.36%	Change 2010–2013		0.07%
Change 2000–2014		-4.64%	Change 2000–2013		-13.74%	Change 2000–2013		-2.26%

Table 1.2: Actual population 2000, 2010; Estimated population 2011–2014⁵

Examining population by age brackets (see Table 1.3 below) reveals a troublesome change—all segments of the population aged 44 and younger have declined in number. Although persons between the ages of 25 and 44 are the largest portion (24.8%) of the population, they also had the greatest decrease, -18.2%. The reduction in population of this key age bracket has a significant impact on public resources because of reduced contributions in income and other taxes and also affects the local economy because of a reduction in spending by a group that usually has strong purchasing power.

Age	2000		2010		Change	
	Population	%	Population	%	Population	%
Under 5	37,054	6.6%	33,446	6.2%	-3,608	-9.7%
5 – 19	116,780	20.9%	104,994	19.6%	-11,786	-10.1%
20 – 24	38,209	6.8%	35,955	6.7%	-2,254	-5.9%
25 – 44	162,327	29.0%	132,734	24.8%	-29,593	-18.2%
45 – 54	76,651	13.7%	78,920	14.7%	2,269	3.0%
55 – 64	51,344	9.2%	68,063	12.7%	16,719	32.6%
65 and over	76,697	13.8%	81,041	15.1%	4,344	5.7%
Total	559,062	100.0%	535,153	100.0%	-23,909	-4.3%

Table 1.3: Montgomery County population by age⁵

The Nexus of Population by Age and by Disability

Breaking the category of people aged 65 and older into smaller ranges better shows the significance of the region's aging population. As opposed to the increase of 5.7% for the whole group aged 65 and older, the smaller group of people aged 85 and older has a much greater increase in population of 40.8% in Montgomery County. Even Dayton and

Kettering, who saw their overall elderly populations decline in number, saw significant increases for those 85 and older, at rates of 13.1% for Dayton and 46.2% for Kettering.

Age	2000		2010		Change	
	Population	%	Population	%	Population	%
65 – 74	40,879	53.3%	41,434	51.1%	555	1.4%
75 – 84	27,461	35.8%	27,839	34.4%	378	1.4%
85 and over	8,357	10.9%	11,768	14.5%	3,411	40.8%
Total (65+)	76,697	100.0%	81,041	100.0%	4,344	5.7%

Table 1.4: Elderly population in Montgomery County by age⁵

Age	2000		2010		Change	
	Population	%	Population	%	Population	%
65 – 74	5,344	50.9%	4,636	45.9%	-708	-13.2%
75 – 84	4,021	38.3%	3,807	37.7%	-214	-5.3%
85 and over	1,133	10.8%	1,657	16.4%	524	46.2%
Total (65+)	10,498	100.0%	10,100	100.0%	-398	-3.8%

Table 1.5: Elderly population in Kettering by age⁵

Age	2000		2010		Change	
	Population	%	Population	%	Population	%
65 – 74	10,589	53.1%	8,727	48.5%	-1,862	-17.6%
75 – 84	7,340	36.8%	6,957	38.7%	-383	-5.2%
85 and over	2,031	10.2%	2,298	12.8%	267	13.1%
Total (65+)	19,960	100.0%	17,982	100.0%	-1,978	-9.9%

Table 1.6: Elderly population in Dayton by age⁵

Because many older people are aging into disability, this increase in senior population is significant for fair housing planners. Such seniors who encounter housing problems are covered by disability status. The idea of aging into disability should be contemplated in all community planning processes, including fair housing planning.

The *2010 Regional Fair Housing Plan* found a lack of available accessible housing. The ongoing growth in numbers of seniors and of persons with disabilities will increase the significance of the need for accessible housing as an impediment to fair housing.

A number of fair housing issues over the past decade involve the intersection of age and disability, including having choice regarding changes in level of care and having a full spectrum of both public, private and institutional housing options. Older persons who have aged into disability should not be required to relocate to assisted living or a nursing home

but rather, as noted in Montgomery County's *Community Needs Assessment*, may "prefer to receive services in the safety and comfort of their own homes."⁶ Such individuals choosing to receive services within their homes may ask their local governments for reasonable accommodations to municipal requirements, policies, or laws such as zoning requirements pertaining to modular ramps or local ordinances regarding trash can placement. Local governments need to ensure that all municipal staff is trained on the Fair Housing Act and how to respond appropriately to residents' inquiries.

Disability Civil Rights Protections in Housing: An Overview

According to the Fair Housing Act, a person who has a disability is someone who has: a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment.⁷

The Fair Housing Act was amended in 1988 to add protection for persons with disabilities. Congress passed another non-discrimination law called the American with Disabilities Act (ADA) in 1990. Both laws, as well as state civil rights laws, can apply to public and private housing providers. The fair housing law applies to dwellings used for residential purposes, and the ADA applies to areas used in housing complexes by the general public, such as the manager's office. Title 2 of the ADA also has specific provisions governing places such as nursing homes and assisted living complexes. In addition, housing (such as public housing) funded by the U.S. Department of Housing and Urban Development (HUD) or by other federal agencies (such as Section 515 rural housing loans, funded by the Department of Agriculture), is also covered by these laws as well as by Section 504 of the Rehabilitation Act of 1973.⁸ These laws not only ban discrimination against people with disabilities in federally funded programs but also require affirmative action—or programmatic accessibility—in those programs.

Programmatic accessibility is explained by the region's public housing authority, Greater Dayton Premier Management, in its *Admissions and Continued Occupancy Policy* thusly:

The [Public Housing Agency (PHA)] must ensure that persons with disabilities have full access to the PHA's programs and services. This responsibility begins with the first inquiry of an interested family and continues through every programmatic area of the Asset management Program (24 CFR 8).⁹

Housing providers may not make inquiries about disabilities except in very narrow circumstances, such as when a disability is a qualification for a housing program. A rule that seems neutral but still has a disparate impact on persons with disabilities can still be discriminatory, albeit unintentionally so. An example might be the banning of wheelchairs from a dining area to keep it uncluttered and safer; a person who cannot move from a wheelchair to a regular dining room seat might thus be barred from entry to a public space and thus discriminated against.

Age	Montgomery County			City of Dayton			City of Kettering		
	Popul- ation	Dis- abled	% disabled	Popul- ation	Dis- abled	% disabled	Popul- ation	Dis- abled	% disabled
Under 17	121,832	6,602	5.4%	30,571	2,291	7.5%	12,113	649	5.4%
18 – 64	325,911	43,064	13.2%	92,933	16,458	17.7%	33,852	3,320	9.5%
65 and over	79,884	30,168	37.8%	16,860	7,886	46.8%	9,651	3,209	33.3%
Male	252,862	36,793	14.6%	67,547	11,963	17.7%	26,985	3,390	12.6%
Female	274,765	43,041	15.7%	72,817	14,672	20.1%	28,631	3,698	12.9%
Total	527,627	79,834	15.1%	140,364	26,635	19.0%	55,616	7,088	12.7%

Table 1.7: Disability rates by age and gender, 2009–2013 averages¹⁰

Persons with disabilities are a significant proportion in the three entitlement jurisdictions of almost every age bracket and gender. Although only between 5.4%–7.5% of children in the region have disabilities, the percentage of adults living with disabilities is greater and continues to grow. In all jurisdictions people aged 65 and over are the groups with the largest proportions of people living with disabilities: at 33.3% in Kettering, 37.8% in Montgomery County overall, and 46.8% in Dayton. The number of persons with disabilities underscores the importance of fair housing education within the public and private sector at both the policy and the service delivery levels.

Race and Ethnicity

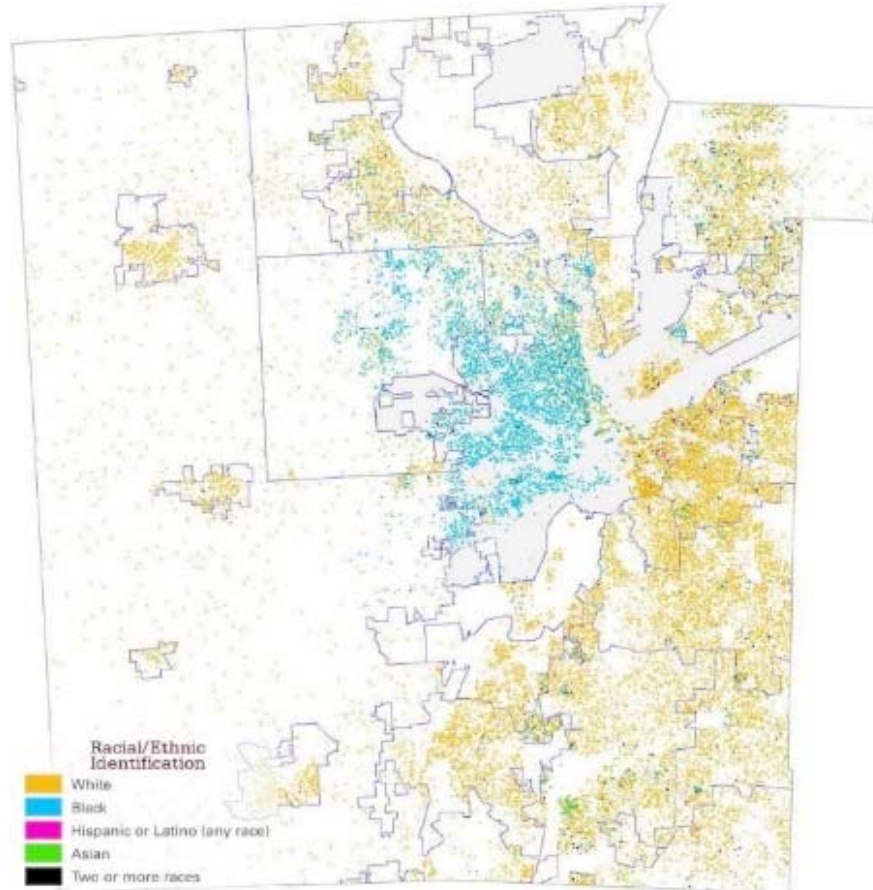
Montgomery County's racial and ethnic composition continues to change. Although Whites are still the largest racial group, with 395,272 people in 2010, this represents a 7.7% decrease since 2000. Other racial and ethnic groups increased in population from 2000 to 2010. Blacks or African Americans grew by 1%, Asians increased by 26%, two or more races increased by 52%, and Hispanic or Latino grew by 71%. Mexicans were the main driver of the Hispanic/Latino increase, doubling in number since 2000. Montgomery County is becoming more diverse, both because of a decrease in its White population and because of the increase in non-White population.

Race	2000		2010		Change	
	Population	%	Population	%	Population	%
White	428,084	76.6%	395,272	73.9%	-32,812	-7.7%
Black or African American	111,030	19.9%	111,870	20.9%	840	0.8%
American Indian or Alaska Native	1,258	0.2%	1,242	0.2%	-16	-1.3%
Asian	7,341	1.3%	9,273	1.7%	1,932	26.3%
Native Hawaiian or Pacific Islander	196	0.0%	177	0.0%	-19	-9.7%
Some other race	2,718	0.5%	4,472	0.8%	1,754	64.5%
Two or more races	8,435	1.5%	12,847	2.4%	4,412	52.3%
Hispanic or Latino of any race	7,093	1.3%	12,177	2.3%	5,081	71.6%
Not Hispanic or Latino	551,966	98.7%	522,976	97.7%	-28,990	-5.3%
Mexican*	3,218	0.6%	6,544	1.2%	3,326	103.4%
Total Population	559,062	100.0%	535,153	100.0%	-23,909	-4.3%

*"Mexican" is included in "Hispanic or Latino," "Some other race" and "Two or more races," but it is also listed here separately because it is the only ethnic group to double in number.

Table 1.8: Population by race and ethnicity⁵

As below illustrated in Map 1.9, Montgomery County continues to have ongoing segregation, with some areas in Dayton and Trotwood being 92% Black while other areas in the county are over 90% White.¹¹



Map 1.9: 2010 Racial/ethnic composition of Montgomery County, Ohio¹¹

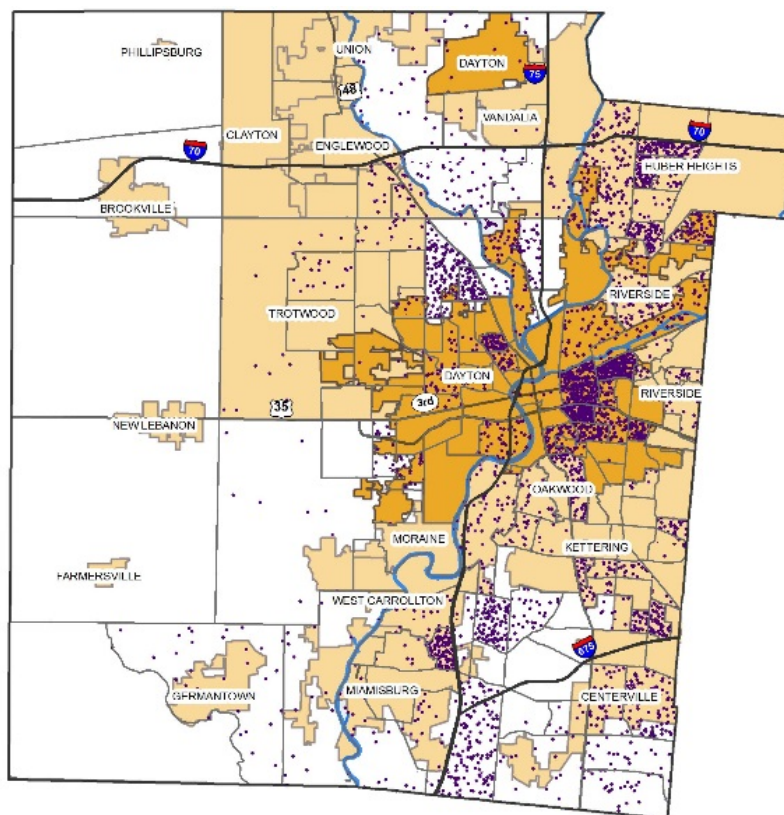
Welcome Dayton (a program of the City of Dayton's Human Relations Council)¹² commissioned a series of maps¹³ (on the next and following pages) that show where different immigrant populations live in Montgomery County. These maps illustrate the increasing diversity of the area while also revealing possible fair housing concerns arising from particular groups living in clusters.

People in Montgomery County who identify as Latin American or Caribbean come from over 22 countries. Of the 3,871 Latin American/Caribbean individuals, the largest group—56%—comes from Mexico. Also, slightly more Latin American/Caribbean people in Montgomery County live outside the City of Dayton—2,000—as live within the city—1,869.

Within the City of Dayton Latin American and Caribbean households are clustered on the east side of the city, especially stretching from Troy and Keowee Streets east to Woodman Drive along the border with City of Riverside. Outside Dayton there are clusters in Moraine, Kettering, Harrison Township and Huber Heights.

Country of Origin	Montgomery County*	Dayton
Mexico	2,201	1,251
Columbia	313	36
Ecuador	206	24
Honduras	172	190
Guyana	147	37
Jamaica	144	89
Brazil	99	0
Peru	95	0
Trinidad & Tobago	85	51
Costa Rica	84	71
Other	323	120
Total	3,869	1,869

*Montgomery County figures include Dayton.



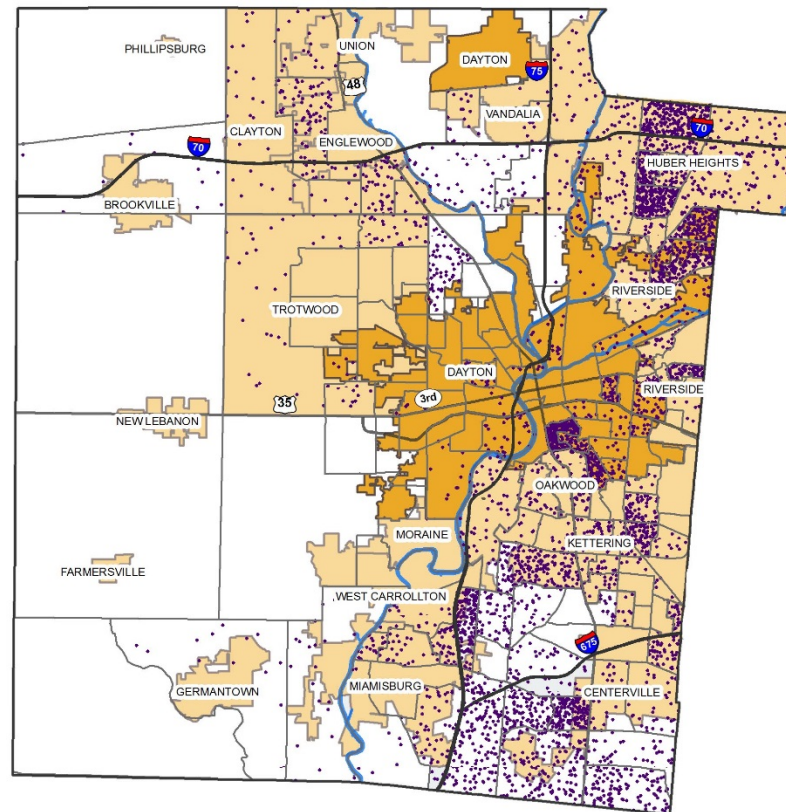
Map 1.10: Latin American and Caribbean immigrant population, Montgomery County, Ohio, 2011¹³

Residents of Montgomery County who identify as Asian immigrants originate from over 17 countries, with over 60% coming from three countries—India, the Philippines, and Vietnam.

The vast majority of Asian immigrants—81.9%—reside outside of the City of Dayton. Most live in suburbs in eastern Montgomery County, particularly in Huber Heights, Riverside, Kettering and Centerville. Within the City of Dayton, there are clusters of Asian immigrants in the University Park and Shroyer Park areas.

Country of Origin	Montgomery County*	Dayton
India	2,490	110
Philippines	1,018	101
Vietnam	952	116
Korea	701	226
China	651	261
Japan	480	56
Taiwan	271	73
Malaysia	234	127
Hong Kong	155	94
Thailand	127	33
Other	201	118
Total	7,280	1,315

*Montgomery County figures include Dayton.



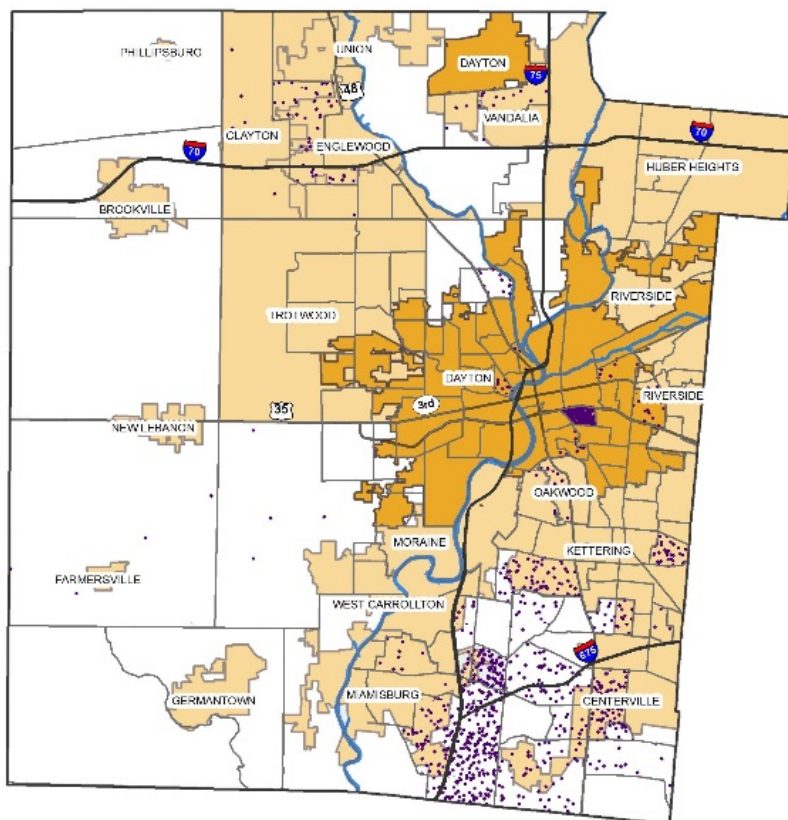
Map 1.11: Asian immigrant population, Montgomery County, Ohio, 2011¹³

Montgomery County residents who emigrated from the Middle East are from over 10 countries of origin. Over 40% of these individuals are from Iraq, with the next 30% coming from Pakistan, Israel or Lebanon.

The majority of Middle Eastern immigrants—78.1%—live outside the City of Dayton; most live in Centerville with a small group in Kettering. Inside Dayton almost all Middle Eastern immigrants live in Walnut Hills.

Country of Origin	Montgomery County*	Dayton
Iraq	465	186
Pakistan	154	11
Israel	142	3
Lebanon	135	18
Jordan	99	10
Iran	92	0
Other	57	22
Total	1,144	250

*Montgomery County figures include Dayton.



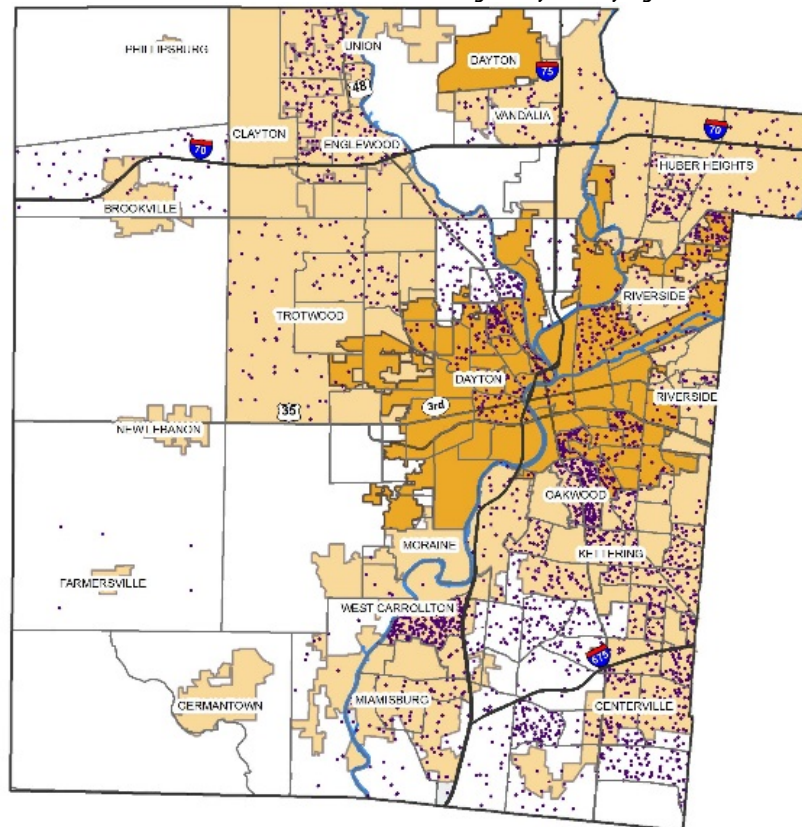
Map 1.12: Middle Eastern immigrant population, Montgomery County, Ohio, 2011¹³

Residents of Montgomery County who identify as European immigrants originated from over 30 countries. 28.8% of these individuals came from Germany, and 19.9% came from the United Kingdom.

The majority of European immigrants—79.2%—live outside the City of Dayton, with concentrated pockets in West Carrollton and Oakwood. Within Dayton there are clusters in University Park, Shroyer Park and Belmont.

Country of Origin	Montgomery County*	Dayton
Germany	893	193
United Kingdom	627	191
Albania	189	0
Ireland	183	25
Greece	139	0
France	130	0
Yugoslavia	121	91
Poland	118	22
Other	756	134
Total	3,156	656

*Montgomery County figures include Dayton.



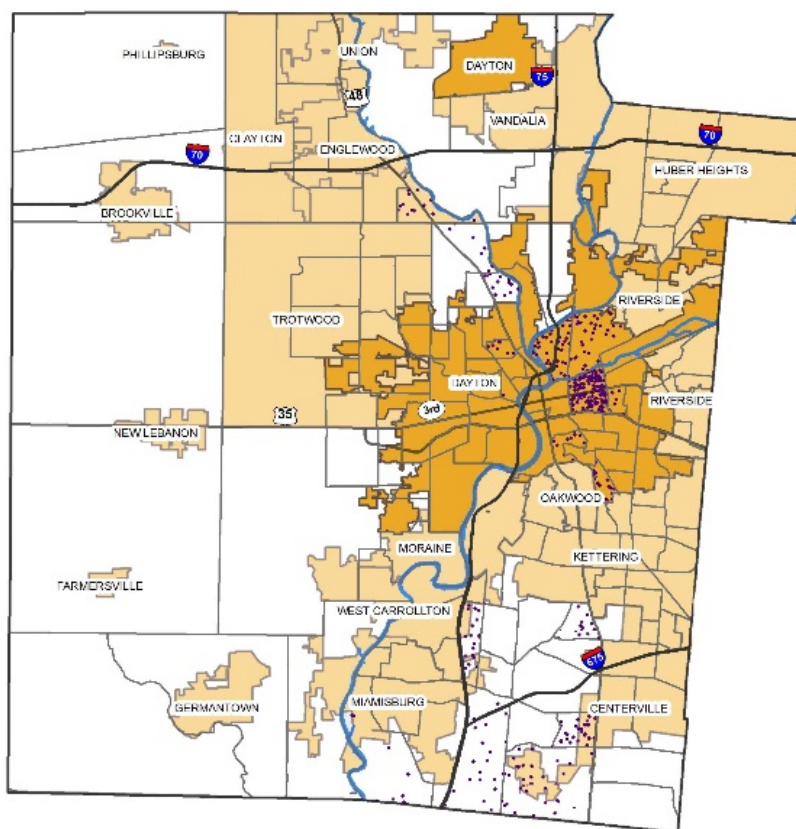
Map 1.13: European immigrant population, Montgomery County, Ohio, 2011¹³

An immigrant group of particular note in Montgomery County are the Ahiska Turks. The group is small in numbers—427 people—and originates from Russia, Uzbekistan, Turkey and Kazakhstan. Although only 12.4% of the Ahiska Turkish immigrants moved from Turkey, anecdotal evidence suggests that most of the immigrants from the other countries also identify as Turkish.

The Ahiska Turks are the only group of immigrants with a majority—62.0%—living within the City of Dayton, with the majority living in Old North Dayton and the Twin Towers and Walnut Hills areas. The major concentration outside of Dayton is in the southern area of Centerville.

Country of Origin	Montgomery County*	Dayton
Russia	179	59
Uzbekistan	153	153
Turkey	53	29
Kazakhstan	42	24
Total	427	265

*Montgomery County figures include Dayton.



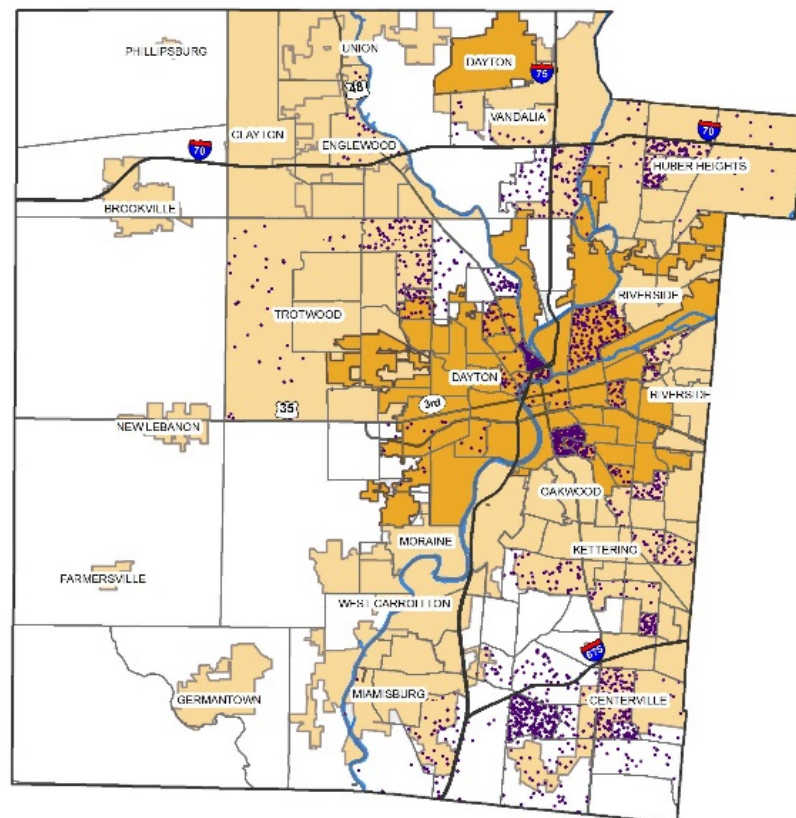
Map 1.14: Ahiska Turkish immigrant population, Montgomery County, Ohio, 2011¹³

Montgomery County residents who emigrated from Africa come from more than 20 countries. 29.6% come from countries in Eastern Africa, with 14.9% coming from Nigeria specifically.

68.9% of African immigrants in Montgomery County reside outside of the City of Dayton, with clusters in Centerville and Huber Heights as well as a fairly evenly distributed population in Kettering. Within Dayton there are clusters in Old North Dayton, University Park and Riverdale.

Country of Origin	Montgomery County*	Dayton
Eastern Africa	632	196
Nigeria	319	95
Western Africa	243	89
Middle Africa	225	136
Egypt	160	8
Ghana	144	0
Sierra Leon	60	0
Cameroon	55	3
Eritrea	54	6
Other	191	76
Total	2,138	664

*Montgomery County figures include Dayton.



Map 1.15: African immigrant population, Montgomery County, Ohio, 2011¹³

The Bureau of Population, Refugees, and Migration of the U.S. Department of State, cooperating with the Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development, offers guidance to “resettlement agencies” in a memo issued in 2012.¹⁴ This guidance can be adapted to municipal activities such as planning, zoning and land use.

A fair housing issue of particular note in the memo to resettlement agencies is that of steering, defined in the memo as:

Steering is the practice by which real estate agents, other persons or entities providing housing services preserve or encourage patterns of segregation in available housing by channeling or assigning members of certain groups (based on race, national origin, etc.) to particular buildings or neighborhoods (24 C.F.R. Sec. 100.70(a) and (c)(4)).¹⁴

The memo also outlines best practices to follow when helping refugees to find housing. One such practice is to “use the Fair Housing Act affirmatively” by educating housing providers about unlawful discrimination and documenting and pursuing remedies for cases of discrimination. Another practice is to “pursue diverse housing options” by avoiding the placement of refugees of the same background in the same area or complex and by promoting affordable housing resources. A third practice is to “promote choice” in housing, by giving refugees multiple choices for housing, allowing them to decide for themselves which choice they want.¹⁴

Continuing Problems Based on Race

The data from 2000 to 2015 shows that Montgomery County residents continue to face fair housing barriers based on race, color, and ethnicity. Based on a national study on housing discrimination it conducted in 2000, HUD reported that black renters within the Dayton-Springfield MSA¹⁵ received consistent adverse treatment in 24.3% of the tests conducted.¹⁶ Each local Analysis of Impediments¹⁷ over the last several decades notes systemic racial disparities and high segregation in the area. The *2009 Montgomery County and Cities of Dayton and Kettering Analysis of Impediments to Fair Housing*¹⁸ found that minority households were targets of redlining and other fair housing violations. The 2009 AI also found that 1) racial segregation or racial clustering still exists; 2) disparities still exist for minorities when trying to obtain home loans, particularly for black or African American loan applicants; and 3) housing discrimination still exists.

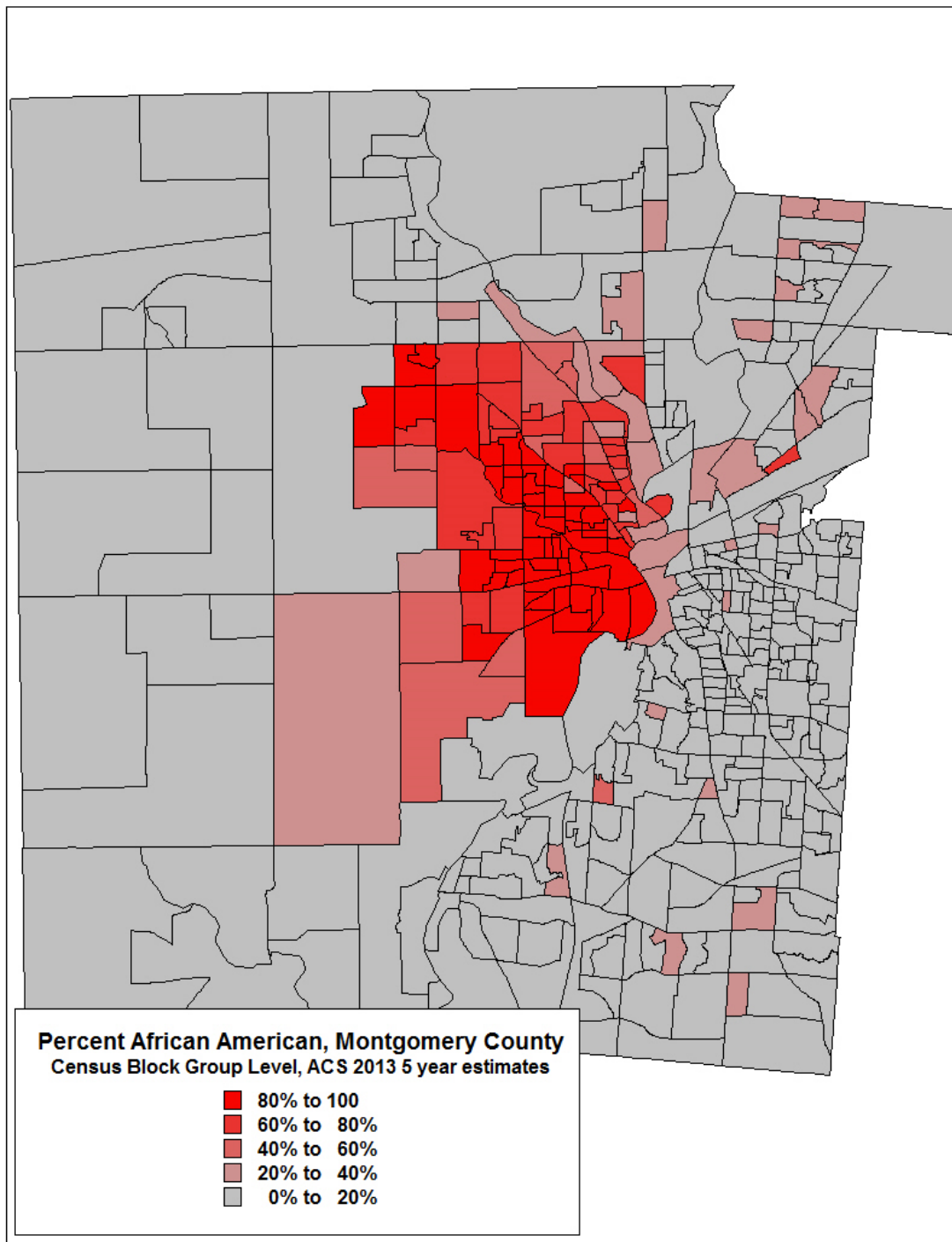
The extent to which minority populations in the Dayton MSA are still clustered is evident in the most recent residential housing patterns data, from the 2010 census data. Clustering measures the extent that an area populated by minority members adjoins another area, or cluster. A high degree of clustering, measured by the spatial proximity of minority and majority populations, indicates the presence of distinctly racial or ethnic neighborhoods. Given that an index value of 0.0 shows that minority populations cluster to the same degree as the majority, the index value of 1.77 for African-Americans in the Dayton MSA indicates that minorities in the MSA continue to be highly segregated.¹⁹

Race/Ethnicity	Population	Relative Clustering Index
Total population	848,153	-
Asian	13,989	0.699
Black or African American	128,282	1.770
Hispanic	9,811	0.054

Table 1.16: Housing patterns in the Dayton MSA¹⁹

While these numbers serve to quantify segregation in the Dayton MSA, Map 9 on the next page illustrates the extent of segregation in the MSA's largest county, Montgomery County. The darkest areas have African-American populations of 80% or more, while the lightest areas have African-American populations of less than 20%.

That “desegregation of Blacks and Whites has come to a standstill” was the conclusion of a 2011 study by Brown University of segregation indices using 2010 Census Data.²⁰ The study's data on the Dayton MSA indicates a continuing high level of segregation. Dissimilarity indices calculated in the study shows how particular ethnic groups are distributed across census tracts in the Dayton MSA. A value of 60 or above is considered very high; the Dayton MSA's dissimilarity index for Black/White distribution is 63.3%.



Map 1.17: 2010 racial/ethnic composition of Montgomery County, Ohio¹¹

Calculations of the Dayton MSA's isolation index from this same study also reveal a high rate of segregation. The isolation index is the percentage of same-group population in the census tract in which the average member of a racial/ethnic group lives in isolation from other ethnic groups. In the Dayton MSA's four-county area the rate of isolation of Whites from other minorities is high at 86.4%. As the isolation index chart on the next page shows, even though there has been an 8% improvement over the last 30 years in the White isolation index, it remains at an exceptionally high rate.

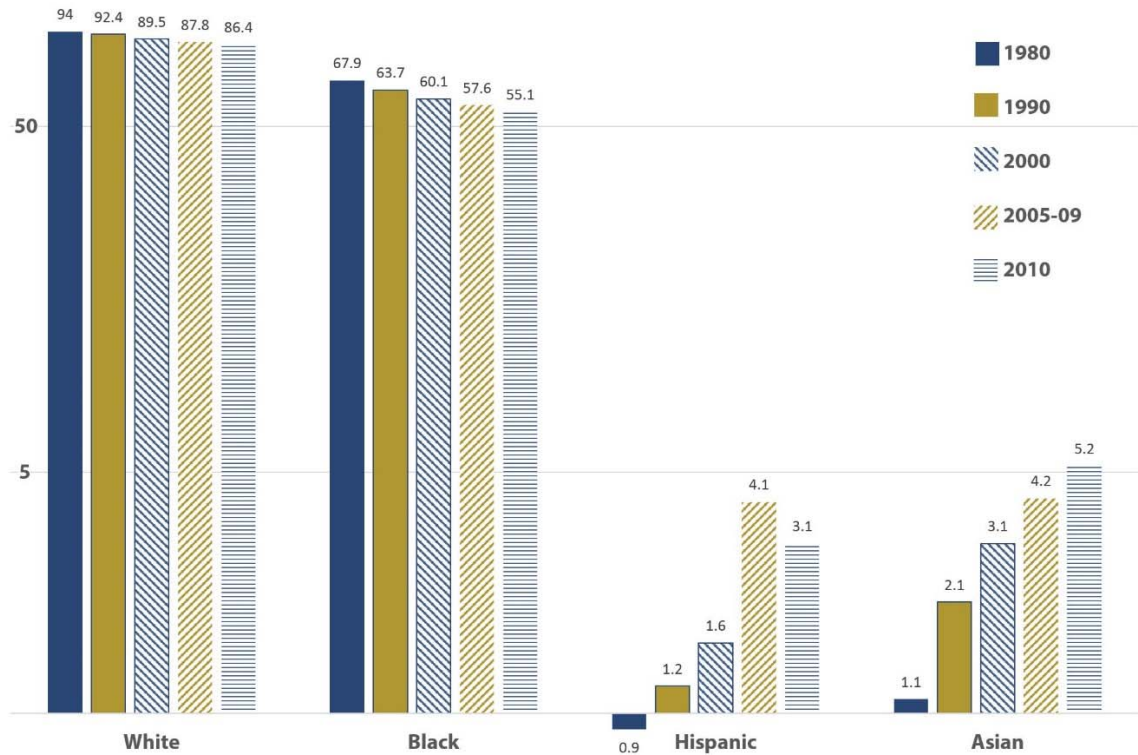


Chart 1.18: Isolation indices, Dayton MSA 1980–2010²¹

C. Income, Employment and Poverty Data

A report done in 2013 for the Montgomery County Affordable Care Act Task Force determined that:²²

- 34% of county residents live in families with incomes under 200% of the federal poverty level (\$39,060 annually for a family of three);
- 15% of county residents under the age of 65 are uninsured; and
- 123,000 county residents are covered by Medicaid.

These figures reflect the economic downturn of 2008 which has adversely affected employment and income across Montgomery County. The decline in median household income from 1999 to 2003, as shown in the chart below, also illustrates Montgomery County's economic situation. Richard Stock, Ph.D., Director of the University of Dayton's Business Research Group, spoke about this data in May 2015 at a strategic planning panel discussion.²³ Dr. Stock pointed out that median household income in Montgomery County has declined by 24% since 1999, compared to lower rates of 16% for Ohio and only 11% for the entire United States. He explained that short- and long-term consequences of this decline include more people in poverty and higher levels of substance abuse as well as declines, because of lower tax revenues, in the provision of public services such as education and safety.

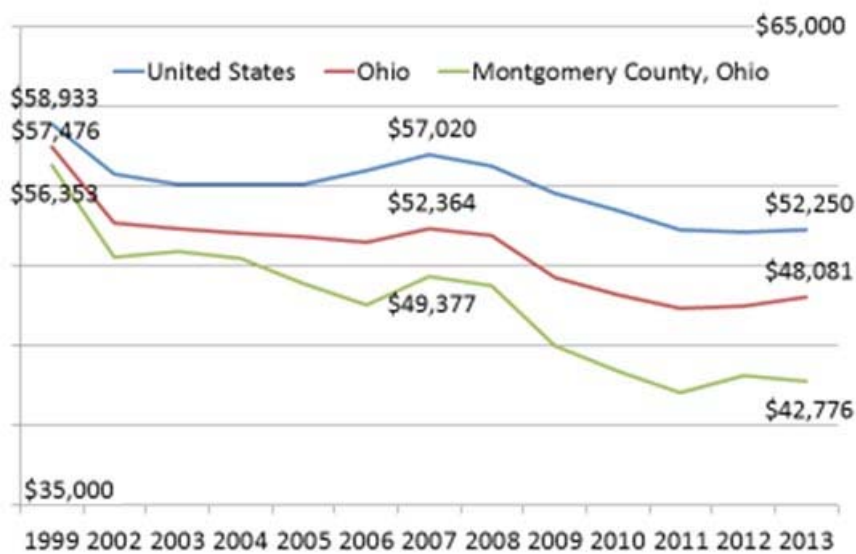


Chart 1.19: Median household income, inflation-adjusted²⁴

Jurisdiction	1999	2010	2011	2012	2013
Montgomery County	8.3%	11.7%	12.0%	12.5%	13.5%
City of Dayton	18.2%	25.0%	26.5%	26.7%	28.4%
City of Kettering	3.2%	7.1%	6.4%	7.6%	8.1%

Table 1.20: Families and people whose income in the past year is below poverty level⁵

Another important economic indicator is the number of people below the poverty level, which has steadily increased in all three jurisdictions. Although the rates for Dayton and the county as a whole are higher, the rate for Kettering has grown significantly too, from only 3.2% in 1999 to 8.1%.

The increase in the area's poverty level has not happened in isolation. The 2007–2009 recession had the greatest number of job losses since the Great Depression. While the economy has experienced various aspects of recovery, the recovery has been a “jobless” one.²⁵

Coinciding with the rise in poverty in Montgomery County has been a slight reduction in the labor force, by 4,215 people from 2009 to 2013 (as shown in Table 8 below). Considering that Montgomery County's total population has decreased, this reduction is not surprising. The reduction in the labor force for the City of Dayton was greater at 6,553 people and was partially offset by gains in other areas of Montgomery County such as Kettering, whose labor force grew by 572 people. More importantly, all three jurisdictions have seen a steady increase in the number of people ages 16–64 who did not work in the 12 prior months, which correlates with the increase in poverty and the concept of a jobless recovery.

Jurisdiction	2009	2010	2011	2012	2013
Montgomery County	348,929	348,444	346,836	344,833	344,714
City of Dayton	104,961	97,716	98,824	97,935	98,408
City of Kettering	34,906	35,942	35,815	35,258	35,478

Table 1.21: Total labor force — population ages 16–64⁵

Jurisdiction	2009	2010	2011	2012	2013
Montgomery County	21.2%	22.7%	23.6%	24.6%	25.3%
City of Dayton	27.1%	28.6%	29.2%	30.4%	31.7%
City of Kettering	15.1%	16.5%	17.5%	18.3%	19.7%

Table 1.22: Non-participation in labor force — percent of population ages 16–64 who “did not work”⁵

Related to but distinct from non-participation in the labor force is the unemployment rate, defined by the Bureau of Labor Statistics as the number of jobless people who are available to work and are actively looking for jobs.²⁶ In 2013 the unemployment rates in Dayton, Montgomery County, and Kettering were higher than those for the state and the nation. Kettering's rate was only slightly higher, while the rate for Dayton was 2.9 times higher than the national rate. Another factor to consider is that the unemployment rates for people living below the poverty level are even higher than the rates for people above the poverty level.

Jurisdiction	2013
Montgomery County	11.4%
City of Dayton	17.8%
City of Kettering	7.6%
State of Ohio	6.4%
United States	6.2%

Table 1.23: Unemployment rate — population ages 16 and over⁵

Jurisdiction	People in Poverty	% in Labor Force	% Employed	% Unemployed
Montgomery County	50,622	55.5%	35.4%	35.4%
City of Dayton	25,547	52.9%	30.5%	42.4%
City of Kettering	3,222	60%	44.3%	26.1%

Table 1.24: Employment status for people in poverty 2013⁵

That all the homeless shelters in Montgomery County are located within the City of Dayton is a factor in Dayton's unemployment rate. Although some homeless people are employed, the majority of the homeless people in Montgomery County are unemployed. The number of homeless people in Montgomery County continues to increase. The 2014 *Community Needs Assessment* reports that 4,091 people stayed at least one night in 2012 in one of the local gateway shelters; that number includes 667 families making up 1,725 people as well as 2,270 single adults and 96 unaccompanied minors.²⁷

Looking at employment data by race (see tables 1.25–1.27 below) reveals that in all three jurisdictions the unemployment rate for Blacks or African Americans is nearly double that of Whites. Although some groups such as Asians have lower unemployment rates than Whites, residents identifying as some other race or two or more races also have higher unemployment rates.

Race	Population	In Labor Force	Employed	Unemployed
White	325,573	62.5%	56.1%	9.4%
Black or African American	84,489	61.2%	49.1%	19.5%
American Indian / Alaska Native	623	63.4%	54.1%	12.7%
Asian	7,966	64.8%	60.1%	6.6%
Native Hawaiian / Other Pacific Islander	71	47.9%	47.9%	0.0%
Some other race	2,662	67.2%	56.0%	13.7%
Two or more races	6,652	70.2%	57.7%	20.0%

Table 1.25: Employment status 2013 — Montgomery County⁵

Race	Population	In Labor Force	Employed	Unemployed
White	67,411	58.1%	50.0%	13.7%
Black or African American	44,141	57.0%	43.1%	24.4%
American Indian / Alaska Native	292	55.8%	44.9%	14.9%
Asian	1,468	55.7%	49.0%	10.7%
Native Hawaiian / Other Pacific Islander	7	100.0%	100.0%	0.0%
Some other race	851	60.5%	47.7%	21.2%
Two or more races	1,703	63.8%	47.0%	25.4%

Table 1.26: Employment status 2013 — City of Dayton⁵

Race	Population	In Labor Force	Employed	Unemployed
White	42,485	66.0%	60.5%	7.4%
Black or African American	1,310	73.4%	63.2%	13.2%
American Indian / Alaska Native	80	77.5%	73.8%	4.8%
Asian	758	63.7%	61.3%	3.7%
Native Hawaiian / Other Pacific Islander	0	-	-	-
Some other race	267	58.1%	51.7%	11.0%
Two or more races	515	74.4%	65.6%	11.7%

Table 1.27: Employment status 2013 — City of Kettering⁵

Underutilization of minority business enterprises (MBEs) in City of Dayton contracts may also have had an effect on the city's unemployment rate for Blacks or African Americans. A 2008 study of the city's use of MBEs and female business enterprises found disparities in multiple business categories and found that Dayton had been a passive participant in discrimination against minorities.²⁸

Poverty was prioritized in the 2014 *Community Needs Assessment* as one of the most significant problems for Montgomery County, in part because it is a root of other social problems. At the aforementioned May 2015 panel discussion, Dr. Stock stressed the importance of education as a means to address poverty, pointing out how education levels correlate to income and unemployment. During another similar panel discussion, Kathleen Shanahan, coordinator of Montgomery County's Housing and Homeless Solutions Program, advocated removing barriers for households working their way into the middle class by increasing Ohio's earned income tax credits and by changing program guidelines.²⁹

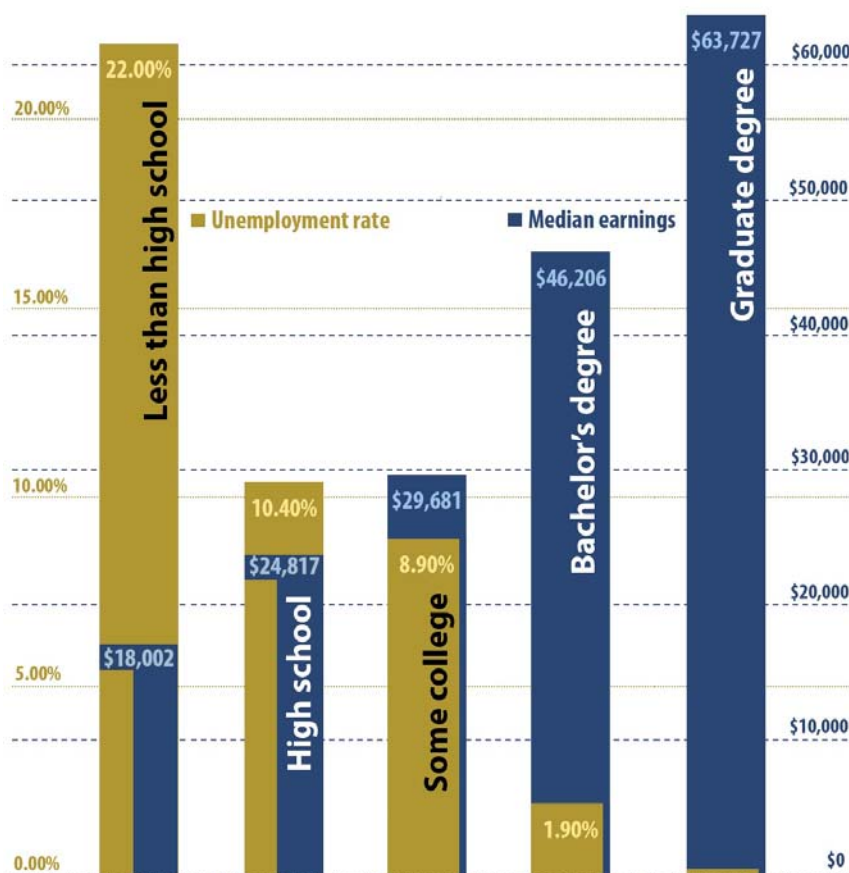


Chart 1.28: Unemployment rate and median earnings by education level³⁰

D. Housing

The age of Montgomery County's housing stock has a direct impact on accessibility for people with disabilities. Over 85% of all units in Montgomery County were built before 1990 and thus before the passage that year of the Americans with Disabilities Act and also before inclusion of Accessible Design and Construction requirements³¹ for multifamily housing within the Fair Housing Act.

Decade	Montgomery County		City of Dayton		City of Kettering	
	Households	%	Households	%	Households	%
1939 and earlier	41,636	16.4%	26,770	36.1%	1,556	5.7%
1940–1949	21,435	8.4%	10,644	14.4%	3,425	12.6%
1950–1959	44,897	17.7%	13,161	17.7%	8,831	32.5%
1960–1969	47,168	18.5%	8,999	12.1%	6,678	24.6%
1970–1979	43,687	17.2%	6,080	8.2%	3,817	14.1%
1980–1989	20,584	8.1%	3,430	4.6%	1,661	6.1%
1990–1999	19,108	7.5%	2,152	2.9%	719	2.6%
2000–2009	15,488	6.1%	2,822	2.8%	432	1.6%
2010 and later	358	0.1%	90	0.1%	15	0.1%
Total	254,361	100.0%	74,148	100.0%	27,134	100.0%

Table 1.29: Households by year built, 2009–2013 five-year averages⁵

According to the Census Bureau, the total number of housing units in Montgomery County increased by 6,332 units between 2000 and 2010. In 2010, owner-occupied housing represented 63% of occupied units within Montgomery County. This is slightly lower than 2000's 64.6% owner-occupied housing. Considering the total population decrease within Montgomery County, the net increase in housing units, and other factors such as the recession and foreclosure rates, it is not surprising to see a rapid growth in the number of vacant units that are not on the market—the “other vacant” units. In 2000, “other vacant” units in Montgomery County—meaning not for sale, rent, or purposefully vacant for short periods of time, represented 27.7% of all vacant units. In 2010, this figure increased to 39.4% of all vacant units.⁵

Status	Number	% of Total
For rent	12,375	40.1%
Rented, not occupied	325	1.1%
For sale	4,213	13.7%
Sold, not occupied	870	2.8%
For seasonal, recreational or occasional use	890	2.9%
For migratory workers	2	0.0%
Other	12,157	39.4%
Total	30,832	100.0%

Table 1.30: Vacant units in Montgomery County 2013⁵

The median home value of owner-occupied units (138,081 housing units) in Montgomery County, according to the 2013 ACS 5 year estimates, is \$112,800. The most populous owner-occupied housing price bracket is \$50,000 to \$99,999 with 32.7% of the units. The next price bracket, \$100,000 to \$149,999, has 25.9% of the owner-occupied units. Nearly 68% of owner-occupied units maintain a mortgage on the property, with a median monthly mortgage payment of \$1,242. The 2013 ACS calculated that 23.4% of owner-occupied units with a mortgage have housing costs that amount to 35% or more of the gross household income.⁵

Though the median monthly rent, at \$723, is less than the median monthly mortgage payment, Montgomery County sees far more renters who are cost burdened for housing. As shown in Table 1.31, 43.9% of Montgomery County residents are paying over 35% of their gross household income for rent. Within Dayton, more than half of its renters pay 35% or more of their household income for rent, and Kettering, 36% of renters. In spite of a recovering economy since 2010, this example of cost burdening is increasing at nearly .20 percent per annum over a four year period.⁵

Percent of Income Paid for Rent	Montgomery County Households	% of all Renters	Dayton % of all Renters	Kettering % of all Renters
Less than 15%	8,872	11.2%	8.7%	13.3%
15% – 19.9%	9,659	12.2%	9.1%	17.5%
20% – 24.9%	9,144	11.6%	9.3%	13.4%
25% – 29.9%	9,726	12.3%	11.9%	11.3%
30% – 34.9%	6,919	8.8%	8.6%	8.5%
35% or greater	34,737	43.9%	52.4%	36.0%
Totals	79,057	100.0%	100.0%	100.0%

Table 1.31: Renters by percent of income paid for rent 2013⁵

Public and Subsidized Housing exists to provide decent, safe, affordable rental housing for eligible low-income individuals and families, the elderly and persons with disabilities. Most of this housing in the region is concentrated in areas of low income and in high minority census tracts with few exceptions. Five types of Public and Subsidized Housing are described in detail in Section 5, Fair Housing in the Public Sector, including the public housing and housing choice voucher programs of Greater Dayton Premier Management, Low Income Housing Tax Credit properties, Rural 515 housing, Section 202 housing for the elderly and Section 811 housing for people with disabilities and project-based Section 8 housing, commonly referred to as “HUD” housing. The explanation reveals an increasing need for affordable housing in the region.

E. Transportation

Time spent commuting to work is a significant factor when examining transportation and its connection to housing and other community amenities. In the United States, fewer than 20% of all trips are commutes, but commutes play an important role in the existing and future transportation systems because of factors such as peak travel times and system demands. Two trends have been observed through the decades—an increase in the amount of time people spend commuting and an increase in the percentage of people commuting by car.³² In 2009, the average commute time in the United States was 25.1 minutes, and 86.1% of workers commuted by car. The increase in time spent commuting effectively increases the distance between workers' residences and their places of employment. Nationally, 83.5% of non-Hispanic White workers commuted to work alone, more by almost 10% than any other racial or ethnic group. Non-Hispanic White workers also had the shortest commute times nationally. Significant proportions of minority populations commute by means other than by car (e.g., by public transportation, by walking) and spend longer times on their commutes than do non-Hispanic Whites.

Within Montgomery County, 82.3% of workers commute to work alone by car, and the average commute time is 21.3 minutes.⁵ Both of these figures are below national averages. Other methods of commuting within Montgomery County are carpooling (8.4%), public transportation (2.2%) and walking (2.7%).

Public Transportation

The Greater Dayton Regional Transit Authority (RTA) provides public transportation throughout Montgomery County and into areas of neighboring counties. RTA has 29 fixed routes offering fixed-timetable service beginning as early as 4:30 am and ending as late as 1:30 am. Bus schedules vary on weekends and by route and are dependent on the number of riders using the service.³³ In addition, RTA provides a paratransit service, providing door-to-door service for qualified individuals to areas only when the point of origin and destination are both within .75 miles of a fixed route.³⁴

RTA provides information in both English and Spanish on its website about filing discrimination complaints under Title VI of the Civil Rights Act and also provides an online complaint portal in both English and Spanish.³⁵ On its website RTA has a handbook and a frequently-asked questions section about its paratransit service (Project Mobility), including qualification requirements.³⁴

In its *2012–2015 Strategic Plan* RTA outlined several potential service locations, including Beavercreek in Greene County near Wright State University; the Dayton Mall; the Dayton International Airport; and Austin Landing.³⁶ Some of these have come to fruition only after some controversy. For example, in 2011, the City of Beavercreek enacted additional requirements which created barriers to additional bus stops servicing Wright State University and nearby businesses. After a local coalition of concerned citizens continued to pursue the creation of additional bus stops, the Federal Highway Administration investigated the actions of the City of Beavercreek and found, in 2013, it had violated the Civil Rights Act of 1964.³⁷ The new bus service to Beavercreek began in January 2014.³⁸ In 2015 RTA applied to place a bus stop on the property of The Greene shopping center in Beavercreek; the city's council has not yet voted on the application, but the *Dayton Dayton News* reported that Beavercreek's "mayor still says he doesn't believe in mass transit."³⁹

As for fixed route service in close proximity to the Dayton Mall, the owners of the Dayton Mall stopped allowing buses close to the mall entrances in 2003 and have continued to decline service in close proximity.⁴⁰

During the planning process for the 2014 *Community Needs Assessment* the Human Services Planning and Development Department hosted a series of panels, including one on transportation and access.

Panelists spoke on several occasions about the limitations of the area’s public transit system. One panelist spoke of her reliance on public transit due to her income and how that reliance limits her employment opportunities. She also spoke of how she had an employment interview in southern Montgomery County that lasted 30 minutes, but her round trip commute for the interview was 3 hours. A representative from the United Way HelpLink discussed the frequent requests for assistance with transportation costs, including bus fares, from low or moderate income households. Additionally, a representative from the Area Agency on Agency discussed limitations, such as distance from a bus stop or unfamiliarity with public transit, the elderly population may have in using the public transit system.⁴¹

The Miami Valley Regional Planning Commission (MVRPC) serves as the Metropolitan Planning Organization for Montgomery, Miami, and Greene Counties as well as a portion of northern Warren County and is responsible for transportation planning in the region.⁴² As part of this planning MVRPC maintains a detailed capital improvement plan known as the Transportation Improvement Program (TIP), which was updated in May 2015 for fiscal years 2016 to 2019. It includes road construction, bike/pedestrian, bus/transit and other transportation-related projects. As part of its planning process MVRPC seeks public participation and analyzes the various populations its planned projects will serve. Table 1.32 is MVRPC’s analysis of the distribution of planned projects as it relates to identified environmental justice populations. MVRPC defines the environmental justice populations’ target areas as those with “an above or equal to county average population” for each population.⁴³ Maps 1.33a-f on the next page illustrate the distribution of the projects located in Montgomery County as they relate to specific environmental justice populations.

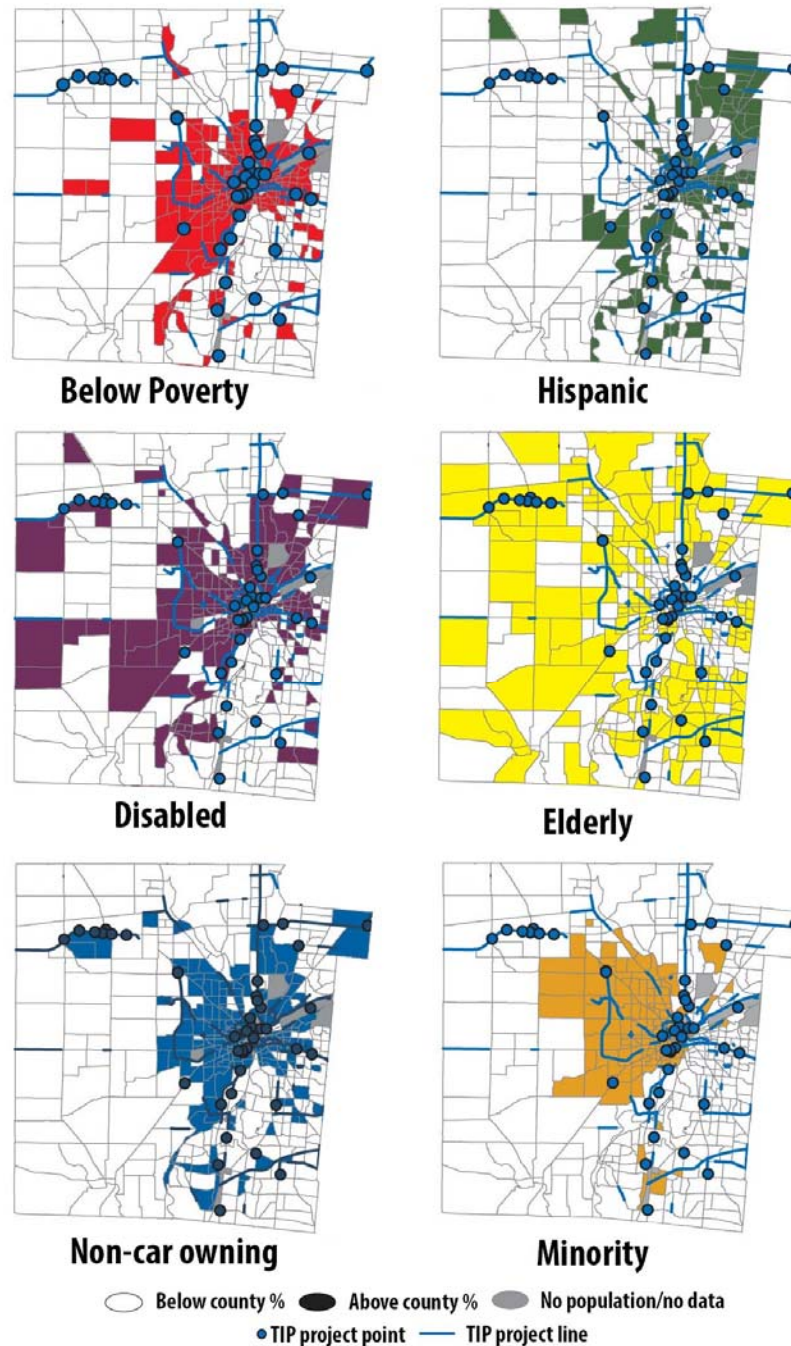
Environmental Justice Population	Number of Target Areas	Number of Projects	% of Total Number of Projects	Project Cost	% of Total Cost of All Projects
Minority	249	86	45.7%	\$305,116,614	52.8%
Poverty	353	103	54.8%	\$272,353,701	47.2%
Disabled	390	125	66.5%	\$450,113,092	77.9%
Elderly	396	126	67.0%	\$392,523,127	68.0%
Hispanic	243	85	45.2%	\$343,490,474	59.5%
Non-car owning	351	114	60.6%	\$379,056,244	65.6%
All projects*	889	188	100.0%	\$577,544,985	100.0%

*Includes general population projects not listed above

Table 1.32: Distribution of TIP projects in entire MVRPC region for fiscal years 2016–2019 by environmental justice population⁴³

From these figures MVRPC determines:

Minority target areas receive the fewest project/cost allocation while elderly and disabled target areas will receive the greatest. Minority target areas are mainly concentrated throughout the region's urban cores thus having the smallest regional coverage. Elderly populations as well as Disabled populations are more evenly distributed throughout the region, consequently achieving a larger regional coverage and larger share of TIP projects.⁴³



Maps 1.33a–f: Distribution of environmental justice populations in Montgomery County showing MVRPC Transportation Improvement Program points and lines⁴⁴

As MVRPC's capital improvement planning includes public transit, it examines the manner in which public transit is addressing the needs of individuals with disabilities, the elderly, and households in poverty. In April 2008, MVRPC released its *Public Transit-*

*Human Services Transportation Plan for Greene, Miami, Montgomery and Northern Warren County.*⁴⁵ The plan was updated in 2012 and amended in April 2015. In the updated plan, MVRPC identified six “Regional Human Services Transportation Priorities” as deserving of specific attention:

1. “The increasing demand for **dialysis-related transportation** and transportation for other repetitive medical treatments such as chemotherapy and physical rehabilitation.
2. The aging of the Region’s population and the **growing transportation needs of seniors** who limit or stop driving, or those who should do so.
3. The need for people with disabilities, the elderly and people of low income to be able to **access employment, medical, educational and shopping destinations** in an efficient manner, including trips that cross jurisdictional boundaries.
4. The need to **complete essential sidewalks, curb cuts and other elements of the pedestrian infrastructure**, especially along fixed and flex-route transit lines in order to make transit more accessible and appealing to the target populations.
5. The growing number of **low-income residents who need transportation to jobs**, medical appointments and other activities, and the fact that more of these low income individuals are living in suburban and rural settings with limited transportation options.
6. An overarching **emphasis on coordination** among agencies, funders and users, to ensure cost-effective use of the Region’s transportation assets including combining clients of various agencies on single vehicles.”⁴⁶

G. Community Investment, Areas of Opportunity, and Housing Choice

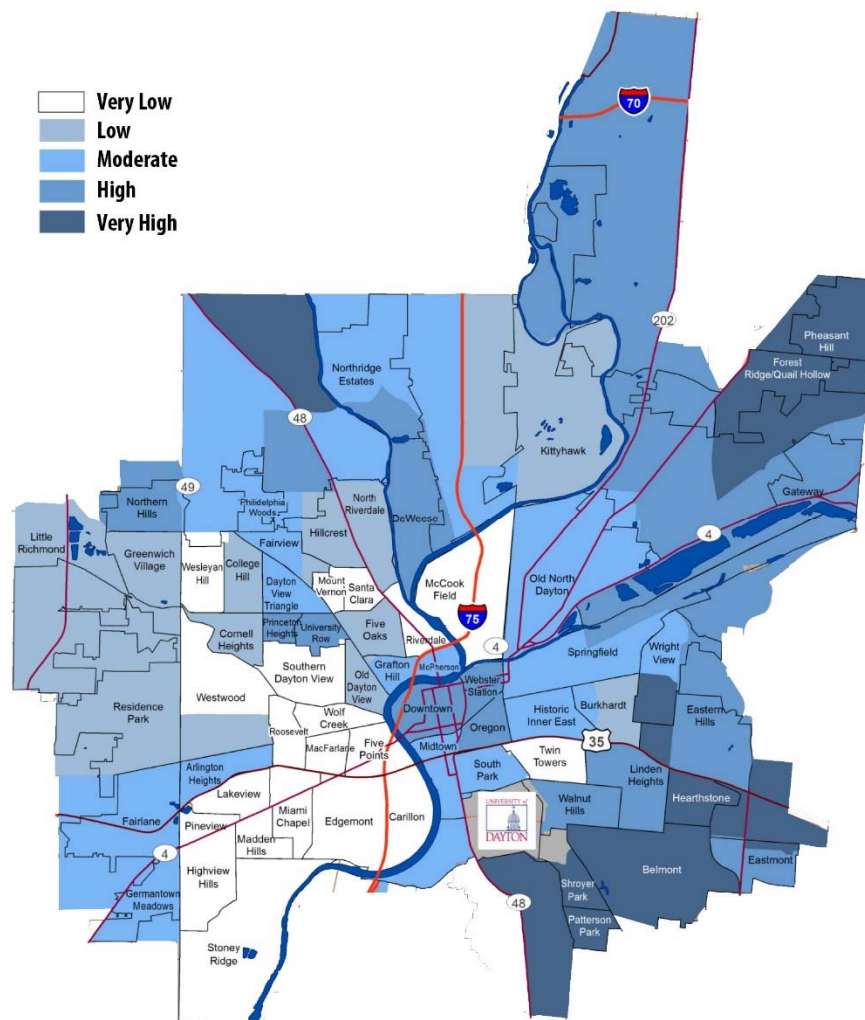
As stated in the beginning of this section and illustrated throughout, Montgomery County has:

- “a slightly older population;
- a higher proportion of residents who are Black or African American;
- higher poverty and unemployment rates;
- lower household incomes;
- a higher proportion of residents who receive public benefits;
- older housing stock;
- less access to affordable rent; and
- more affordable housing for homeowners.”¹

Knowing this background information is essential to examining where residents can have better access to educational and economic opportunities and for determining planning and development activities that affirmatively further fair housing. Two equally important strategies will best address the needs of the region: (1) diminishing concentrated areas of poverty, particularly those also concentrated by race or ethnicity, by strengthening existing amenities and diversifying the neighborhood; and (2) providing easier access to educational and economic opportunities and amenities.

Access to opportunity can be measured by mapping opportunity areas, showing where households have access to employment, healthcare, decent and affordable housing, quality education, and goods and services. Easier access to educational and economic opportunities increases the potential for social and financial success for individuals and families in the region.

The premise of opportunity areas is that easier access to educational and economic opportunities create a stronger climate for social and financial success for a family. The Public Health District of Dayton and Montgomery County examined opportunity areas in their recent report *Opportunity Mapping: The Geography of Opportunity, Dayton, Ohio*.⁴⁷ The report finds many West and South West Dayton neighborhoods are low opportunity areas due to housing and neighborhood conditions, transportation options, as well as access to healthcare, goods, and services. While Map 1.34 on the next page illustrates points from the report, it must be kept in mind that only the City of Dayton was mapped.



Map 1.34: Overall opportunity scores, City of Dayton 2015⁴⁷

Equal access to opportunities for all community members is a core fair housing issue. Charts 1.35 and 1.36 show the correlation between race/ethnicity and access to opportunity.

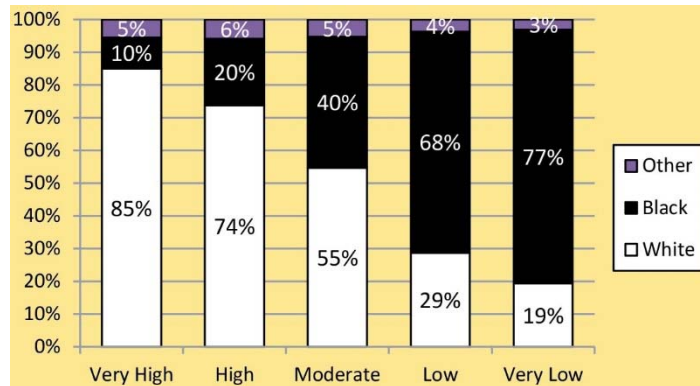


Chart 1.35: Population by opportunity score⁴⁷

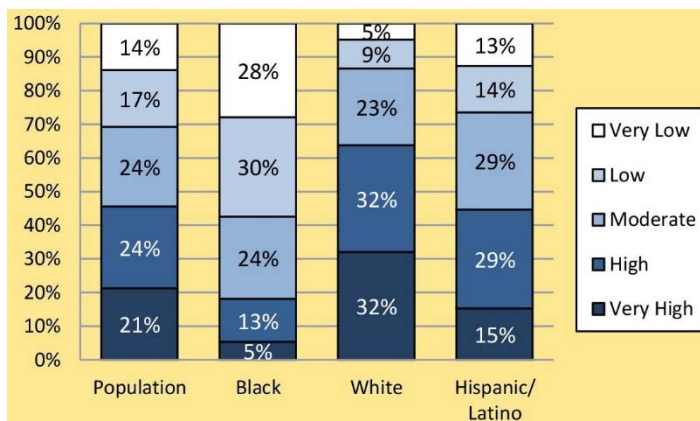


Chart 1.36: Race/ethnicity by opportunity score⁴⁷

As part of the aforementioned panel discussion on transportation and access, Kathleen Shanahan, Housing and Homeless Solutions Coordinator for Montgomery County presented ideas as to how to make areas of high opportunity more accessible to residents who currently live in areas of lower opportunity. These ideas included creating a social-purpose real estate investment trust to fund affordable multifamily housing; developing employer-assisted housing opportunities; and implementing land use and regulatory policies which incentive mix-income housing.

In the past twelve years Montgomery County neighborhoods have had programs, such as the Phoenix Project⁴⁸ and the Inclusive Community Fund⁴⁹, which create substantial investments in lower-opportunity areas in order to increase opportunities. Such

investments have been made, for example, in parks to encourage healthier, more active lifestyles and in improvements or accessibility modifications to housing to enable people with low incomes or disabilities to remain in their homes.

¹ *Montgomery County Community Needs Assessment*, p. 11. (2014). Montgomery County Family and Children First Council and United Way of the Greater Dayton Area. Retrieved from http://www.mcoho.org/Montgomery/2014_Community_Needs_Assessment_Report.pdf.

² Table DP-1 Profile of General Demographics Characteristics 2010, Montgomery County, Ohio. In *2010 Census Demographic Profile Summary File*. (2010). Office of Policy Research and Strategic Planning, U.S. Census Bureau. Retrieved from <http://development.ohio.gov/files/research/P1064.pdf>.

³ Table DP-1 Profile of General Demographics Characteristics 2000, Montgomery County, Ohio. (2000). U.S. Census Bureau, 2000. Retrieved from <http://censtats.census.gov/data/OH/05039113.pdf>.

⁴ Ohio County Population Census 2010: Annualized Percent Change 2000 – 2010. (2011). Ohio Department of Development, Policy Research and Strategic Planning. Retrieved from <http://development.ohio.gov/files/research/P1099.pdf>.

⁵ *American Community Survey*. U.S. Census Bureau, American Community Survey Office. Retrieved from <http://factfinder.census.gov>.

⁶ *Montgomery County Community Needs Assessment* (p. 13). (2014). Montgomery County Family and Children First Council and United Way of the Greater Dayton Area. Retrieved from http://www.mcoho.org/Montgomery/2014_Community_Needs_Assessment_Report.pdf.

⁷ Title 24 — Housing and Urban Development, § 100.201 Definitions. (2010). In *Code of Federal Regulations* (Vol. 1). Retrieved from <http://www.gpo.gov/fdsys/pkg/CFR-2010-title24-vol1/xml/CFR-2010-title24-vol1-sec100-201.xml>.

⁸ Key Provisions and Regulations Implementing Section 504 of the Rehabilitation Act. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/504keys. HUD’s summary of Section 504 says that this section “provides for nondiscrimination in all programs, services and activities receiving federal financial assistance; and in programs, services and activities conducted by Executive agencies.”

⁹ Part II: Policies Related to Persons with Disabilities. (2015). *Admissions and Continued Occupancy Policy*, p. 21. Greater Dayton Premier Management. Retrieved from <http://www.dmha.org/uploads/docs/ACOP/ACOP%20-%20Feb%202015%20%282%29.pdf>.

¹⁰ Table B18101 Sex by Age by Disability Status, 2009–2013 American Community Survey 5-year Estimates. *American Community Survey*. U.S. Census Bureau, American Community Survey Office. Retrieved from <http://factfinder.census.gov>.

¹¹ 2010 Racial/Ethnic Composition of Montgomery County Ohio. (2011). Ohio Department of Development, Policy Research and Strategic Planning. Retrieved from

<http://development.ohio.gov/files/research/P1108.pdf>.

¹² Welcome Dayton (<http://www.welcomedayton.org>) “promotes immigrant integration into the greater Dayton region by encouraging business and economic development; [by] providing access to education, government, health and social services; [by] ensuring equity in the justice system; and [by] promoting an appreciation of arts and culture.”

¹³ Maps 3 through 8 were prepared by Wright State University Center for Urban and Public Affairs for Welcome Dayton using data from the Census Bureau’s American Community Survey 2011 and the Ohio Department of Transportation.

¹⁴ Bartlett, L. (2012, January 27). Information Regarding Housing Placements for Refugees. Retrieved from http://www.mvfairhousing/AI2015/2012-01-27_Bartlett_memo_on_housing_for_refugees.PDF. Lawrence Bartlett wrote this memo in his capacity as the director of the Office of Admissions of the Bureau of Population, Refugees and Migration of the U.S. Department of State.

¹⁵ Until 2000, Dayton and Springfield were part of a single, combined MSA.

¹⁶ Austin Turner, M., S. L. Ross, G. C. Galster, and J. Yinger. (2002). *Discrimination in Metropolitan Housing Markets: National Results from Phase I HDS 2000*. Urban Institute, Metropolitan Housing and Communities Policy Center. Retrieved from http://www.huduser.org/publications/pdf/Phase1_Report.pdf.

¹⁷ For copies of earlier AIs from the greater Miami Valley region, see the reports page on MVFHC’s website (<http://mvfairhousing.com/reports.php>), which includes AIs from the cities of Kettering, Dayton, Piqua, Springfield and Troy and from Fayette, Greene, Miami, Montgomery and Preble counties.

¹⁸ *2009 Montgomery County and Cities of Dayton and Kettering Analysis of Impediments to Fair Housing*. (2009). Wright State University Center for Urban and Public Affairs. Retrieved from http://www.mcoho.org/services/commdev/docs/2009_Final_Analysis_of_Impediments_for_Montgomery_County_Dayton_and_Kettering.pdf.

¹⁹ Appendix B: Measures of Residential Segregation. *Housing Patterns*. (2012). U.S. Census Bureau. Retrieved from https://www.census.gov/hhes/www/housing/housing_patterns/app_b.html. Here the indicators used in cluster analysis are defined. The Census Bureau attributes these indicators to Douglas S. Massey and Nancy A. Denton who identified 20 different indices of segregation and classified them into five key dimensions of segregation in their article “The Dimensions of Residential Segregation” published in 1988 in *Social Forces* (Vol. 67, pp. 281-315).

²⁰ Yi, M. (2011, January 31). Research team draws ‘portrait’ of America. *The Brown Daily Herald*. Retrieved from <http://www.browndailyherald.com/research-team-draws-portrait-of-america-1.2452714>. The project, titled “Separate and Unequal,” was done by John Logan, Professor of Sociology at Brown University, in conjunction with the Russell Sage Foundation.

²¹ Dayton, OH Metropolitan Statistical Area. *US 2010: America in the First Decade of the New Century*. (2011). Spatial Structures in Social Sciences, Brown University. Retrieved from <http://www.s4.brown.edu/us2010/segregation2010/msa.aspx?metroid=19380>.

²² *An Environmental Scan of the Montgomery County Safety Net*. (2013). Health Policy Institute of Ohio.

Retrieved from http://www.mcoho.org/services/fcfc/docs/MCACATF_FullReport_Final.pdf. This report was commissioned by the Montgomery County Affordable Care Task Force.

²³ The panel, convened jointly by the Montgomery County Human Services Planning and Development Department and by the United Way of the Greater Dayton Area, was a follow up to the 2014 *Community Needs Assessment* as part of an ongoing strategic planning process. The subjects of the panel were education, employment, jobs and wages.

²⁴ *American Community Survey*. U.S. Census Bureau, American Community Survey Office. Retrieved from <http://factfinder.census.gov>. This particular chart was prepared by Richard Stock, Ph.D., Director of the University of Dayton's Business Research Group, who adjusted the income data for inflation.

²⁵ Rampell, C. (2010, September 20). The Recession Has (Officially) Ended. *New York Times*. Retrieved from <http://economix.blogs.nytimes.com/2010/09/20/the-recession-has-officially-ended/>. Rampell writes, "The newly-declared end-date to the recession also confirms what many had suspected: The 2007-9 recession was the deepest on record since the Great Depression, at least in terms of job losses."

²⁶ How the Government Measures Unemployment. (2014). U.S. Bureau of Labor Statistic, Division of Labor Force Statistics. Retrieved from http://www.bls.gov/cps/cps_htgm.htm#unemployed.

²⁷ *Montgomery County Community Needs Assessment*, p. 24). (2014). Montgomery County Family and Children First Council and United Way of the Greater Dayton Area. Retrieved from http://www.mcoho.org/Montgomery/2014_Community_Needs_Assessment_Report.pdf.

²⁸ *A Second-Generation Disparity Study for the City of Dayton, Ohio*, p. 10-4. (2008, August 8). MGT of America, Inc. Retrieved from http://www.mvfairhousing.com/AI2015/2008-08-08_Disparity_Study_Dayton.PDF.

²⁹ See Kathleen Shanahan's notes from the May 18, 2015 Community Assessment Panel at http://www.mvfairhousing.com/AI2015/2015-05-18_Notes_from_Shanahan_Community_Assessment_panel.PDF. Shanahan serves as coordinator of the Housing and Homeless Solutions Program of Montgomery County's Human Services Planning and Development Department.

³⁰ *American Community Survey*. U.S. Census Bureau, American Community Survey Office. Retrieved from <http://factfinder.census.gov>. This chart was created by MVFHC using two related charts prepared by Richard Stock, Ph.D., Director of the University of Dayton's Business Research Group.

³¹ Statutory and Regulatory Background. (1990). *Fair Housing Accessibility Guidelines*. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhguidelines/fhfa1#background.

³² McKenzie, B. and M. Rapino. (2011). Commuting in the United States: 2009, pp. 1, 2, 5, 14. U.S. Census Bureau. Retrieved from <https://www.census.gov/prod/2011pubs/acs-15.pdf>.

³³ About RTA. Greater Dayton Regional Transit Authority. Retrieved from http://www.i-riderta.org/about/about_rta.aspx.

³⁴ Accessibility. Greater Dayton Regional Transit Authority. Retrieved from

<http://www.i-riderta.org/accessibility/>.

³⁵ Protecting Your Rights. Greater Dayton Regional Transit Authority. Retrieved from

http://www.i-riderta.org/customer_support/protecting_your_rights.aspx.

³⁶ *Strategic Plan 2012–2015*. (2012). Greater Dayton Regional Transit Association. Retrieved from

<http://www.i-riderta.org/assets/1/assetmanager/StrategicPlanPages.pdf>.

³⁷ Page, D. (2013, October 14). Beavercreek council approves RTA bus stops. *Dayton Daily News*.

Retrieved from <http://www.daytondailynews.com/news/news/beavercreek-council-approves-rta-bus-stops/nbNpi/>.

³⁸ New RTA stops in Beavercreek now in service. (2014, January 12). WHIO-TV. Retrieved from

<http://www.whio.com/news/news/local/new-rta-stops-pentagon-blvd-now-service/nckgG/>.

³⁹ Boykin, S. (2015, September 21). Beavercreek mayor doesn't support mass transit. *Dayton Daily News*.

Retrieved from <http://www.daytondailynews.com/news/news/local/rta-proposes-bus-stop-in-the-greene/nnkGY/>.

⁴⁰ Bennish, S. (2014, December 19). Bus access protests target Dayton Mall. *Dayton Daily News*. Retrieved

from <http://www.daytondailynews.com/news/news/local/bus-access-protests-target-dayton-mall/njXN2/>.

⁴¹ *2015 Strategic Planning Panel: Transportation/Access/Navigation*. (2015). Montgomery County Human

Services Planning & Development Dept. Retrieved from <http://www.mcoho.org/services/hspd/>.

⁴² About MVRPC. (2015). Retrieved from <http://www.mvrpc.org/about-mvrpc>.

⁴³ *2015 Strategic Planning Panel: Transportation/Access/Navigation* (p. 5). (2015). Montgomery County

Human Services Planning & Development Department. Retrieved from

<http://www.mcoho.org/services/hspd/>.

⁴⁴ *SFY2016–2019 Final TIP*, p. 6. (2015). Miami Valley Regional Planning Commission. Retrieved from

<http://www.mvrpc.org/sites/default/files/tip16-19MVRPCSFY2016-2019FinalTIP.pdf>.

⁴⁵ *Public Transit — Human Services Transportation Coordination Plan for Greene, Miami, Montgomery and*

Portions of Northern Warren County, Ohio. (2008). Westat, Inc. Retrieved from

<http://www.mvrpc.org/sites/default/files/FinalRegionalActionPlan.pdf>.

⁴⁶ *Public Transit — Human Services Transportation Coordination Plan for Greene, Miami, Montgomery and*

Portions of Northern Warren County, Ohio: Coordinated Transportation Action Plan Update. (2015). Miami

Valley Regional Planning Commission. Retrieved from <http://www.mvrpc.org/sites/default/files/>

[Hstc_Plan_Update_amended_April_2015.pdf](http://www.mvrpc.org/sites/default/files/Hstc_Plan_Update_amended_April_2015.pdf).

⁴⁷ *Opportunity Mapping: The Geography of Opportunity, Dayton, Ohio*. (2015). Public Health District of

Dayton and Montgomery County. Retrieved from

http://www.phdmc.org/images/uploads/Opportunity_Mapping_report_opt.pdf.

⁴⁸ The Phoenix Project's website is <http://www.phoenixprojectdayton.org>.

⁴⁹ ICF Program Results. (2014). Miami Valley Fair Housing Center. Retrieved from

<http://www.mvfairhousing.com/icfresults.php>.

Section 2 — Fair Housing Laws, Research, and Case Law

A. Fair Housing Laws and Rules

The end of the American Civil War sparked legislative action to implement protections against discrimination for African Americans.¹ For instance in 1886, the U.S. Supreme Court ruled for the first time that a facially neutral law applied in a racially discriminatory manner violated the Equal Protection Clause of the Fourteenth Amendment. However, there were many more instances where inequality not only persisted but was sanctioned and enforced by governmental action, such as through U.S. Supreme Court interpretation.² For example, in 1883 the U.S. Supreme Court ruled that the Civil Rights Act of 1875—which banned discrimination in hotels, trains, and other public spaces—was unconstitutional and not authorized by the Thirteenth or Fourteenth Amendments to the U.S. Constitution.³ Ohio responded in 1884 by enacting the Ohio Public Accommodations Law of 1884, which prohibited discrimination on the basis of race in all public buildings. Law enforcement officials, however, usually did not enforce the Act and some Ohioans continued to discriminate on the basis of race.⁴ This two-steps-forward-and-one-step-back approach to civil rights enforcement is the unending dance that continues to this day nationally and locally.

In housing, governmental action promoting the segregation and marginalization of African Americans in particular caused and still causes a detrimental and uneven landscape across American neighborhoods.⁵ The State of Ohio, Montgomery County, and its cities of Dayton and Kettering are no exception. The legacy of discrimination shapes the fair housing landscape and current active discrimination is alive and well. Both need to be combated through education, enforcement, progressive public policies and partnerships. Following is an overview of the major federal, state, and local civil rights laws, Department of Housing and Urban Development (HUD) rules, and cases impacting fair housing.

Federal Laws, Regulations, and Cases

The Civil Rights Act of 1866: Enacted April 9, 1866, this Act was the first federal law to provide legal protections to guard against discrimination based on race and color. It defined US citizenship and affirmed that all male persons, including African Americans, had the same rights enjoyed by White citizens “without distinction of race or color, or previous condition of slavery or involuntary servitude” and as such, were equally protected and had the right to make and enforce contracts, to sue, be parties, and give evidence, and to inherit, purchase, own, lease, sell and convey personal and real property.⁶

Fourteenth Amendment to the United States Constitution: Ratified on July 9, 1868, and granted citizenship to “all persons born or naturalized in the United States,” which included former slaves recently freed. In addition, it forbids states from denying any person “life, liberty or property, without due process of law” or to “deny to any person within its jurisdiction the equal protection of the laws.” By directly mentioning the role of the states, the 14th Amendment greatly expanded the protection of civil rights to all Americans and is cited in more litigation than any other amendment.⁷

Title VI of the Civil Rights Act of 1964 in conjunction with Civil Rights Restoration Act of 1987: Enacted July 2, 1964, Title VI outlaws discrimination based on race, color, or national origin in programs that receive federal financial assistance. The Restoration Act extended Title VI by also outlawing discrimination based on sex, age, and disability for programs receiving federal financial assistance.^{8 9 10}

Title VIII of the Fair Housing Act of 1968 (FHA) in conjunction with its 1988 amendments: The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex, national origin, disability, or familial status. In connection with prohibitions on discrimination against individuals with disabilities, the Act contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy on or after March 13, 1991.¹¹

Architectural Barriers Act of 1968: This Act issued standards that apply to facilities designed, built, altered, or leased with certain federal funds. Passed in 1968, the ABA is one of the first laws to address access to the built environment. The law applies to federal buildings, including post offices, social security offices, federal courthouses and prisons, and national parks. It also covers non-federal facilities, such as public housing units and mass transit systems, built or altered with federal grants or loans. Coverage is limited to those funding programs that give the federal agency awarding grants or loans the authority to establish facility standards.¹²

Title IX of the Education Amendments Act of 1972 in conjunction with the Civil Rights Restoration Act of 1987: Title IX prohibits discrimination on the basis of sex in education programs or activities that receive federal financial assistance.^{8 9 10}

Section 504 of the Rehabilitation Act of 1973 in conjunction with the Civil Rights Restoration Act of 1987: It took effect in May 1977. Prohibits discrimination based on disability in programs that receive federal financial assistance.^{8 9 10}

Section 109 Title 1 Housing and Community Development Act of 1974: Section 109 provides that no person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. This applies to any program or activity funded in whole or in part with funds under Title I of the Housing and Community Development Act of 1974, including Community Development Block Grants–Entitlement, State- and HUD–Administered Small Cities, and Section 108 Loan Guarantees; Urban Development Action Grants; Economic Development Initiative Grants; and Special Purpose Grants.¹³

Age Discrimination Act of 1975 in conjunction with Civil Rights Restoration Act of 1987: The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.^{8 9 10}

Civil Rights Act of 1981: This Act protects against racial discrimination in the public and private sector “to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.”¹⁴

Civil Rights Act of 1982: This Act protects citizens against racial discrimination in property rights in the public and private sector. The Act provides: “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 and personal property.”¹⁵

Civil Rights Act of 1983: This Act provides for civil actions against State actors for violating a person’s rights under the law. It provides that “every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.”¹⁶

Civil Rights Act of 1968: Section three of this law prohibits two or more persons from conspiring to deprive any person or class of persons equal protection, privileges, or immunities of the laws and provides that the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.¹⁷

Americans with Disabilities Act (ADA) of 1990: The ADA prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities. The ADA also establishes requirements for telecommunications relay services.¹⁸

Equal Credit Opportunity Act (ECOA): 15 U.S.C. 1691 *et seq.*, enacted in 1976, ECOA prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, because an applicant receives income from a public assistance program, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act.¹⁹

1999 Olmsted Decision: On June 22, 1999, the U.S. Supreme Court held that unjustified institutional isolation of persons with disabilities is a form of discrimination under the ADA.²⁰

2012 HUD Rule expanding protections: On January 27, 2012, HUD implemented a policy to ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status.²¹

2015 U.S. Supreme Court Fair Housing Act Decision: On June 25, 2015, the U.S. Supreme Court found that Title VIII allows for disparate impact claims in effectuation and enforcement of Title VIII's intent and purpose.²²

2015 U.S. Supreme Court Fourteenth Amendment Decision protecting Same-Sex Couples: On June 26, 2015, the U.S. Supreme Court found that the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the U.S. Constitution protect Same-Sex Couples against State action preventing their right to marry.²³

2015 HUD Affirmatively Furthering Fair Housing Rule: HUD explains the rule thusly:
HUD's final rule provides an effective planning approach to aid federal agencies and federal grantees in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are

free from discrimination. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.²⁴

State and Local Laws

Article 1, §1.01 of the Ohio Constitution protecting “Inalienable Rights,” along with §1.02 providing for “Equal Protection” and §1.19 declaring property to be “inviolable”: Ratified in 1851, almost twenty years before the U.S. Constitution’s Fourteenth Amendment, Ohio’s Constitution’s Bill of Rights declares: “All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.”²⁵

Ohio also included in Article 1, Section 1.02 that government’s purpose was to maintain equal protection for the people and to benefit the people.²⁵ Additionally, Ohio declared that private property was inviolable in Article 1, Section 1.19.²⁵ The Ohio Supreme Court has consistently interpreted the Ohio Constitution as providing more protections for individual rights than provided by the U.S. Constitution.²⁶ Kingsley A. Taft, Chief Justice of the Ohio Supreme Court, wrote in 1965 in a decision upholding fair housing laws, “To permit such discrimination would obviously, to use the words of Section 1, Article 1 of the Ohio Constitution, interfere with the ‘inalienable rights of acquiring property’ of the person discriminated against.”²⁷

Ohio Civil Rights Act of 1959 and its Amendments to include Housing Protections (Ohio Revised Code Chapter 4112): Three years before the passage of federal fair housing protections, Ohio amended the Ohio Civil Rights Act of 1959 in 1965 to include protections against discrimination in housing.²⁸ In 1976, the Act was again amended to include protections against discrimination in the issuance of credit.²⁸ Today, Ohio protects all persons from housing discrimination based on race, color, national origin, sex, religion, military status, ancestry, familial status, and disability.²⁹ Additionally, Ohio makes it unlawful for any educational institution to discriminate against any individual based on disability in its housing.³⁰ Unlike the federal law, Ohio law currently does not exempt small

landlords or some home sellers; however, Ohio Senate Bill 134 and Ohio House Bill 149, introduced in March 2015, would amend Ohio's law to include these exemptions.³¹

City of Dayton's Revised Code of General Ordinances (R.C.G.O) 32.02-32.21 and 32.99: Enacted in 1974, these ordinances provide protections from discrimination in the areas of employment, housing, public accommodations, and credit transactions on the basis of an individual's race, color, religion, sex, ancestry, national origin, place of birth, age, marital status, familial status, sexual orientation, gender identity, or disability.³²

City of Kettering Codified Ordinances, Chapter 628: This chapter provides that:

No person selling real property shall, solely because of religion, creed, color, race, sex, handicap, familial status, national origin, or ancestry of any person: 1) Refuse to sell, lease or rent any real property to a purchaser; 2) Evict or deny occupancy to a purchaser of any real property; 3) Make any distinction, discrimination or restriction against a purchaser in the sale, rental, price, terms, conditions or privileges relating to the sale, rental, lease, occupancy of real property, or in the furnishing of any facilities or services in connection therewith; 4) Refuse to show any real property or otherwise attempt to prevent the sale, rental or lease of any property to purchaser.³³

B. National and Local Fair Housing Studies

National Studies of Importance

Several major housing studies have been done over the last decade that indicate that discrimination is still impacting housing choice in Montgomery County and the cities of Dayton and Kettering.

2006 Fair Housing Trends Report National Fair Housing Alliance

Overview: National Fair Housing Alliance, Unequal Opportunity—Perpetuating Housing Segregation in America: 2006 Fair Housing Trends Report (April 5, 2006) and what it means for Dayton, Ohio.

The Study: Enforcement Project Testing in Real Estate Sales Markets across the Nation, including Dayton, Ohio

In 2003, the National Fair Housing Alliance (NFHA) began enforcement testing of twelve cities, including Dayton, Ohio, for housing discrimination in the real estate sales market.³⁴ The enforcement testing involved paired sales tests. All tests were structured on the basis of race or national origin.

Specifically, each paired test investigation involved one White team and either one African-American team or one Latino team of testers. In all cases, the teams were assigned similar information about housing needs, financial qualifications, and employment history. In every instance, the African-American or Latino teams were slightly more qualified than the White teams.³⁴

Blatant Discrimination Found

Three patterns of discrimination were found: 1) outright denial of services to African-American and Latinos; 2) offering significant incentives to Whites but not to African-Americans or Latinos; and 3) steering based on race or national origin. Within the discriminatory patterns, the tests revealed that real estate agents made illegal comments based on religion and race; and real estate agents used schools as a proxy for racial or ethnic composition of neighborhoods or communities.³⁴

Real Estate Agents' Perpetuation of Segregation Harms Quality of Education for All Communities

NFHA found that forced segregation through real estate agents' irrational assumptions about communities of color creates barriers to full enjoyment of public education benefits and economic growth. In particular, real estate agents' artificial manipulation of the real estate market suppresses the mobility of communities of color by causing significant economic and educational stagnation and even decline.³⁴

Additionally, NFHA found that real estate market discriminatory manipulation harms all communities. Discrimination eliminates diverse communities and learning environments, while reinforcing detrimental stereotypes that prevent intellectual and social development. NFHA stated "there is strong evidence that students of all races and ethnicities who are exposed to diversity experience greater intellectual and social development."³⁴

Dayton Suffers from the Artificial Manipulation of its Real Estate Sales Market

NFHA's enforcement study showed that about 20 percent of the time, African-American and Latino testers were refused real estate services or received very limited services. NFHA's study also demonstrated that steering patterns were extremely consistent. In most cases, Whites were shown homes in primarily White neighborhoods, African Americans were shown homes in primarily African-American neighborhoods, and Latino were shown homes in primarily Latino neighborhoods.³⁴

Dayton was no exception to these findings. Dayton's communities of color are being detrimentally impacted by the discriminatory artificial manipulation of its real estate market. The long-term effects of the forced segregation shown through NFHA's study will negatively impact Dayton's economic growth and mobility, and will stunt intellectual and social development generationally.

2011 HUD Housing Discrimination Study

Overview: Office of Policy Development and Research, An Estimate of Housing Discrimination against Same-Sex Couples in 50 U.S. metropolitan areas: AN ESTIMATE OF HOUSING DISCRIMINATION AGAINST SAME-SEX COUPLES 2011 Prepared for U.S. Department of Housing and Urban Development

Although stigma and prejudice based on sexual orientation are widespread, and employment discrimination against LGBT individuals has been well documented, up until recently there has been little empirical research examining housing discrimination against the LGBT community in the United States.

In 2007 four fair housing centers in Michigan conducted a testing audit of housing discrimination based on sexual orientation and found disparate treatment in 32 out of 120 (27 percent) of the fair housing tests it conducted.³⁵

In 2011 HUD sponsored the first large-scale, paired testing study done on a national scale to measure treatment of same-sex couples in the electronically advertised rental housing market. The results were based on 6,833 paired e-mail tests conducted in 50 metropolitan areas from June through October of 2011.³⁶

The large-scale study found that same-sex couples are significantly less likely than heterosexual couples to be able to access the study's target rental unit. The gross estimates of discrimination, which reflect the extent to which heterosexual couples were consistently favored over gay male or lesbian couples, are 15.9 and 15.6 percent. These estimates are comparable to the incidence of consistently White-favored treatment, relative to Black and Hispanic home seekers found through in-person audits (21.6 and 25.7 percent respectively).³⁷

Adverse treatment of same-sex couples was present in every metropolitan area where these tests were conducted. The city of Dayton was one of the 50 metropolitan areas included in this testing.³⁷

Since this study provides only an initial look at how same-sex couples are treated relative to heterosexual couples at the threshold of the rental housing search it potentially underestimates the extent to which same-sex couples face discrimination in the whole rental housing market compared to heterosexual couples. More testing is needed, along with enforcement and education efforts to combat this discrimination.

2012 HUD Housing Discrimination Study

Overview: The Urban Institute, *Housing Discrimination against Racial and Ethnic Minorities 2012*, (June 2013), and what it means for the Dayton MSA

The Study: Nationwide Testing of Discrimination in the Rental and Sales Market, including Ohio

In 2012, the Urban Institute conducted a study for HUD to monitor the trends in racial and ethnic discrimination in housing rental and sales markets.³⁷ The study involved 28 metropolitan areas, including Cleveland, Ohio, to produce national estimates of discrimination against Blacks, Hispanics, and Asians in rental and sales markets.

The study used paired testing of minority and White testers to gather the research data. The minority samples consisted of Blacks, Hispanics, and Asians. Minority and White testers were matched on age and gender. Each were assigned income, assets, and debt levels to make both testers unambiguously well qualified, with the minority tester being slightly better qualified than the White tester.³⁵

Discrimination was found in both Rental and Sales Markets, with Blacks experiencing the most Discriminatory Treatment

The study found that discrimination persisted in both the rental and sales markets nationally. In comparing the testing data, the study concluded that the Black testers experienced more discrimination than Hispanic and Asian testers.³⁵

Black-White Paired Testing

The study showed that the Black testers seeking rentals were provided fewer housing options and shown units with more condition problems. Blacks were also more likely to be quoted a higher monthly rent and not told about rental incentives or that the fees and deposits were negotiable. Additionally, the Black testers were more likely to receive comments about credit standing.³⁵

Testing in the sales market revealed that the Black testers were more likely to be denied an appointment than White testers. Furthermore, like in the rental market, the Black testers were informed about fewer housing options and provided poorer quality housing options.³⁵

The Black testers also were asked about prequalification and credit and, unlike White testers, were not offered help with prequalification or assistance with financial affordability. The Black testers also were less likely to be recommended homes in substantially White neighborhoods. Overall, agents spent less time with the Black testers and provided less guidance than compared to the White testers. The study noted that Black homebuyers that were childless or male experienced significantly higher levels of discrimination.³⁵

Hispanic-White Paired Testing

The study found that Hispanic testers seeking rentals were told about and shown fewer housing options and were offered higher rent. Also, the Hispanic testers were not told about rental incentives or that fees and deposits were negotiable. Furthermore, there was less follow-up from the agents with the Hispanic testers than compared to the paired White testers. In the sales market, the study did not find any significant differences other than the Hispanic testers were more likely to be asked about credit and the White tester was more likely to hear positive comments about housing as an investment.³⁵

Asian-White Paired Testing

The study found the Asian testers seeking rentals were told about and shown fewer housing options. Also, the Asian testers were less likely than their White counterparts to be told about rental incentives or that the fees and deposits were negotiable. In the sales market, there was no difference in the ability to receive an appointment. But the Asian testers were provided less housing options and were offered less assistance and guidance financially or otherwise than their white counterparts. Also, the Asian testers were less likely to be informed about housing in significantly White neighborhoods than the White testers. Additionally, the Asian testers were shown lower-priced homes than the White testers.³⁵

“White Privilege” and Steering

Overall the study showed that the White testers were provided better quality housing options and wider services and tools to allow for more housing choice and to lower housing costs than the paired minority testers. Furthermore, those perceived to be White were more likely to obtain a housing appointment than those that were presumed to be of another race or ethnicity. This is especially true for the Black and Asian testers with names or speech that provided an inference that they were Black or Asian, or more to the point, not White.³⁵

But the “extra” services provided to the White testers in the sales market overwhelmingly included the practice of steering. The agents routinely steered Whites to significantly predominantly White neighborhoods and away from mixed or minority neighborhoods.³⁵

The Study’s Conclusion

The study found that while the blatant “door slamming” type of discrimination has gone down from past decades, less easily detectable discrimination overwhelmingly still persists. Minority home seekers are provided less housing choice and subjected to lower quality homes and higher housing costs than White home seekers.³⁵

What the Study Means for the Dayton MSA and Fair Housing Enforcement

Not only was the study structured in a manner to detect discriminatory housing trends nationally, it included Ohio.³⁵ Therefore, the study’s findings are equally applicable to the Dayton MSA. The study shows that fair housing enforcement efforts in the Dayton MSA need to focus on paired testing and education. The study shows that the current pervasive forms of discrimination are less detectable and were only discovered through paired testing. Furthermore, more education is required to combat the steering of White home seekers through agents’ subjective positive and negative commentary about particular neighborhoods and schools that have the force and effect of promoting segregation within the already segregated housing market.

2013 Investigation of Housing Discrimination against Deaf and Hard of Hearing

Overview: National Fair Housing Alliance, (Summer 2013)

In 2013, the National Fair Housing Alliance, in conjunction with eleven fair housing organizations, conducted testing across the country focused on the treatment of individuals who are deaf or hard of hearing on the individual’s ability to obtain rental information. The Miami Valley Fair Housing Center (MVFHC), conducting testing within the Dayton MSA, participated in the study.

The investigation tested regional and national rental firms. Each organization conducted “matched-pair testing” by pairing one hearing tester and one deaf or hard of hearing tester, who were equally qualified financially to rent the apartment, who were seeking the same size apartment, and who had similar move-in dates. Testers placed calls to the same rental firm, close in time, to inquire about the availability of apartments. The testing was

conducted via telephone. The hearing testers spoke directly into the telephone; the deaf tester spoke through an interpreter using IP Relay.

IP Relay allows a deaf person to converse over the telephone with a hearing person through an IP operator, who is acting as an interpreter. The deaf caller, through the use of a computer, instructs the operator to dial a specific phone number. Once the housing provider answers the phone, the operator immediately explains that s/he is calling on behalf of a person who is deaf or hard of hearing. The operator then asks if the hearing person is familiar with IP Relay and an explanation is provided, if necessary. For the purpose of this investigation, deaf testers began by explicitly stating that they were deaf and were interested in a particular-sized unit, to eliminate any doubt as to why the deaf person was calling via the IP Relay system.

Nationally, NFHA found that the systemic investigations revealed that:

- 40 percent of rental firms hung up on deaf or hard of hearing individuals at least once during their interaction and, in certain instances, multiple times, after the deaf caller attempted to call back;
- 86 percent of the rental firms gave more information about available apartments and amenities to the hearing callers than to deaf or hard of hearing callers. This includes, but is not limited to, mentioning multiple complex amenities; providing leasing office hours; highlighting apartment features such as high ceilings and brand-new appliances; and providing information about apartment square footage;
- 76 percent of rental firms told hearing testers about more available units than their deaf or hard of hearing counterparts;
- 70 percent of rental firms quoted higher rental rates to deaf or hard of hearing testers, even though both callers inquired about the same sized units and shared similar move-in dates;
- 64 percent of all follow-up contacts that rental firms made throughout this investigation were to hearing callers. Follow-up was received via email and/or voicemail messaging;
- 56 percent of rental firms emphasized financial qualifications and background checks to deaf or hard of hearing callers, such as requiring good credit, sufficient employment history and no criminal record, whereas not all such requirements were emphasized to hearing callers;
- 36 percent of rental firms failed to notify deaf or hard of hearing callers of current leasing specials, while this information was freely shared with the hearing individuals;
- 33 percent of rental firms quoted higher application fees to deaf or hard of hearing callers while quoting lower fees to the hearing callers.³⁸

In the Dayton MSA, MVFHC filed three housing discrimination complaints based upon the results of the testing. Within the testing, MVFHC found housing providers were unwilling to engage with the individuals using IP Relay, often hanging up on them and being non-responsive to messages regarding requests for more information. All complaints filed by MVFHC are currently pending with administrative agencies.

As part of a partnership grant funded by HUD, the City of Dayton's Human Relations Council contracted with MVFHC to do testing and requested that MVFHC included tests on how deaf and hard of hearing individuals are treated in the city. MVFHC coordinated these tests with NFHA's project.

2014 NFHA studies on Bank-Owned Residential Properties in Foreclosure (REOs)

Overview: *Zip Code Inequality: Discrimination by Banks in the Maintenance of Foreclosed Homes in Neighborhoods of Color*, National Fair Housing Alliance, August 27, 2014, and what it means for the Dayton region

As a consequence of the recent housing crisis and the resulting foreclosures, many neighborhoods in and around the Dayton MSA have experienced a tremendous increase in the number of bank-owned properties (also known as Real Estate Owned or REO properties). Many of these REOs remain vacant for many months or years before being sold or demolished, and if there is not a viable plan for the maintenance of these properties then the resulting disrepair contributes significantly to the creation of blight, decline in property values, crime and other negative outcomes for a neighborhood. Early on many fair housing organizations noticed a pattern of disparity in the maintenance of these properties correlating to the neighborhoods in which they were located.

This problem was recently explored in "*Zip Code Inequality: Discrimination by Banks in the Maintenance of Foreclosed Homes in Neighborhoods of Color*," a report completed by NFHA and 17 of its partner organizations, including MVFHC. This report detailed the results of an investigation of more than 2,400 REO properties located in and around 30 major U.S. cities, including Dayton, done between April 1, 2012 and December 31, 2013. The report provided information about the broadest investigation to date into REO discrimination. Both white neighborhoods and neighborhoods of color comprised of middle and working class communities with high foreclosure rates and high owner-occupancy rates were investigated.

These investigations revealed disturbing and consistent trends in the maintenance and marketing of REO properties by lenders and servicers depending upon the racial

composition of the neighborhoods where the properties were located. The statistical results demonstrated a pattern of substandard maintenance in minority neighborhoods exacerbating the ongoing damage and decline already occurring to these neighborhoods.

Out of a total of 97 REOs that were investigated in Dayton, several egregious disparities were uncovered:

- REOs in communities of color were 2.9 times more likely to have exposed or tampered utilities than REO homes in White communities.
- REOs in communities of color were 2.1 times more likely to have damaged steps or handrails compared to REO homes in White communities.
- REOs in communities of color were 2.3 times more likely to have unsecured, broken or boarded doors compared to REOs in White communities.³⁹

Minority neighborhoods, which are already devastated by high numbers of foreclosures as a result of having been targeted by predatory lenders, are now suffering from a disproportionate amount of negligence and maltreatment caused by the maintenance policies of banks, lenders and servicers. This discriminatory neglect is causing a cascade of adverse effects on these neighborhoods; harming homeowners, individuals who have purchased REO properties and the local governments where these neighborhoods are located.

As this report demonstrates, communities of color in Dayton are being left behind in the nation's housing recovery because of this discriminatory treatment. Although fair housing organizations have filed administrative complaints with HUD to force compliance with the Fair Housing Act, our community must demand that banks, lenders, trustees, and investors who own REOs restructure their maintenance and marketing models to ensure equal treatment of REO properties in all neighborhoods. Bad actors should be required to compensate these communities for the harm that has been caused by these practices.

Local Study of Importance

2010 Zoning Study for Montgomery County

Overview: *Fair Housing Act Compliance Concerns Arising from Zoning Laws of Jurisdictions within Montgomery County, Ohio, and the Impact Upon People with Disabilities*, by Jim McCarthy, Simone Boothe, and Andrew C. Sigmon, Miami Valley Fair Housing Center.

This report examines the zoning laws of municipal jurisdictions within Montgomery County to determine whether the municipal zoning laws of jurisdictions within the county pose obstacles to the establishment of Supported Living Homes. (See the Executive Summary in the Appendix 1.) MVFHC, Miami Valley In-Ovations (MVIO), and the Montgomery County Board of Developmental Disability Services collaborated to complete the study because of difficulties that MVIO encountered as it tried to establish Supported Living arrangements for people with disabilities throughout Montgomery County. The report found four primary obstacles to establishing Supported Living arrangements. The report stated:

Review of the municipal zoning laws within Montgomery County presents four primary obstacles to establishing Supported Living Homes. The first obstacle is a narrowly written definition of “Family.” Second, a jurisdiction’s chosen terminology for defining group living arrangements for individuals with disabilities may be inaccurate or otherwise lacking. The third obstacle is a jurisdiction’s residential district regulations. Fourth is adoption of provisions specifically governing the group living arrangements of individuals with disabilities. A matrix summarizing the issues present in municipal jurisdictions within Montgomery County that pose obstacles to the establishment of Supported Living Homes is included as an attachment to the report.

Since the report was published, 58% of the jurisdictions have come into compliance, and the fair housing center has some advisory work in process with a few of the remaining jurisdictions. Kettering is very much in compliance and Dayton is considered to be in compliance, but Dayton’s definition of family should be broadened or even eliminated, as Kettering’s is.⁴⁰ It is disheartening that five years after the study’s publication there is still not 100% compliance. The entitlement jurisdictions press all smaller recalcitrant municipalities to come into compliance. Broadening zoning law definitions and dismantling preconceived notions written into the zoning code is still needed.

C. Settlements in Recent State and Federal Fair Housing Cases

Select U.S. Department of Justice Settlements

*United States v. Zaremba Management Co., CASE NO. 1:13-cv-02152-SO (ND Ohio).*⁴¹

Overview: Familial Status – apartment rental terms and conditions, Lawsuit was filed in September 2013 Consent Order 9 -5 14, Cleveland, Ohio

The Department of Justice settled a lawsuit filed against a manager and owner of Linden House, a Cleveland apartment complex, for refusing to rent to families with children. The lawsuit also alleged that Linden House had a policy of evicting tenants or asking tenants to relocate if they had children while living at Linden House Apartments. Linden House did not meet requirements for exemption to limit housing to 55 and older. The lawsuit was settled after Linden House agreed to pay \$90,000 to victims and \$10,000 to the United States in civil penalties.⁴¹

*United States v. Ruth, et al. Case No. 5:11-cv-1322-JRA (N.D. Ohio, August 25, 2014)*⁴²

Overview: Race and Familial Status - apartment rental terms and conditions

In this case the defendants, landlords at three Massillon, Ohio, apartment complexes, agreed to pay \$850,000 to settle lawsuits alleging that they discriminated against African Americans and families with children. Under terms of the settlement, defendants agreed to pay \$650,000 in damages and attorney's fees to plaintiffs. In related civil suits they agreed to pay \$175,000 in damages to 11 additional former residents and employees identified by the United States who had been harmed by the defendants' discrimination and they were ordered to pay a \$25,000 in a civil penalty to the United States.⁴³

*Oregon on behalf of Robin Buckley v. Prometheus Real Estate Group*⁴⁴

Overview: Disability: rental terms and conditions and failure to provide Reasonable accommodation, Conciliation in Oregon State Court January 2015

This a case from the State of Oregon that can have a profound impact on entities across the nation including our local jurisdictions and housing providers that are obligated by guidance from HUD and the Justice Department to give "prompt responses" to requests for reasonable accommodations from persons with disabilities. The HUD's Joint Statement on Reasonable Accommodations states:

A provider has an obligation to provide prompt responses to accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.⁴⁵

In this case, the apartment complex waited too long to provide an accommodation and the tenant died from injuries caused by a fall.

Robin Buckley and her husband Jim Calogridis requested a reasonable accommodation to have a disabled parking space closer to their apartment. Jim Calogridis did not walk very

well due to complications with diabetes that affected his heart, kidneys and lungs. George Rede of *The Oregonian* reported the following:

After filling out a form provided by the housing provider for the special request, they waited seven months for approval, all the while having to send to the landlord, in addition to the form many emails, faxes, doctor's verifications and a request for a notarized signature. On Jan. 29, 2012, still waiting for the requested space, Calogridis fell in the parking lot on his way from his car to his apartment. He was hospitalized for a week and sent home on Feb. 6 with a walker. On Feb. 7, Calogridis celebrated his 61st birthday. On Feb. 8, the disabled parking signage was installed. On Feb. 9, Calogridis collapsed in his bathroom and died." Robin Buckley won a \$475,000 housing discrimination settlement against Prometheus Real Estate Group, the California-based operator of the One Jefferson housing complex in Lake Oswego.⁴⁵

County and City Cases

Over the last decade there have been many important cases involving county and city governments in violation of either local, state, or the federal fair housing laws.

United States v. Westchester County, New York

This ground-breaking litigation "is the first to employ the federal False Claims Act ("FCA") to enforce a County's obligation to "affirmatively further fair housing." The landmark settlement combines FCA remedies with those traditionally used in housing desegregation litigation. With close oversight by a federal monitor, Westchester will be required to appropriate and spend nearly \$52 million in County funds to develop at least 750 affordable housing units in Westchester neighborhoods with very small African-American and Latino populations."⁴⁶

*Greater New Orleans Fair Housing Action Center v. St. Bernard Parish*⁴⁷

Overview: Race: exclusionary land-use laws blocking outsiders and blocking affordable housing development. Settlement Agreement December 19, 2014 St. Bernard Parish, LA

In this case⁴⁸, the Greater New Orleans Fair Housing Action Center (GNOFHAC) settled all claims against St. Bernard Parish stemming from a 2006 lawsuit that challenged Parish ordinances designed to restrict rentals. These ordinances included the "blood relative ordinance," which stipulated that owners of single-family homes could only rent to their

blood relatives. Specifically, the agreement settled all matters on appeal and requires the Parish to pay \$1,843,728 in fees to GNOFHAC, any other plaintiffs, and their attorneys.

Pacific Shores Properties, LLC v. City of Newport Beach⁴⁹

Overview: Disability – Group Homes, Land use and Disparate Impact

In this case, the Ninth District Court of Appeals reversed the granting of summary judgment to the City of Newport on claims that a City ordinance violated the Fair Housing Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act, and the Equal Protection Clause by having the practical effect of prohibiting new group homes for recovering alcoholics and drug users from opening in most residential zones.⁴⁹

The Ninth District found that the district court erred in disregarding the evidence that the City's sole objective in enacting and enforcing its ordinance was to discriminate against persons deemed to be disabled under state and federal fair housing laws. The Ninth District held that the plaintiffs were not required to identify similarly situated individuals who were treated better than themselves in order to survive summary judgment. The Ninth District reasoned that where there is direct or circumstantial evidence that the defendant acted with a discriminatory purpose and has caused harm to members of a protected class, such evidence is sufficient to permit the protected individuals to proceed to trial under a disparate treatment theory. This case has been remanded back to the District Court for trial.⁴⁹

HUD Lending Case

One recent HUD initiative was to investigate lenders' policies around making loans to pregnant women to ensure that these women or families were not treated differently than those not expecting children. This initiative produced multiple settlements compensating victims and producing changes in underwriting policies to make sure that they are in compliance with fair housing laws and to prevent future discrimination.⁵⁰

HUD v. Wells Fargo

Overview: Sex/Familial Status violated under mortgage terms and conditions based on an applicant's pregnancy. Voluntary compliance Agreement, August 2014.

In its press release, HUD summarized this case as follows:

Each HUD complaint alleged that Wells Fargo's underwriting policy for its FHA-insured home mortgage loans and the implementation of its policy violated the Fair Housing Act by discriminating against women on maternity leave. The complaints included allegations that Wells Fargo discriminated in lending services in connection with home sales, by making loans unavailable based on sex and familial status; or by forcing women applicants to sacrifice their maternity leave and return to work prior to closing on their loan; and by making discriminatory statements to and against women who were pregnant or who had recently given birth. Women applicants who sacrificed their maternity leave in order to ensure that their loan closed reported emotional distress at the loss of time with their infants and complications that arose in finding emergency child care and establishing the ability to nurse.

Since 2010, HUD has focused on ending maternity leave-related lending discrimination. One of HUD's first cases resulted in a Department of Justice settlement with Mortgage Guarantee Insurance Corporation (MGIC), the nation's largest mortgage insurance provider, which established a \$511,250 fund to compensate 70 people, and pay a \$38,750 civil penalty. Other settlements include a November 2013 settlement with Bank of America for \$45,000 and a 2011 settlement with Cornerstone bank for \$750,000.⁵⁰

D. Fair Housing Responsibilities within this Dynamic Era

The fair housing laws, studies, HUD rules, and cases outlined in this section highlight the current housing market's duality between momentum toward equality and the stagnation caused by continued biases. The momentum to protect sexual orientation is at an all-time high. The U.S. Constitution and the Ohio Constitution arguably make it illegal for federal and state actors to discriminate based on sexual orientation. Well before the recent U.S. Supreme Court case protecting same-sex couples' right to marry, the City of Dayton made it illegal for private actors to discriminate based on sexual orientation or gender identity. HUD also made sure that its programs did not discriminate based on sexual orientation or gender identity. The City of Kettering should follow suit.

The promotion of integration and creating policies and procedures to allow for increased integration is seeing renewed emphasis. The recent U.S. Supreme Court case upholding disparate impact claims under the federal fair housing act, along with HUD's recent Affirmatively Furthering Fair Housing rule place concrete fair housing obligations upon all recipients of federal funds. Montgomery County, Dayton, and Kettering are on notice; and to avoid liability each should proactively take steps to ensure that its policies not only

do not inhibit integration, but take affirmative steps to address the current housing landscape that past discrimination created and current policies perpetuate.

Lastly, the studies and cases show that the housing landscape is fraught with conscious and unconscious biases that remove or impede housing choice. The harm created by these biases needs to be assertively dealt with through enforcement, education, progressive public policies and partnerships. For example, in combating biases, Montgomery County, Dayton, and Kettering should conduct an unflinching retrospective of laws, policies, and procedures that either in form or practice facilitate the marginalization of protected classes, and then the three jurisdictions should work proactively to address the issues they find.

Montgomery County, Dayton, and Kettering should strive to continue the march forward toward the realization of the promises embodied in the Fair Housing Act rather than to remain stagnant. Now is an exciting time in fair housing. Montgomery County, Dayton, and Kettering can continue Ohio's progressive fair housing stance by taking advantage of the federal momentum to ensure fair housing choice.

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Section 3 — Existing Fair Housing Structure

A. Fair Housing Overview and Federal, State, and Local Structure

The Fair Housing Act—Title VIII of the Civil Rights Act of 1968—as amended in 1988 makes it unlawful to discriminate in the sale, rental, advertising, or financing of most housing based on race, color, religion, sex, handicap/disability, familial status, or national origin. Congress gave the Department of Housing and Urban Development (HUD) the authority to implement and oversee Title VIII, and for this purpose HUD created the Office of Fair Housing and Equal Opportunity (FHEO). HUD’s website describes FHEO’s mission as being:

to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities by leading the nation in the enforcement, administration, development, and public understanding of federal fair housing policies and laws.¹

FHEO operates both educational and enforcement activities related to fair housing and fair lending. FHEO publishes public service announcements, flyers, and posters, and it develops and conducts fair housing trainings, in-services and symposia. People who think they’ve faced housing discrimination can file complaints directly with FHEO, which will either handle the investigation itself or refer it to an authorized local agency (one deemed substantially equivalent to FHEO).

The Fair Housing Act authorizes federal funding for state and local agencies to implement and enforce fair housing laws through grant programs administered by HUD. HUD funds two types of agencies—public and private. Public entities such as the Ohio Civil Rights Commission (OCRC) and the City of Dayton’s Human Relations Council (HRC) are funded through the Fair Housing Assistance Program (FHAP), a formula grant program. Private agencies such as the Miami Valley Fair Housing Center (MVFHC) are funded through the Fair Housing Initiatives Program (FHIP), a competitive, discretionary grant program.

A FHAP agency “must demonstrate to HUD that it enforces a fair housing law that is substantially equivalent to the Fair Housing Act.”² FHAP agencies primarily investigate and enforce discrimination complaints, working to “protect families and individuals who believe they have been victims of discrimination on the basis of race, color, national origin, religion, sex, disability or familial status (i.e., the presence of children) in the sale, rental, or financing of housing.”²

In addition to funding for investigations and enforcement, FHIP program recipients may apply for funding to operate fair housing testing programs. HUD describes fair housing testing as:

FHIP organizations [...] conduct preliminary investigation of claims, including sending “testers” to properties suspected of practicing housing discrimination. Testers are minorities and whites with the same financial qualifications who evaluate whether housing providers treat equally-qualified people differently.³

Both FHAP and FHIP agencies can also receive funding for education and outreach. In addition, the FHEO also funds special grants for FHAP/FHIP collaborations in which a public entity and a private agency work together on fair housing or fair lending education or enforcement. Locally, MVFHC and HRC collaborate under such grants when available.

Those who believe they have experienced housing discrimination—whether they are individuals, community groups, or agencies—can seek resolution of their concerns either through an administrative complaint process or civil litigation with state or federal courts. Although a plaintiff may choose between the state or federal system when filing in court, the forum for the administrative process is dictated by HUD. All administrative housing discrimination complaints are dually filed with HUD and the substantially equivalent agency.

For example, a home-seeker who believes she was denied rental housing in the City of Kettering because she has children may file an online housing discrimination complaint with HUD, and HUD may in turn refer the complaint to the state level (OCRC) for processing. In contrast, an African-American tenant being racially harassed by a neighboring Caucasian may file a complaint with OCRC, and HUD will retain jurisdiction and investigate the complaint itself since there is Ohio state case law on tenant on tenant harassment that HUD deems to be incompatible with its interpretation of federal laws.

In the following section we describe these federal, state and local processes in more detail. We focus on administrative complaints, which usually cost less and take less time than do court cases.

B. Complaint Process Review

U.S. Department of Housing and Urban Development (HUD)

HUD accepts housing discrimination complaints by phone, by postal mail, and online.⁴ HUD's complaint form is available online in seven languages (English, Spanish, Arabic, Chinese, Korean, Russian, and Vietnamese). HUD also has a TTY phone number for the hearing impaired. There is no cost to file a complaint with HUD.

The steps for HUD's housing discrimination complaint process are as follows:

Step 1 — Intake: Someone who believes s/he has faced housing discrimination files a complaint with HUD by calling, by mailing a hardcopy form, or by completing a form online.

Step 2 — Filing: After HUD confirms that the complaint does pertain to housing discrimination (as opposed to other issues such as landlord/tenant disputes), a HUD investigator drafts a formal complaint on HUD's standard form and sends it, typically by postal mail, to the complainant to be signed and returned.

Step 3 — Investigation: HUD's investigators interview the complainant, the respondent, and pertinent witnesses, collecting relevant documents and conducting onsite visits as appropriate.

Step 4 — Conciliation: The Fair Housing Act requires HUD to attempt conciliation between the parties in every fair housing complaint, although either the complainant or the respondent may decline to do so. Any conciliation agreement brokered by HUD must protect the public's interests.

Step 5 - No Cause Determination: After a thorough investigation, HUD may find no reasonable cause to believe that housing discrimination occurred or is about to occur. In this case, HUD issues a determination of "no cause" and closes the case.

Step 6 - Cause Determination and Charge: If, however, the investigation does produce reasonable cause to believe that discrimination has occurred or is about to occur, HUD issues a determination of "reasonable cause" and charges the respondent with violating the

law. HUD will adjudicate the complaint administratively, unless either party elects, within 20 days of receipt of the charge, to have the case heard in federal court.

Step 7 - Hearing in a U.S. District Court: If either party does elect to go to federal court, the Department of Justice (DOJ) files a civil action in U.S. district court on behalf of the aggrieved party. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court can award actual and punitive damages as well as attorneys' fees.

Step 8 - Hearing before a HUD Administrative Law Judge (ALJ): If neither party opts to have the case heard in court, an ALJ hears the case. A HUD attorney represents the aggrieved party before the ALJ.

With its complaint form online HUD also provides additional options and information related to complaints.⁵ One option is a complaint line specifically handling calls about properties insured by HUD and properties whose rent is completely or partly paid by HUD-issued Housing Choice (Section 8) Vouchers. On its website HUD also offers information about discrimination on the basis of actual or perceived sexual orientation, gender identity and marital status in such properties. HUD also has a web page specifically addressing discrimination based on sexual orientation, gender identity and marital status⁶, on which HUD provides a list of states that include sexual orientation and/or gender identity in their non-discrimination laws.

Ohio Civil Rights Commission

Because HUD has determined that Ohio's fair housing laws are substantially equivalent to the federal Fair Housing Act, Ohio may investigate complaints of housing discrimination in the state and does so through OCRC. OCRC's main office is in Columbus, and OCRC also has regional offices throughout the state, including in Dayton. OCRC's complaint process is similar to that of HUD and is documented in Chart 3.1 on the following page.⁷

OCRC accepts complaints in person and by telephone. OCRC offered an online portal for filing complaints, but it has not been functional recently. OCRC's website does not offer Google's translation feature, nor does it appear to have information in languages other than English.

When OCRC finds that a housing discrimination complaint has probable cause, OCRC works with the Ohio Attorney General's office to resolve the complaint, either through conciliation, a hearing before an administrative law judge, or litigation in civil court.

Although the attorney general's office must file administrative complaints within a set time limit, administrative hearings may be delayed for multiple years because of staffing capacity limits.

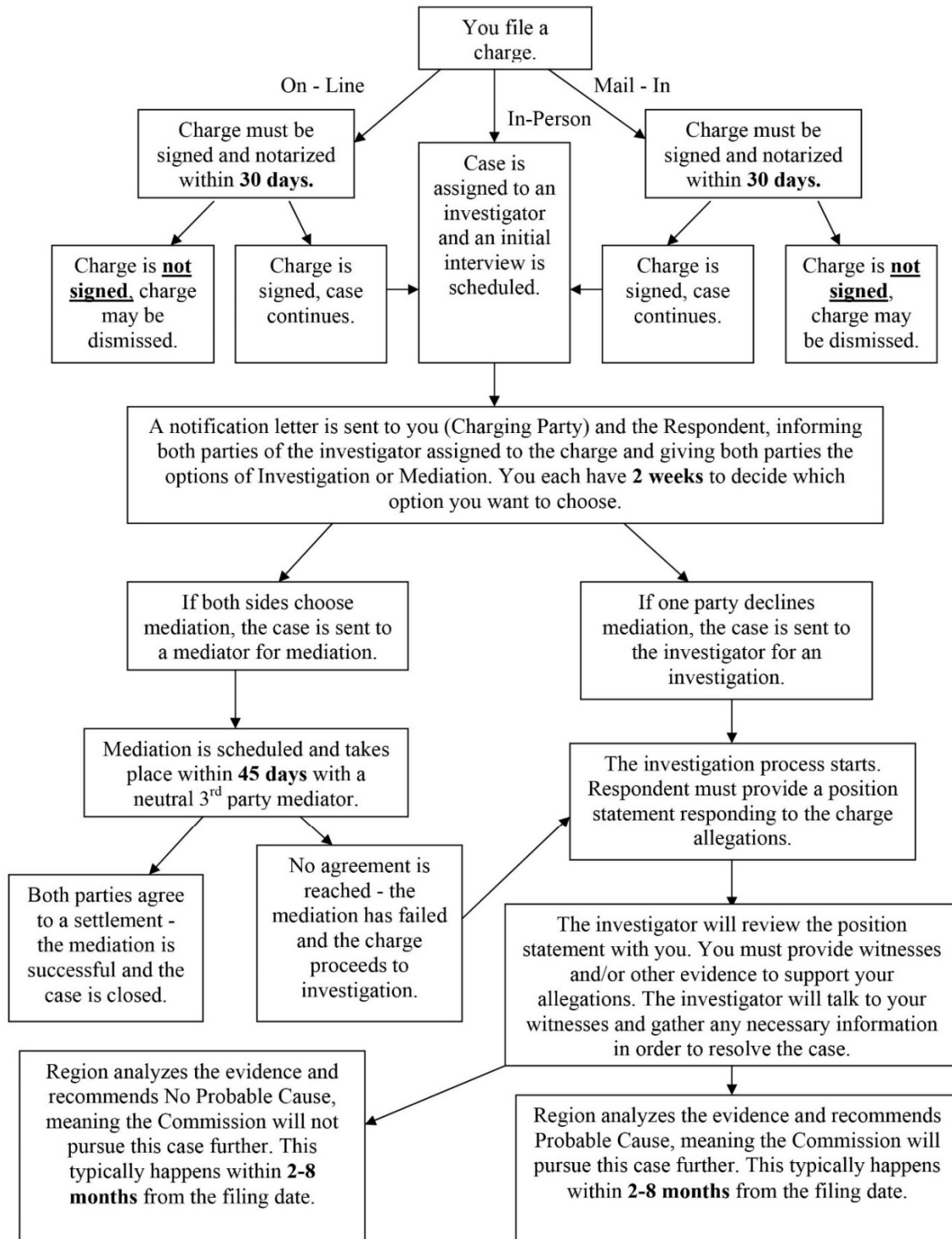


Chart 3.1: General overview of the OCRC charge filing process⁸

City of Dayton Human Relations Council

Because HUD has determined that the City of Dayton’s Human Rights Ordinance is substantially equivalent to the federal Fair Housing Act, Dayton may investigate complaints of housing discrimination in the city and does so through HRC.

On its frequently-asked questions web page, HRC says that it requires that housing discrimination complaints “be written, signed, and, when possible, notarized.”⁹ However, HRC does have an online complaint form¹⁰, although it does not specify whether HRC follows a process similar to HUD’s whereby a hard copy of an online complaint is sent back to the complainant for signing. HRC offers assistance in completing its complaint form, encouraging people to visit HRC’s office between 8:00 a.m. and 5:00 p.m. to file complaints.

HRC’s website does not offer Google’s translation feature, nor does it have any web page in languages other than English. HRC does have hard-copy brochures in six additional languages—Turkish, French, Spanish, Arabic, Kiswahili and Russian—about its services.

In addition, HRC has language-access complaint forms available online in English as well as in Turkish, Kiswahili, Spanish, Russian, and Arabic. Using these forms people may let HRC know of language-related problems such as not being offered interpreters or forms in a particular language.

HRC assigns an investigator for each complaint it processes. HRC promotes conciliation throughout the process. Failing conciliation, the HRC investigator submits a final investigative report to HRC’s board, which has the authority to decide whether there is probable cause to file a formal administrative complaint. HRC selects outside legal counsel to represent it, and complainants may hire their own legal representation if they so choose. A formal administrative complaint is presented at a public hearing overseen by a Hearing Examiner, who makes a decision and may issue penalties. Alternatively, HRC may decide not to file a formal complaint but instead to give the complainant a “Notice of Right to Sue.” In the past several administrative complaints were pending over multiple years, but within the past year HRC increased its capacity to proceed more speedily with public hearings.

Miami Valley Fair Housing Center

The Miami Valley Fair Housing Center (MVFHC) is a private fair housing agency that is recognized by HUD as a Qualified Fair Housing Organization. MVFHC provides full-services fair housing assistance, including professional counseling and guidance to individuals who encounter discrimination in their search for housing; informing consumers of their options under local, state, and federal fair housing laws; and providing support for consumers going through the process of asserting their housing rights.

For each housing discrimination complaint it receives, MVFHC develops a specific investigatory plan. MVFHC may decide to conduct testing to substantiate a claim of housing discrimination by duplicating the circumstances of a complaint, potentially finding additional evidence of discrimination. MVFHC maintains a diverse pool of testers to carry out its testing program.¹¹ On behalf of clients who have experienced housing discrimination and on its own behalf in cases arising from audit tests, MVFHC files complaints with HRC, OCRC and HUD. MVFHC's services to its clients are provided at no charge.

On its website MVFHC offers many housing-related resources, including an online complaint form and information on housing discrimination, information on reasonable accommodations and modifications for disability-related needs, information for real estate agents and landlords, and information on landlord/tenant issues. MVFHC's website includes Google's translation service.

*C. Future of Local, State, and Federal Fair Housing Structure**Regulatory Change and the Obligation to Affirmatively Further Fair Housing (AFFH)*

The process for getting certification of compliance with AFFH statutes and regulations is changing for entitlement jurisdictions including Montgomery County, the City of Dayton, and the City of Kettering. On July 8, 2015, HUD issued a new regulation, "Affirmatively Furthering Fair Housing—Final Rule."¹² In its summary of this rule, HUD describes it as having "an approach to more effectively and efficiently incorporate [...] the duty to affirmatively further the purposes and policies of the Federal Fair Housing Act." HUD describes the previous approach to AFFH—the one under which this AI has been completed—as having "not been as effective as originally envisioned." The new rule, HUD says, will "better inform program participants' planning processes with a view toward better aiding program participants to fulfill this statutory obligation" to affirmatively further fair housing.

Changes in Compliance Process

Instead of requiring an Analysis of Impediments, the new rule requires an **Assessment of Fair Housing (AFH)**. Each HUD program participant, including, for example, local public housing authorities such as Greater Dayton Premier Management, will decide whether to develop an AFH on its own or by partnering with jurisdictions regionally. Participants will also have to decide whether to have internal staff or outside consultants develop their AFHs. Smaller jurisdictions belonging to Ohio's Small Cities Community Development Block Grant Formula Allocation Program will have to wait until HUD releases a template for small cities before beginning the AFH process. A schedule for entitlement jurisdictions has been developed. The City of Hamilton will be the first in the region to go through the process, with its AFH due in 2017. Montgomery County, the City of Dayton and the City of Kettering will have their first AFHs due in 2020 or 2021.¹³

The new AFH rule allows for cooperation beyond a single county. A best practice in the future might be assessing the entire Metropolitan Statistical Area (MSA) as a whole. For the Dayton MSA that would include Miami, Greene and Preble counties in addition to the three entitlement jurisdictions covered by this AI. Examples of regional approaches that extend beyond county boundaries already exist in economic development, transit, and business development through planning commissions and boards.

Ohio State University describes planning commissions from a statutory point of view:

The powers and duties of planning commissions are explained in Ohio Revised Code 713. According to the statute, such planning commissions “may make studies, maps, plans, recommendations and reports concerning the physical, environmental, social, economic, and governmental characteristics, functions, services, and other aspects” of their particular area of concern. Such studies may extend well beyond municipal, county, or regional boundaries or may be limited to a specific location within the area.¹⁴

The Fair Housing Act addresses not just discrimination but also segregation. As shown in Section 1 on page 23, the Dayton MSA is hyper-segregated. All jurisdictions in the Dayton MSA are required to do Assessments of Fair Housing. Can any single jurisdiction in isolation set programs in motion that will truly ameliorate the effects of historic patterns of segregation, as required by the new AFFH rule? Now is the time for discussing the best approach regionally for AFFH compliance, so as to ensure compliance under the FHA for land use, planning, and zoning policies.

Disparate Impact

During the preparation of this AI, on June 25, 2015, the U.S. Supreme Court ruled, in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.*, that disparate impact cases may be brought against jurisdictions that are obligated to affirmatively further fair housing.¹⁵

In this case the merits of HUD's 2012 rule on "Implementation of the Fair Housing Act's Discriminatory Effects Standard"¹⁶ were debated. Although this rule was finalized in 2012, the discriminatory effects, or disparate impact, standard has been considered essential to fighting housing discrimination and patterns of segregation that have persisted in America for decades. Moreover, civil rights and fair housing advocates argue that "disparate impact claims are vital to dismantling policies and practices that sound like they have little to do with race at all, such as zoning laws that bar multi-family apartment construction in wealthier white suburbs."¹⁷

Therefore decisions on the siting of housing in our region must be examined for disparate impact in order to ensure compliance with the Fair Housing Act.

¹ Fair Housing and Equal Opportunity. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp.

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³ What is the Fair Housing Initiatives Program (FHIP)? U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/partners/FHIP/fhip.

⁴ HUD's Title VIII Fair Housing Complaint Process. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/complaint-process.

⁵ Filing Your Housing Discrimination Complaint Online. U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint.

⁶ Ending Housing Discrimination against Lesbian, Gay, Bisexual and Transgender Individuals and Their Families. U.S. Department of Housing and Urban Development. Retrieved from <http://www.hud.gov/lgbthousingdiscrimination>.

⁷ What Happens Next? Ohio Civil Rights Commission. Retrieved from <http://crc.ohio.gov/FilingCharge/WhatHappensNext.aspx>.

⁸ A General Overview of the Charge Filing Process for the Charging Party. Ohio Civil Rights Commission. Retrieved from <http://crc.ohio.gov/Portals/0/Flow%20Chart.pdf>.

⁹ Complaint Process. City of Dayton, Human Relations Council. Retrieved from <http://daytonhrc.org/wp-content/uploads/2014/08/HRC-Complainant-Brochure-.pdf>.

¹⁰ HRC Civil Rights Discrimination Complaint Form. City of Dayton, Human Relations Council. Retrieved from <http://daytonhrc.org/civil-rights-enforcement/hrc-civil-rights-discrimination-complaint-form/>.

¹¹ Client Services. Miami Valley Fair Housing Center. Retrieved from http://www.mvfairhousing.com/client_services.php.

¹² RIN No. 2501-AD33: Affirmatively Furthering Fair Housing. U.S. Department of Housing and Urban Development. Retrieved from http://www.huduser.org/portal/sites/default/files/pdf/AFFH_Final_Rule.pdf.

¹³ For more information, see ConPlans by HUD Region and Field Office 2016–2017 at http://www.mvfairhousing.com/AI2015/ConPlans_by_HUD_region_and_field_office_2016-2017.PDF.

¹⁴ Davis, G.A. Planning Commission Basics. (2009). The Ohio State University. Retrieved from http://ohioline.osu.edu/cd-fact/pdf/CDFS_1556_09.pdf.

¹⁵ *Texas Department of Housing and Community Affairs et al. v. Inclusive Communities Project, Inc.*, 576 U.S. ____ (2015). Retrieved from http://www.supremecourt.gov/opinions/14pdf/13-1371_m64o.pdf.

¹⁶ RIN 2529-AA96: Implementation of the Fair Housing Act’s Discriminatory Effects Standard. (2013, February 15). *Federal Register* (Vol. 78, No. 32, pp. 11460–482). Retrieved from <http://portal.hud.gov/hudportal/documents/huddoc?id=discriminatoryeffectrule.pdf>.

¹⁷ Badger, E. Supreme Court Upholds a Key Tool Fighting Discrimination in the Housing Market. (2015, June 25). *Washington Post*. Retrieved from <http://www.washingtonpost.com/news/wonkblog/wp/2015/06/25/supreme-court-upholds-a-key-tool-fighting-discrimination-in-the-housing-market/>.

Section 4 — Fair Housing in the Private Sector

As part of the AI process, the Department of Housing and Urban Development suggests reviewing housing discrimination in the private sector including mortgage lending, the real estate market and the rental market including the development of multi-family housing both for sale and for rent.

A. Mortgage Lending and the Real Estate Market

Since 1990 the Miami Valley Fair Housing Center (MVFHC), the Department of Housing and Urban Development (HUD), the City of Dayton, the City of Kettering and Montgomery County have worked and collaborated with many organizations to combat lending discrimination, predatory lending practices, mortgage rescue scams, and other foreclosure-related problems such as abandoned housing and blight caused by the neglect of bank-owned (REO¹) properties in minority neighborhoods. As our analysis below shows, barriers to fair housing choice and to housing availability still exist in Montgomery County, Dayton and Kettering.

Home Mortgage Disclosure Act (HMDA)

The Home Mortgage Disclosure Act (HMDA)—enacted by Congress in 1975 and implemented by the Federal Reserve Board's Regulation C—requires lending institutions to report public loan data to the federal government. Private individuals as well as businesses and other organizations can access this data for review. Fair housing groups examine HMDA data in order to:

- determine if there are racial and/or ethnic disparities (or other disparities such as by gender) among persons denied mortgage loans and
- determine if there are racial and/or ethnic disparities (or other disparities such as by gender) among borrowers obtaining high-cost loans.

In 2009, the Federal Financial Institutions Examination Council (FFIEC), looking at lending patterns from 2004–2008, reported, that, as confirmed in previous studies, African-American and Hispanic borrowers received high-cost loans more frequently than did non-Hispanic White borrowers.² The FFIEC also found that in 2008 African Americans and Hispanics encountered significantly higher rates of denial for both home purchases and refinancing than did non-Hispanic Whites. Locally, in Montgomery County, the FFIEC found that for the five-year period from 2004–2008 the denial rate for African Americans was 7.0% greater than their application rate. For non-Hispanic Whites, the rate of denial over that of application for the same period is only 6.2%.

The Housing Research and Advocacy Center (HRAC), studying lending patterns in Ohio, found that from 2009 onwards it was difficult to draw conclusions from the data they found for Dayton because of the “relatively low number of borrowers.”³ However, data from the HRAC report, released in 2013, does match disparities found in earlier studies:

- The racial/ethnic group with the highest rate of denial for home purchase loans was low-income Asian applicants, at a rate of 54.55%.
- Low-income African-American borrowers were given high-cost home purchase loans 6.49% of the time, compared to 2.83% for low-income Whites.
- Low-income African Americans were denied refinance loans 68.66% of the time, compared to 44.39% for low-income Whites.
- For refinance loans, low-income African Americans were given high-cost loans 10% of the time, compared to 4.03% of the time for low-income Whites.³

Charts 4-1 through 4-4 on the next page illustrate that Whites have the lowest rate of denials for home purchase and refinance loans, and they also have the lowest rates of receiving high-cost mortgage products. Lending disparities continue to be an impediment to fair housing in the Miami Valley.

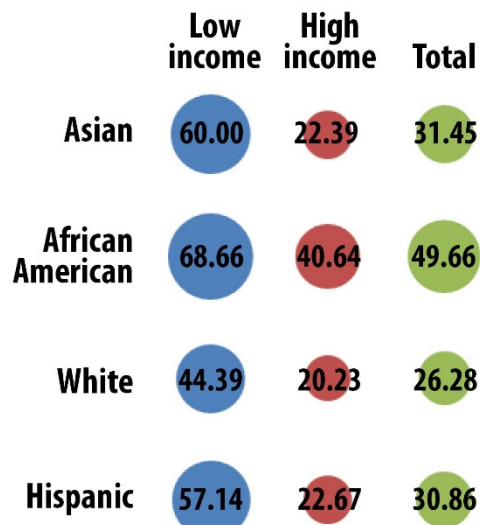


Chart 4.1: Purchase loan denial rates of lower- and upper-income individuals, Dayton MSA, 2011³



Chart 4.2: High-cost purchase loan rates of lower- and upper-income individuals, Dayton MSA, 2011³

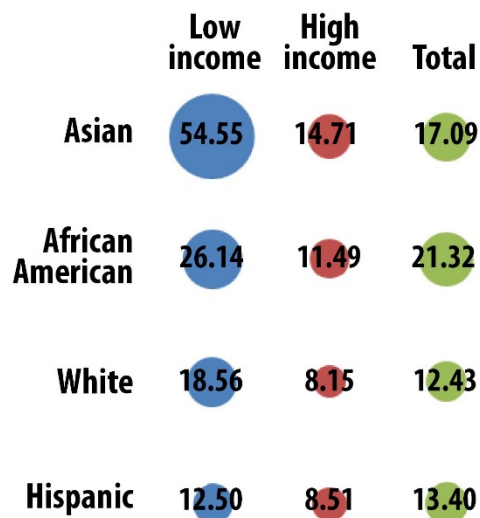


Chart 4.3: Refinance loan denial rates of lower- and upper-income individuals, Dayton MSA, 2011³

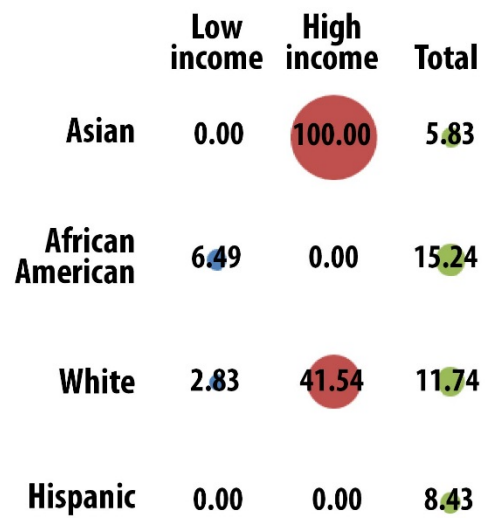


Chart 4.4: High-cost refinance loan rates of lower- and upper-income individuals, Dayton MSA, 2011³

Community Reinvestment Act (CRA)

The provision of capital and resources to build and sustain neighborhood amenities—for example, schools, grocery stores, lending institutions, and small businesses—is an element of housing choice and availability. Enacted in 1977, the CRA encourages lending institutions to meet the credit needs of all areas of the regions in which they operate, including both higher income areas and low-to-moderate income (LMI) neighborhoods. The intent behind this is to build housing choice by creating greater opportunity in LMI neighborhoods.

In 2015 MVFHC did an analysis of CRA data for the City of Dayton (the study did not include the City of Kettering or areas of Montgomery County outside Dayton). MVFHC's analysis looked at single-family loan originations and small business loan originations to determine whether lending for home purchases and economic development was distributed evenly throughout the City of Dayton. MVFHC determined that “the large banks are disproportionately promoting services to white consumers and at the same time excluding racial minority consumers.”⁴

MVFHC determined that despite Dayton having about equal numbers of white and minority residents, only 18% of home loans originated in 2013 in Dayton were for minority borrowers. This disparity is seen in HRAC's analysis of HMDA data in Chart 4.1 on page 83 showing that African Americans of all income levels are denied home purchase loans 49.66% while Whites are denied home purchase loans 26.28% of the time.

MVFHC also determined that small business growth in the City of Dayton has stagnated, significantly limiting opportunity in Dayton neighborhoods and thus reducing housing choice. One hopeful note is that the “Dayton region ranks No. 44 among the best places in the U.S. for Black-owned businesses,” with 7.2% of small businesses being owned by African Americans.⁵ However, as discussed in Section 1 on page 29, the city could do more to encourage the use of minority business enterprises in city contracts.

MVFHC concluded its analysis by noting:

The large banks' lending practices and placement of branch locations in the City of Dayton show that the banks are overwhelming catering to only half of Dayton's population and these practices shockingly run on racial lines. Furthermore, with the downturn in small business lending, credit availability is a significant barrier to community development, especially for Dayton's racial minorities.

In summary, the large banks are not meeting the credit needs of Dayton’s residents. The banks’ practices appear to go against the purpose of the CRA and are exactly opposite of what the CRA promotes. Mainstream banks must do more to support all segments of the population.

Because the City of Dayton has the largest concentration of LMI neighborhoods, its citizens are more keenly affected by lending disparities than are those in Kettering or the rest of Montgomery County. However, members of protected classes in the entire region, particularly those in LMI neighborhoods, have insufficient lending choices and availability.

Foreclosure and Foreclosure Prevention

“Additional funding to support residential foreclosure prevention efforts” was identified as a fair housing and fair lending need in the 2010 *Regional Fair Housing Plan* for Montgomery County, Dayton, and Kettering⁶ as well as in the 2010 analyses of impediments for Greene County⁷ and for Miami County.⁸ The Center for Responsible Lending also concluded in 2010 that foreclosures have a disparate impact on African-American homeowners.⁹ MVFHC, through its foreclosure prevention services, comes to the same conclusion.¹⁰ Over 91% of MVFHC’s recent foreclosure clients have been elderly, African American, disabled, or a combination thereof.

Category*	July 2013		July 2014	
	# of clients	% of case load	# of clients	% of case load
Families with children	9	23%	20	41%
Racial minorities	10	26%	21	43%
Seniors	17	44%	27	55%
Disabled	4	10%	7	14%
Women	23	59%	33	67%
Total	39	100%	49	100%

*Some clients belong to multiple categories

Table 4.5: MVFHC foreclosure clients by disadvantaged category

A 2010 investigation by the *Dayton Daily News* also found lending disparities by race. The newspaper found that upper-income African Americans were denied home loans—whether for purchase or refinance—at a greater rate than low-income Caucasians.¹¹ Also, homeowners in predominantly African-American neighborhoods in Montgomery County have a greater percentage of high-cost loans than do those in predominantly non-African-American neighborhoods. In spite of efforts to prevent foreclosures, the difficulty of

minorities' obtaining purchase or refinance mortgages continues to be an impediment to fair housing.

Poor maintenance by banks of their REO properties in minority neighborhoods has exacerbated the problems of lending in these neighborhoods.¹² The ability of people to buy lower-cost homes in these neighborhoods has been limited, as has the ability of low-income and minority homeowners to refinance.

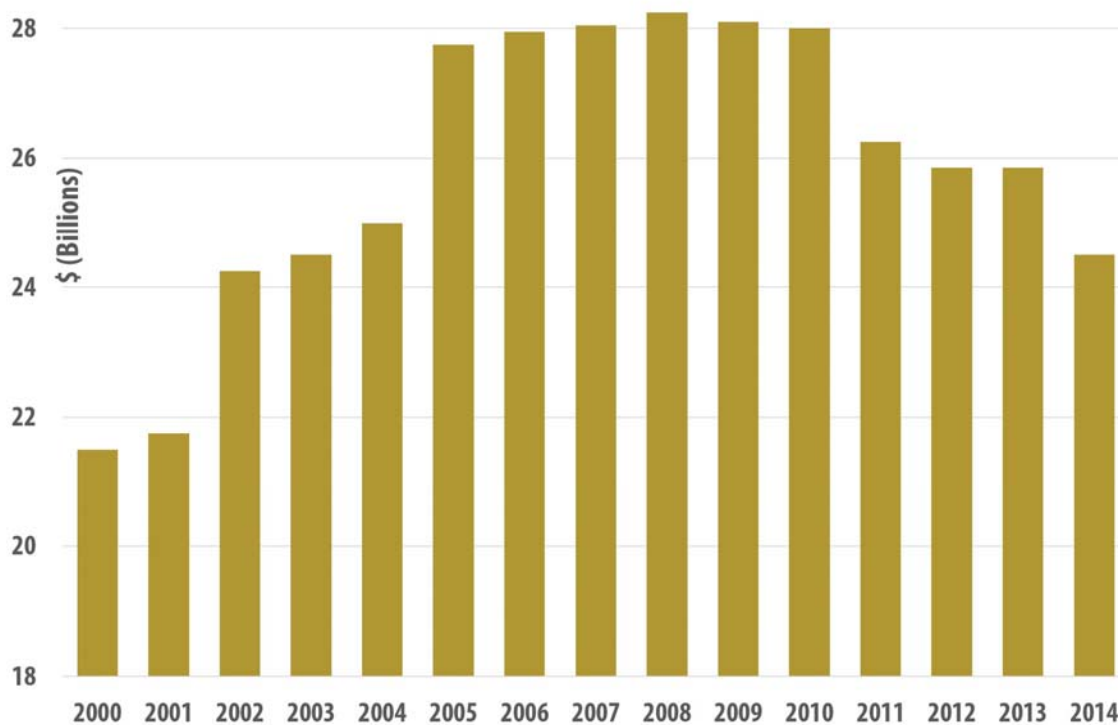


Chart 4.6: Property values in Montgomery County, 2000–2014¹³

The substantial devaluation of many homes in low-income and minority neighborhoods has greatly hindered the ability to sell or refinance these homes. Most lending institutions will not finance the purchase of houses valued below \$50,000, and most people in minority neighborhoods cannot afford to pay cash for such homes.

Montgomery County Auditor Karl Keith explained the cycle of foreclosures, abandonment, vacancies, and declining property values at MVFHC's annual fair housing conference held April 2, 2015.¹⁴ Mr. Keith reported on the decline in the number of residential house sales in Montgomery County from 7,710 sales in 2005 to a low of 2,943 sales in 2011 (see table 4.7 on the next page). Sales have since increased to 5,163 sales in 2014, but have not reached their pre-recession levels.

Mr. Keith said that “the county’s total property value has dropped by 3.5 billion dollars, the lowest level in 12 years.”¹⁵ In 107 neighborhoods in the City of Dayton, about half of all Dayton’s neighborhoods, there were no residential house sales in a period of more than 12 months between 2013 and 2014.¹² The greatest losses in property values between 2007 and a county-wide property revaluation in 2014 were in the City of Trotwood (-31%), Harrison Township (-29%) and the City of Dayton (-29%).

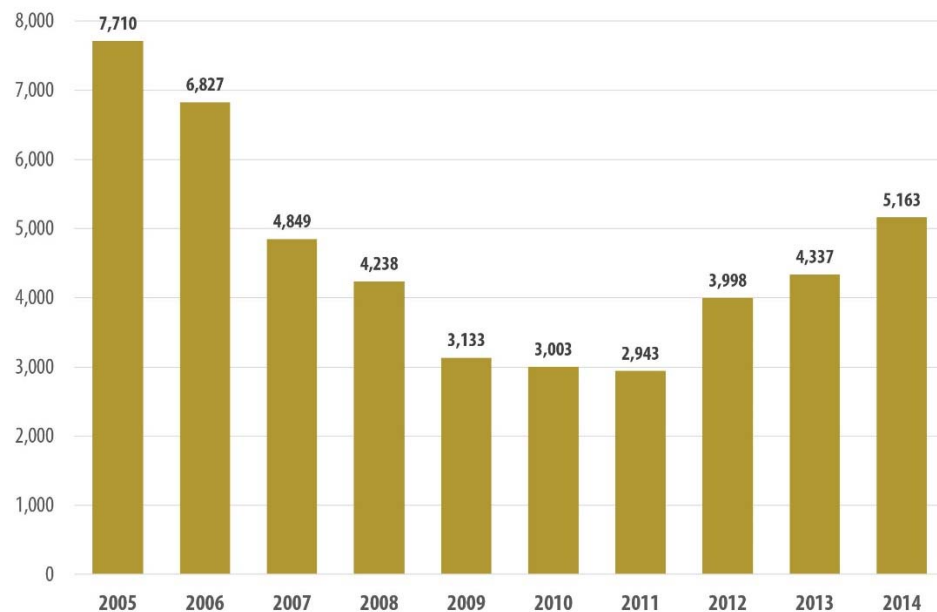
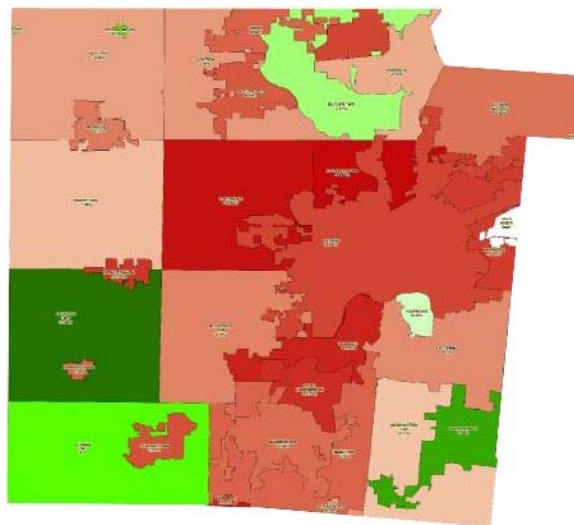


Chart 4.7: Number of residential sales by year, Montgomery County¹²

Map 4.8 shows how each area in Montgomery County was affected by the revaluation.



Red areas experienced declines in value; green areas experienced increases.

Map 4.8: Results of 2014 Montgomery County property revaluation¹²

Despite the downward spiral in property values, vacancy rates for both owner-occupied and rental properties are returning to better levels, as shown in Table 4.9 below. Homeowner vacancy rates declined slightly in Kettering and Montgomery County but in Dayton declined significantly from 7.8% in 2010 ACS to 4.5% in 2013 ACS.

	City of Dayton		City of Kettering		Montgomery County	
	2011–2013 estimate	2008–2010 estimate	2011–2013 estimate	2008–2010 estimate	2011–2013 estimate	2008–2010 estimate
Total housing units	74,771	75,783	26,659	28,099	254,022	254,883
% occupied	76.6%	77.8%	93.0%	90.9%	87.2%	87.2%
% vacant	23.4%	22.2%	7.0%	9.1%	12.8%	12.8%
Homeowner vacancy rate	4.5%	7.8%	1.8%	3.3%	2.6%	3.4%
Rental vacancy rate	8.2%	14.4%	2.0%	8.3%	6.2%	11.1%

Table 4.9: Housing occupancy¹⁶

B. The Rental Market

From 2010–2013 rental vacancies have declined in all three entitlement jurisdictions, as shown in Table 4.9 above. The rental vacancy rate for Montgomery County has declined by 44%, going from 11.1% of available units being vacant to 6.2%. Kettering’s rental vacancy rate declined by 75%, going from 8.3% of available units being vacant to 2%. Dayton’s rate declined by 43%, going from 14.5% of available units being vacant to 8.2%.

Montgomery County has nearly 7,000 abandoned properties, many of which are older housing in low-income and minority neighborhoods. Of the current housing stock 42.5% was built prior to 1950. In many cases owners cannot afford to maintain or rehabilitate their houses; without intervention this will lead to the eventual abandonment and demolition of these properties, having a significant effect on low-income and minority neighborhoods, further limiting available affordable rental housing there.

Two groups—large corporations and small landlords—make up the private rental market in Montgomery County. Large apartment complexes are owned by corporations such as Miller Valentine Group, Connor Group, and Oberer Companies; these companies typically manage or own several thousand units, often in multiple cities or states. Smaller landlords manage 500 or fewer units, often as few as one or two units.

Two trade associations in Dayton represent these groups. The Greater Dayton Apartment Association represents many of the larger firms. The Greater Dayton Real Estate Investment Association represents many of the smaller landlords.

These associations include members other than landlords, such as people or companies who, for example, maintain heating and air conditions systems, do maintenance of buildings or grounds, perform background checks, or do appraisals. Many licensed real estate agents (most of whom belong to the Dayton Area Board of REALTORS®) also do property management. Because all these services are part of making housing available in the rental market, they are covered by the Fair Housing Act, and those who provide these services need education on their fair housing obligations. Housing discrimination complaints have been made against contractors as well as maintenance and service personnel based on, for example, racial and sexual harassment.

Fair Housing Act Design and Construction Requirements

In addition to requiring that people be treated equally, the Fair Housing Act also requires that new multi-family housing be designed and constructed according to accessibility guidelines with the objective of making more housing available to people with disabilities. Seven basic accessible design and construction requirements were added to the Fair Housing Act in 1988, applying only to multi-family housing in which there are four or more units in a building where there is at least one ground floor unit. In order to be covered by the requirements, buildings must be newly constructed for first occupancy after March 13, 1991. Multi-family housing created from substantial renovations or conversions are not covered by the requirements.¹⁷

The accessible design and construction requirements are:

1. An accessible building entrance on an accessible route.
2. Accessible public and common use areas.
3. Usable doors (usable by a person in a wheelchair).
4. Accessible route into and through the dwelling unit.
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.
6. Reinforced walls in bathrooms for later installation of grab bars.
7. Usable kitchens and bathrooms.

In 2013, HUD and the Department of Justice (DOJ) released a Joint Statement on the “Accessibility (Design and Construction) Requirements for Covered Multi-family Dwellings under the Fair Housing Act”¹⁸ in order to clarify the requirements. This guidance provides assistance to housing design and building professionals to direct them in meeting their obligations, while also educating persons with disabilities about their rights regarding the accessibility of newly constructed multi-family housing.¹⁹

The 2010 *Regional Fair Housing Plan*⁴ cited a lack of available accessible homes as an impediment. The 5-year action plan, spanning 2010–2015, regarding this impediment included supporting education and outreach about accessible design and construction and the testing of newly constructed multi-family buildings. In 2012 and 2013, the Human Relations Council (HRC) of the City of Dayton and MVFHC were major sponsors of a statewide accessible design and construction training, held in Columbus, and open to all architects and contractors. Both years, there were nearly 100 people in attendance. Within Montgomery County, MVFHC observed little construction of covered multi-family dwellings during the 2010–2015 timeframe because of the downward turn of the housing market and recession. The multi-family housing that was completed during this timeframe were the newly constructed townhouses in downtown Dayton, the conversion of industrial buildings into residential units, and multi-family housing with less than four units in a building, such as triplexes or duplexes. None of this newly created housing is covered by the accessible design and construction requirements.

Anecdotal information suggests that multi-family housing construction starts in other Ohio markets, such as Greene County and Franklin County, have increased since 2010. Locally, Miami Township, in its master plan for the Dayton Mall area, has found a “growing imbalance” between small households and the supply of rental housing such households prefer, and therefore the township calls for the creation of new market-rate multi-family housing in the Dayton Mall area.²⁰

MVFHC—through its design and construction testing of multi-family housing in the Dayton area since 2006 and more recently in other Ohio markets—has discovered a significant number of units that are not built in compliance with FHA accessibility requirements. Both the availability of accessible housing and compliance with design and construction requirements remain barriers to housing choice in both private and public housing markets.

C. Fair Housing Testing

MVFHC conducted additional testing of housing providers specifically for this report in order to explore other potential barriers in housing opportunity.²¹ MVFHC structured these investigations to look at obstacles faced by four specific populations—people with disabilities, people of color, families with children, and people with Housing Choice Vouchers (HCV), formerly and more commonly known as Section 8. Disability, race, and familial status are protected classes under the federal Fair Housing Act. Source of income (including using HCVs) is not a protected class under the Fair Housing Act, but we thought it important to better understand the unique barriers to housing choice faced by

home seekers with vouchers. MVFHC tested in Dayton and Kettering as well as within other areas in Montgomery County in order to gain a better perspective on the variety of obstacles encountered in the area.

Disability

MVFHC's disability testing examined market-rate housing which a person with Social Security Disability Income (SSDI) would be able to reasonably afford. MVFHC found a limited number of decent and affordable housing units, but found that when attempting to test a housing provider for its treatment towards people with disabilities, the unit had already been rented. Based upon this limitation, MVFHC focused its five disability tests on HUD-subsidized complexes. In these investigations, the tester, a person who used a wheelchair, inquired about availability and accessibility of units for herself. The results of the tests illustrate limited affordable housing options for people with disabilities. At two subsidized complexes, the tester made three calls over multiple days, leaving multiple messages, without any response. At three HUD-subsidized properties, the tester was informed that there were waiting lists of a year or more and required an application to be submitted to be added to the waiting list. One noted that the wait was much longer for the ground floor units. Only one complex offered to mail an application to the caller after being asked about wheelchair accessible units, while another complex stated an application could only be obtained during a two-hour timeframe three weeks later.

MVFHC conducted an additional five tests in which the households had sources of income in addition to SSDI. Two housing providers required an additional deposit and/or monthly fee for the tester's service animal. At a third location, the housing provider deemed the reasonable modification requested by the tester as being unnecessary, and therefore denied the request. Another location conditioned that the tester had to submit an application and be approved before the housing provider would consider the request for a reasonable modification at the tester's expense; this housing provider waived the application fee.

Race

MVFHC conducted fourteen tests examining race within the Montgomery County rental market. In ten of the tests, (71%), the African American home seekers received less favorable treatment than Caucasian home seekers. This ranged from minor deterrence, which may not be apparent to an individual home seeker as a different treatment, up to a refusal to respond to housing inquiries from African American testers while engaging with Caucasian testers. The testing found that African American testers were provided less

information on available units and specials; African American testers were also cautioned that there were other applicants for the unit. For example, at one location the African American tester arrived at the agreed upon time and waited for half an hour before leaving without being able to view the unit, even after calling the agent after she arrived and being informed someone would be there shortly to show her the property. The Caucasian tester viewed the unit after less than a 10-minute wait for an agent. When the African American tester called the following day, attempting again to view the property, she was informed the unit had been rented. At another location, the apartment complex required the African American tester to provide more information in order to view a unit and was shown a unit with fewer updated features than the Caucasian tester. At another location, the housing provider refused to schedule an appointment with the African American tester, even though the Caucasian tester was able to schedule an appointment and view the unit. The African American tester continued to attempt to view the unit but received no response from the housing provider, whereas the housing provider continued to contact the Caucasian tester after the test. MVFHC also observed the advertisement for the unit was reposted without the African American tester receiving a phone call from the housing provider. At a fourth location, the African American tester was informed the only available unit was well above his stated rent budget, while two Caucasian testers were told of multiple units available within the same rent range as requested by the African American. When the African American tester scheduled an appointment to view the more expensive unit, the agent called and cancelled the appointment, claiming the tenant had decided not to move. Shortly after the agent cancelled the African American tester's appointment, both Caucasians testers received calls about available units. These tests underscore that racial discrimination still occurs, often taking the form of subtle or covert differences in treatment.

Familial Status

MVFHC conducted seven tests examining familial status, or families with minor children in the household, within the Montgomery County rental market. Three of these tests produced evidence of concerns about the availability of housing for families with children. At one location, the familial status tester was steered to the first floor unit, despite units being available on both the first and second floor. The agent reiterated the familial status tester's responsibility to ensure her children did not disturb the other tenants. At another two bedroom apartment, the familial status tester was informed that she could not reside there with her toddler and infant, despite the ample square footage advertised, because the occupancy was limited to two people.

Use of Housing Choice Vouchers

Not every housing provider is willing to accept a Housing Choice Voucher as payment for rent, perhaps because landlords accepting HCVs must agree to maintain their units according to HUD's standards—allowing inspections for verification of acceptable maintenance—and because landlords must complete additional paperwork not required when renting to tenants who do not use HCVs. “No Section 8” is often seen in newspaper and online ads. MVFHC has found several instances during investigations of housing providers saying in their voicemail greetings that they do not accept Section 8.

A household using an HCV has 60 days in which to find a unit that is within the rent limit, and that can pass an inspection confirming it is safe and habitable according to HUD standards. Any unit that fails inspection twice may not be rented by the household. If the household cannot find an eligible unit within 60 days, the household is at risk of losing its HCV. People on the HCV waiting list currently wait several years before HCVs become available for them.

To determine the willingness of housing providers to accept HCVs, MVFHC conducted 20 phone tests. Eight of the locations tested were within the City of Dayton and 12 were located in suburbs—testing in different areas made it possible to see if HCVs were treated differently in higher-opportunity areas. Out of 20 contacts with housing providers of various sizes, only 2 were willing to accept vouchers; one located in the suburbs and one within Dayton. A suburban owner, citing a previous bad encounter with HCVs, was willing to consider accepting it, only after asking about household size and the employment information of the tester. It is a difficult process for HCVs holders to meet the required timeline in the best of circumstances, but if they must make dozens of calls to find a single provider that accepts the voucher then they are less likely to be able to seek or find locations that would allow them greater access to economic and educational opportunities or even better health care access. HCVs are a way for lower income households to find affordable housing outside of a subsidized building or campus and reduce high poverty neighborhood concentrations by giving people the chance to move into higher opportunity neighborhoods. Without housing providers in those neighborhoods willing to accept HCVs, housing segregation is perpetuated.

Today discrimination against people because of a disability or having children in the household is often more blatant than other forms of discrimination, with discriminatory statements being made in advertising and directly to testers and home seekers. When it comes to race the difference in treatment has become more pernicious; there are fewer

outright discriminatory statements made, so differing treatment may only be clear when compared with the information given to and treatment of other individuals. Housing discrimination testing is crucial because it allows a comparison in treatment and shows how many obstacles home seekers in our community face when engaging in a housing search. This snapshot of Miami Valley Fair Housing Center investigations in 2015, shows that housing discrimination remains all too common within the County. There are variations in the types of discrimination that occur in different jurisdictions, but its frequency significantly limits housing choice and opportunity for residents.

D. Fair Housing Complaints

HUD maintains records of housing discrimination complaints and makes data about them publicly available. Complaints made to substantially-equivalent agencies at the local or state level are also reported to HUD and included in this data.²²

Two hundred thirty-three discrimination complaints related to housing in Montgomery County were filed from 2009 to 2014.²³ Numbers of complaints by basis (protected class) by year are listed in Table 4.10 on the next page. Some complainants belong to more than one protected class, resulting in the total numbers of bases being greater than the total numbers of complaints.

In each year from 2009 to 2014 disability was the most commonly cited basis for fair housing complaints, race was the second most commonly cited, and familial status was the third.

Basis	2009	2010	2011	2012	2013	2014	Totals	% of total
Disability	24	22	25	21	13	16	121	51.93%
Race	12	18	11	13	6	15	75	32.19%
Familial status	6	7	4	7	5	7	36	15.45%
Sex	6	0	3	4	6	4	23	9.87%
Retaliation	0	3	2	3	2	3	13	5.58%
Religion	1	0	3	3	1	1	9	3.86%
National origin	1	1	1	2	2	0	6	2.58%
Color	0	2	0	0	1	1	4	1.72%
Total bases*	50	53	49	53	35	47	287	123.18%
Total complaints	45	40	39	43	27	39	233	100.00%

*A complaint may involve more than one basis and thus total bases can be greater than total complaints.

Table 4.10: Administrative fair housing complaints by basis in Montgomery County²⁴

Ohio's fair housing law has the additional protected classes of ancestry and military status. According to the Ohio Civil Rights Commission (OCRC), no housing discrimination complaints in Montgomery County were filed in 2013 or 2014 for either of these classes.

The City of Dayton's nondiscrimination ordinances add protection for the additional classes of age, marital status, sexual orientation and gender expression. HRC reported three housing discrimination complaints from 2012–2014 on the basis of sexual orientation; no complaints were filed in this period on age, marital status or gender expression. These were reported to HUD and included in HUD's data as being filed under the basis of sex.²²

The occurrence by protected class of housing discrimination complaints in Montgomery County is similar to that in the nation as a whole, as shown in Table 4.11 on the next page. Both locally and nationally, the most common bases for complaints are disability, race, and familial status. In Montgomery County the percentages for race and familial status were higher than those nationally, while the local percentage for national origin was lower than that nationally.²²

Basis	NFHA members [†]		HUD		FHAP agencies [‡]		DOJ		Total [*]	
	#	%	#	%	#	%	#	%	#	%
Race	3,659	19.2%	379	22.2%	1,995	29.5%	10	29.0%	6,044	22.0%
Disability	9,643	50.7%	1,009	59.0%	3,596	53.2%	22	50.0%	14,272	51.8%
Familial status	1,963	10.3%	186	10.9%	863	12.8%	10	18.0%	3,023	11.0%
Sex	910	4.8%	146	8.5%	731	10.8%	2	6.0%	1,789	6.5%
National origin	1,196	6.3%	444	26.0%	1,280	18.9%	4	12.0%	2,925	10.6%
Color	225	1.2%	37	2.2%	110	1.6%	0	0.0%	372	1.4%
Religion	148	0.8%	16	1.0%	205	3.0%	1	3.0%	370	1.3%
Other	1,282 [§]	6.7%	150 [¶]	8.8%	707	7.5% [¶]	0	0.0%	2,141	7.8%

[†]National Fair Housing Association (NFHA) members are private non-profit fair housing agencies such as the Miami Valley Fair Housing Center.

[‡]Fair Housing Assistance Program (FHAP) agencies are state and local agencies such as the City of Dayton's Human Relations Council and the Ohio Civil Rights Commission that are substantially equivalent to HUD.

^{*}Because complaints reported by HUD, FHAPs and DOJ may involve multiple protected classes, totals may exceed 100%.

[§]NFHA's "other" includes sexual orientation, gender identity, source of income, marital status, age, criminal background, ancestry (including alienage), military status, domestic violence, student status, physical appearance, lawful occupation, place of residence, family responsibility, and (in California only) arbitrary.

[¶]HUD's and FHAPs' "other" are complaints of retaliation, which is prohibited under the federal Fair Housing Act.

Table 4.11: Housing complaints nationally, 2004–2014²⁵

Housing discrimination complaints filed between 2004 and 2014 in Montgomery County had a variety of resolutions, as shown in Table 4.12 on the next page. MVFHC gathered the data through several FOIA requests to HUD, OCRC and the City of Dayton HRC. In slightly less than a third of complaints, or 30%, no discrimination was found to have occurred. Just under ten percent of complaints were administratively closed, meaning that they did not meet jurisdictional requirements or that the complainants decided not to pursue the complaints.

During that same time period MVFHC filed and/or served as advocate on 101 housing discrimination complaints, or more than 43% of complaints filed in Montgomery County. In only 9.9% of the complaints filed by or filed with assistance by MVFHC was no discrimination found to have occurred. Comparing this rate to the 30% overall rate of finding no discrimination shows that complaints filed by people on their own are less likely to have findings of discrimination. Reasons for this could include that the complainants had difficulty articulating or substantiating their experiences of discrimination or that people found the complaint process to be confusing or burdensome. Another reason might be that MVFHC vets the complaints it receives before deciding to file them with HUD or

a FHAP, while these administrative agencies are required to accept complaints from individuals, evaluating the complaints only after they have been filed.

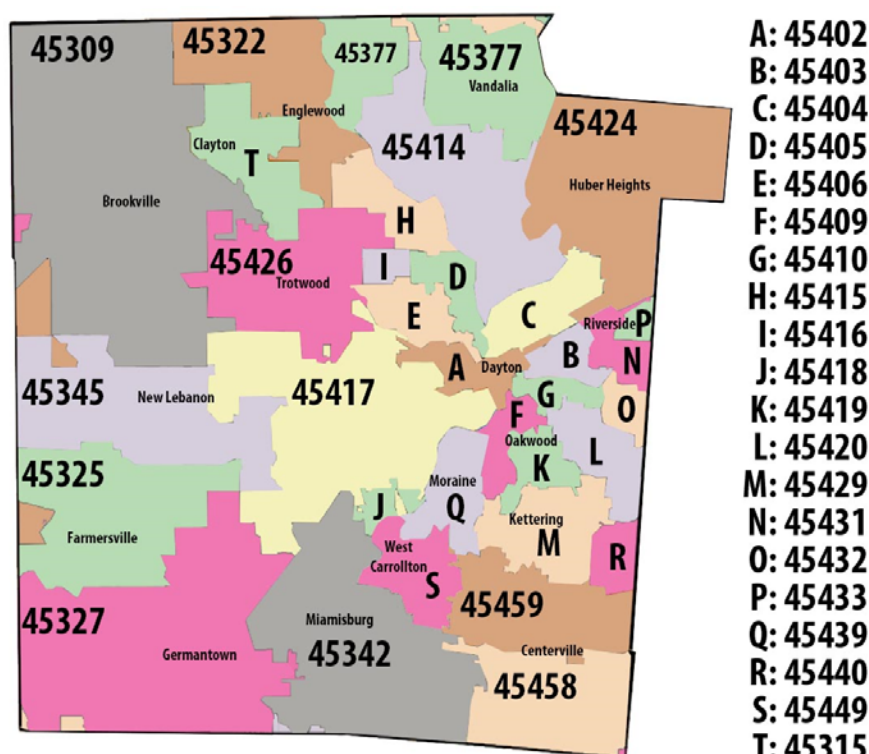
Status	2009	2010	2011	2012	2013	2014	Totals	% of total
Administrative closure	8	4	4	4	1	2	23	9.87%
Cause (FHAP)	7	5	5	1	1	2	21	9.01%
Conciliated	16	12	17	18	10	9	82	35.19%
No cause	12	16	10	16	12	4	70	30.04%
Withdrawn with resolution	2	3	3	4	2	0	14	6.01%
Open	0	0	0	0	1	22	23	6.01%
Totals	45	40	39	43	27	39	233	100.0%
Filed by or assisted by MVFHC	18	21	21	18	9	14	101	43.35%
MVFHC complaints found to have no cause	0	6	1	1	1	1	10	4.29%

Table 4.12: Administrative fair housing complaints by closure status in Montgomery County²²

Of those complaints that were either resolved through mediation/conciliation or found to have evidence of discrimination and therefore move on to the public hearing process, the protected classes of disability and familial status represent a greater percentage of the resolved/caused complaints than of the total complaints filed. As discussed in the previous section on testing, disability and familial status housing discrimination complaints are more likely to be ones in which housing providers make discriminatory statements, thereby making the cases more obvious.

As shown in Table 4.13 on the next page, ZIP codes having higher numbers of complaints filed do not also necessarily have higher numbers of complaints resolved or caused.

ZIP code	Number filed	Number resolved/ caused	% of filed	ZIP code	Number filed	Number resolved/ caused	% of filed
45309	1	0	0.00%	45416 (I)	2	0	0.00%
45315	1	0	0.00%	45417	8	2	25.00%
45322	3	1	33.33%	45419 (K)	4	4	100.00%
45327	3	2	66.67%	45420 (L)	11	6	54.55%
45342	2	1	50.00%	45424	10	5	50.00%
45345	1	1	100.00%	45426	10	2	20.00%
45372	1	0	0.00%	45427	1	0	0.00%
45377	4	2	50.00%	45429 (M)	14	9	64.29%
45402 (A)	11	1	9.09%	45431 (N)	2	0	0.00%
45403 (B)	7	5	71.43%	45432 (O)	2	1	50.00%
45404 (C)	5	2	40.00%	45439 (Q)	4	3	75.00%
45405 (D)	11	6	54.55%	45440 (R)	9	3	33.33%
45406 (E)	10	4	40.00%	45447	1	0	0.00%
45409 (F)	4	4	100.0%	45449 (S)	6	2	33.33%
45410 (G)	9	4	44.44%	45458	11	6	54.55%
45414	8	3	37.50%	45459	5	4	80.00%
45415 (H)	8	3	37.50%	Other	44	18	40.90%



Table/Map 4.13: Administrative fair housing complaints by ZIP code in Montgomery County, 2009–2014²³

E. Housing Challenges for Restored Citizens

No independent research data is available for the Dayton region on the housing challenges experienced by those formerly incarcerated individuals who are reentering the community. However, research on a national level is clear that barriers to securing housing are a long-standing problem for such people. Private housing providers often require a criminal background check and refuse to rent to anyone with a criminal record. Moreover these private housing practices have now been replicated by public housing agencies due to incentives established by the federal government. In a Boston College Law Review article Professor Anthony C. Thompson notes that “the federal government rewards public housing agencies points in the Public Housing Assessment System for documenting that they have adopted policies and procedures to evict individuals who engage in activity considered detrimental to the public housing community.”²⁶ Thompson then notes that public housing officials “have interpreted this mandate to cover individuals who may pose no current danger, but who happen to have criminal histories.”

Based upon a general awareness of the challenges faced by ex-offenders, we conducted focus groups for this analysis with providers of services to citizens returning from incarceration and the Housing Subcommittee of the Montgomery County Office of Ex-Offender Re-Entry. The raw results of both focus groups are available online, as detailed in Appendix G on page 230. Based on these focus groups and on inquiries received by MVFHC, we know that formerly incarcerated individuals encounter profound challenges when attempting to secure housing upon reentering the community. The primary areas of discrimination faced by ex-offenders are having a felony conviction and race. Ex-offenders lack access to safe, decent and affordable housing. These barriers force most ex-offenders to accept housing that is affordable but often sub-standard and in areas of very low opportunity.

¹ In the banking industry, properties owned by banks after foreclosures are commonly referred to as “real estate owned” or REO properties. For example, see: Real Estate Owned. Bank of America. Retrieved from http://foreclosures.bankofamerica.com/real_estate_owned.

² 2009 *Montgomery County and Cities of Dayton and Kettering Analysis of Impediments to Fair Housing*, pp. 111, 114. (2009). Wright State University Center for Urban and Public Affairs. Retrieved from

http://www.mcoho.org/services/commdev/docs/2009_Final_Analysis_of_Impediments_for_Montgomery_County_Dayton_and_Kettering.pdf.

³ Wells, K. and K. Park. *Racial and Ethnic Disparities in 2011 Ohio Mortgage Lending*, pp. 20–21. The Housing Research and Advocacy Center. Retrieved from <http://www.thehousingcenter.org/wp-content/uploads/2013/03/RED-Report-2013.pdf>.

⁴ McCarthy, J. Community Reinvestment Act Memorandum (2015, March 13). Miami Valley Fair Housing Center. Retrieved from http://www.mvfairhousing.com/AI2015/2015-03-13_MVFHC_memo_to_Dayton_on_CRA.PDF.

⁵ Report: Dayton metro among Top 50 nationally for black-owned businesses. (2015, August 31). *Dayton Business Journal*. Retrieved from http://www.bizjournals.com/dayton/blog/morning_call/2015/08/report-dayton-metro-among-top-50-nationally-for.html.

⁶ 2010 Regional Fair Housing Plan for Montgomery County, OH, the City of Dayton, OH, the City of Kettering, OH, 15. (2010). Retrieved from http://www.mcoho.org/services/commdev/docs/2010_Fair_Housing_action_plan_Final.pdf.

⁷ Frost, M. *Greene County Analysis of Fair Housing Impediments: 2010 Update*, p. 7. (2010, June 21). Retrieved from <http://www.mvfairhousing.com/pdfs/2010-06-21%20Green%20County%20Fair%20Housing%20Analysis%20of%20Impediments%20Update%202010.PDF>.

⁸ Reese, N. *Analysis of Impediments to Fair Housing Choice Miami County: Update June 2010*, pp. 5, 8. (2010). Retrieved from <http://www.mvfairhousing.com/pdfs/2010-06%20Miami%20County%20Analysis%20of%20Impediments.PDF>.

⁹ Bocian, D.G., W. Li, and K.S. Ernst. *Foreclosures by Race and Ethnicity: The Demographics of a Crisis CRL Research Report Center for Responsible Lending*, p. 16. (June 18, 2010). Retrieved from <http://www.responsiblelending.org/mortgage-lending/research-analysis/foreclosures-by-race-and-ethnicity.pdf>.

¹⁰ MVFHC has partnered with the Home Ownership Center of Greater Dayton from 2001 through the present to offer foreclosure prevention services.

¹¹ McCall, K. Can Racial Disparities in Lending Be Fixed? (2010, May 1). *Dayton Daily News*. Retrieved from <http://www.daytondailynews.com/news/news/local/can-racial-disparities-in-lending-be-fixed/nNCTG/>.

¹² *Zip Code Inequality: Discrimination by Banks in the Maintenance of Homes in Neighborhoods of Color*. (2014, August 27). National Fair Housing Alliance. Retrieved from http://www.mvfairhousing.com/pdfs/2014-08-27_NFHA_REO_report.PDF.

¹³ Revaluation Project 2014. Montgomery County Auditor. Retrieved from <http://www.mcoho.org/government/auditor/mcreval/>.

¹⁴ Mr. Keith spoke on a panel during the REO Management and Fair Housing workshop held on April 2, 2015, as part of MVFHC's 2015 Fair Housing Month conference held at Sinclair Community College.

¹⁵ County property value declines more than \$1 billion. (2014, July 1.) Montgomery County. Retrieved from <http://www.mcoho.org/government/auditor/mcreval/newsdetail1231.html>.

¹⁶ *American Community Survey*. U.S. Census Bureau, American Community Survey Office. Retrieved from <http://factfinder.census.gov>.

¹⁷ Requirements. *Fair Housing Accessibility First*. U.S. Department of Housing and Urban Development. Retrieved from <http://www.fairhousingfirst.org/fairhousing/requirements.html>.

¹⁸ Accessibility (Design and Construction) Requirements for Covered Multi-Family Dwellings under the Fair Housing Act. (2013, April 30). U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity and U.S. Department of Justice, Civil Rights Division. Retrieved from <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>.

¹⁹ HUD, DOJ Release New Guidance on “Design and Construction” Requirements under the Fair Housing Act: Guidance Designed to Inform the Accessible Construction of Multi-Family Housing. (2013, April 30). Retrieved from http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2013/HUDNo.13-055.

²⁰ Snyder, S. *Dayton Mall Area Master Plan*. (2015, February 11). Stantec Consulting, Miami Township – Dayton Mall Joint Economic Development District. Retrieved from http://planthemallarea.com/docs/DMAMP_Charrette_Feb11_FINAL.pdf.

²¹ In addition to this special testing for the 2015 AI, all three entitlement jurisdictions have contracted with MVFHC for testing within each jurisdiction for the last five years or longer.

²² This information is also made available to agencies like MVFHC. For example, OCRC sends MVFHC a “HUD Dual Filing Notice” after MVFHC submits a complaint to OCRC, letting MVFHC know the complaint was reported to HUD.

²³ MVFHC submitted FOIA requests to HUD, OCRC, and HRC, resulting in the data we used for these tables.

²⁴ The data for these tables came from MVFHC’s client and case tracking database. The map is based on one created by Lenza Smith, Geographic Information Systems Professional Coordinator, GIS/Tax Division, Montgomery County Auditor’s Office.

²⁵ *Expanding Opportunity — Systemic Approaches to Fair Housing: Fair Housing Trends Report 2014*. (2014, August 13). National Fair Housing Alliance. Retrieved from <http://www.nationalfairhousing.org/Portals/33/2014-08-11%20NFHA%20Trends%20Report%202014.pdf>.

²⁶ Thompson, A.C. Navigating the Hidden Obstacles to Ex-Offender Reentry. (2004, March 1). *Boston College Law Review*, 45.2, p. 255–306. Retrieved from <http://lawdigitalcommons.bc.edu/bclr/vol45/iss2/1>.

Section 5 — Fair Housing in the Public Sector

A. Affordable Housing and Community Services

Of the three primary entitlement programs—Community Development Block Grants (CDBG), the HOME Investment Partnership Program (HOME), and Emergency Solutions Grants (ESG)—managed by the Department of Housing and Urban Development (HUD), CDBG is the largest and most flexible. Montgomery County, the City of Dayton, and the City of Kettering all receive CDBG funds as independent entitlement jurisdictions. CDBG recipients may use funds for activities tailored to the needs and resources of their communities, and thus CDBG arguably has the widest impact of HUD’s entitlement programs.

Congress has set the primary objective of the CDBG program as “the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income (LMI).”¹ Federal regulations define LMI as being less than 80% of the area median income (AMI), as determined by HUD and adjusted by household size. Information about CDBG programs should be targeted to LMI households.

Montgomery County

Montgomery County administers CDBG funds on behalf of all communities within the county except for the cities of Dayton and Kettering. Montgomery County allows the following entities to apply for CDBG funds:

- Local governments—cities, villages and townships
- Private non-profit organizations, small business investment corporations, and community development corporations having specific community development or housing programs
- Institutions of higher education
- Public housing authorities

Montgomery County itself, local governments, and non-profit agencies have used CDBG funds to address the needs of LMI households by upgrading housing and infrastructure, making other public improvements, and eliminating slums and blight. Many activities occurred in thirty areas targeted by the county, but eligible activities also occurred in other neighborhoods. The county allocated funds to five main areas—housing, economic development, public improvements, and fair housing. The county also set aside funds for general administration; typically this amount was significantly less than the 20% allowed.

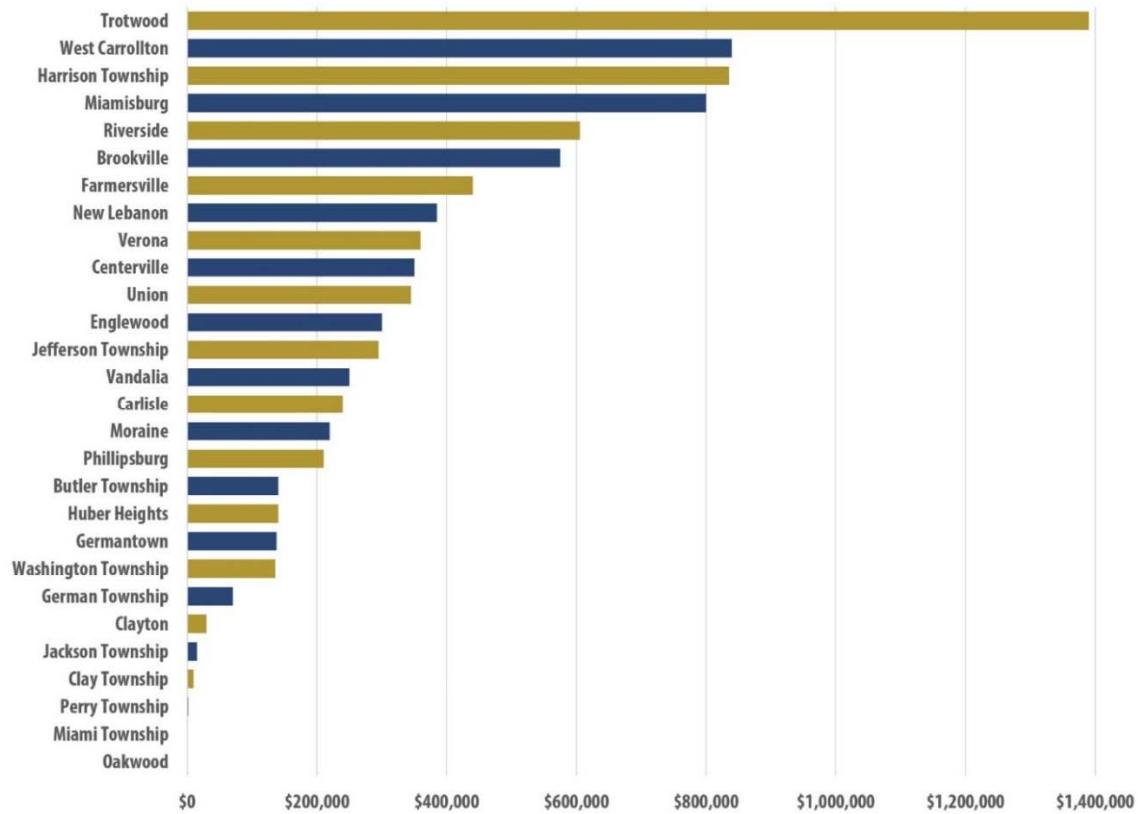
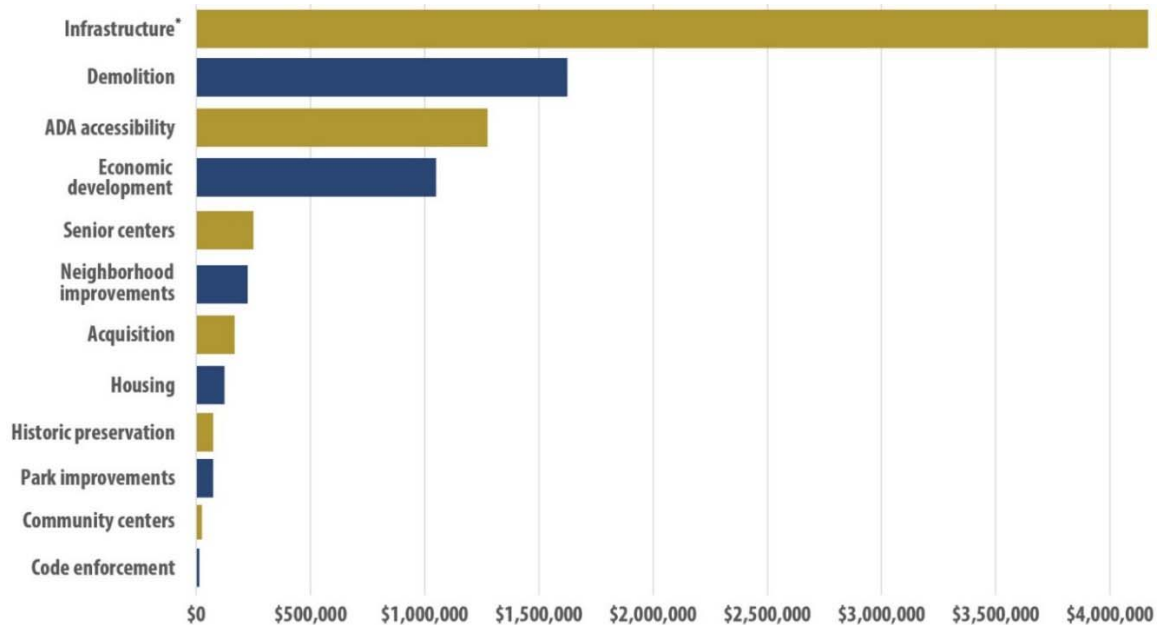


Chart 5.1 Montgomery County CDBG awards by jurisdiction, 2003–2013²



*Infrastructure includes improvements to roads, sidewalks, water/sanitary sewers, and storm drainage systems

Chart 5.2 CDBG awards by activity, 2003–2013³

As part of its annual CDBG funding selection process, Montgomery County convenes two advisory boards—the Community Development Advisory Committee (CDAC) and the Countywide Citizens Advisory Committee (CCAC). CDAC and CCAC include representatives from local jurisdictions, programmatic target areas and populations, civic organizations, and the business community. Both boards review CDBG funding applications and make recommendations.

Physical improvement projects proposed by local jurisdictions as part of their annual planning are reviewed initially by staff for eligibility and reasonableness of cost before being submitted to CDAC and CCAC.

Montgomery County’s County Commission gives final approval to the CDBG allocations that were vetted by staff and recommended by CDAD and CCAC.

Over the 2003–2013 period, Trotwood received the largest amount of CDBG funds, followed by West Carrollton, Harrison Township, and Miamisburg. Of the activities funded over that time period, the largest amount, near \$4.2 million, was spent on infrastructure projects (including improvements to roads, sidewalks, water/sanitary sewers, and storm drainage systems). The next greatest amount \$1.7 million (40% of the amount spent on infrastructure) was for demolition. Projects related directly to housing receive only a very small portion of the county’s CDBG funds.

However, the goals of the CDBG-funded programs are all connected. Montgomery County outlined its goals for the use of CDBG and other federal funds in its *FY2014 Annual Action Plan*:

- **“The provision of decent, safe and affordable housing** to preserve and/or increase the availability of decent, safe and affordable housing for low-to-moderate individuals in Montgomery County.
- **The provision of expanded economic opportunities** to retain existing jobs or aid in the creation of new jobs, for LMI individuals in Montgomery County, through the provision of loan funds by County Corp to companies, and through business façade improvements undertaken by several jurisdictions.
- **The provision of a suitable living environment** to enhance the quality of life and promote healthy neighborhoods for LMI persons through a variety of public services, infrastructure projects, and other activities that address specific community needs.”⁴

Each project funded by the county with CDBG funds addressed one of HUD’s three national objectives for the CDBG program:

- “Benefit low- and moderate-income persons;

- Aid in the prevention or elimination of slums or blight; and
- Meet a need having a particular urgency.”⁵

City of Dayton

The City of Dayton receives funds from all three of HUD’s main entitlement programs.

Source	CDBG	HOME*	ESG	Totals
Entitlement grants	\$4,685,394	\$220,000	\$1,066,790	\$5,972,184
Reprogrammed funds from prior years	\$400,000	-	-	\$400,000
Estimated program income—city	\$50,000	-	-	\$50,000
Estimated program income—sub-recipient	\$175,000	-	-	\$175,000
Totals	\$5,310,394	\$220,000	\$1,066,790	\$6,597,184

*HOME funding is received through a consortium of Dayton and Kettering

Table 5.3: FY2014 HUD funding, Dayton⁶

In the *Annual Action Plan 2014: City of Dayton, OH, and Dayton/Kettering HOME Consortium*, Dayton describes the procedures for allocating expenditures of these funds, and the procedures appear to address the statutory requirements.

This *Action Plan* specifically details funding decisions according to the long-term goals established in Dayton’s 2011–2015 Consolidated Plan (ConPlan). The ConPlan articulates three overarching goals:

- “To provide decent housing by preserving the affordable housing stock, increasing the availability of affordable housing, reducing discriminatory barriers, increasing the supply of supportive housing for those with special needs, and transitioning homeless persons and families into housing.
- To provide a suitable living environment through safer, more livable neighborhoods, greater integration of LMI residents throughout the City, and increased housing opportunities and reinvestment in deteriorating neighborhoods.
- To expand economic opportunities through more jobs paying self-sufficient wages, homeownership opportunities, and development activities that promote long-term community viability and the empowerment of low- and moderate-income persons to achieve self-sufficiency.”⁷

In its ConPlan Dayton focused primarily on the needs of LMI people (especially those with extremely low incomes, less than 30% of AMI) as well as special needs groups including elderly people, people with disabilities, large families, single parents, homeless

people, and residents of public housing. Dayton developed a strategic plan to address these needs in accordance with community priorities.

Dayton chose to have a high level of consultation with key stakeholders to identify priority needs. Stakeholders included public agencies and private non-profit organizations with missions focusing on affordable housing and human services for LMI people.

Stakeholders participated in focus group sessions and completed written questionnaires providing data about special needs groups. Dayton also engaged with the public through town hall meetings, by accepting written comments about the ConPlan, and by conducting an online survey. The cities provide the services of interpreters at these meetings when requested by people not proficient in English.

Through this process Dayton identified the following needs:

- “The provision and maintenance of affordable housing;
- Investment in community development activities in lower-income and deteriorating neighborhoods and in facilities that serve lower-income populations; and
- Supportive services to maintain independence.”⁷

and identified the following community concerns:

- “A need for suitable affordable housing to address the growing gap between housing costs and local incomes, which continues to lead to rising rates of overcrowding and overpayment for the lowest-income residents;
- Programs that improve community facilities and services, particularly in low-income areas;
- A network of shelter housing, support services to prevent homelessness, moving homeless to permanent housing and independence, and the elimination of chronic homelessness;
- Programs that promote economic development, create jobs, and increase the job skill levels of potential employees; and
- Support services that increase the ability of seniors, persons with disabilities, and others with special needs to live independently and avoid institutions.”⁷

Sharp drops in Dayton’s population combined with changes in other formula factors resulted in reductions in the HUD funding Dayton receives. The city has had to reduce or completely cut key programs including demolition, road resurfacing, and recreation and youth services. Dayton uses the largest portion of its entitlement funds to support housing

programs, projects, and services. Dayton's second-largest portion of these funds is used for improvement to public facilities and infrastructure in LMI neighborhoods.

Kettering and Dayton receive their HOME funds through a joint consortium. HUD determines the funding by looking at the demographics of both communities.

In its ConPlan Dayton evaluated its past performance on its use of HUD funds by noting:

The City of Dayton's past performance in the administration and implementation of the CDBG, HOME, and ESG programs has fulfilled the basic requirements of the federal legislation creating these programs. Through years of effective planning, partnership, and monitoring, the programs have facilitated affordability for decent housing, availability and accessibility to a suitable living environment, sustainability of a suitable living environment, and accessibility to economic opportunities in the greater-Dayton area.⁷

City of Kettering

The City of Kettering receives funds from HUD's CDBG) and HOME entitlement programs.

Source	CDBG	HOME*	Totals
Entitlement grants	\$477,554	\$150,000	\$627,554
Reprogrammed funds from prior years	\$483,237	-	\$483,237
Estimated program income—city	\$134,262	\$82,521	\$216,783
Totals	\$1,095,053	\$232,521	\$1,327,574

*HOME funding is received through a consortium of Dayton and Kettering

Table 5.4: FY2015 HUD funding, Kettering⁸

Kettering's Planning and Development Department administers most of the projects defined in the city's CDBG Annual Action Plan. The department focuses neighborhood revitalization through collaborative efforts with other city departments, government offices, and non-profit and private organizations.

Kettering strives to achieve broad citizen participation in the development of its Action Plan. City staff, area citizens, and housing and social service providers participate in the process. Kettering uses public meetings, televised on local cable channel 6, to obtain citizens' views and to respond to proposals from citizens. Kettering also employs a Senior Services Coordinator, who regularly updates CDBG staff on the special needs of the city's

frail, elderly, and disabled populations. To broaden public participation, Kettering publishes information on its website and also advertises in the *Dayton Daily News*.

In its 2012 Annual Action Plan update, Kettering notes that in order to maximize its relatively-small allocation of federal funds, it must invest CDBG and HOME dollars in projects resulting in substantial improvements in LMI neighborhoods.

Kettering uses part of its CDBG funding to subcontract with the HomeOwnership Center of Greater Dayton (HOCGD) for housing counseling services and underwriting services for Kettering's rehab and down payment assistance programs. HOCGD is part of St. Mary Development Corporation, a faith-based non-profit organization.⁹ Kettering also subcontracts with the Miami Valley Fair Housing Center (MVFHC) to provide comprehensive fair housing services.

Kettering's 2012 Annual Action Plan update provides insight into how the city manages its CDBG and HOME dollars. To accomplish the priority of ensuring decent and affordable housing, the plan sets out the following objectives:

- Serve ten households per year through the Housing Rehabilitation Program;
- Realize five units of affordable infill housing;
- Promote responsible homeownership through the provision of down payment assistance to ten households.¹⁰

Affirmatively Furthering Fair Housing in CDBG, HOME, and ESG programs

While the past performance of each of the entitlement jurisdictions in the administration and implementation of the CDBG, HOME, and ESG programs may have fulfilled the basic requirements of the programs, there remain serious challenges in each jurisdiction as demonstrated by the impediments identified in this AI. Some of these impediments have appeared in more than one of the previous AIs. As HUD puts renewed attention on the obligation to affirmatively further fair housing, Kettering, Dayton, and Montgomery County should each examine how they administer their CDBG, HOME, and ESG programs to ensure that future work fulfills this obligation.

Programs for privately-owned housing and community businesses

All three entitlement jurisdictions have programs for privately-owned housing, meeting HUD's requirements for such programs. These programs—funded through CDBG and/or

HOME funds—provide information to homeowners about the availability of financial assistance for modifications to make homes more accessible to people with disabilities.

Montgomery County

The majority of Montgomery County’s programs for privately-owned housing are administered by County Corp, a non-profit development corporation created by the county in 1979.¹¹ County Corp’s affordable housing program named “The Housing Source” offers services including foreclosure intervention, home repair and down payment assistance grants, and affordable housing tax credit developments.

Two key services of the Housing Source program—accessibility assistance¹² and emergency assistance¹³—are not available to residents of the cities of Dayton and Kettering and are only for LMI households. County Corp markets these programs to health care professionals, social workers, agencies serving LMI people, seniors, and people with disabilities by distributing flyers and brochures through postal mail, by email, and at festivals and other community events.

Whether entitlement jurisdictions promote business enterprises is an important fair housing concern. County Corp’s BizCap program provides loans to small businesses that invest in real estate and equipment.¹⁴

City of Dayton

Dayton’s Planning and Community Development Department oversees the city’s programs for privately-owned housing and community businesses. Dayton offers two main programs for homeowners: down-payment assistance and homebuyer classes and coaching. Both of these programs are managed by HOCGD under contract with the city.

HOCGD markets its services in various ways, including distributing flyers and brochures into the community and at organizations including the Access Center for Independent Living and the Wesley Community Center.

Dayton also has a neighborhood business assistance program, which is administered by CityWide Development Corporation, a non-profit agency created by the city in 1972.¹⁵

City of Kettering

Kettering’s Planning and Development Department oversees its programs for privately-owned housing. Kettering offers loans and/or grants to homeowners for rehabilitation of

their homes.¹⁶ The loans are low-interest (a rate of one percent in some cases) or, for LMI residents, zero-interest loans, the repayment of which is deferred until the residents move from their homes. Homeowners whose income is under 50% of AMI may qualify for grants along with or instead of loans.

Kettering also provides down-payment assistance and homebuyer classes and coaching through a contract with HOCGD. Kettering goes an extra step and offers homebuyer counseling with HOCGD staff once per week at the Kettering Government Center instead of at HOCGD's office in downtown Dayton.

Kettering markets its home rehabilitation program by having its housing inspectors leave flyers at residences, by distributing flyers at community locations such as the Lathrem Senior Center, and by advertising in the city newsletter.

Advisory Boards, Zoning Boards and Planning Commissions

Montgomery County's two CDBG advisory boards—CDAD and CCAC—are comprised of stakeholders representing many of the religious, ethnic, racial and disabled segments of the community. However, it is not clear if this is true in looking at the makeup of advisory groups at a more local level. Since Montgomery County is part of the Dayton MSA, it cannot be claimed this is true everywhere since the MSA is a hyper segregated community overall. In looking at some of the sub-jurisdictions in the county, the makeup of, for example, zoning boards mirrors the makeup of the particular community. As a best practice, local advisory board development in sub-jurisdictions need to proactively engage new and emerging communities within jurisdictions to join planning and zoning bodies as a way to affirmatively further fair housing. These sub-jurisdictions can look to the entitlement communities to do this. In addition to the practices of the County, Dayton and Kettering offer guidance through good examples. The City of Dayton, through its Welcome Dayton Plan, has developed a more inclusive atmosphere in the city. A good example of accomplishing this aim of inclusiveness was the election of a young resident from the Ahiska Turkish community to the Dayton School Board. The City of Kettering has the Board of Community Relations which oversees civil rights problems in the city. In addition to whites, which makeup the majority of residents in the city, the BCR has members from minority groups and members with disabilities.

Delivery System of Social Services

Montgomery County offers a broad range of social services, the majority of which are administered by its Human Services Planning and Development Department (formerly the

Office of Family and Children First). Human Services programs include those for alcohol, drug addiction, and mental health; children services; developmental disabilities; public health; and indigent health care.¹⁷ An increased population of elderly people and people with disabilities as well as increased poverty have increased the demand for services.

These programs are funded in part by the state and in part by a property tax (Montgomery County's human services levy). State funding has decreased, and lowered property values affected the amount of funds raised from the property tax. In 2014 county voters approved renewing the property tax at an increased rate of 8.2 mills.

B. Zoning and Land Use

A key issue affecting zoning as it relates to fair housing is “not in my back yard” (NIMBY) syndrome.

Civil rights attorney Michael Allen summarized the effect of NIMBY policies on communities:

It’s a familiar scenario: A city or town demonstrably needs affordable housing. A sponsor comes forward to gain site control and secure financing. Once neighbors get wind of the news and express opposition, elected officials get cold feet and deny zoning or building permits that are necessary to move forward. The lost housing opportunities are most often felt by people of color and people with disabilities. Moreover, the loss of affordable units can also mean a lost opportunity for diversity in the communities affected. More and more frequently, the Fair Housing Act is being used to send the message that discrimination in zoning and land use decisions is illegal.¹⁸

Montgomery County

In addition to the cities of Dayton and Kettering, Montgomery County includes many other municipalities, all of whose zoning and land use policies are comparable. MVFHC in its *2010 Zoning Study for Montgomery County* (discussed in Section 2 on page 61) examined local zoning practices as they relate to people with disabilities. Another zoning issue related to fair housing is the willingness of smaller jurisdictions in the county to accept government-subsidized housing for LMI residents.

Local public opposition to such housing was demonstrated in 2007 when there was public outcry after a newspaper article reported that 79 families would be moving from public housing in Dayton to the Shroyer Road area of Kettering and Oakwood.¹⁹ The report was later found to be incorrect but not before complaints at public hearings and in letters to the editor of fears of crime and blight.

Other than for seniors, no significant subsidized housing has been sited in suburban Montgomery County. Public opposition could arise again if proposals are ever made to create such housing.

*The Cities of Kettering and Dayton's Zoning Codes: Exclusionary or Inclusionary?***Zoning impacts Fair Housing**

Affordable housing is closely related to fair housing and thus has become a proxy for fair housing.²⁰ Zoning directly affects housing choice and has a major influence on housing patterns and the availability of transportation, jobs, open space, and good schools.²¹ In particular, zoning determines where housing can be built, the type of housing that is allowed, and the form it takes.²² Regulations affect the cost of developing housing, thus accommodating or impeding the creation of affordable housing. Whether or not zoning regulations are inclusionary or exclusionary determines if they are impediments to fair housing.

Inclusionary Zoning versus Exclusionary Zoning

Inclusionary zoning ordinances promote the creation of affordable housing in order to foster mixed income communities. Exclusionary zoning policies, conversely, prevent certain types of people from living in a community, often by limiting the amount and pace of residential development or by prohibiting construction of multi-family housing.²⁰

Exclusionary zoning renders housing in a community unaffordable for low-income residents, families with children, and people with disabilities,²⁰ preventing them from moving into higher-opportunity areas better fitting their needs. Lack of affordable housing traps families with children in under-performing school districts. (This issue is discussed in more detail in the Property Assessment and Tax Policy section on page 133). By precluding multi-family housing, which is subject to federal requirements for accessibility, exclusionary zoning limits choices for people with disabilities.

Although both suburbs and urban cities use exclusionary zoning, its wide use by wealthy suburbs to keep out poor people is unlawful discrimination because poverty is being used as a proxy for race.²³ This use of exclusionary zoning is one of the vestiges of *de jure* residential segregation by race, as Anthony Kennedy said in his opinion in this year's landmark fair housing case *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*²⁴ In that case the Supreme Court specifically ruled that zoning laws that function unfairly to exclude minorities from certain neighborhoods without sufficient justification violate fair housing laws. Therefore, zoning regulations that fossilize suburban areas from inclusivity are a legal liability to the city promulgating them.

City of Kettering Zoning Regulations

This year the City of Kettering undertook the herculean task of overhauling its zoning regulations. In doing so, it threw out definitions that would limit living arrangements, instead focusing solely on a dwelling's use. For example, Kettering no longer defines family. The city's zoning code now allows for all types of groups of people to live in "a dwelling unit," altogether avoiding the term "family."²⁵

Kettering is much less racially diverse than Dayton or Montgomery County. Kettering is 92.6% white, more so than Montgomery County as a whole at 74.0% and much more so than Dayton at 51.7%.²⁶

City of Dayton Zoning Regulations

Dayton, unlike Kettering, still defines family in its zoning ordinances and also limits the combination of people allowed to live together. Dayton defines family as:

an individual or two or more persons, each related to the other by blood, marriage, or adoption, or foster children as defined in sub-section 150.200.2 and not more than two additional persons not related as set forth above, all living together as a single housekeeping unit and using common kitchen facilities.²⁷

This definition impedes housing choice for those wishing to live together. Limiting housing choice in this manner is overreaching and opens Dayton to legal liability.

Dayton restricts mixed used and multi-family housing in the city's suburban neighborhoods, restrictions that are similar to Kettering's and that perpetuate segregation.

Although the majority of Dayton residents still live in highly segregated neighborhoods, Dayton does have the distinction of having a population with almost equal numbers of white and black residents. A reason for this might be the lower cost of housing in Dayton than in the rest of Montgomery County. In 2012 the average home value in Dayton was \$67,400, while the average home value in Kettering was \$122,411.²⁸ Thirty-four percent of Dayton's population lives below the poverty line.²⁹ If Dayton would change its zoning to be more inclusive, its residents would have greater housing choice, allowing greater integration throughout the city as opposed to continued disparate impact on protected classes.

Impediments to Fair Housing

Kettering's and Dayton's restrictive zoning ordinances are impediments to fair housing, as is Dayton's restrictive definition of family. Continued restrictions on mixed use and siting of multi-family housing keeps people from choosing to live in areas of greater opportunity because those areas do not have the affordable housing they could otherwise have. Dayton and Kettering should update their zoning policies if for no other reason than to avoid potential legal liabilities.

*C. Housing Rehabilitation and Land Banks**Housing Rehabilitation*

Jurisdictions giving financial incentives such as grants, loans or loan guaranties for housing rehabilitation must consider all fair housing and fair lending obligations. For example, terms and conditions of grants or loans must be based on objective criteria and not on race, color, national origin, religion, gender, disability or familial status. Jurisdictions must also work to publicize such incentives, especially to those minority applicants that are historically least likely to apply.

Land Banks

Land banks—community-owned organizations that obtain, manage, and reuse abandoned, vacant and foreclosed houses and lots³⁰—affect housing rehabilitation on a larger scale in a way benefitting entire communities. Just as municipalities must consider fair housing obligations when assisting individuals with housing rehabilitation, so too must land banks be mindful to keep their activities and decisions from discriminating against or having a disparate impact on people or groups in protected classes.

Land banks should consider how rezoning or conditional permits for new uses of sites might affect existing or potential residential properties. For example, a new use of a site requiring changes in routine services such as water, trash and sewer, and decision makers should think about whether or how those changes affect neighbors. Buying or selling real property that has been or will be used as a residence has fair housing concerns. Land banks must also be cognizant of how they implement programs, ensuring programs are offered in minority and moderate-to-low income neighborhoods with the direst need and not just in the neighborhoods where easiest success can be realized in the quickest amount of time.

Land reuse, or acquiring and holding parcels of land to assist with community development, is not a new concept. County Corp and CityWide, the two largest non-profit community improvement corporations in the county, were founded in the 1970s by Montgomery County and by Dayton for this purpose. Both of these agencies have housing programs to create and maintain affordable housing options.

The residential foreclosure crisis prompted the state legislature to authorize local jurisdictions themselves to carry out land reuse activities (ending the restriction of this function to separate non-profit organizations). In 2011 the Montgomery County Commission created the Montgomery County Land Reutilization Corporation, more commonly referred to as the Land Bank. In February 2013, the county commissioners approved allotting 5% of the Delinquent Tax and Assessment Collections (DTAC) to the Land Bank for its programming.³¹ The Land Bank operated as a volunteer organization until its Executive Director was hired in November 2013.

One key function the Land Bank has undertaken is overseeing and coordinating significant demolition funds from programs including Moving Ohio Forward (MOF) and the Neighborhood Initiative Program (NIP). Ohio's attorney general set up the MOF demolition program's guidelines in 2012 requiring that funds provided to land banks beyond the first \$500,000 be matched from participating jurisdictions.³² The Land Bank received \$4.2 million in MOF funds, which it used in nine jurisdictions (Dayton, Englewood, Harrison Township, Kettering, Miamisburg, New Lebanon, Riverside, Trotwood, and West Carrollton) to remove 1,143 units on 631 properties.³³ In 2014 the Ohio Housing Finance Agency accepted applications from land banks for NIP funds for concentrated demolition in "tipping point" neighborhoods as an effort to halt further decline. A number of criteria including median home values were used to determine which neighborhoods were tipping point ones. Unlike MOF funds, no matching funds were required to receive NIP monies, although participating jurisdictions had to provide detailed plans for each target neighborhood. The Land Bank received \$5.11 million in NIP funding.

In addition to managing demolitions, the Land Bank has used the funds it receives locally from DTAC to create other programs to address blight within the community. In 2013 the Land Bank awarded grants in the amounts of \$160,000 to West Carrollton, \$136,600 to Harrison Township, \$100,000 to Dayton, and \$25,000 to Farmersville for activities proposed in the jurisdictions' strategic plans. Also in 2013 the Land Bank helped West Carrollton to rehabilitate a single family unit to reposition it for homeownership as a test for a new loan program. In 2014 the Land Bank transferred twenty-three tax-delinquent residential properties to new owners or to existing owners that the Land Bank deemed

worth giving a second chance. In 2015, the Land Bank established a similar tax foreclosure process for commercial properties.³²

The Land Bank is planning a new deed-in-escrow program in which qualified individuals can bid on properties to rehabilitate them for occupancy. The Land Bank also plans to expand its community residential rehabilitation loan program.³² However, the Land Bank does not expressly prioritize owner-occupancy in its residential program, which should be concerning to the jurisdictions, especially given the highly segregated nature of so many of the region's neighborhoods. The Land Bank and the City of Huber Heights are working together on a pilot strategic planning project aimed at supporting neighborhood stabilization strategies. The Land Bank is also working with County Corp on a program under which the Land Bank will hold and maintain parcels of land until County Corp is ready to develop them.³⁴

In April 2015 the Land Bank broadened its goals and decision-making criteria from fourteen priorities outlined in its 2012 *Priorities and Policies* document³⁵ to the simpler goals of “support[ing] the community’s plans, needs, and desires” and of “repositioning [...] properties for productive use and to responsible ownership.”³⁶ The Land Bank formerly ranked mixed-income development and homeownership as its top two priorities for use. As for those eligible to receive transfers, the Land Bank ranked non-profit developers as the top priority and qualified real estate investors as the lowest. In the April 21, 2015 board meeting approving the new goals of the Land Bank, its executive director explained that the revision creates guidelines rather than requirements in order to allow for creativity within Land Bank programs.³⁷

D. Subsidized Housing

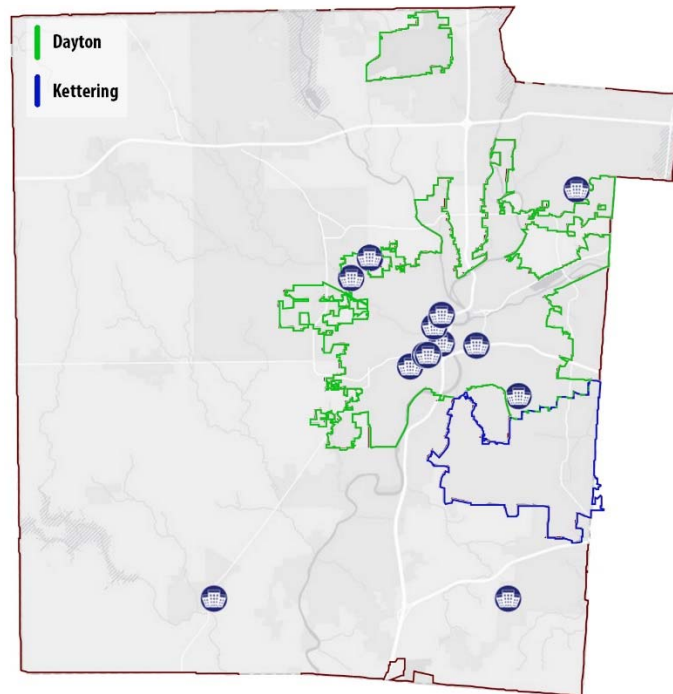
A variety of housing assistance programs through which governmental assistance makes housing available at below-market rates fall under the umbrella term of subsidized housing. Such assistance may be specific to a unit or a household, or it may serve certain sectors of the population.

Public Housing Authority

Greater Dayton Premier Management (GDPM)—formerly the Dayton Metropolitan Housing Authority—is the public housing authority for all of Montgomery County. GDPM operates with funds from HUD’s Annual Contributions Contract. GDPM owns and operates 2,700 units of public housing ranging from small duplexes to high-rise senior apartments. As of June 2015, 4,877 people comprising 2,669 households live in GDPM’s public housing properties.³⁸

HUD has recently made key demographic data about public housing available through a new tool, the Affirmatively Further Fair Housing Data and Mapping Tool (AFFHT). MVFHC used data from AFFHT for many of the maps and charts in this subsection.³⁹

As shown on Map 5.5 to the right, GDPM’s public housing in Montgomery County is concentrated within the City of Dayton. Developing new sites throughout the rest of the county is one of GDPM’s stated goals.



Map 5.5 Public housing in Montgomery County³⁸

Race and Ethnicity in Public Housing

A sampling of AFFHT data on the racial composition of subsidized housing complexes is included in Table 5.6 below. The table also includes information about the size of the minority population in the census tracts in which the complexes are located and about the income level of those tracts. The complexes vary in size. For example, DeSoto Bass Courts has over 300 units while Windcliff Village has only 35.

Public housing location	Races/ethnicities		Minority population*	Income level*
Windcliff Village 155 Windcliff Drive Germantown OH 45327	White	83%	3.42%	Middle
	Black	13%		
	Hispanic	4%		
	Asian	0%		
10 – 86 Westerfield Drive Centerville, OH 45458	White	20%	19.03%	Middle
	Black	80%		
	Hispanic	0%		
	Asian	0%		
Park Manor 220 Park Manor Drive Dayton OH 45410	White	35%	38.85%	Middle
	Black	62%		
	Hispanic	2%		
	Asian	1%		
Desoto Bass Courts 811 Oldfield Place Dayton OH 45417	White	6%	97.81%	Low
	Black	91%		
	Hispanic	3%		
	Asian	0%		

*Minority population and income level are for Census tracts in which housing is located.

Table 5.6: Racial composition of four public housing sites compared to census tracts

For a number of years GDPM has been in transition. In 2011 it rebranded itself and adopted a new name.⁴⁰ After the resignation of its CEO in June 2012,⁴¹ GDPM was led by several interim CEOs until the appointment in November 2014 of Jennifer Heapy as GDPM's new CEO.⁴²

Under the Public Housing Assessment System GDPM earned ratings of 86% in fiscal year 2009 and 91% in fiscal year 2010,⁴³ and in fiscal year 2013 GDPM was rated as a "High Performer" under the Section 8 Management Assessment program in fiscal year 2013.⁴⁴ GDPM faced scrutiny from HUD after the *Dayton Daily News* reported in March 2015 that participants in GDPM's housing voucher program accused the agency of not having

properly accommodated their disabilities.⁴⁵ However GDPM has worked to address those issues and HUD has now removed GDPM from the civil rights watch list.

GDPM provides information on its website about its compliance with Section 504 of the 1973 Rehabilitation Act.⁴⁶ Section 504 requires recipients of federal funds to provide individuals with disabilities an equal opportunity to receive program benefits and services. GDPM also has a reasonable accommodation policy⁴⁷ on its website along with a form for requesting reasonable accommodations. GDPM lists its legal counsel on its website as its 504 coordinator, listing GDPM's own main phone number as the means of contacting the 504 coordinator.⁴⁸ In 2010, GDPM entered into a voluntary compliance agreement to provide 138 fully-accessible units and 55 visually/hearing-impaired units by August 2017; GDPM reported in its 2012 Five Year Plan that 87 of the fully-accessible units and 20 of the visually/hearing-impaired units had been completed.⁴⁹ GDPM offers Google's translation service on its website, although the only language available is Spanish, and the service was unable to translate PDF items such as the reasonable accommodation request form and GDPM's newsletters.

GDPM's occupancy standards do not completely fulfill HUD's guidelines and therefore impede housing choice; we discuss this in detail in subsection F, Occupancy Standards for Residential Housing, on page 137.

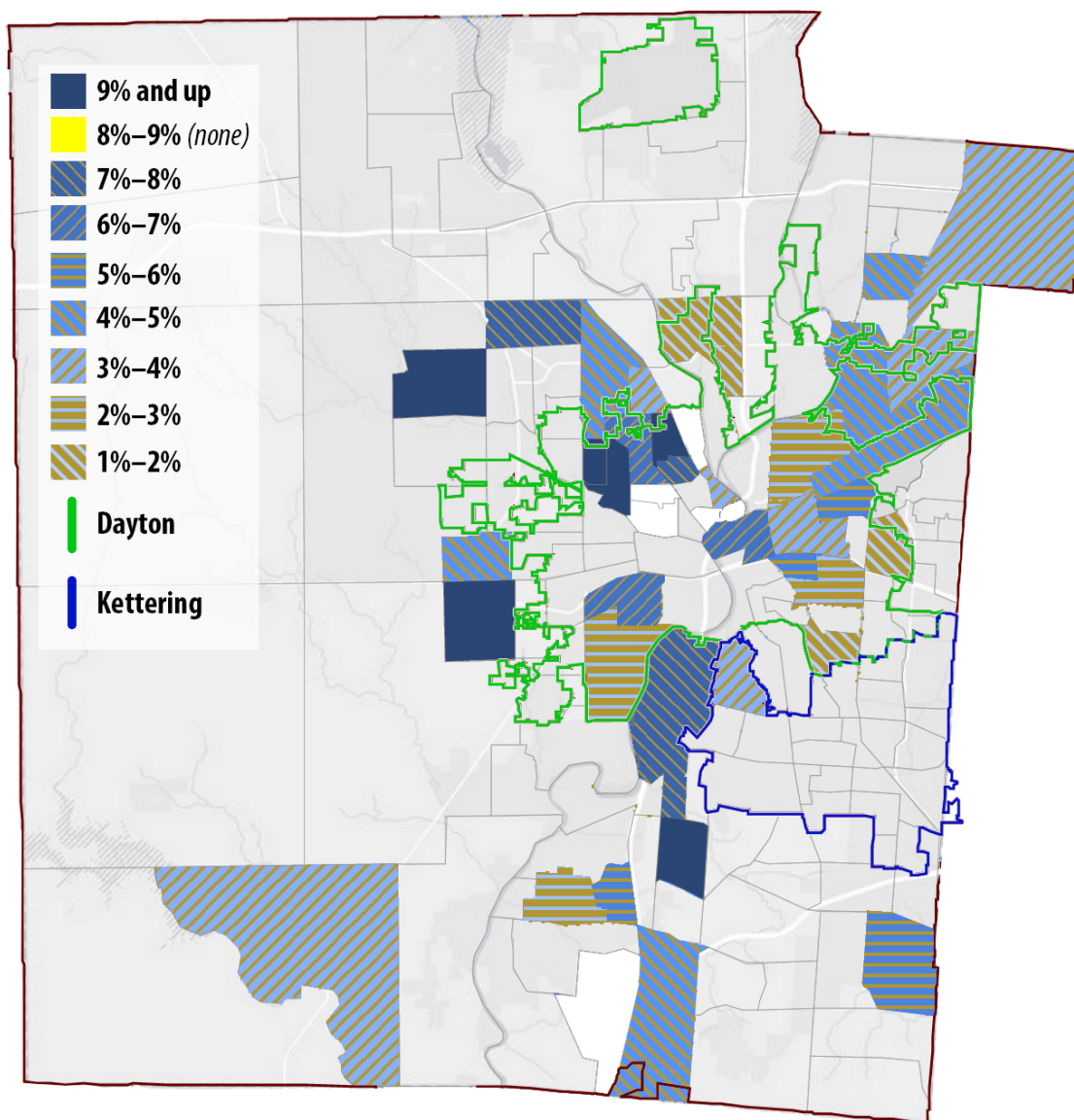
Housing Choice Vouchers

GDPM is also the administrator of the local Housing Choice Vouchers (HCV) program, formerly and more commonly known as Section 8, serving 8,000 people annually with 3,990 HCVs. Under the program, GDPM pays landlords the HCV amounts, and participants pay any additional rent required. However, families may not pay more than 40 percent of their adjusted monthly income towards rent and utilities. Through this program low-income families can live in units they would not otherwise be able to afford. HCVs may be used for units from any private housing provider that is willing and qualified to participate in the HCV program. Housing providers participating in the program must follow strict inspection standards and comply with all program regulations.⁵⁰

The waiting list for GDPM's HCV program was closed in June 2008 because of the number of people on the list.⁴⁷ In 2012 GDPM reported in its five-year plan that its HCV waiting list, still closed, had over 1,800 households. In January 2015 GDPM briefly opened the list to new applicants during a period of five business days. As of July 2015, 6,304 households are on the HCV waiting list, and GDPM estimates the wait time to be over

three years. During development of the ConPlan, GDPM reported the greatest unmet need of its HCV program was the insufficient supply of units meeting the Authority's housing quality standards.

The use of HCVs is not evenly distributed in Montgomery County, as shown below in Map 5.7.



Map 5.7: Housing choice voucher households by census tract

In particular, the prevalence of HCVs in Dayton is significantly larger than in Kettering. One factor contributing to this could be the cost of the available housing stock. For

example, if the prevailing rental rate for a three-bedroom unit in Kettering is greater than the permitted HCV rate for such a unit, people using HCVs are effectively kept out of the Kettering market.

Another factor, discussed previously in Section 4 on page 93, is the willingness of market-rate housing providers to accept HCVs. MVFHC examined this willingness, discovering after contacting twenty housing providers with units of varying sizes that only two were willing to accept HCVs. One willing landlord was in Dayton, and one was in the suburbs. The ability of HCVs to expand housing choice and to offer access to higher-opportunity neighborhoods is hampered not only by a lack of affordable housing but also by the unwillingness of the majority of housing providers to accept HCVs.

HCV users wanting to find a housing provider can use the website GoSection8.com, an online rental listing service for the housing voucher market that is free of charge to renters and landlords.⁵¹ The website lists only properties belonging to landlords who actively choose to be listed there. GDPM includes a link to GoSection8.com on its website. The properties in Montgomery County on GoSection8.com correlate with the areas on Map 5.7 on the previous page. The one Dayton landlord accepting HCV who MVFHC found in its testing has a listing on GoSection8.com.

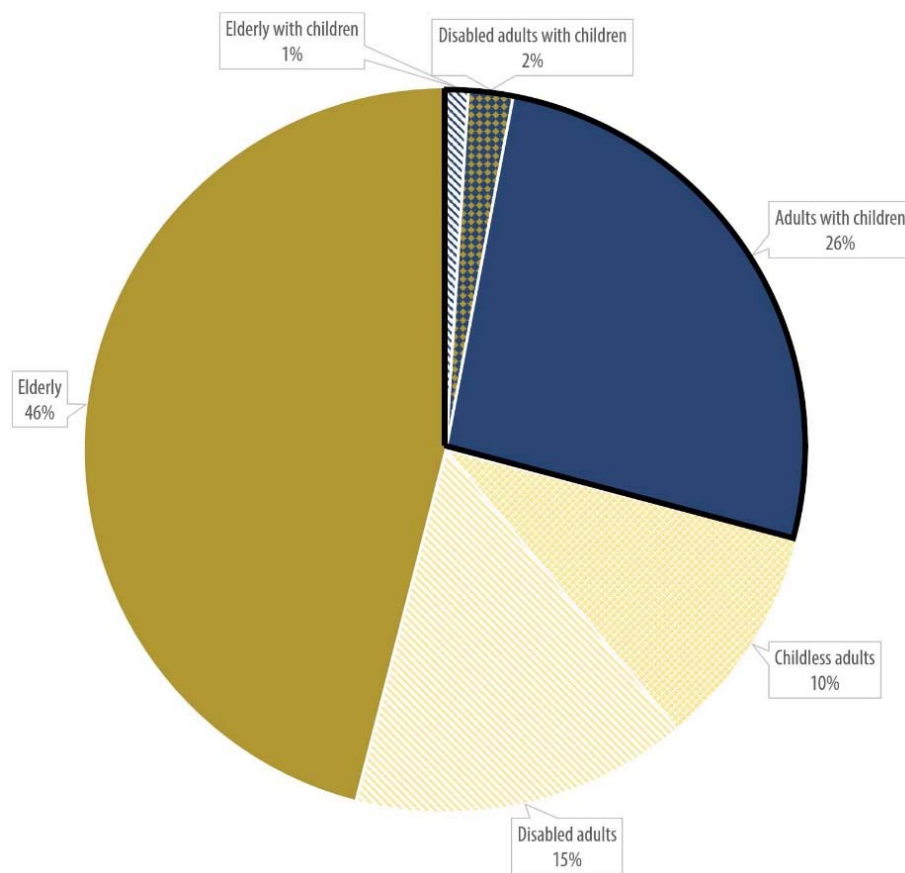
Project-Based Rental Assistance

Public housing authorities may allocate up to twenty percent of their voucher assistance monies to Project-Based Rental Assistance (PBRA).⁵² PBRA subsidies, instead of going to individual tenants, go to private property owners who agree to set aside some or all of the units in their housing developments for low-income families.⁵³ Most participants are for-profit entities, but non-profits own a significant share of PBRA properties. These projects offset, to a degree, the problems in the HCV program caused by the lack of affordable housing and of willing landlords.

Units set aside in PBRA properties are reserved either for low-income households, with income no more than 80% of AMI, or for extremely low-income households, with income no greater than 30% of AMI. Tenants pay thirty percent of their income, after deductions for items such as medical expenses, for rent and utilities.

As with other subsidized housing, households qualify for assistance by meeting certain income criteria, such as “extremely low income”, or no more than 30 percent of local median income and “low income”, no more than 80 percent of local median income.

Tenants pay 30 percent of their income, after deductions such as medical expenses are taken out, for rent and utilities, or a minimum of \$25 per month. The gap between the tenant contribution and the cost of maintaining and operating the apartment is filled by a monthly Section 8 PBRA payment to the private owner of the building. Chart 5.8 on the next page shows the types of households living in PBRA units.



Childless adults are households headed by a person under 62 without disabilities and without children in the home. Disabled adults are younger than 62. Elderly households are headed by a person age 62 or old.

Chart 5.8: Types of tenants in Project-Based Rental Assistance (PBRA) units⁵⁴

Low-Income Housing Tax Credit

A third subsidy program providing affordable housing is the Low-Income Housing Tax Credit (LIHTC), which is financed by the federal government but administered by states. LIHTC subsidizes the acquisition, construction, and/or rehabilitation of rental property by private developers, allocating tax credits to developers on a competitive basis. Developers receiving the tax credits can sell to investors and use the capital to provide affordable rental homes.⁵⁵ To be eligible for LIHTC, rental properties must either have at least 20% of their

units occupied by households with income under 50% of AMI or 40% of their units occupied by households with income under 60% of AMI. Rent for these units may not exceed thirty percent of household income.

Montgomery County has 106 LIHTC projects with 8,239 units. Of these, 78 projects comprised of 5,425 units are in Dayton, three projects with 284 units are in Kettering, and the remaining 25 projects comprising 2,530 units are in other jurisdictions around the county.⁵⁶

One of LIHTC's primary benefits is that it encourages the wider distribution of affordable housing. Those making decisions about LIHTC funding should be mindful of avoiding centralization of housing in order to maximize housing choice.

Other Subsidized Housing Programs

Other federal programs, named for the sections of regulations providing for their existence, provide housing assistance to specific populations who have had difficulty in affording decent housing. These programs include Section 202 housing for seniors, Section 811 housing for persons with disabilities, and Section 515 rural development housing.

Section 202 expands the supply of affordable housing with supportive services for elderly people, including the frail elderly. Elderly people with very low incomes get options allowing them to live independently in environments providing support for activities such as cleaning, cooking, and transportation. HUD provides capital advances to finance the construction, rehabilitation, or acquisition of the housing and provides rent subsidies for the projects to help make them affordable. Occupancy in Section 202 housing is open to any very low-income household comprised of at least one person who is at least 62 years old at the time of initial occupancy.⁵⁷ Montgomery County has 17 Section 202 housing sites with 361 housing units.⁵⁸

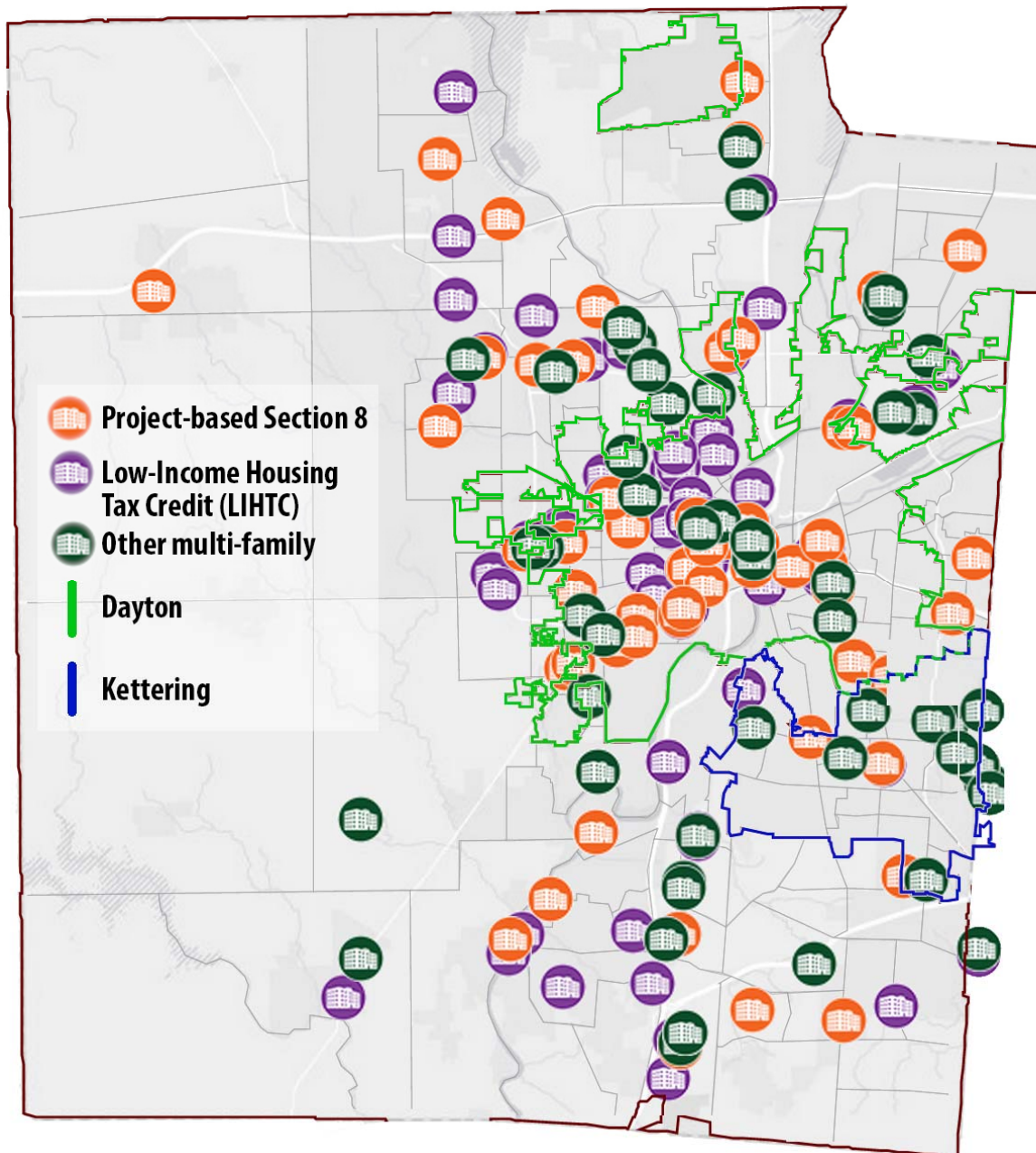
Section 811 provides funding to develop and subsidize rental housing with support services for very low- and extremely low-income adults with disabilities.⁵⁹ Section 811 funds are provided either as traditional interest-free capital advances and operating subsidies for non-profit developers or as project rental assistance to state housing agencies. The last appropriation for traditional 811 funds was made in fiscal year 2011. State agencies receiving 811 funds may apply them to new or existing multi-family housing complexes funded through other sources, including LIHTC. Section 811 projects must have supportive services plans providing, for example, case management, training in

independent living skills, or assistance in obtaining employment. Residents cannot be required to accept any supportive services as a condition of occupancy. Montgomery County only has five sites with Section 811 funding with a total of 51 subsidized units.⁶⁰

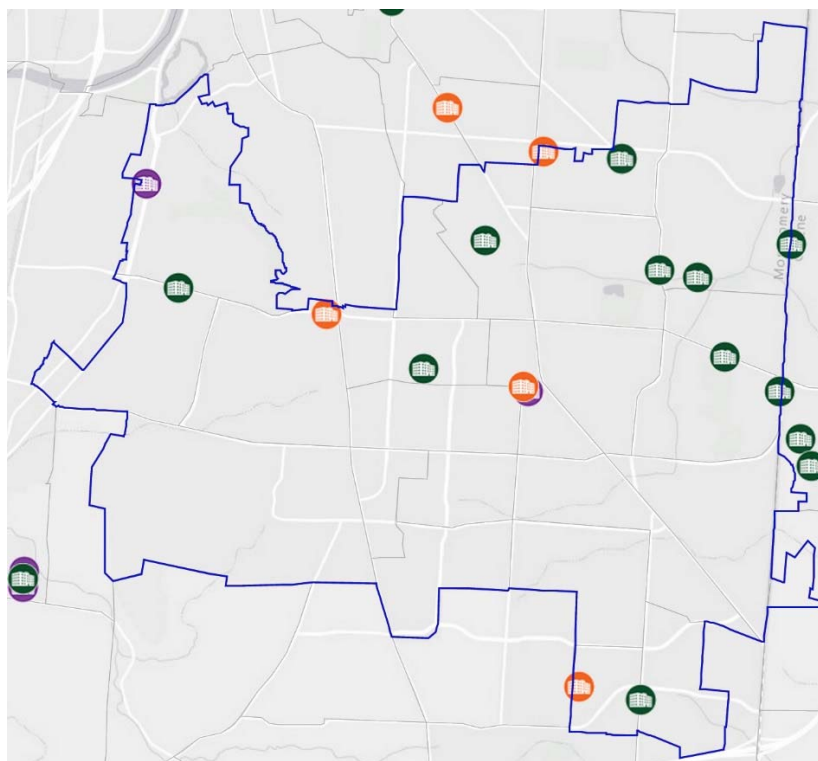
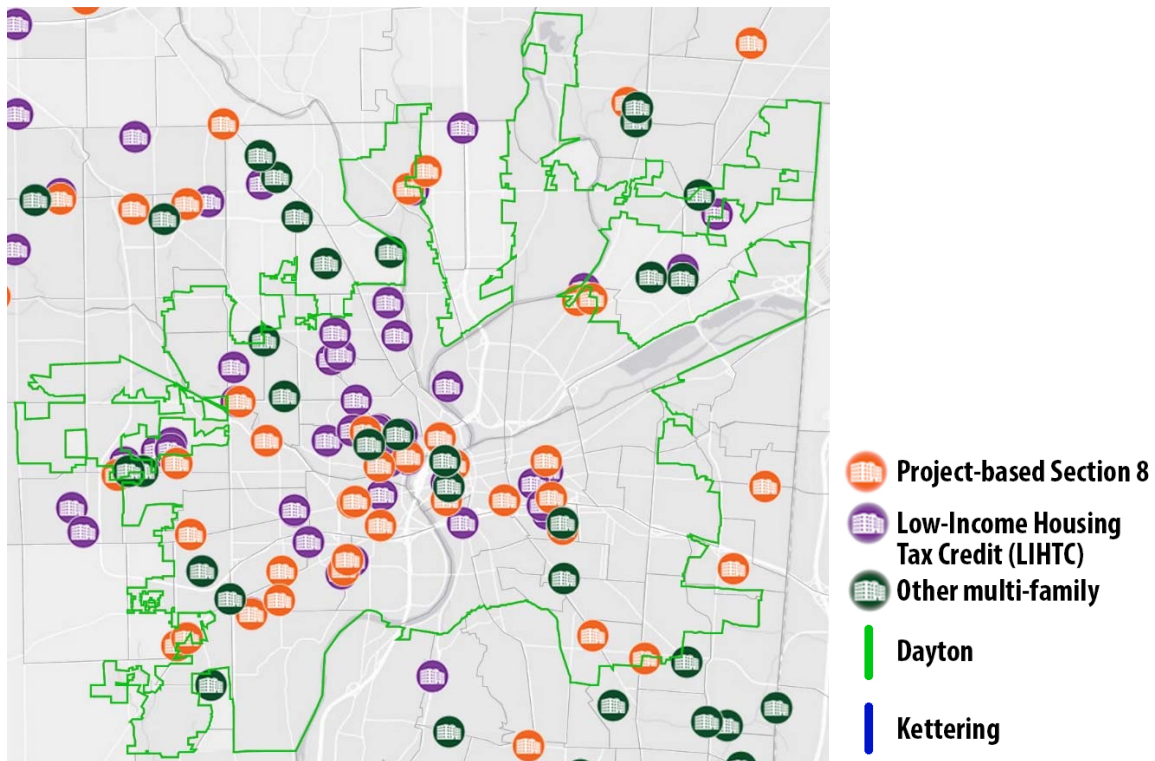
The Department of Agriculture's Rural Development and Community Facilities Program Office administers Section 515, making loans to provide affordable rental housing for very low-, low-, and moderate-income families, for elderly people, and for people with disabilities.⁶¹ Developers receive loans for up to 30 years at an effective interest rate of one percent amortized over 50 years. Tenants pay up to 30% of their adjusted income for rent and may receive rent subsidies from other sources, such as HCVs, as well. Montgomery County has four Section 515 housing projects containing a total of 114 subsidized units.⁶²

Distribution and Access to Employment, Education and Amenities

As shown in Map 5.9 on the next page, a variety of housing in the various programs we've described is available throughout Montgomery County. Housing for specific programs occurs at different frequencies in the three entitlement jurisdictions. For example, more PBRA projects are in central and west Dayton than in Kettering. More LIHTC properties are in northern Dayton than in Kettering. Maps 5.10 and 5.11 on page 128 show the locations of subsidized housing in Dayton and in Kettering.



Map 5.9 Project-based Section 8, Low-Income Housing Tax Credit, and other HUD-assisted multifamily housing in Montgomery County



Maps 5.10 and 5.11: Project-based Section 8, Low-Income Housing Tax Credit, and other HUD-assisted multifamily housing in Dayton (upper) and Kettering (lower)

The siting of subsidized housing in its various forms can be a contentious political issues with a significant and long-lasting impact on households in poverty. The Poverty and Race Research Council (PRRAC) studied the performance ratings of schools in locations with subsidized units large enough for families (units with two or more bedrooms).⁶³ PRRAC ranked the Dayton MSA as 52nd in the 100 largest MSAs, with its schools closest to subsidized housing units having a median percentile ranking of 14.⁶⁴ Chart 5.12 below shows how the distribution of all 100 largest MSAs by the median percentile ranking of their schools nearest to public housing tenants.

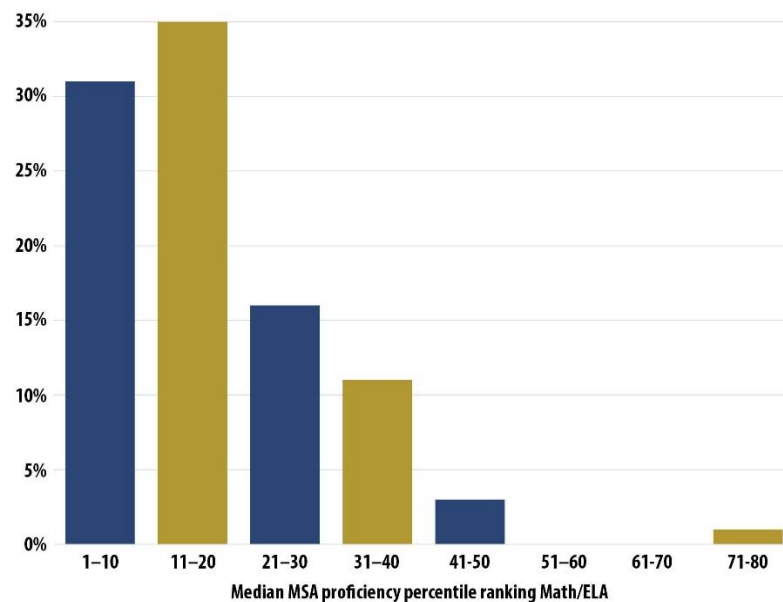


Chart 5.12: Distribution of MSAs by median percentile rank of schools closest to public housing tenants⁹⁶

In addition to units in public housing, PRRAC also looked at units available through HCV, PBRA, and LIHTC. Among the 100 largest MSAs, the Dayton MSA ranked 32nd for HCV, 34th for PBRA, and 21st for LIHTC. PRRAC notes in its study that they see “significant variation across metropolitan areas for recipients of all four types of housing assistance,” which matches our observation of the situation in Dayton.

An obstacle to fair housing in the Dayton MSA is that families living in public housing are less likely to live in proximity to high-performing schools than are families living in housing subsidized under the other programs.

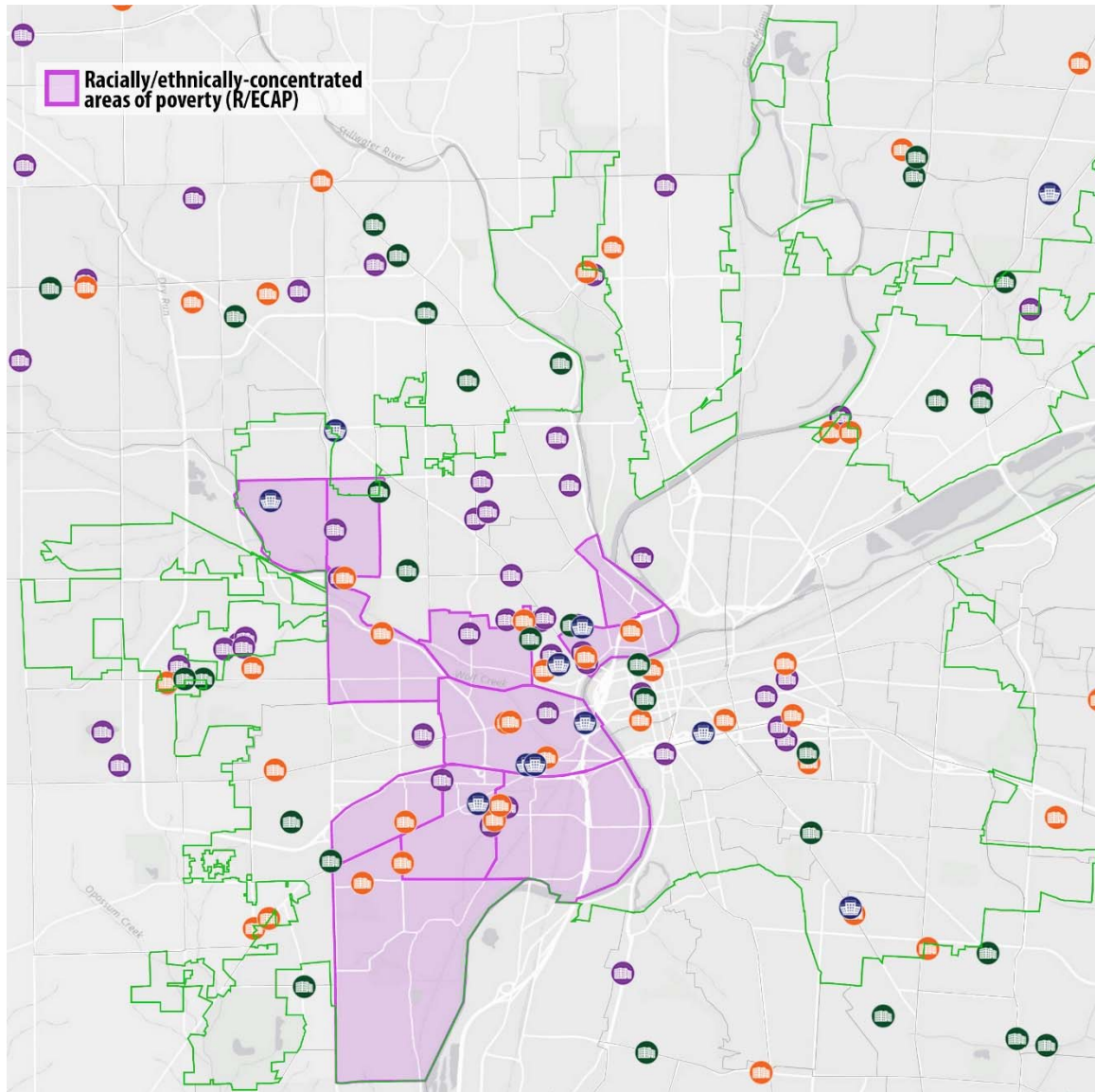
Racially/Ethnically Concentrated Areas of Poverty

How much subsidized housing is located in racially/ethnically concentrated areas of poverty (RECAP) has fair housing ramifications because of limits such locations may place on access to high-performing schools, employment, and the ability of households to exit poverty. According to HUD, an area is a RECAP if 50% or more of its population is non-white and 40% or more of its population lives below the poverty line.³⁸ All of the RECAPs in Montgomery County are in the northern and western quadrants of the City of Dayton, as shown below in Map 5.13. Dayton's RECAPs have a significant amount of subsidized housing.

Two approaches are commonly used to address poverty. The first is improving conditions in areas of poverty by providing quality education, employment opportunities, and amenities in these areas. The second approach is increasing housing choice for lower income people who want to live in areas which already have higher opportunity.

People and organizations who oppose housing discrimination disagree about how and whether to use these two approaches. For example, in this year's Supreme Court case on the use of disparate impact theory in placement of subsidized housing, *Texas Department of Housing and Community Affairs, et al. v. The Inclusive Communities Project, Inc.*,²² a group including the National Association of Housing and Redevelopment Officials, the Public Housing Authorities Directors Association, the National Affordable Housing Management Association, and the Council for Affordable and Rural Housing signed an amicus brief arguing against disparate impact and at the same time describing themselves as organizations that work to prevent housing discrimination.⁶¹

Within Montgomery County, MVFHC staff have heard off-the-record conversations among some planners and developers about certain neighborhoods' continued suitability for future investment given the lack of employment opportunities and amenities in those neighborhoods.



Map 5.13 Subsidized housing in relation to racially/ethnically-concentrated areas of poverty (R/ECAP) in Dayton

In preparing this analysis, we noticed the lack of current, comprehensive, and consistent information about subsidized housing. For example, the first result in a web search for “subsidized housing in Montgomery County Ohio”⁶⁵ is an Assisted and Public Housing Directory from 2005.⁶⁶ This directory has information on 2,078 LIHTC units while HUD’s online LIHTC database lists 8,239 units.⁵⁴ Although the 2005 directory is incomplete, we could find no other single directory that was more complete.

Providing a more comprehensive directory in a format that is more user-friendly would help the three entitlement jurisdictions and GDMA to fulfill their statutory obligations to

affirmatively further fair housing and to be accessible to people with disabilities. Any updated directory should also be available in languages other than English in common use by minorities in the area.

E. Property Assessment and Tax Policy

Valuation by the county of property for tax purposes may seem facially neutral but in fact can cause impediments to fair housing.

Facially neutral processes, like county property tax valuation processes, can play an integral role in causing impediments to fair housing. Below is an evaluation of Montgomery County's property tax evaluation authority, the process, and its impact on fair housing.

Property Tax Valuation Laws

Article XII Section 2 of the Ohio Constitution: “No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes.”

Ohio Revised Code Section 5713.01: “Each county shall be the unit for assessing real estate for taxation purposes.”

Ohio Revised Code Section 5713.03: “The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate [...] for tax purposes [...] at least once in each six-year period. [...] [T]he auditor shall revalue and assess at any time all or any part of the real estate [...] where the auditor finds that the true or taxable values thereof have changed.”

Ohio Revised Code Section 5715.24: “The tax commissioner, annually, shall determine whether the real property [...] which have completed a sexennial reappraisal in the current year [...] have been assessed as required by law, and whether the values set forth correctly reflect the true [...] values [...] and in so doing the commissioner has the authority to increase or decrease the valuation.”

Ohio Revised Code Section 5715.01: “The tax commissioner shall direct and supervise the assessment for taxation of all real property. The commissioner shall, adopt, prescribe, and promulgate rules for the determination of true value and taxable value of real property by uniform rule.”

Ohio Revised Code Section 5713.31: “At any time after the first Monday in January and prior to the first Monday in March of any year, an owner of agricultural land may file an

application with the county auditor of the county in which such land is located requesting the auditor to value the land for real property tax purposes [...] in accordance with rules adopted by the commissioner.”

Ohio Revised Code Section 5715.19: This section authorizes an owner of agricultural land to file a complaint against the valuation of the property on or before the thirty-first day of March of the ensuing tax year or the date of closing of the collection for the first half of real and public utility property taxes for the current year, whichever is later. This section also requires the auditor to inform each board of education whose school district may be affected by the complaint if the alleged incorrect difference in value is at least \$17,500. The school district is provided thirty days to file a complaint objecting to allegation of overvaluation.

Montgomery County Tax Commissioner Prescribed Valuation Process

The county auditor is charged with the responsibility of determining the taxable value of each separate tract, lot or parcel of real property, building or structure. Every three years, each county in the State of Ohio goes through a valuation analysis of property located within the county. The valuations are characterized as either a reappraisal year or an update year. A reappraisal year requires a physical review of all properties within the county. Those physical reviews occur every six years and are often referred to as a “sexennial reappraisal.” In the interim period, between the six-year-reappraisal, the auditor will conduct an update, which is often referred to as a “triennial update”. The update is typically done by reviewing the overall percentage changes in certain areas of the county and making an overall percentage adjustment for such areas as opposed to an individual adjustment for each parcel.⁶⁷

The property tax valuation process has six major steps:⁶⁸

- 1) Collection: Over a two-year period, appraisers go to each building in the county to get current information about each property.
- 2) Analysis: The county auditor’s office reviews all the property information for correctness and fairness. The office also looks at historic trends and actual sales to determine the fair market value of each property.
- 3) Setting: The county auditor’s office sets the appraisal for each property, using estimated fair market value as a gauge.
- 4) Feedback: The county sends notices to all property owners of the new valuations and makes all the records available for public inspection. Owners may meet with

county representatives to ask questions, raise concerns or request changes (with proper documentation).

- 5) Review: The state does a final review and validation of the valuations and may request the county to modify valuations.
- 6) Finalization: The county auditor announces the completion of property valuations.

Contesting Property Tax Value

Between January 2nd and March 31st of every year, owners of property can contest the tax assessed value of their property by filing a complaint⁶⁹ with the Board of Revision (BOR), a three-person quasi-judicial board comprised of members from the offices of the County Auditor, the County Treasurer, and the County Commissioners.⁷⁰ On complaints claiming a difference in valuation of at least \$17,500, the school district in which the property is located is given 30 days to submit a counter-complaint. Complaints are heard before the BOR, which issues decisions within 90 days. Decisions may be appealed within 30 days to the Board of Tax Appeals or to the Montgomery County Common Pleas Court.

The Impact of Constitutional Failure on Fair Housing in Montgomery County

School funding in Ohio is a shared responsibility between the state and local school systems.⁷¹ Excluding federal dollars, slightly more than half of all funding statewide is locally generated, with virtually all of the local money coming from property taxes. In 1997 the Ohio Supreme Court ruled in *DeRolph v. Ohio* that funding schools predominantly from local property taxes violated the Ohio Constitution. The court found “that wide disparities are caused by the funding system’s overreliance on the tax base of individual school districts” and that “poor districts simply cannot raise as much money even with identical tax effort.”⁷² Legal challenges to enforce *DeRolph*’s holding have continued over the years, with the court each time directing Ohio to fulfill its obligation under the Ohio Constitution “to provide a thorough and efficient system of public schools.”⁷³ Students living in poor districts continue to be the casualties of Ohio’s failure to act.⁷⁴

Where students live determines the quality of education available to them. One of HUD’s goals in enforcing the Fair Housing Act is providing equal access to quality education, noting that Congress, in passing the Act, recognized that ‘where a family lives, where it is allowed to live, is inextricably bound up with better education, better jobs, economic motivation, and good living conditions.’⁷⁵

Of the major metropolitan cities in Ohio, the City of Dayton has the third highest poverty rate, a rate higher than that of Montgomery County as a whole.⁷⁶ A majority of African American and Hispanic students in Montgomery County live within the Dayton public school district^{77 78} and accordingly do not have access to consistent quality education. In its review of Dayton Public Schools (DPS) conducted in January 2015, the Ohio Department of Education found that the DPS was in “High Support Status” meaning that the district was performing in the lowest 5% in the state; as of fall of 2014.

Poor school districts in Montgomery County have fewer resources and fewer accessible buildings for disabled students than do wealthier school districts.⁷⁹ Ohio’s continued reliance upon an unconstitutional school funding scheme that is dependent upon local property taxes, while facially neutral, in practice has a detrimental disparate impact on the quality of education available to minority and disabled students in Montgomery County, in violation of fair housing laws as well as the United States and Ohio Constitutions.

F. Occupancy Standards for Residential Housing

Federal, State, and Local Fair Housing Acts and Occupancy Requirements

The federal Fair Housing Act as well as Ohio's and Dayton's fair housing laws specifically exempt "reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy" a dwelling.⁸⁰ Kettering's fair housing law does not contain this exemption.⁸¹ However, occupancy restrictions still may be found to violate fair housing laws if the restrictions are found to be unreasonable.

U.S. Department of Housing and Urban Development (HUD) and Occupancy Standards

On December 22, 1998, HUD adopted as its policy on occupancy standards for enforcement actions under the Fair Housing Act: 1) Section 589 of the Quality Housing and Work Responsibility Act of 1998 (QHWRA); and 2) the March 20, 1991 Memorandum of General Counsel Frank Keating (the Keating Memorandum).⁸²

Section 589 of QHWRA

QHWRA governs public housing and public agencies that administer Section 8 assistance programs. Section 589 of QHWRA provides:

HUD must publish a Federal Register notice[,], within 60 days of enactment, that specifies that the standards provided in a 3-20-91 HUD "Keating" memorandum must be the HUD policy with respect to familial status discrimination complaints which involve an occupancy standard established by a housing provider. HUD must not directly or indirectly establish a national occupancy standard.⁸³

Accordingly, HUD does not provide guidance on occupancy standards outside of the Keating Memorandum.

The Keating Memorandum

In the Keating Memorandum HUD explains that it does not have an occupancy policy that it would consider reasonable in any fair housing case; instead HUD provides guidance on the evaluation of evidence in familial status cases involving occupancy policies. HUD's guidance is that "an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act."⁸⁰ HUD clarifies that "the reasonableness of any occupancy policy is rebuttable" and that HUD will not "determine compliance with the Fair Housing Act based solely on the number of people permitted in each bedroom."⁸⁰ The

memo then sets out six considerations that HUD will consider, on a case-by-case basis when it investigates to make a determination as to whether a specific occupancy standard or policy effectively unreasonably limits or excludes families with children.

HUD's Affirmatively Furthering Fair Housing 2015 Rule on Promoting Housing Choice

On July 16, 2015, HUD issued an Affirmatively Furthering Fair Housing Rule to provide HUD program participants with an approach to more effectively and efficiently incorporate into their planning processes the duty to affirmatively further the purposes and policies of the Fair Housing Act. In doing so, this rule directs HUD's program participants "to take significant actions to [...] promote fair housing choice."⁷³ Therefore, in reviewing the reasonableness of occupancy standards, not only should HUD's guidance as shown through the Keating Memorandum be taken into consideration, the reasonableness review should be viewed through the lens of the duty to not discourage fair housing choice as well.

State and Local Laws

The State of Ohio and Montgomery County have not enacted occupancy standards for residential dwelling units. Ohio's residential code focuses on building structure and providing means of egress and does not dictate occupancy based on the number of bedrooms or floor space.⁸⁴ Dayton and Kettering, however, have enacted ordinances governing the occupancy of residential dwellings based on floor space.⁸⁵ Greater Dayton Premier Management (GDPM)—formerly known as Dayton Metropolitan Housing Authority—has also issued its own occupancy standards based purely on the number of bedrooms.⁸⁶

Dayton Occupancy Standards

Dayton's occupancy standards are found in Chapter 93 of its Housing code. This Chapter contains multiple regulations on habitability, but has two specific sections that dictate the number of people per floor space.⁸⁷

Kettering Occupancy Standards

Kettering's occupancy standards are found in Title V of the City's Building Code, Chapter 1324—Light, Ventilation and Occupancy Limitations. This Chapter has two specific sections that dictate the number of people per floor space.

GDPM Occupancy Standards

Greater Dayton Premier Management provides that its occupancy standards are designed to enable GDPM to ensure that all of its units are occupied by families of the appropriate size to maximize the unit's usefulness without subjecting them either to underutilization or excessive wear and tear. GDPM also provides that its occupancy standards are designed to comply with fair housing requirements. GDPM's occupancy standards are contain specific provisions on the process for; and circumstances under which exemptions to the standards may be granted.

Review of Standards for Reasonableness

Dayton and Kettering require a certain amount of square footage for one person, but then go on to allow less square footage per person if occupied by two or more people. Furthermore, Dayton requires 150 square living feet per person, while Kettering requires 110 square living feet per person. Kettering and Dayton's two-or-more-person bedroom square footage also is different. Kettering allows for 40 square feet per person, while Dayton requires 60 square feet per person. Dayton and Kettering's matter of fact reduction in required square footage based on more than one person and the fact that each provides different standards suggests that the standards are not based on a reasonable measure. Also, neither Dayton nor Kettering distinguish occupancy based on the age of the person. The requirements cover all age ranges, even infants and young children. The broad coverage again suggests that the standards have not been well thought out and do not take into consideration HUD's guidance through the Keating Memorandum and result in limiting fair housing choice.

GDPM's blanket occupancy rule purely based on the number of bedrooms does not take into consideration the Keating Memorandum and also results in limiting fair housing choice. GDPM does state that there can be exceptions, but the burden is placed on the potential occupant. Furthermore, the fact that there can be exceptions shows that the pure numbers game standard really is not imperative to GDPM's operation, but allows the opportunity for delay or denial of housing to families with children based on the family size and the lack of "large enough" units.

Rigid Occupancy Standards Unreasonably Impact Fair Housing Choice

The rigid occupancy standards pronounced by Dayton, Kettering, and GDPM unreasonably impact fair housing choice and fail to follow the Keating Memorandum's fact specific review. Ohio and Montgomery have chosen not to dictate occupancy, but instead

to focus on health and safety concerns through establishing egress and structural laws. Dayton and Kettering should follow suit. As a housing provider, GDPM's stated concern regarding wear and tear of units based on possible overcrowding is legitimate. But creating rigid occupancy rules solely based on the number of bedrooms and placing the burden on the potential occupant to prove that an exception is warranted is unreasonable. As HUD has stated through the Keating Memorandum, the number of occupants that would be reasonable for a particular residential dwelling is fact specific. Blanket occupancy standards allow housing providers to blind themselves to potential occupants' fact specific situations. Without this fact specific screening, housing choice is inevitably denied. Therefore, Dayton's, Kettering's, and GDPM's occupancy standards are an impediment to fair housing.

G. Code Enforcement Policies

Every municipality should consider code enforcement in its fair housing planning. Housing codes may not be enforced in such a way that would discriminate against any person or have a disparate impact on any group based on race, color, national origin, religion, gender, disability, familial status or any state or local protected class. While there have been no claims of FHA code enforcement violations in the three entitlement jurisdictions, they should be mindful of their statutory obligation to affirmatively further fair housing as they enforce their housing codes.

The Fair Housing Act has been used to allay fair housing violations in the area of code enforcement. In one seminal case, the city of Elgin, Illinois, had to pay \$500,000.00 to settle a complaint.⁸⁸ The complaint against Elgin accused city inspectors of entering the homes of Spanish speakers without interpreters, doing inspections without warrants, and applying occupancy rules differently to Hispanic residents. The city argued it was responding to housing code violations that endangered residents' health and safety. Although only eight percent of Elgin residents were Hispanic, 64 percent of all code enforcement citations from 1995 to 1998 were to Hispanic homeowners, and 80 percent of the citations were in predominantly Hispanic neighborhoods. To settle the case Elgin agreed to create a fund to compensate the victims, to change the way it enforced its housing code, to have city inspectors take lessons in Spanish, and to translate city documents into Spanish.

We reviewed each jurisdiction's web pages on housing inspection and code enforcement. All three jurisdictions do not mention on their websites any efforts to affirmatively further fair housing as they implement their housing inspection and code enforcement policies. Dayton, Kettering and Montgomery County should each undertake the work of examining their policies to ensure that they do not discriminate against people based on any of the classes protected under federal, state and local laws.

H. Permitting Processes

In 2010 MVFHC thoroughly researched how local jurisdictions' zoning codes affect people with disabilities (see the description of this report in Section 2 on page 61).

One issue MVFHC documented in the report was the obstacles faced by Miami Valley In-Ovations (MVIO) in setting up supported living homes because the homes were incorrectly categorized as group homes and because restrictive definitions of family applied to occupancy rules for the homes. MVIO proposed homes that would each house and provide support services for up to four people with disabilities, giving people with disabilities more housing choice. MVIO incurred additional costs because it was required to apply for conditional use permits and special licensing, none of which is required under Ohio law for the housing MVIO proposed.

After releasing its report, MVFHC has continued to contact local jurisdictions about amending their zoning regulations to clarify acceptance of supported living homes. Despite this, 13 jurisdictions have failed to take action. Permits and zoning remain obstacles to housing choice for people with disabilities.

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- ¹⁴ BizCap is Small Business Lending. County Corp. Retrieved from <http://www.countycorp.com/bizcap>.
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https://www.google.com/search?hl=en&q=subsidized%20housing%20in%20Montgomery%20County%20Ohio&complete=0&gws_rd=ssl.

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⁸⁴ Ohio Residential Code Chapter 4101

⁸⁵ Codes of Kettering, Title V, Property Maintenance Code, Chapter 1322 Sections 1322.201, 1324.404.5.1 and 1324.404.7; Codes of Dayton, Chapter 93, Housing, Sections 93.02, 93.37, 93.38, 93.3993.40, 93.41, 93.42, 93.43, 93.44, and 93.47.

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Section 6 — Public Involvement

To prepare this AI, Miami Valley Fair Housing Center (MVFHC) gathered data from the public through an online survey and by conducting 23 public forums—larger ones in a town hall format and small ones as focus groups—and 16 stakeholder interviews throughout Montgomery County, the City of Dayton, and the City of Kettering. The survey questions are in Appendix E on page 203. The interview questions are in Appendix F on page 223. Links to online files containing questions from the town hall meetings and focus groups are in Appendix G on page 230.

A. Fair Housing Survey

We created a survey titled, “Fair Housing and Housing Obstacles,” which we hosted on our website from December 15, 2014 to May 15, 2015. We advertised the survey on our website as well as through posts on Facebook, Twitter and community calendars, in an article in the *Dayton Daily News*, and by distributing flyers during a variety of community events. 77 people completed the survey.

Demographics

Gender: More than twice as many respondents were female (55 people) as were male (22 people).

Age: A third of the respondents were over 55 years old, two were 18–25, and the remaining two thirds were distributed fairly evenly among the ten-year brackets between ages 26–55.

Race: 83% of respondents identified as White, 18% identified as African American, 5.2% identified as American Indian or Native Alaskan, and 3.9% identified as Hispanic or Latino.

Sexual Orientation: 63 respondents identified as straight, 11 identified as gay or lesbian, and one identified as bisexual.

Household Composition: The majority of respondents, 64%, owned their homes, and 31% of respondents rented their homes. The three largest groups by household income were

A majority of survey respondents were:

- **female (71%)**
- **over 55 years old (34%)**
- **white (83%)**
- **straight (82%),**
- **homeowners (64%)**

A plurality of respondents:

- **were over 55 years old (34%)**
- **had household incomes over \$94,951 (23%)**

those who estimated their household income as greater than \$94,951 (18 people), those with income from \$31,651 to \$47,755 (17 people) and those with income from \$47,776 to \$63,300 (15 people).

Findings

Discrimination based on Protected Class: The protected classes identified by respondents as likely facing the most housing discrimination were race at 69%, disability at 49%, and familial status at 43%.

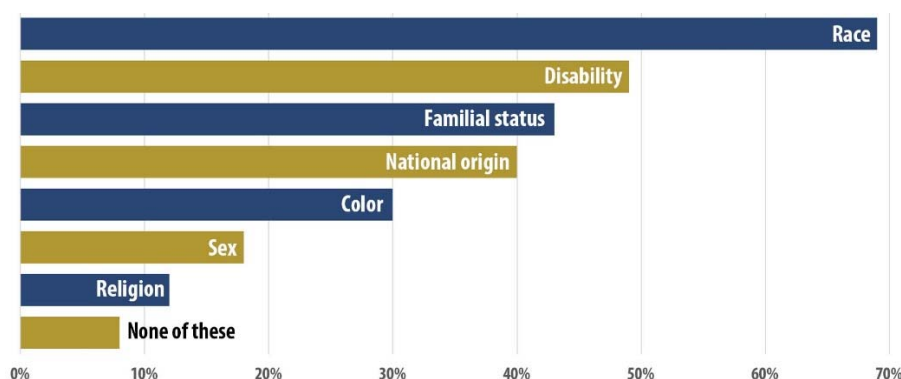


Chart 6.1: Federally-protected classes thought by survey respondents to face the most housing discrimination

Of the additional classes protected by state and local law, respondents perceived sexual orientation/gender identity (58%) and age (34%) as the two classes most likely to face housing discrimination.

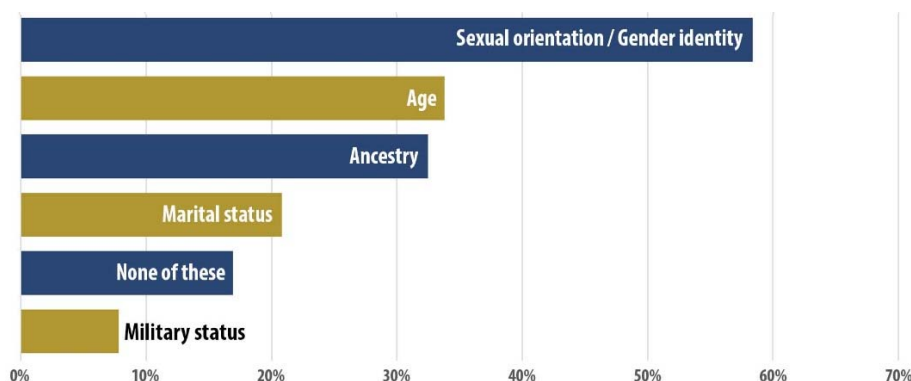


Chart 6.2 State- and locally-protected classes thought by survey respondents to face the most housing discrimination

Of the 77 respondents, 11 felt they had experienced housing discrimination. Three said they faced differing treatment because of familial status, two because of sexual

orientation, and one because of marital status. The others did not specify protected classes.

Disability: 8 of the respondents someone with a disability in their households, and none of these respondents reported that as an obstacle in searching for housing. The majority of respondents, 41 out of 77, did not believe their homes would be inaccessible if someone in the household developed a mobility impairment or disability.

Schools: When rating neighborhood school quality, those surveyed were fairly equally divided:

- 16 rated their schools as low quality
- 9 rated their schools as lower quality
- 18 rated their schools as average quality
- 18 rated their schools as better quality
- 16 rated their schools as high quality

Of the 77 respondents, 40 respondents said that school options and school quality were factors in their searches for housing.

Neighborhood Barriers: The issues most often reported as barriers to fair housing were:

- Vacant housing/neighborhood blight (61%)
- Lack of affordable housing (45.5%)
- Quality of available housing (39%)

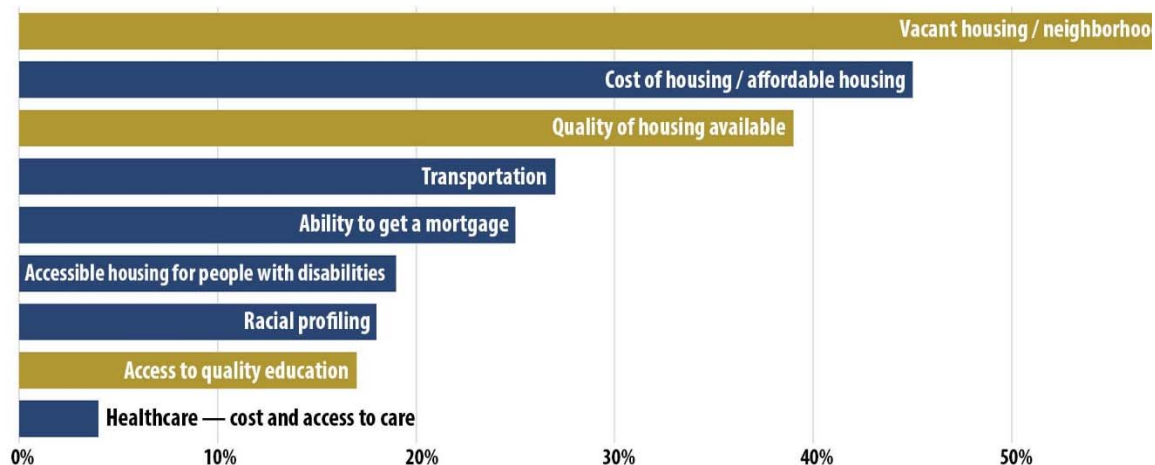


Chart 6.3: Issues reported as barriers to fair housing

Neighborhood Amenities: 75.4% of respondents said the grocery nearest to their homes was closer than three miles away. 59.7% reported that the hospital nearest to their homes was less than 10 minutes away. 92.2% said it took less than 20 minutes to get to the closest hospital (this figure includes those less than 10 minutes away).

Community Centers: 34 respondents said they had a community center in their neighborhoods, 16 weren't sure whether their neighborhoods had community centers, and the remaining 27 said they had no community center nearby.

Transit and Employment: The majority of respondents, 75 of 77 people, most often commuted to work by car. One person used public transportation, and one person traveled by bike. 80% of respondents said their commutes each day took 25 minutes or less, 18% said they had commutes of less than 10 minutes, and 35% had commutes of 11–15 minutes.

B. Fair Housing Forums

We wanted to hear opinions from community members with as many different backgrounds as possible, and to do this we held 23 fair housing forums which had a total of 298 participants.

The first two forums were held with clients and staff of the East End Community Center (17 people) and of the Homeownership Center of Greater Dayton (five people). We not only collected data at these forums but also tested our methodology.

With what we learned from the initial two forums, we created two types of forums. One was a longer forum in a town hall meeting format. The other was in a shorter focus group format. Our town hall meeting had 80 participants, and we had 22 focus groups with 218 participants.

At the town hall meeting we collected participants' demographics and asked them to complete surveys. We also conducted long discussions of community needs with questions on neighborhoods, housing, transit, employment, and the presence or lack of amenities in the community.

In the focus groups we used short seven-question surveys about discrimination in the housing market, and in some groups we had shorter discussions about community needs. Participants in the focus groups were from community groups or were staff or clients from agencies throughout the county.

Demographics

In the town hall meetings, 80 participants provided demographic information.

Gender: 39 participants identified as female, 38 as male, and 1 as transgendered.

Age: Eleven participants were over 65 years old, eleven were 56–65, 17 were 46–55, eleven were 36–45, 16 were 26–35, and 13 were 18–25.

Race/ethnicity: 51 participants identified as White, 20 as African American, four as other, and three as Asian. Three identified as Hispanic or Latino, and 77 as not Hispanic or Latino.

Income: 36.4% of participants had household incomes that were less than the Area Median Income (AMI) of \$31,650. Of those with incomes below AMI, eleven earned less than \$9,495 (30% of AMI), seven earned between \$9,496 and \$15,825 (50% of AMI), and ten earned between \$15,826 and \$31,650 (100% of AMI).

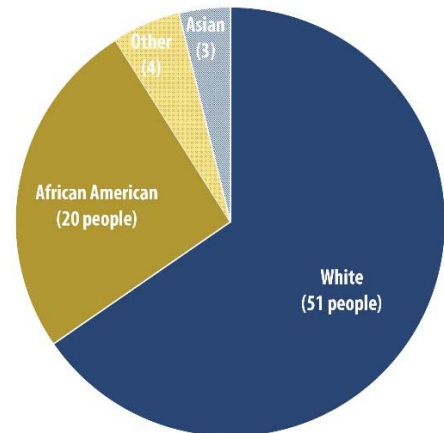


Chart 6.4: Race of town hall participants

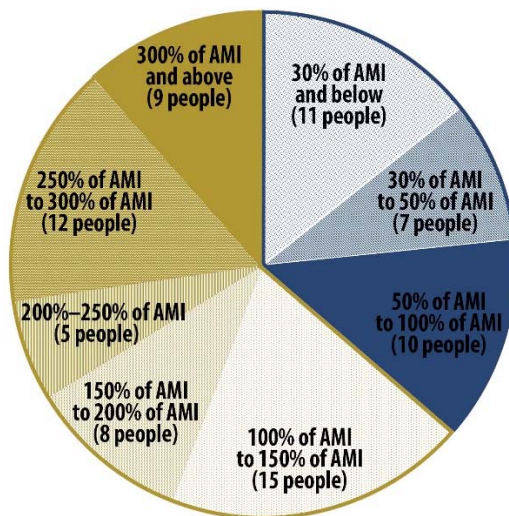


Chart 6.5: Income of town hall participants

63.6% of participants had household incomes greater than AMI. Of those with incomes above AMI, 15 earned between \$31,651 and \$47,475 (150% of AMI), eight earned between \$47,476 and \$63,300 (200% of AMI), five earned between \$63,301 and \$79,125 (250% of AMI), 12 earned between \$79,126 and \$94,950 (\$300% of AMI), and nine earned \$94,951 or more.

Findings

Discrimination based on Protected Class: We asked participants what protected classes they thought faced housing discrimination most often, second most often and third most often.

People selected the following protected classes as the ones facing the most housing discrimination:

- Race/color, cited by 52.6% of participants
- Disability, cited by 20.1%
- Ethnicity/immigrant status (national origin), 9.9%
- Familial status, 7.9%

Weighting participants' first, second, and third choices results in slightly different percentages but in the same order for the top four protected classes:

- Race/color, with a weighted ranking of 35.3%
- Disability, 19.6%
- Ethnicity/immigration status, 15.0%
- Familial status, 10.5%

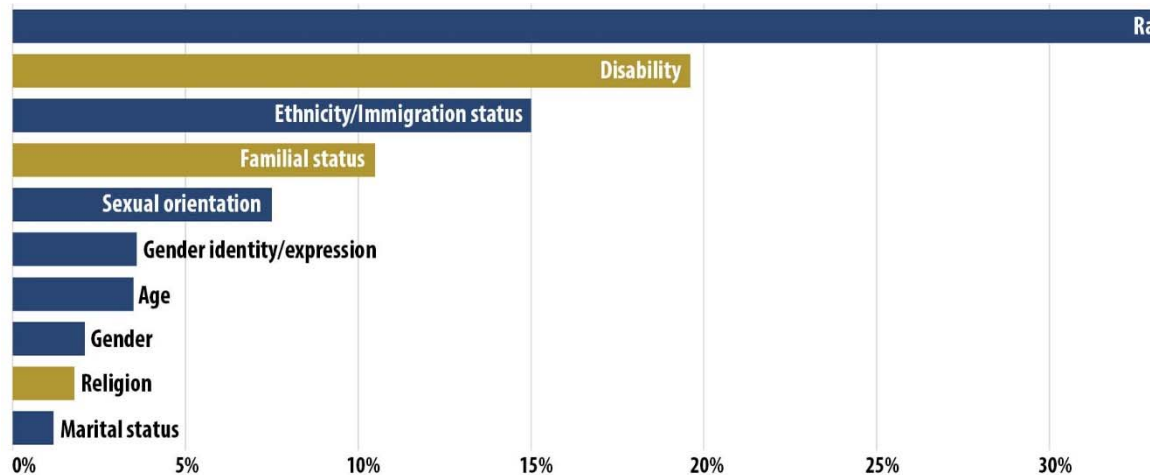


Chart 6.6: Protected classes thought by focus group participants to face the most housing discrimination

51.1% of the participants in the focus groups said they knew someone who thought they may have been discriminated against when looking for housing.

Disability: 24.7% of focus group participants had someone with a disability in their household. Of all attendees, 63.7% believed they would still be able to fully use and enjoy their home if they developed a mobility impairment or disability. When asked how willing they believe local housing providers and housing associations were to grant special requests (reasonable modifications) from people with disabilities to make housing more accessible, 21.8% believed housing providers and associations would be very willing to help, 65.6% believed them hesitant to help, and 12.6% believed providers would be unwilling to make changes.

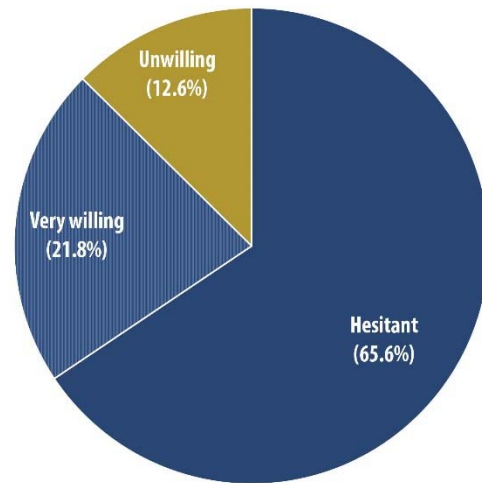


Chart 6.7 Perceived willingness of housing providers to make reasonable modifications

Qualitative Summary of Town Hall Meeting

Participants across all demographic groups considered race/color to be the protected class most often facing housing discrimination. 55% of participants knew someone who had faced housing discrimination.

Only four participants, all of whom earned less than \$31,650 (100% of AMI), had ever requested reasonable accommodations or reasonable modifications.

Majority-female groups more commonly spoke of the importance of good schools when choosing where to live. The consensus of participants across all demographic groups was that the Dayton public school district lagged in quality behind other school districts in the county.

Minorities and older people spoke of the need for community centers, especially for after-school activities for students.

Older people and people with disabilities spoke of the need to be able to remain in their current community rather than having to move for services related to their age or disabilities.

People across all demographic groups spoke of concerns about the amount of blight in the east and west areas of Dayton, commenting that blight hurts Dayton's image and also invite drug and other criminal activity as well as rodent and bug infestations.

Groups of Dayton residents with lower incomes felt that immigrants received favorable treatment because of the city's Welcome Dayton initiative. Higher-income participants said that immigrants faced discriminatory treatment because they feared reprisal or did not know where to seek assistance.

Minorities and LGBT people said they felt unwelcomed by some landlords and that they had been steered to other areas.

People across demographic groups felt that discrimination was more prevalent in renting than in purchasing housing because landlords had preferences as to who lived in their properties.

Two groups discussed the lower property taxes in Dayton, thinking they added to the affordability of housing but detracted from services.

Qualitative Summary of Focus Groups

All groups thought race/color was the protected class most often encountering housing discrimination.

All groups said that good schools were very important when choosing housing.

Most Housing Choice Voucher landlords noted the lack of full-service grocery stores and of shopping in the City of Dayton.

Only three of 20 women in the group from the Dayton chapter of the Women's Council of REALTORS® said that having nearby shopping was important when selecting housing.

The only groups finding neighborhood community centers important were the one comprised of Realtists and the one comprised of members of the Women's Council of REALTORS®.

Focus group participants expressed a need for affordable single-family homes for purchase outside the City of Dayton.

Many people said they thought public transportation was good in the county, but several mentioned the lack of public transportation in Jefferson Township. People mentioned bus stops lacking seating or cover from weather as well as the difficulty of using public transit when carrying multiple packages or trying to get to appointments in a timely manner.

All groups thought that the blighted areas in Dayton were excessive and that removing vacant buildings would reduce crime and increase property values (which would also increase tax revenues).

Most participants did not live in residences accessible to people with disabilities. People commented that much of the housing stock in Dayton, Kettering, and Oakwood is old, not accessible, and costly to make accessible.

C. Interviews with Stakeholders

We asked 26 people—representing a broad spectrum of community stakeholders including elected officials, leaders of businesses and non-profit groups, and staff working in local governments—to participate in interviews about local impediments to fair housing. Of those invited, 16 accepted. They were given 24 questions before the interviews to guide the discussions.

The responses gathered from these one-on-one interviews are not statistically valid, not the result of appropriately-generated random samples, and not necessarily representative of the community as a whole. The responses are instead anecdotal but do represent the informed opinions of people who are responsible for choosing policies that affect fair housing and of people who work to influence and/or implement such policies.

That these stakeholders have such a wide range of understanding and opinions is indicative of the persistent challenges to removing barriers to equal housing opportunity. Despite decades of federal policy requiring recipients of HUD funds to affirmatively further fair housing, not all jurisdictions in Montgomery County are in compliance.

Awareness of Fair Housing Laws

We asked stakeholders how aware they thought themselves to be of fair housing laws. Half felt they were very aware, 44% thought they were somewhat aware, and 6% admitted they were not very aware.

Stakeholders' responses were rather different when we asked how aware local housing providers were of fair housing laws. Only 19% of stakeholders thought that housing providers were very aware, and 75% thought that housing providers were somewhat aware.

Responses shifted even more when we asked stakeholders about the awareness of local citizens regarding fair housing laws. No stakeholder thought local citizens were very aware of fair housing laws, 19% of stakeholders thought citizens were somewhat aware, and 81% of stakeholders thought that local citizens were not very aware.

Potential Housing Discrimination

We asked stakeholders if they knew of people who thought they had faced housing discrimination. Only 38% of stakeholders said they did, while the rest said they did not. We asked stakeholders who did know of such people whether those people had reported the discrimination. Only one stakeholder knew that the incident of discrimination had been reported; the others said either that the discrimination had not been reported or that they did not know if it had been reported.

We asked stakeholders why they thought housing discrimination had not been reported. They said fear of repercussions and not wanting to endure the hassle of reporting and undergoing an investigation.

Desirability of Montgomery County, Dayton, and Kettering as Places to Live

We asked stakeholders whether Montgomery County was perceived as a desirable place to live and why or why not.

56% of stakeholders said the area was perceived as desirable, identifying housing options, an improving job market, the low cost of living, and educational options as reasons why people would find living in the area desirable.

We got more neutral responses from 38% of stakeholders, who said the desirability of the region depended on a person's race, age, and gender.

A majority of stakeholders specified that while the county was desirable, Dayton was not desirable because of its school system and a lack of safety. Others said that only certain areas of Dayton were desirable and that only some schools in Dayton were desirable.

Some stakeholders said that Kettering was desirable but that its population was too predominately White, and we received comments that Kettering had both good schools and affordable housing.

A remaining 6% of stakeholders said that the region was not perceived as desirable because of the low quality of the housing stock and a perceived lack of safety.

Integration by Neighborhood or Jurisdiction

An overwhelming majority of stakeholders (81%) indicated that they viewed neighborhoods in the Miami Valley as segregated, particularly along racial lines; 19% believed that there was a history of segregation but saw some slight improvement. Universally stakeholders could highlight specific neighborhoods where they believed integration was either achieved or nearly achieved, but they continued to express concerns about the amount of segregation remaining throughout the region as a whole.

The stakeholders' most common concern about the City of Dayton was the continuing racial divide between Dayton's east side—predominantly White—and its west side—predominantly African American. Recent immigrants have been settling in the east side. The west side has disproportionate amounts of public housing and poverty. One stakeholder said that Dayton was great for White men and the LGBT community. Belmont (historically), Westwood, and the whole of the west side were noted by stakeholders as especially segregated. Dayton View, Five Oaks, McPherson Town, Old North Dayton, and Wright Dunbar were perceived by stakeholders as more integrated.

The majority (56%) of stakeholders felt that jurisdictions outside of the City of Dayton were all racially segregated. Stakeholders called out as especially segregated the communities of Kettering, Oakwood, Centerville, Jefferson Township, Trotwood, and Washington Township. Some stakeholders perceived Harrison Township, Huber Heights, and Trotwood as more integrated.

Barriers to Housing Choice

We asked stakeholders whether they had observed patterns that created or dismantled barriers to housing choice.

Thirteen percent of stakeholders mentioned public transportation, saying that RTA significantly affects housing patterns and needs to extend its service area to make more housing options available. Stakeholders also spoke of the fight to have RTA routes allowed at the Fairfield Commons and the Greene malls in Greene County but said that moving people out of Montgomery County should not be a priority.

Displacement of neighborhoods and affordable housing for business development was cited by 20% of stakeholders, who pointed to the examples of investment by the University of Dayton and by Premier Health Network. Stakeholders said that moving the family homeless shelter and its associated services from a central location out to Gettysburg Avenue was problematic. Nearly half (48%) of stakeholders thought the region had insufficient choice of housing, particularly safe, decent, and affordable housing, throughout the region.

We asked stakeholders what might be limiting housing choice in the area, and the majority of stakeholders (79%) said transportation and housing cost were the largest factors. Stakeholders cited limited bus routes as restrictions on housing and employment options, especially for moderate and low-income residents. One stakeholder gave the example of a resident of Dayton's West side with a moderate-skill position at Victoria's Secret's call center in Kettering; this person spent four hours each day commuting to and from work. Other stakeholders said that residents of the West side and Jefferson Township feel trapped because they cannot afford housing anywhere else. Another stakeholder said that cheap housing prices are why East Dayton is filling so quickly. One stakeholder said that bedroom size restrictions outside Dayton limited holders of Housing Choice Vouchers to the region's center core.

Almost every stakeholder (94%) said that low-income people had the greatest difficulty in finding housing. One stakeholder said that 15–25% of housing in which low-income residents lived was not fit for human habitation. Another stakeholder estimated that 20–30% of men in homeless shelters worked minimum wage jobs and did not earn enough to afford housing and other basic needs. Stakeholders noted that even holders of Housing Choice Vouchers had problems getting housing; stakeholders also noted that low-income

people without vouchers or with incomes just about the subsidy threshold have particular problems finding quality housing.

About a third of stakeholders said that housing obstacles were heightened for low-income people who were part of a protected class such as familial status or disability. 44% of stakeholders said that familial status, or having children in the household, made finding housing more difficult, especially, 19% of stakeholders said, for single parents. Two stakeholders said that the quality of schools was another obstacle for families with children. About a third of stakeholders noted the difficulty people with disabilities had in finding housing, with one stakeholder commented on the added burden for people with disabilities who have children. 19% of stakeholders also identified having a criminal record as a barrier to obtaining housing.

We asked stakeholders where most new businesses are locating. A quarter of stakeholders said new businesses were generally being started in the south and east parts of the county, with a few specifically pointing out Austin Landing and the Centerville/Washington Township areas. Two stakeholders also said new businesses were locating in northern Vandalia and Union.

Housing Needs for Vulnerable Populations

We asked stakeholders about the housing needs of vulnerable populations—specifically, immigrants, families with children, people with disabilities, the poor, the homeless, and displaced veterans. The overall theme of stakeholders' responses was the importance of connecting people to needed resources and support systems effectively and that the area needed more of those resources.

Almost a third of stakeholders said that the City of Dayton needed affordable housing, saying that housing of high quality than currently available was needed and that more subsidies should be available to low-income households. Stakeholders also raised the issue of better job opportunities for Dayton residents. Five stakeholders noted that immigrants create their own support system by clustering together and that immigrants get support from agencies such as Catholic Social Services. 13% of stakeholders said people with disabilities would do better if connected to the right resources and that more should be done to allow people to age in place. One stakeholder said the drop in property values is more pronounced and lingering in Dayton.

Overwhelmingly stakeholders thought that the homeless and poor are not well served. One stakeholder said that the problem is the focus on supplying housing and not on the outcomes for the residents of the housing. A stakeholder cited the federally-mandated Housing First policy as creating a revolving door of recidivism given that it provides no resources addressing mental health and addiction, problems that if resolved would help residents keep their housing. Another stakeholder noted that many people lack skills that would allow them to hold jobs with living wages and enabled them to afford housing in the long term.

Stakeholders said that more needed to be done about accessibility in Kettering, noting that the elderly and people with disability—especially those on fixed incomes—require more assistance. One stakeholder said that Kettering needed to have a fairer share of housing for the homeless and for displaced veterans.

For Montgomery County, affordability and quality of housing remained a major issue. Homelessness was pointed to as a major concern by 38% of respondents. It was noted progress had been made, but there was more needed. Twenty-five percent of those interviewed said the need to make sure immigrants have support and assistance navigating through the resettlement transition was important. Forty-four percent felt that more needs to be done for the poor, along with de-concentrating poverty within neighborhoods. Accessibility of housing was raised by 25% of respondents, both for new construction and for older housing stock that requires a lot of work done to allow aging in place. One person said there is a need for larger family accommodations and more done for those with mental health issues, while another raised concerns for ex-offender veterans.

“All of the right lip service is paid to a supposed commitment regarding housing for vulnerable populations, but there is little real action” is what one stakeholder said. That stakeholder continued, “each jurisdiction within the county makes a political calculation as to what is the very least they can do to in order to squeak by.”

Many stakeholders expressed concerns along this theme. Jurisdictions would do more than the bare minimum required, said 38% of stakeholders, if Montgomery County had the political will to withhold Community Development Block Grant or Economic Development/Government Equity funds from low-performing jurisdictions.

Housing Loans and Insurance

We asked stakeholders if they knew of issues related to the availability of housing loans. Two people said that Community Reinvestment Act guidelines were too loose and that loans were given to people who cannot afford them. Almost a third of stakeholders said not enough home purchase loans were available and that lending guidelines were too tight. Stakeholders said that large portions of Dayton were effectively redlined by banks' unwillingness to issue mortgages for properties worth less than \$50,000 or \$60,000.

A majority of stakeholders (63%) felt that not enough loans for rehabilitating housing were available.

Stakeholders were also concerned about the lack of focus on lending for low- to moderate-income people. Stakeholders also noted that consolidation in the banking industry limits options for those seeking mortgages.

One stakeholder noted problems with homeowner's insurance, saying that people in certain neighborhoods who had made claims for hail damage had their policies canceled or had their insurance rates escalated to a high-risk category.

Regional Housing Services

We asked stakeholders about Housing Choice Vouchers, public housing, and other subsidized housing. A quarter of stakeholders said these programs were good overall but had some rough patches.

38% of stakeholders noted Greater Dayton Premier Management's five-year waiting list for public housing. Stakeholders said that our area needs more housing subsidized through vouchers or other tenant-based rental assistance. One stakeholder said that vouchers are not distributed equitably throughout the region. Another said that vouchers contributed only marginally to successful outcomes for their holders. A stakeholder said that voucher holders sacrifice choice because of limitations in the voucher program. Another said that landlords face difficulties in navigating the voucher program. One person noted the high eviction rate for voucher holders. Others noted that because of high unemployment rates many voucher holders are unable even to pay the minimum monthly rent contribution of \$50.

Thirteen percent of stakeholders noted the positive impact of Miami Valley Housing Opportunities (MVHO) in its work with the homeless; stakeholders appreciated MVHO's scattered site locations. One stakeholder expressed concerns about the loss of Single Room Occupancy (SRO) options in the area, in particular the 96 SROs to be converted by YWCA into apartments.

Stakeholders agreed that the region had insufficient homeless shelters in the right locations to meet current needs. Stakeholders noted that the St. Vincent's Gateway Shelter for Women and Families and the St. Vincent de Paul Gettysburg Gateway Shelter for Men were in violation of the Olmstead decision regarding the rights of people with disabilities and that the shelters were generally not equipped to provide appropriate services for their clients.

We asked stakeholders whether bus routes and schedules met citizens' needs. Three stakeholders said yes, two were unsure, and six said no. Those who answered positively said that RTA had dramatically improved over the past five years. One person said the routes in Miamisburg were adequate. One stakeholder said that Trotwood should have increased service because of increased demand there. Three stakeholders said that RTA did not necessarily go where people needed, such as to jobs in the north of the county or to the Lohrey Recreation Center from east Dayton. One stakeholder thought RTA should have a spoke-and-wheel route system, and another said that the system was contrived to ensure that poor people could not go where they needed to be.

We asked stakeholders about the cost of transportation. Three stakeholders said outright that transportation is not affordable. Another said it was affordable but not for low-income people. Another said transportation was relatively affordable but that limited routes required too many transfers at additional cost. Another stakeholder thought that transportation costs were affordable.

We asked stakeholders about how public transportation in the region could be changed to give residents greater housing choice. One stakeholder said that routes should be streamlined. Another stakeholder thought bus service should be extended to the new Proctor & Gamble distribution center in Union (expected to create 800 new jobs in 2015).

Government

Forty-four percent of stakeholders said that they believed that local zoning ordinances affected housing choice, specifically by limiting possible siting of affordable housing and

or housing for special needs populations. One stakeholder said that federal law superseding local jurisdictions' ability to deny equal housing opportunities was not adequately enforced. Two stakeholders said that government creates barriers. One noted that robust architectural requirements added cost burdens.

We asked stakeholders to rate the level of cooperation amongst Montgomery County, the City of Dayton and the City of Kettering as either high, moderate, or low. 56% of stakeholders ranked the cooperation as high, 44% ranked it as moderate, and no stakeholder ranked it as low. Half of the stakeholders felt local government officials were very aware of housing needs in the region, but the other half felt that local government officials were only somewhat aware of these needs.

We asked stakeholders to rate the regional leadership of local elected officials in meeting the area's housing needs. 44% of stakeholders described the leadership as strong, while 56% described it as weak.

Finally, we asked stakeholders to select their first, second, and third choices in order of priority from a list of 13 housing-related concerns. We then combined these first, second, and third choices to determine a weighted list of the priorities. Addressing blighted neighborhoods, with a weighted ranking of 25%, was the top priority. Second, at 17.4%, was creating additional options for affordable housing. Addressing low-income families' lack of mobility into better neighborhoods was third, at 15.2%.

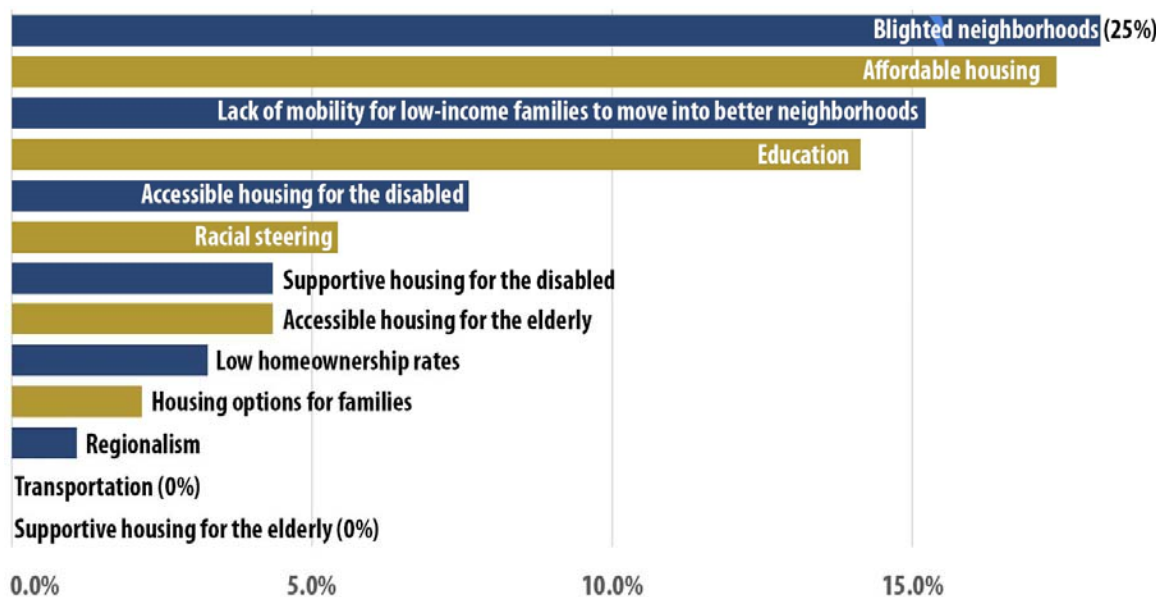


Chart 6.8 Weighted rankings of stakeholders' top housing-related concerns

E. Conclusions

Vacant housing and neighborhood blight, a lack of affordable housing, and low availability of quality housing were the impediments to housing choice most commonly cited by participants in our public involvement process.

The amount of available housing was significantly reduced by the housing crash. Failure of banks to maintain their foreclosed properties made many units unsalvageable and lowered property values, as did the inability of many homeowners to obtain financing for major repairs.

The resulting decline in the tax base reduced jurisdictions' ability to provide services, creating a cycle of decline. Reduced funding for schools, transportation, emergency, and other services made current residents of affected areas less inclined to stay in their homes and deterred others from moving to these areas. In turn businesses disinvest from the areas,

closing amenities such as full-service grocery stores and furthering job loss. Housing discrimination can then be the final barrier, blocking mobility for low-income households and perpetuating poverty and areas of low opportunity.

Transportation is a key factor in removing barriers to housing choice. Public transit affects how long it takes for residents to get to work, school or healthcare, or even whether they can do so. Having to use public transportation to get to full-service groceries affects how and what people eat. RTA should re-evaluate its bus routes to link residents of lower opportunity neighborhoods with areas having new and increasing opportunities.

Affordable housing—both its availability and its geographic dispersal—is another key factor. The long waiting lists for people in desperate need of subsidized housing cause increased homelessness, doubling up of households, families living in cheap substandard housing, and people going without food or medicine having spent most of their income on housing. People who do manage to gain access to existing subsidized housing complexes find themselves in segregated, low-opportunity neighborhoods. Although federal funding limits the availability of Housing Choice Vouchers, Greater Dayton Premier Management could do more to make its voucher program easier for tenants and to encourage landlords in higher-opportunity areas to accept vouchers.

Montgomery County must make local jurisdictions change their zoning so that it no longer restricts affordable housing from being available to families with children or people with disabilities. Local officials should pursue new development funded through Low Income Tax Credits or other subsidies, and they should work to place such developments throughout the county.

Low-quality housing is another barrier to housing choice. Renters in substandard housing are less likely to report code violations or other major problems because they cannot afford to live anywhere else. Homeowners cannot make major repairs and cannot obtain financing for such repairs, often because their properties are now worth less than their mortgages. The area's older housing stock also requires modification for people with disabilities, a growing segment of the population as people age.

These barriers to fair housing, separately and together, lower opportunity and the quality of life in the community and also perpetuate both segregation and poverty. Montgomery County and the cities of Dayton and Kettering must do more to prevent housing discrimination and to integrate neighborhoods so that areas residents have more opportunities and greater housing choice.

Section 7 — Summary of Findings

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

Preparing an AFH is intended to help communities to:

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

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

A. Impediments to Fair Housing Choice

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. The Next Step: The Fair Housing Planning Process

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

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

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

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

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

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

Appendix A — Glossary

ABA	Architectural Barriers Act
ACS	American Community Survey
ADA	Americans with Disabilities Act
AFFH	Affirmatively Furthering Fair Housing

Affirmatively Furthering Fair Housing (AFFH)

Taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act. More specifically, taking steps proactively to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws. For participants subject to the AFFH subpart of the Fair Housing Act, these ends will be accomplished primarily by making investments with federal and other resources, instituting strategies, or taking other actions that address or mitigate fair housing issues identified in an Assessment of Fair Housing and promoting fair housing choice for all, consistent with the policies of the Fair Housing Act.

Affordable housing

In general, refers to housing units that are affordable by households whose income is below the median household income. Also refers to housing for which the occupants are paying no more than 30% of their income for gross housing costs, including utilities. This definition is a requirement for tenancy in most subsidized housing so that the housing is truly affordable for low- to moderate-income families. Some jurisdictions may define affordable housing based on other, locally determined criteria; this definition is intended solely as an approximate guideline or general rule of thumb.

Affordable Housing Program (AHP)

A competitive program of the Federal Home Loan Bank system providing grants twice a year for investment in low- or moderate-income housing initiatives. The program is flexible, so AHP funds can be used in combination with other programs and funding sources, thus promoting a project's feasibility.

Age Age is not a protected class under the federal Fair Housing Act, but it is covered under some state and local laws, including in the State of Ohio and the City of Dayton. Ohio's civil rights law defines age as being at least forty years old (except in credit issues, where age is defined as being at least eighteen years old).

AHP Affordable Housing Program

AHS American Housing Survey

AI Analysis of Impediments

American Community Survey (ACS)

A nationwide survey designed to provide communities with a fresh look at how they are changing, ACS collects information such as age, race, income, commute time to work, home value, veteran status, and other important data from U.S. households.

American Housing Survey (AHS)

Contains data every other year on apartments, single-family homes, mobile homes, vacant homes, family composition, income, housing and neighborhood quality, housing costs, equipment, fuels, size of housing units, and recent movers from a fixed sample of about 50,000 homes, plus new construction each year. Started in 1973 and relying on the same sample since 1985, AHS allows users to view statistical changes in homes and households over the years. In some metropolitan areas, additional samples (every four to six years) measure local conditions.

Americans with Disabilities Act (ADA)

Legislation passed in 1990 prohibiting discrimination against people with disabilities. Under ADA, discrimination against a disabled person is illegal

in employment, transportation, public accommodations, communications and government activities.

Analysis of Impediments (AI)

A review of impediments or barriers affecting the rights of fair housing choice. AIs cover public and private policies, practices, and procedures affecting housing choice. An AI is the basis for fair housing planning, providing essential information to policymakers, administrative staff, housing providers, lenders, and fair housing advocates and assisting in building public support for fair housing efforts.

Ancestry One's lineage, or the people who were in one's family in past times. Ancestry is not a protected class under the federal Fair Housing Act, but it is covered under some state and local laws, including in the State of Ohio and City of Dayton.

Annual income

Three definitions are used in the HOME Program for annual income: one in 24 CFR 5.609, one in the Census Long Form used in the most recent decennial census, and the definition of adjusted gross income as defined in the Internal Revenue Service's Form 1040.

Architectural Barriers Act (ABA)

Legislation passed in 1968 requiring that buildings owned, leased, or financed by the federal government be accessible to people with disabilities. Four federal agencies—the Department of Housing and Urban Development, the Defense Department, the General Services Administration, and the Postal Service—must promulgate design, construction, and alteration standards for buildings within their jurisdictions.

Blighted structure

A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

Brownfield Abandoned, idled, and underused industrial and commercial facilities where expansion and redevelopment is burdened by real or potential environmental contamination.

Building code A set of building construction requirements developed and administered by national and local bodies to ensure that buildings meet certain minimum standards for structural integrity, safety, design, and durability.

CDBG Community Development Block Grant Program

Census tract A small, relatively permanent statistical subdivision of a county or statistically equivalent entity, delineated for data presentation purposes by a local group of census data users or the geographic staff of a regional census center in accordance with Census Bureau guidelines.

Census tract number

A four-digit basic number, optionally followed by a two-digit decimal suffix, used to uniquely identify a census tract within a county or statistically equivalent entity.

CFR Code of Federal Regulations

Citizen Participation Plan (CPP)

The City of Dayton's CPP provides various mechanisms for citizen input assuring an active role in the development, implementation and evaluation of all HUD programs and related documents. Dayton conducts public hearings to gather citizen comments when developing documents required by HUD and, when contacted in advance, attempts to locate and secure interpreters. Dayton holds additional meetings when necessary to get the input of citizens that need interpreters.

Code of Federal Regulations (CFR)

The codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. The CFR is divided into 50 titles representing broad areas subject to federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.

Color The shade of a person's skin. One person might discriminate against another of the same race on the basis of color; for example, a light-skinned African American might discriminate against a dark-skinned African American. Color is a protected class under Title VIII of the Civil Rights Act of 1968.

Community Development Block Grant Program (CDBG)

Program providing grant funds to local and state governments to develop viable urban communities by providing decent housing with a suitable living environment and expanding economic opportunities to assist low- and moderate-income residents. Created under the Housing and Community Development Act of 1974, CDBG replaced several categorical grant programs, such as the Model Cities program, the Urban Renewal program, and the Housing Rehabilitation Loan and Grant program.

Community Planning and Development (CPD)

HUD office that seeks to develop viable communities by promoting integrated approaches that provide decent housing, a suitable living environment, and expand economic opportunities for low- and moderate-income persons. The primary means toward this end is the development of partnerships among all levels of government and the private sector, including for-profit and non-profit organizations.

Community Reinvestment Act (CRA)

Legislation passed in 1977 with the intention of encouraging depository institutions to help meet the credit needs of surrounding communities (particularly low and moderate income neighborhoods).

Condominium

Form of ownership in which the separate owners of individual units jointly own a building or development's common areas and facilities.

Consolidated Plan (CP)

Document written by a state or local government describing the housing needs of the low- and moderate-income residents, outlining strategies to meet these needs, and listing all resources available to implement the strategies. This document is required in order to receive HUD Community Planning and Development funds.

CP	Consolidated Plan
CPD	Community Planning and Development
CPP	Citizen Participation Plan
CRA	Community Reinvestment Act
Density	Average number of dwelling units or persons per gross acre of land, usually expressed in units per acre, excluding any area of a street bordering the outside perimeter of a development site.
Disability	Physical or mental impairment substantially limiting one or more of a person's major life activities. Disability is a protected class under the Fair Housing Amendments Act of 1988, which uses the term "handicap."
ECOA	Equal Credit Opportunity Act
Emergency shelter	Any facility whose primary purpose is providing temporary or transitional shelter for the homeless in general or for specific populations of the homeless.
Emergency Solutions Grant Program (ESG)	A federal CPD program grant designed to help improve the quality of existing emergency shelters for the homeless, to make additional shelters available, to meet the costs of operating shelters, to provide essential social services to homeless individuals, and to help prevent homelessness. ESG also provides short-term homeless prevention assistance to persons at imminent risk of losing their own housing due to eviction, foreclosure, or utility shutoffs.
Equal Credit Opportunity Act (ECOA)	Legislation passed in 1974 making it unlawful for any creditor to discriminate against any applicant with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the

fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act.

Equitable land use planning

Zoning, land use regulation, master planning, and other land use planning that, at a minimum, furthers the purposes of Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act and is intended to achieve additional objectives for expanding housing choice.

ESG Emergency Solutions Grant Program

Fair Housing Act

Legislation passed in 1968 and amended in 1974 and 1988 that prohibits discrimination in all facets of the home-buying process on the basis of race, color, national origin, religion, sex, familial status, or disability. The Department of Housing and Urban Development is charged under the Act with enforcing and investigating fair housing.

Fair Housing Act Amendment (FHAA)

Legislation passed in 1988 amending the Fair Housing Act to extend protections to include the bases of handicap (now more commonly called disability) and familial status (families with children).

Fair Housing and Equal Opportunity (FHEO)

HUD office responsible for administering and enforcing federal fair housing laws and for establishing policies ensuring that all Americans have equal access to the housing of their choice.

Fair Housing Assistance Program (FHAP)

Federal program administered by the Office of Fair Housing and Equal Opportunity that provides funding annually on a noncompetitive basis to state and local agencies that enforce fair housing laws that are substantially equivalent to the Fair Housing Act.

Fair Housing Initiatives Program (FHIP)

Federal program administered by the Office of Fair Housing and Equal Opportunity that provides funding to fair housing organizations and other non-profits that assist people who believe they have been victims of housing discrimination. FHIP is the only federal grant program whose purpose is to support private partnerships in preventing and overcoming housing discrimination.

Fair market rent (FMR)

Used primarily to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

Fair market value

Amount of money that would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy.

Familial status

Refers to situations in which one or more persons under age 18 live with parent(s) or legal guardian(s) as well as to situations involving pregnancy or adoption. Familial status is a protected class under the Fair Housing Amendments Act of 1988.

Federal Financial Institutions Examination Council (FFIEC)

Interagency body of the federal government made up of several financial regulatory agencies. FFIEC prescribes uniform principles, standards, and report forms for the federal inspection of financial institutions. Created in 1979, FFIEC is meant to promote consistent and uniform standards for financial institutions.

Federal Housing Administration (FHA)

Provides mortgage insurance on loans made by approved lenders throughout the United States and its territories. FHA insures mortgages on single-family, multifamily, and manufactured homes and hospitals. It is the

largest insurer of mortgages in the world, insuring over 34 million properties since its inception in 1934.

Federal Register

Official daily publication for rules, proposed rules, and notices of federal agencies as well as executive orders and other presidential documents. Published by Office of the Federal Register, National Archives and Records Administration.

FFIEC Federal Financial Institutions Examination Council

FHA Federal Housing Administration

FHAA Fair Housing Amendment Act

FHAP Fair Housing Assistance Program

FHEO Fair Housing and Equal Opportunity

FHIP Fair Housing Initiatives Program

FMR Fair market rent

Gender See Sex.

Gender identity

The gender-related identity, appearance, mannerisms or other characteristics of an individual, regardless of the individual's designated sex at birth. Gender identity not a protected class under the federal Fair Housing Act, but it is covered under some state and local laws, including in the City of Dayton.

Gross annual income

Total income, before taxes and other deductions, received by all members of a tenant's household. Includes all wages, Social Security payments, retirement benefits, military and veteran's disability payments,

unemployment benefits, welfare benefits, interest and dividend payments, and such other income items deemed appropriate by HUD.

Handicap See Disability.

HCV Housing Choice Voucher

HMDA Home Mortgage Disclosure Act

HOME HOME Investment Partnerships Program

HOME Investment Partnerships Program (HOME)

Provides formula grants to states and localities that communities use—often in partnership with local non-profit groups—to fund a wide range of activities that build, buy, and/or rehabilitate affordable housing for rent or homeownership or to provide direct rental assistance to low-income people.

Home Mortgage Disclosure Act (HMDA)

Legislation passed in 1975 requiring certain financial institutions to provide mortgage data to the public.

Homeless Lacks a fixed, regular, and adequate nighttime residence, or having a primary nighttime residence that is either a supervised publicly or privately operated shelter designed to provide temporary living accommodations, an institution that provides a temporary residence for individuals intended to be institutionalized; or a public or private place not designed for, or ordinarily used as, regular sleeping accommodation for human beings.

Homeless prevention

Activities or programs designed to prevent the incidence of homelessness, including, but not limited to: (1) short-term subsidies to defray rent and utility arrearages for families that have received eviction or utility termination notices; (2) security deposits or first month's rent to permit a homeless family to move into its own apartment; (3) mediation programs for landlord-tenant disputes; (4) legal services programs that enable representation of indigent tenants in eviction proceedings; (5) payments to

prevent foreclosure on a home; and (6) other innovative programs and activities designed to prevent the incidence of homelessness.

Homeownership Zone Program (HOZ)

Allows communities to reclaim vacant and blighted properties, increase homeownership, and promote economic revitalization by creating entire neighborhoods of new, single-family homes, called HOZs.

Household The related family members and any unrelated people such as lodgers, foster children, or wards who share a housing unit. A person who lives alone in a housing unit is also considered a household, as is a group of unrelated people such as roommates that shares a housing unit.

Housing And Urban Development, U.S. Department of (HUD)

A cabinet department created in 1965 with the mission of increasing homeownership, supporting community development, and increasing access to affordable housing free from discrimination. To fulfill this mission HUD embraces high standards of ethics, management, and accountability and forges new partnerships—particularly with faith-based and community organizations—that leverage resources and make HUD more effective on the community level.

Housing Choice Voucher (HCV)

Federal program assisting very low-income families, the elderly, and people with disabilities to afford decent, safe, and sanitary housing in the private market.

Housing Opportunities for Persons With AIDS (HOPWA)

Federal program providing housing assistance and supportive services to low-income people with HIV/AIDS and to their families. HOPWA funds may also be used for health care and mental health services, chemical dependency treatment, nutritional services, case management, assistance with daily living, and other supportive services.

Housing stock

The number of existing housing units in some point in time based on data compiled by the Census Bureau.

HOZ	Homeownership Zone Program
HRC	Human Relations Council
HUD	U.S. Department of Housing and Urban Development

Human Relations Council (HRC)

The agency in the City of Dayton established in 1962 that enforces civil rights; provides business and technical assistance to minority-owned, woman-owned and small disadvantaged businesses; administers community relations initiatives that promote and maintain peace, goodwill and harmony; assists in reducing inter-group tensions; and ensures equality of treatment and opportunity of all people in Dayton. HRC is recognized by HUD as a FHAP.

Land bank

Governmental or non-governmental non-profit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

Land development

The process of making, installing, or constructing improvements.

LGBT Lesbian, gay, bisexual and transgender.

LIHTC Low-Income Housing Tax Credit

LMI Low to moderate income

Low to moderate income (LMI)

Under the Section 8 Housing Assistance Payments program, low income is income that is less than 50% of area median income, and moderate income is income that is less than 80% of area median income.

Low-Income Housing Tax Credit (LIHTC)

Federal program administered by the states that provides tax incentives to owners of newly-constructed or substantially rehabilitated low-income rental housing projects.

Marital status

Refers to being single, married, divorced, or widowed. Marital status is not a protected class under federal law but is covered by some state and local laws, including in the City of Dayton.

Market value

The most probable price that a property should bring in a competitive and open market, provided that all conditions requisite to a fair sale are present, the buyer and seller are knowledgeable and acting prudently, and the price is not affected by any undue stimulus.

Metropolitan Statistical Area (MSA)

Area with at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core, as measured by commuting ties.

Miami Valley Fair Housing Center, Inc. (MVFHC)

A private non-profit fair housing organization established in 1993 with the mission of eliminating housing discrimination and ensuring equal housing opportunity for all people in Montgomery, Greene, Miami, and Clark counties in Ohio.

Military status

Refers to a person's engagement in the uniformed services including the armed forces, the Ohio organized militia, and the national guard. Military status is not a protected class under federal law but is covered by some state and local laws, including in the State of Ohio.

Minority neighborhood

Neighborhood in which the percentage of persons of a particular racial or ethnic minority is at least 20 points higher than that minority's percentage in the housing market as a whole; in which the neighborhood's total percentage of minority persons is at least 20 points higher than the total

percentage of minorities for the housing market area as a whole; or, in the case of a metropolitan area, in which the neighborhood's total percentage of minority persons exceeds 50% of its population.

Minority-owned business

Business in which more than 50% of the ownership or control is held by one or more minority individuals and in which more than 50% of the net profit or loss of which accrues to one or more minority individuals.

Moderate income

Households with incomes between 81% and 95% of the median income for the area, as determined by HUD, with adjustments for smaller or larger families. HUD may establish income ceilings higher or lower than 95% of the median for the area if HUD finds that such variations are necessary because of prevailing levels of construction costs, fair market rents, or unusually high or low family incomes.

MSA Metropolitan Statistical Area

MVFHC Miami Valley Fair Housing Center, Inc.

National Fair Housing Alliance (NFHA)

A private non-profit fair housing organization established in 1988 that works to eliminate housing discrimination and to ensure equal housing opportunity for all people through leadership, education and outreach, membership services, public policy initiatives, advocacy, and enforcement. A consortium of more than 220 private, non-profit fair housing organizations, state and local civil rights agencies, and individuals, NFHA is the only national organization dedicated to ending discrimination in housing.

National origin

Refers to the country in which a person was born or from which the person's ancestors came. National origin is a protected class under Title VIII of the Civil Rights Act of 1968.

NFHA National Fair Housing Alliance

Non-profit housing organization

Any private organization organized under state or local laws that has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual and has a long-term record of service in providing or financing quality affordable housing for low-income families through relationships with public entities.

OCRC Ohio Civil Rights Commission

Ohio Civil Rights Commission (OCRC)

A state commission formed in 1959 whose primary function is to enforce state laws about discrimination. OCRC is recognized by HUD as a FHAP.

Owner Any private person or entity—including a cooperative, an agency of the federal government, or a public housing agency—having the legal right to lease or sublease dwelling units.

PBRA Project-Based Rental Assistance

PHA Public Housing Agency

Project-Based Rental Assistance (PBRA)

Subsidies given by HUD to private rental property owners, or with Public Housing Agencies in specific rehabilitation programs, to rent some or all units in their housing developments to low-income families. Compare Tenant-Based Rental Assistance.

Public Housing Agency (PHA)

Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the U.S. Housing Act of 1937.

Real Estate Owned (REO)

A term used to describe a class of property owned by a lender—typically a bank, government agency, or government loan insurer—after an unsuccessful sale at a foreclosure auction.

Race A group of people coming from the same common ancestors (for example, Blacks or African Americans, Whites or Caucasians). Race is a protected class under Title VIII of the Civil Rights Act of 1968.

Rehabilitation

The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs. The term includes changing the use of a building to an emergency shelter when the cost of this change and any rehabilitation costs does not exceed 75% of the value of the building before the change in use.

Religion A person's religion faith, observance, and practice. Religion is a protected class under Title VIII of the Civil Rights Act of 1968.

Renovation Rehabilitation involving costs of 75% or less of the value of the building before rehabilitation.

REO Real Estate Owned

Section 202 Federal program providing capital advances to finance the construction, rehabilitation, or acquisition (with or without rehabilitation) of structures that will serve as supportive housing for very-low-income elderly persons, including the frail elderly, and providing rent subsidies for the projects to help make them affordable.

Section 8 Existing Rental Assistance

Federal program providing rental assistance to low-income families who are unable to afford market rents. Assistance may be in the form of vouchers or certificates.

Section 8 Homeownership Program

Federal program allowing low-income families who qualify for Section 8 rental assistance to use their certificates or vouchers to pay for homeownership costs under a mortgage.

Section Eight Management Assessment Program (SEMAP)

Federal program that measures the performance, in 14 key areas, of PHAs that administer the Housing Choice Voucher program. SEMAP helps HUD target monitoring and assistance to PHA programs that need the most improvement.

SEMAP Section Eight Management Assessment Program

Sex A person's gender (male, female, or other) and gender expression. Sex is a protected class under Title VIII of the Civil Rights Act of 1968. Conditions related to pregnancy or childbirth are also covered under the protected class of sex.

Sexual orientation

Whether one is heterosexual, gay, lesbian, or bisexual. Sexual orientation is not a protected class under federal law but is covered under some state and local laws, including in the City of Dayton.

Single family property

Residence for one household, detached or attached to other housing structures.

Source of income

Refers to lawful, verifiable income paid directly to a tenant. Source of income is not a protected class under federal law but is covered under some state and local laws.

Supportive Housing for the Elderly

Housing designed to meet the special physical needs of elderly persons and to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

Supportive Housing Program

Federal program designed to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the

provision of supportive housing to homeless persons to enable them to live as independently as possible.

Sustainable Communities

Urban, suburban, and rural places that successfully integrate housing, land use, economic and workforce development, transportation, and infrastructure investments in a manner that empowers jurisdictions to consider the interdependent challenges of: 1) economic competitiveness and revitalization; 2) social equity, inclusion, and access to opportunity; 3) energy use and climate change; and 4) public health and environmental impact.

TBRA Tenant-Based Rental Assistance

Tenant-Based Rental Assistance (TBRA)

Subsidies given by HUD to low- and very low-income families to assist them in obtaining decent, safe, and sanitary housing in private accommodations by making up the difference between what they can afford and the approved rent for adequate housing units. Compare Project-Based Rental Assistance.

TOD Transit-Oriented Development

Transitional housing

Projects to facilitate the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

Transit-Oriented Development (TOD)

Development of commercial space, housing services, and job opportunities close to public transportation, thereby reducing dependence on automobiles. TODs are typically designed to include a mix of land uses within a quarter-mile walking distance of transit stops or core commercial areas.

Vacant unit Dwelling unit that has been vacant for not less than nine consecutive months.

Very low income

Households whose incomes do not exceed 50% of the median area income for the area, as determined by HUD, with adjustments for smaller and larger families and for areas with unusually high or low incomes or where needed because of facility, college, or other training facility; prevailing levels of construction costs; or fair market rents.

Zoning The classification of land by types of uses permitted and prohibited in a given district and by densities and intensities permitted and prohibited, including regulations regarding building location on lots.

Appendix B — About the Miami Valley Fair Housing Center

Established in 1993, the Miami Valley Fair Housing Center (MVFHC) is the only private non-profit fair housing organization within a 14-county area. MVFHC has extensive experience both in education and outreach and in investigation and enforcement related to fair housing, fair lending, and foreclosure prevention. MVFHC serves consumers of and providers of residential housing products. MVFHC educates people about their rights and responsibilities under fair housing and fair lending laws, and MVFHC helps people who may have faced housing or lending discrimination or who are facing foreclosure.¹

The Department of Housing and Urban Development (HUD) recognizes MVFHC as a Qualified Fair Housing Organization² and has supported MVFHC's work from 2000 through the present with a series of grants under HUD's Fair Housing Initiatives Program.³ MVFHC has consistently received the highest evaluation score, Excellent, on all of HUD's evaluations for its grant work.

The HomeOwnership Center of Greater Dayton has been a key partner of MVFHC, joining with MVFHC to work on predatory lending, fair lending, and foreclosure mitigation. In years in which MVFHC has received HUD grants related to this work, MVFHC has subcontracted with the HomeOwnership Center for financial and homeownership counseling for clients, and in other years, the HomeOwnership Center has used funds received from NeighborWorks America to subcontract with MVFHC for legal counseling for clients.

Montgomery County, the City of Dayton, and the City of Kettering have supported MVFHC in its work since its inception by providing funding through the Community Development Block Grant (CDBG) program for comprehensive full-service fair housing enforcement and education services, including fair housing testing.⁴

In addition to receiving CDBG funds from Dayton, MVFHC has also received funds from HUD's Fair Housing Assistance Program (FHAP) through a partnership with Dayton's Human Relations Council (HRC). Because HUD considers Dayton's non-discrimination ordinance to be substantially equivalent to federal fair housing laws, HRC is eligible for FHAP funds. In 2012 HUD started a program to support partnerships between FHAP and FHIP agencies, and HRC and MVFHC were awarded a grant for implementation of the city's Welcome Dayton program for immigrant and refugee populations.

The City of Springfield has contracted with MVFHC since 1999 for the provision of fair housing testing services.

MVFHC has been an operating member of the National Fair Housing Alliance (NFHA) since 1993, and Jim McCarthy, MVFHC's President/CEO, served as chair of NFHA's board from 2006 to 2015. MVFHC's staff has gained significant knowledge from NFHA training sessions and conferences, and MVFHC regularly partners with NFHA and others of its operating members in national systemic investigations.

MVFHC uses monies obtained in settlements of its discrimination cases to further fair housing activities, seeking permission to do so from HUD for monies from cases brought under HUD grants.

In 2013 Wells Fargo paid MVFHC \$1.4 million to settle a case that MVFHC—in partnership with NFHA and other NFHA member agencies—brought against Wells Fargo alleging discrimination in the maintenance of bank-owned foreclosed properties in minority neighborhoods. MVFHC used the settlement monies to establish the Inclusive Community Fund, which provided grants designed to help mitigate damage in two key neighborhoods most affected by the foreclosure crisis. The grants, developed under the guidance of a community advisory panel, were for:

- Down payment assistance for people buying residences in those neighborhoods.
- Critical home repair to alleviate safety issues and code violations, especially in homes of seniors and veterans.
- Home rehabilitation of houses occupied by owners with income below 200% of area median income (AMI).
- Accessibility modifications for houses occupied by owners who are elderly or have disabilities and whose income is at or below AMI.
- Quality of life grants for small projects by local groups in the neighborhoods (for example, a new neighborhood playground).
- Capacity building assistance for the Wesley Community Center.

In 2012 MVFHC purchased a building at 505 Riverside Drive, in a mainly residential area just north of downtown Dayton within two blocks of local bus routes. MVFHC works at being a good partner with its immediate neighbors and with the larger community, allowing neighborhood residents to use its facilities during neighborhood cleanup projects and allowing community organization including LGBT groups and the local autism society to meet in its building.

¹ These activities are in support of MVFHC's mission and vision statements, which can be found online at http://www.mvfairhousing.com/mission_statement.php.

² Fair Housing Initiatives Program: Definitions, 24 C.F.R. § 125.103 (2004). Retrieved from <http://www.gpo.gov/fdsys/granule/CFR-2004-title24-vol1/CFR-2004-title24-vol1-sec125-103>.

³ What is the Fair Housing Initiatives Program (FHIP)? U.S. Department of Housing and Urban Development. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/partners/FHIP/fhip.

⁴ For more information about the use of testing in fair housing enforcement and research, see: Fudge, K. Paired Testing and the Housing Discrimination Studies. *Evidence Matters: Transforming Knowledge into Housing and Community Development Policy*, Spring/Summer 2014, 12–15. U.S. Department of Housing and Urban Development. Retrieved from http://www.huduser.org/portal/periodicals/em/EM_Newsletter_spring_2014.pdf.

Appendix C — Scope of Services

The Miami Valley Fair Housing Center (MVFHC) proposed the following scope of services in its May 2014 bid to Montgomery County, the City of Dayton, and the City of Kettering to do their Analysis of Impediments:

Project Approach and Methodology

The Miami Valley Fair Housing Center (MVFHC) will utilize a comprehensive methodology that will include:

- Conducting thorough reviews of pertinent data, including but not limited to statistical information and public policies and practices;
- Analyzing data, including the creation of tables and illustrations to highlight significant factors or trends;
- Public Hearings or Focus Groups to learn what members of the general public view as significant housing issues; and
- Conducting structured interviews of individuals and organizations representing a variety of viewpoints, including governmental employees, non-profit community service providers, and professionals in the housing industry that are pivotal in the implementation of fair housing and affordable housing, as well as those individuals or organizations suggested by each jurisdiction.

All data sources that will be utilized in the analysis will be credible sources of information, such as the U.S Census Bureau, and as close to the original source of information as feasible.

Project Scope and Deliverables

In completing the Analysis of Impediments to Fair Housing MVFHC will examine the following areas of each municipality (Montgomery County, OH; the City of Dayton, OH and the City of Kettering, OH):

- The planning, zoning, public transportation, access to amenities and services and the practices of the Dayton Metropolitan Housing Authority;
- Population demographics, such as race, age, the presence of children or disability within a household, and population migration patterns;
- Economic climate, including employment issues, income and poverty;
- Housing data, such as the available private and public housing stock, affordability, housing for persons with disabilities, real estate sales, as well as lending, property appraisal and foreclosure occurrence;

- Barriers to affordable housing, including the impact of such organizations as County Corp, CityWide Development, and other Community Development Corporations in reducing such barriers;
- Existing or prior fair housing activities, including an assessment of the impact of these prior activities upon fair housing impediments identified in 2010; and
- Current impediments to fair housing, along with suggested methods to address such impediments.

In addition, MVFHC will use its unique role as the only private, non-profit fair housing organization in the Miami Valley to add a special testing component to the Scope of Services for this AI. This component will identify issues relevant to how the various housing markets in Montgomery County, the City of Dayton and the City of Kettering function in relation to one another. This is in line with HUD's *Fair Housing Planning Guide* which promotes testing as a good way to round out a comprehensive analysis of impediments.¹ The following details this segment of the Scope of Services.

Testing for Housing Discrimination

Housing discrimination is rarely a transparent activity. Frequently the only way in which it can be detected is through fair housing testing. Testing uses individuals to simulate a housing search experience and gather objective information that allows comparison of the treatment of individuals as well as a review of the statements, policies, and practices of housing providers. Testing as a way to uncover housing discrimination has been approved by the U.S. Supreme Court. Testing can be used for enforcement purposes, or to take a snapshot of the market at a given time. The methodology is the same. MVFHC is already providing testing services within Montgomery County and the City of Kettering, and will be able to report on these existing testing activities and provide insight on the impact of the testing results and its impact upon the impediments to fair housing choice within Montgomery County and the City of Kettering.

MVFHC currently provides fair housing testing services within all three jurisdictions that are participating in the regional approach to the AI. This too uniquely positions MVFHC to be able to conduct a series of housing discrimination tests examining various issues and basis of potential housing discrimination.

Montgomery County currently contracts through its CDBG program for MVFHC to conduct "thirty-six random tests" per fiscal year. Montgomery County Community Development officials have agreed that for the purposes of including random testing from Montgomery County as part of the AI, the same tests that MVFHC conducts under the

CDBG contract, will be utilized and analyzed and reported upon in the AI. Given the time frame of the AI, this will mean that a portion of the tests from MVFHC's 2013-2014 CDBG contract, as well as a portion of the tests from MVFHC's 2014-2015 CDBG contract, will be used for the AI.

The City of Kettering currently contracts through its CDBG program for MVFHC to conduct "an average of two (2) random tests per month" per fiscal year. Kettering Community Development officials have agreed that for the purposes of including random testing from the City of Kettering as part of the AI, the same tests that MVFHC conducts under the CDBG contract, will be utilized and analyzed and reported upon in the AI. Given the time frame of the AI, this will mean that a portion of the tests from MVFHC's 2014 CDBG contract, as well as a portion of the tests from MVFHC's 2015 CDBG contract, will be used for the AI.

The City of Dayton currently contracts for MVFHC to conduct a certain number of random tests in the City of Dayton, through various contracts for service. Dayton HRC's Executive Director has agreed that for the purposes of including random testing from the City of Dayton as part of the AI, the some of the same tests that MVFHC conducts under the existing contracts or the FHAP partnership contract, will be utilized and analyzed and reported upon in the AI. Testing in the City of Dayton will be done with a focus on persons with felonies, communities with high concentrations of single parent female headed households, immigrant and refugee populations, and the Lesbian, Gay, Bisexual, and Transgender community.

From its examination, MVFHC will create a thoroughly documented and well-organized analysis, providing detailed and essential information regarding the current state of fair housing and affordable housing within Montgomery County, specifically identifying issues relevant to the City of Dayton and the City of Kettering, and what remains to be done in order to make fair housing a reality for all regardless of race, color, national origin, religion, gender, familial status or disability. MVFHC will also examine the additional protected classes of sexual orientation and gender identity or expression within the City of Dayton. The analysis will contain a table of contents, executive summary, and figures, maps and tables to illustrate significant factors or trends.

Project Schedule and Timing

Considering the population size, area covered, and the role of each jurisdiction within Montgomery County, MVFHC anticipates a minimum of 2,125 work hours in research, testing, and analysis, drafting and finalizing the comprehensive analysis. The MVFHC

estimates 365 calendar days to complete the project. In order to meet a completion date of June 30, 2015, in combination with existing and projected workload; MVFHC would need to be under contract to begin work on the project by July 1, 2014.

Potential Services Requested from Montgomery County, the City of Dayton, and the City of Kettering

In completing the project, MVFHC will request, from each jurisdiction, access to and/or copies of such information as: the Consolidated Annual Performance Report (CAPR), the Zoning Map and Zoning Code, Long Range Planning or Comprehensive Land Use Plan, and other pertinent data from the following:

- Montgomery County's Departments of Community & Economic Development, County Corp, and Family & Children First Council;
- The City of Dayton's Departments of Building Services, Economic Development, Human Relations Council, Law, and Planning and Community Development;
- The City of Kettering's Departments of Building & Zoning, Economic Development, Housing Opportunities, Law, and Planning & Development.

MVFHC also anticipates requesting interviews with various elected officials from each jurisdiction and several key staff members from each jurisdiction.

¹ Chapter 4: Requirements and Guidelines for Entitlement Jurisdictions, 4-10. *Fair Housing Planning Guide* (vol. 1). U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity. Retrieved from <http://www.hud.gov/offices/fheo/images/fhpg.pdf>.

Appendix D — Advisory Committee

This Analysis of Impediments was prepared under the guidance of an advisory committee comprised of the following people:

- Ellen Belcher, Board Member, Miami Valley Fair Housing Center
- Catherine Crosby, Executive Director, City of Dayton Human Relations Council
- Matt Dunn, Community & Economic Development Specialist, Montgomery County Community & Economic Development Department
- Jennifer Heapy, Executive Director, Greater Dayton Premier Management
- Jim McCarthy, President/CEO, Miami Valley Fair Housing Center
- Matti Seege, Chair, board of the Miami Valley Fair Housing Center
- Joshua Ward, Civil Rights Specialist, City of Dayton Human Relations Council
- Angela Williams, Community Development Manager, City of Kettering Planning and Development Department
- Randy Wilson, Fair Housing Specialist, Miami Valley Fair Housing Center
- John Zimmerman, Vice President, Miami Valley Fair Housing Center.

Appendix E — Survey Results

In order to gather data from the public for this Analysis of Impediments, the Miami Valley Fair Housing Center (MVFHC) conducted an online survey entitled “Fair Housing and Housing Obstacles.” MVFHC used LimeSurvey, an open-source, free software application developed by Carsten Schmitz.¹

Below and following are each question asked in the survey along with tables and graphs of the answers received and each of the text responses received.

Question 1

The Fair Housing Act protects people from being treated differently or denied housing because of race, religion, color, sex, disability, familial status and national origin. For example, if a housing provider charged a higher rent or rate for families because of children or charged an additional security deposit for a service or companion animal for a person with a disability. What do you believe are the top 3 protected classes that experience discrimination?

Answer	Count	Percentage
Race	53	68.8%
Religion	9	11.7%
Color	23	29.9%
Sex	14	18.2%
Disability	38	49.4%
Familial status	33	42.9%
None of these	6	7.8%

Table E.1: Question 1 answers

Question 2

The state of Ohio adds protections for ancestry and military status. The City of Dayton also has protections for age, sexual orientation/gender identity and marital status. Of these state and local protections, what do you believe are the top 2 protected classes that experience housing discrimination issues in the City of Dayton?

Answer	Count	Percentage
Ancestry	25	32.5%
Military status	6	7.8%
Age	26	33.8%
Sexual orientation/ Gender identity	45	58.4%
Marital status	16	20.8%
None of these	13	16.9%

Table E.2: Question 2 answers

Question 3

What do you see as the biggest barriers to housing in the area?

Answer	Count	Percentage
Cost of housing/affordable housing	35	45.5%
Transportation - whether people can get to where they need to go quickly and easily	21	27.3%
Healthcare - cost and access to care	3	3.9%
Accessible housing for people with disabilities	15	19.5%
Vacant housing/neighborhood blight	47	61.0%
Racial profiling	14	18.2%
Quality of housing available	30	39.0%
Ability to get a mortgage	19	24.7%
Access to quality education	13	16.9%
Other	5	6.5%

Table E.3: Question 3 answers

Other:

- slumlords perpetuating crime and blight
- gainful employment
- ability to fix up homes, no rehab dollars available via city or banks because of equity/recession - not enough jobs that pay well
- Lenders giving money to people who can't afford it.

Question 4

Have you experienced housing discrimination?

Answer	Count	Percentage
Yes	11	14.3%
No	66	85.7%

Table E.4: Question 4 answers

If yes, explanations provided:

- Unreasonable requests for information and numerous delays in processing a loan as I was a divorced mother of two
- Not sure if it's discrimination but while searching for a house to rent, I came across a few that wanted to charge extra for my children, pets and automobiles.
- Credit
- Many years ago, a landlord would not rent to my gay partner and I. Not a one-bedroom unit, not a two-bedroom unit, not even a three-bedroom unit (all of which we could afford). Eventually, he simply said he would not rent any unit to us.
- Required to show marriage certificate to have access to two bedroom housing versus a unit with one bedroom.
- Credit Score hindered me from being considered to purchase a home even though I WAS PAYING IN CASH!
- Have been turned down due to sexual orientation
- When in the southern states of US, we see discrimination because of the old south still fighting the war with the north. This is usually in the small rural cities.
- The housing that is available to those receiving assistance are all in not so great areas. "Fair Housing" should be available everywhere. I do not want to sacrifice the quality of education or the safety of my children because I temporarily need assistance. Miami Valley should put forth a better effort in making these choices available!
- mortgage hassle by loan officer after he said the loan was approved
- A previous landlord inquired to my children and then proceed to tell me they would not rent to nontraditional families.

Question 5

Does anyone in your household have a disability?

Answer	Count	Percentage
Yes	8	10.4%
No	69	89.6%

Table E.5: Question 5 answers

Question 6

(Asked only if answer to question 5 was yes) If you, or someone else in your household, has a disability, how did that affect your housing search?

Answer	Count	Percentage
It was not an issue	7	87.5%
It was harder to find housing	0	0.0%
Other	1	12.5%

Table E.6: Question 6 answers

Other:

- Have not moved since

Question 7

Have you ever been turned away from housing because you requested accommodations (changes in policy) or modifications (structural changes to unit) because of a disability?

Answer	Count	Percentage
Yes	0	0.0%
No	8	100.0%

Table E.7: Question 7 answers

Question 8

If someone in your household developed a mobility impairment or disability, such as needing the aid of a cane, walker or wheelchair, would they still be able to fully use and enjoy your home?

Answer	Count	Percentage
Yes	24	31.2%
No	41	53.2%
Not sure	12	15.6%

Table E.8: Question 8 answers

Question 9

How do you feel the schools in your neighborhood are rated?

Answer	Count	Percentage
1: Low quality	16	20.8%
2	9	11.7%
3: Average	18	23.4%
4	18	23.4%
5: High quality	16	20.8%
Arithmetic mean:		3.12
Standard deviation:		1.42

Table E.9: Question 9 answers

Question 10

Were school options and quality a factor in your housing search/choice?

Answer	Count	Percentage
Yes	40	51.9%
No	37	48.1%

Table E.10: Question 10 answers

Question 11

How far away is the closest grocery (not gas station or convenience store) from your home?

Answer	Count	Percentage
Less than 1 mile	25	32.5%
2–3 miles	33	42.9%
4–5 miles	12	15.6%
6–8 miles	6	7.8%
More than 8 miles	1	1.3%

Table E.11: Question 11 answers

Question 12

How far away is the nearest hospital?

Answer	Count	Percentage
Less than 10 minutes	46	59.7%
11–20 minutes	25	32.5%
20–30 minutes	4	5.2%
More than 30 minutes	2	2.6%

Table E.12: Question 12 answers

Question 13

Is there a community center in your neighborhood?

Answer	Count	Percentage
Yes	34	44.2%
No	27	35.1%
I don't know	16	20.8%

Table E.13: Question 13 answers

Question 14

What type of transportation do you use most often in a week?

Answer	Count	Percentage
Walking	0	0.0%
Bike	1	1.3%
Public transportation/bus	1	1.3%
Car	75	97.4%
Rely on others for rides	0	0.0%
Other	0	0.0%

Table E.14: Question 14 answers

Question 15

Rate how well you can get to where you need to regularly go (work, health care, school, grocery, etc.).

Answer	Count	Percentage
< 10 minutes	14	18.2%
11–15 minutes	27	35.1%
16–25 minutes	21	27.3%
26–35 minutes	7	9.1%
36–60 minutes	4	5.2%
61–90 minutes	2	2.6%
91–120 minutes	2	2.6%
> 120 minutes	0	0.0%

Table E.15: Question 15 answers

Question 16

Is there anything you cannot do with your current transportation options or where transportation has limited your housing options?

Answer	Count	Percentage
Yes	4	5.2%
No	69	89.6%
Not sure	4	5.2%

Table E.16: Question 16 answers

If yes, explanations provided:

- Bus options are horrible.
- I cannot walk to many amenities. I live in Kettering.
- I avoid areas that do not have bus service. Even though I have a car I like to have that option.
- Children unable to ride bus

Question 17

The last time you moved, or in your current housing search, did you look in the same neighborhood that you were living in at the time?

Answer	Count	Percentage
1: Major factor	7	9.1%
2	8	10.4%
3	23	29.9%
4	15	19.5%
5: Not a factor	24	31.2%
Arithmetic mean:		3.53
Standard deviation:		1.28

Table E.17: Question 17 answers

Question 18

Have you ever felt unwelcome in a particular neighborhood in the Dayton area?

Answer	Count	Percentage
Yes	30	39.0%
No	47	61.0%

Table E.18: Question 18 answers

Question 18a

(Asked only if answer to question 18 was yes) Was it because of any of the following reasons?

Answer	Count	Percentage
Race	20	66.7%
Religion	0	0.0%
Color	13	43.3%
Sex	6	20.0%
Disability	1	3.3%
Familial status	2	6.7%
National origin	0	0.0%
Ancestry	2	6.7%
Military status	0	0.0%
Age	5	16.7%
Sexual orientation/ Gender identity	5	16.7%
Marital status	3	10.0%

Table E.18a: Question 18a answers

Question 18b

(Asked only if answer to question 18 was yes) What happened to make you feel unwelcome?

- There was not an appropriate choice in the mandatory question preceding this one, so I marked age. Actually it was ACTIVISM. I was open and assertive about reviving the neighborhood watch, cooperating with the police and blatantly confronting illegal and antisocial behavior (such as noise after 11pm). Some people

tried to intimidate me but on this street most of them are gone now. South Park 4 years ago

- Whenever one is in a neighborhood of folks different from themselves they may feel unwelcome. This is a real feeling but may not be based on reality.
- I'm a single mom and I moved from one part of Oakwood to another with 2 teenaged boys, my newly wheelchair bound father and a rather ratty looking older model lift van. I did extensive remodeling to the home more accessible for my father, and there was construction going on for several months. I got an anonymous letter from "neighbors" explaining that I should keep my vehicles in the garage (the van didn't fit) so that the street would continue to look nice. Also they said there was too much "coming and going" at the house by suspicious looking people (caregivers of various sorts who were not driving late model cars) The letter made it clear that my family was too low class for their neighborhood, and I should at least have the help take the bus! This was about 10 years ago. That street has changed, but I'm sure there are others in Oakwood that haven't.
- While helping with a neighborhood event at an apartment was told white people were not welcome. A few years ago I took my older uncle to visit his sister-in-law. Close to Hillcrest and Gettysburg, I was pulled over by a black policeman wanting to know what I was doing in the area.
- People sometimes assume things about my African American husband that can make us as a family feel unwelcome.
- As a gay man living in Dayton since the 80's, I have felt unwelcome in both Eastside and Westside neighborhoods. I have been yelled at (Go Away faggot), heard neighbors make anti-gay comments, and heard people say they don't want gay people in their neighborhoods from every part of the City. I have also heard positive comments aid, but the presence of negative comments is more damning than the presence of positive comments is welcoming.
- Older neighbors in Greenmont Village would file complaints that were not in violation of my contract yet I was repeatedly written and threatened with fees and member status to comply.
- Slurs yelled at me and partner in Oregon District.
- On 11/28/2014 I was shopping at Joann Fabrics in Beavercreek. The salesperson was noticeably rude to me which I attributed to my skin color. In February 2014 I attempted to have my vehicle serviced at Voss Toyota in Beavercreek. The service associate would not accept my business (just an oil change). He said I had to have an appointment and named other dealerships in the area that I could visit. I acknowledge that appointments are desired however I've never been denied an oil change for failure to schedule an appointment. Again, I attributed this incident to my skin color.

- There are some neighborhoods in the Kettering area that I have visited or even drove through, where the residents gave blank stares or turned their nose up as if we were trespassing, which made us feel very unwelcomed and out of place.
- In the Oakwood-Kettering-Centerville Areas, I felt that even my Realtor was not in agreeance with my wanting to view homes in these areas.
- People were hostile
- there are parts of Dayton, for example parts of the west side, that are not safe for a woman to go alone
- isolation at a nondenominational church (primarily White).
- I had just moved to the Dayton area and I was looking for an apartment. I was in Kettering or Oakwood at an apartment complex and the representative was in a back room. I could see her and hear her talking and she could see me. The office was not closed but she did not acknowledge my presence in any way. Finally I left.
- oak wood lack of good service shopping
- Segregation in City of Dayton
- People just stare which makes one very uncomfortable/unwelcome
- Oakwood 2015 going to restaurant people kept looking
- When I first started to work in the area I was unwelcomed in many minority neighborhoods because I was white.
- I was stopped by a police officer off Gettysburg in Dayton because he said I looked lost. Unwelcome is not the correct word but unsafe better describes how I felt.

Question 19

Were you ever told you should not or could not live in a particular neighborhood in the Dayton area?

Answer	Count	Percentage
Yes	13	16.9%
No	64	83.1%

Table E.19: Question 19 answers

If yes, explanations provided:

- Univ of Dayton recruiter told me to stay away from West Dayton when renting an apartment. 2001
- When looking at rental properties two years ago (moving from a suburb), I was told that as white female
- I would be a target on the west side of dayton. I was told the east side is for white people.
- People have told me that we wouldn't feel welcome in Oakwood or would be looked down upon. I get the same feeling about Centerville sometimes. Its mostly comments from people we've met and not
- bankers/realtors. However when my spouse hears about a history of racism in a place (Oakwood) even if it was many years ago, he'll avoid that place.
- Call to local police about crime rate in a particular complex.
- in the 880's and 90's, neighbors told me they did not like gay people in their neighborhood. People also drove through neighborhoods occasionally yelling anti-gay comments. Since owning a home since the 90's, I ahve not had these problems. There are neighbors who don't talk to me, but i don't know if that
- is bacause i am gay or becasue ethey don't like me for some other reason. My neighborhood is not a real "everyone have picnics together" kind of neighborhood; we all keep to ourselves.
- I was told the area was bad.
- Neighbors in Greenmont Village told me they were just being hard on me because they needed to "weed out the bad ones" before they were members. I had not violated my contract nor had any disturbances during my time of living in that area.
- Was told by Realtor "there are nice homes in the Dayton-Trotwood Area too...". Always a problem with me actually going to view homes in those areas mentioned above.
- It is better for gay folks to not be seen
- People said don't live in West Dayton. Said it was too poor and dangerous.

- bad part of town lots of crime dangerous
- Some areas are considered “too dangerous” for white people.
- Warned of the neighborhood being “rough” or a high crime neighborhood

Question 20

What is your sex?

Answer	Count	Percentage
Female	55	71.4%
Male	22	28.6%
Transgender	0	0.0%
Other	0	0.0%

Table E.20: Question 20 answers

Question 21

What is your sex?

Answer	Count	Percentage
18–25	2	2.6%
26–35	16	20.8%
36–45	15	19.9%
46–55	18	23.4%
> 55	26	33.8%

Table E.21: Question 21 answers

Question 22

What is your race and ethnicity? (Choose all that apply.)

Answer	Count	Percentage
American Indian or Native Alaskan	4	5.2%
Asian	0	0.0%
Black or African American	14	18.2%
Native Hawaiian or Other Pacific Islander	0	0.0%
White or Caucasian	64	83.1%
Hispanic/Latino	3	3.9%
Other	1	1.3%

Table E.22: Question 22 answers

Other:

- Norwegian

Question 23

What is your sexual orientation?

Answer	Count	Percentage
Heterosexual	63	81.8%
Homosexual	11	14.3%
Bisexual	1	1.3%
Other	2	2.6%

Table E.23: Question 23 answers

Other:

- Undecided
- Seriously, give me a break.

Question 24

Please describe your current housing situation.

Answer	Count	Percentage
Rent	24	31.2%
Own	49	63.6%
Shelter	0	0.0%
Nursing home	0	0.0%
Supportive housing	0	0.0%
Doubled up with another household	1	1.3%
Renting in public or subsidized housing	0	0.0%
Other	3	3.9%

Table E.24: Question 24 answers

Other:

- I lease purchase our current home, and own another smaller home
- manage property
- family home

Question 25

What is your total household income each year (approximately)?

Answer	Count	Percentage
Less than \$9,495	1	1.3%
\$9,496 to \$15,825	3	3.9%
\$15,826 to \$31,650	9	11.7%
\$31,651 to \$47,775	17	22.1%
\$47,776 to \$63,300	15	19.5%
\$63,301 to \$79,125	9	11.7%
\$79,126 to \$94,950	5	6.5%
More than \$94,951	18	23.4%

Table E.25: Question 25 answers

¹ Schmitz, C. LimeSurvey. Retrieved from <https://www.limesurvey.org>.

Appendix F — Telephone Interview Questions

We used the following form while conducting the stakeholder telephone interviews described in Section 6 (page 157).

Advance Questions/Issues to Consider before a Telephone Interview.

Please note, not all questions will necessarily be addressed during the actual interview.

Miami Valley Fair Housing Center is identifying barriers to housing choice in the City of Dayton, the City of Kettering, Montgomery County and surrounding areas such as Fairborn, Troy and Beavercreek.

Housing discrimination results when a person from a protected class or people in a protected class in a specific neighborhood experience treatment that creates a barrier to equal housing opportunity. For all jurisdictions in our region the following are protected classes: ancestry, military status, race, color, national origin, religion, gender, disability and familial status (households with children under 18) are protected classes. The City of Dayton also protects marital status, age, sexual orientation and gender identity.

Housing discrimination may be as obvious as redlining or as subtle as failing to consider a rental application or sales contract for housing based on a families' characteristics that are protected under fair housing laws. Housing choice includes access to rental properties, home sales opportunities, and housing-related loans and/or insurance.

Fair Housing barriers are not only the result of illegal discrimination by providers of residential housing services but also are created due to the effect of historic housing and funding patterns that negatively impact protected classes. Thus, municipal governments, education systems, transportation systems and other recipients of federal funds such as military housing, are charged with the obligation to see that their policies, procedures, regulations and activities do not create barriers to equal housing opportunity.

The following questions are meant to spark conversation. They have been sent to you to consider before we call and spend some time discussing some of these questions with you.

Thanks in advance for your time.

Fair Housing Background

Choose only one.

VERY SOMEWHAT NOT MUCH

1. How aware do you feel you are of fair housing laws?

- a. How aware do you think local housing providers are of fair housing laws?
- Choose only one.*

VERY SOMEWHAT NOT MUCH
- b. How aware do you think local citizens are of fair housing laws?
- Choose only one.*

VERY SOMEWHAT NOT MUCH
2. Do you know of any instances where someone seeking housing thought they may have been discriminated against?
- YES NO**
- a. Did that person report the incident? If no, Why not?

History and Overview

3. Do you think that the region is perceived as a desirable place to live and why?
- a. Dayton
b. Kettering
c. The County
4. Do you view some neighborhoods as especially segregated or integrated?
- a. Which ones and why?

5. Have you observed a pattern in the way the Dayton, Kettering or the County has provided services for public housing, transportation, or education that has resulted in the development of (or dis-mantling of) barriers to housing choice?
6. Have you observed any patterns in where people live that you think may be related to limited housing options?
7. In your mind, which segment of the population experiences the greatest difficulty in locating housing in the area? Why?
8. Where are most of the new businesses locating in the region?
9. What are the City of Dayton's housing needs as it relates to vulnerable populations – immigrants, families with children, people with disabilities, the poor, the homeless, and displaced veterans?
 -
 -
10. What are the City of Kettering's housing needs as it relates to vulnerable populations – immigrants, families with children, people with disabilities, the poor, the homeless, and displaced veterans?
 -
 -
11. What are Montgomery County's housing needs as it relates to vulnerable populations – immigrants, families with children, people with disabilities, the poor, the homeless, and displaced veterans?
 -
 -
12. Are you aware of any issues related to the availability (or lack thereof) of housing related loans?

13. Are you aware of any issues related to the availability (or lack thereof) of homeowner's insurance?

Regional Housing Services

14. What is your view on the region's experience with housing vouchers (Section 8), public housing (Greater Dayton Premiere Management, formerly Dayton Metropolitan Housing Authority), and other subsidized housing?

- a. Are there any problems that need to be addressed? (e.g. acceptance by landlords)

15. What are the transportation options in the city?

- a. Do the bus schedules and routes meet the needs of citizens?
- b. Is the cost of various transportation options affordable for citizens?
- c. How could the region support changes in public transportation that would enable residents to have greater choice in housing?

16. Are there enough shelters located in the right places to meet the needs of the homeless?

- a. What problems need to be addressed for the homeless?

Government

17. Do local zoning ordinances affect housing choice? How so?

18. What is the level of cooperation among governments in this region (City of Dayton, Montgomery County, City of Kettering,) to obtain funding and coordinate services?

Choose only one.

HIGH MODERATE LOW

19. How aware are local government officials of the housing needs we have discussed?

Choose only one.

VERY SOMEWHAT NOT MUCH

20. How would you rate the regional government leadership of the local elected officials on the housing needs we have discussed?

Choose only one.

STRONG WEAK

Looking to the Future

21. What is your organization doing to address the housing concerns we have discussed?

22. Do you have any other comments about barriers to fair housing for families with children, people with disabilities, and minorities?

23. What other housing issues do you think will come up in the future?

24. The following is a list of housing-related concerns, please tell me the three you think need to be addressed with the highest priority, with 1 being most important and 3 being least important.

- a. Accessible housing for disabled
- b. Accessible housing for the elderly
- c. Affordable housing
- d. Blighted neighborhoods
- e. Education
- f. Housing options for families
- g. Lack of mobility for low-income families into better neighborhoods
- h. Low homeownership rates
- i. Racial steering
- j. Regionalism
- k. Supportive housing for the disabled
- l. Supportive housing for the elderly
- m. Transportation

Appendix G — Additional Documents Available Online

We have placed this report on our website along with the following documents referenced in this report. We have cited the source of each document in the endnotes in each section of this report.

To access an electronic copy of this report or any of the additional documents, you can either go to <http://www.mvfairhousing.com/AI2015> and select an item from the list there, or you can click on any document name below to access its link directly.

2015 Regional Analysis of Impediments to Fair Housing for Montgomery County and the Cities of Dayton and Kettering, OH

Section 1 — Jurisdictional Background Data

An environmental scan of the Montgomery County safety net
2014 Montgomery County Community Needs Assessment Report
Racial Wealth Inequality at the Metropolitan Area and National Levels Findings and Implications
Opportunity Mapping City of Dayton Public Health Report
Shanahan Community Assessment Panel May 18, 2015 notes
Dr. Stock slides for Community Needs Assessment Panel May 21, 2015
Greater Dayton Premier Management ACOP April 2012

Section 2 — Fair Housing Laws, Research, and Case Law

National Fair Housing Alliance 2006 Trends Report
HUD 2012 Housing Discrimination Study
HUD Same Sex Couples Housing Discrimination Study
ZIP Code Inequality NFHA 2014
NFHA Are You Listening Now — Housing Discrimination Against the Deaf
National Fair Housing Alliance 2015 Trends Report
Montgomery County Zoning Study — Executive Summary

Section 3 — Existing Fair Housing Structure

ConPlans by HUD Region and Field Office 2016–2017

Section 4 — Fair Housing in the Private Sector

Memo from MVFHC to City of Dayton on Community Reinvestment Act,
March 13, 2015
DOJ HUD Statement on Accessibility 2013
Fair Housing and REO Maintenance Karl Keith
Foreclosures by Race and Ethnicity
Racial and Ethnic Disparities in 2011 Ohio Mortgage Lending

Section 5 — Fair Housing in the Public Sector

Why Not in Our Back Yard
Zoning and Land Use Discrimination Winter 03
2014 Action Plan Dayton Kettering
Montgomery County Subsidized Housing Directory 05

Section 6 — Public Involvement

Data Public Forums Town Hall Meetings
Town Hall Questions 2015
TP Focus Group Questions 2015

Section 7 — Summary of Findings

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