2015-2019
Analysis of Impediments to Fair Housing Choice

Waukesha County, Wisconsin
And the HOME Consortium

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Executive Summary

Introduction

Title VIII of the Civil Rights Act of 1968, more commonly known as the Fair Housing Act, ensures protection of housing opportunity by prohibiting discrimination in the sale or rental of housing on the basis of race, color, religion, sex, and national origin, and was amended in 1988 to include familial status and disability. HUD grantees receiving funds under the Community Development Block Grant (CDBG) program are required to complete a fair housing study, known as an Analysis of Impediments to Fair Housing Choice (AI) to ensure that housing and urban development programs are being administered in a way that furthers fair housing for these protected classes.

Waukesha County, Jefferson County, Ozaukee County, and Washington County participate together in a Consortium for the purpose of accessing federal affordable housing funds under HUD's Home Investment Partnerships Act (HOME) program. Because of the collaborative affordable housing planning undertaken by the Consortium, the members sought to jointly conduct this AI to provide a streamlined regional approach to fair housing and to identify and address impediments to fair housing choice that often do not strictly follow jurisdictional boundaries.

Historical Overview

Waukesha County, which is located in southeastern Wisconsin, is home to more than 390,000 people and 37 municipalities. Waukesha is the 3rd most populous county in Wisconsin and has a total of 6 percent of the population of the entire state. The County encompasses 7 cities, 18 villages and 12 towns. Waukesha County is located 15 miles west of the City of Milwaukee, 60 miles east of the City of Madison, and 100 miles northwest of Chicago.

Since 1998, Jefferson, Washington, and Waukesha counties have a participated as a HOME Consortium. In 1999, Ozaukee County joined the Consortium. The Consortium allows local governments, which would not otherwise qualify for funding, to join with other contiguous units of local government to directly participate in the HOME Investment Partnerships Program (HOME). Every municipality in Jefferson, Ozaukee, Washington, and Waukesha Counties, with the exception of Sullivan (Jefferson County) and Chenequa and Oconomowoc Lake (Waukesha County), has formally approved participation in the HOME Consortium. The Consortium assists in providing affordable housing options in the region by providing down payment assistance, acquisition/ rehabilitation assistance, and low-interest housing rehabilitation loans.

Socioeconomic Overview

Data from the 2000 and 2010 Census, as well as, the 2013 American Community Survey provides demographic information for the HOME Consortium counties. In total, the population in the region has increased from 634,598 residents in 2000 to 698,145 residents in 2010, or an increase of 10.0%. According to the 2013 American Community Survey, the population total consists of Waukesha

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County with a population of 393,843 persons, 84,509 residents in Jefferson County, 87,054 residents in Ozaukee County and a population of 132,739 in Washington County.

Data regarding the age of the overall population from 2000, 2010, and 2013 in the HOME Consortium counties, reflects the largest population groups represented persons aged 5 to 19 and 35 to 54. However, these two age cohorts were also the only groups to show a decrease in population between 2000 and 2013. On the other hand, the cohort aged 55 to 64 showed significant increases of more than 63 percent or more in all jurisdictions during this time, while the number of persons aged 20 to 24 and 65 or older both showed increases of more than 15 percent or more in each jurisdiction. Census data indicated low populations from racial and ethnic groups in each of the Consortium counties with all counties, Waukesha (6.1%), Jefferson (3.4%), Ozaukee (5%), and Washington (3.7%) each having below 10% of residents belonging to racial and ethnic minority groups. For each county, the primary racial and ethnic minority group was Hispanic.

Segregation Analysis

Four methodologies (Dissimilarity, Exposure, Isolation, and Entropy indices) for analyzing segregation, the degree to which two or more racial or ethnic groups live geographically separate from one another, were used in this study. The methodologies used in this analysis indicate low levels of segregation among minority and White residents, but a high level of isolation for Whites with very limited levels of exposure to minority populations. While slight improvements have occurred since 2000, diversity throughout the region remains low, with Whites having a low likelihood of interacting with minority residents, and minorities having a low likelihood of interacting with one another.

Residential patterns in the study area are part of a larger regional picture for metro Milwaukee. While segregation is low within the four-county area, the Milwaukee-Waukesha-West Allis MSA has the 2nd highest dissimilarity index for Black and White residents in the nation, and the 13th highest for Hispanic and White residents.[1] Low levels of diversity in Waukesha, Washington, Jefferson, and Ozaukee Counties continue to contribute to persistent segregation region-wide, and any impediments in the four-county area that limit housing choice or inhibit housing options for protected classes must be addressed to improve conditions both locally and regionally.

Public Investment, Infrastructure, and Education

Waukesha County has a regional airport situated in the City of Waukesha. The County airport is used for the transportation of good and services by businesses and also transports the general population in some instances. Characterized as a Transports/Corporate/ Airport, it serves small airplanes, corporate jets, and small passenger and cargo jets. Waukesha Metro Transit provides public transit across the city of Waukesha. The system operates 11 bus routes and contracts with

[1] "Data: Residential Segregation." *US2010: Discover America in a New Century.* American Communities Project: Brown University. http://www.s4.brown.edu/us2010/SegSorting/Default.aspx

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another local bus route, contracts with four commuter routes to Wisconsin Coach Lines, and partially funds two routes of the Milwaukee Transit System that have extensions into Waukesha County. Neither Jefferson, Ozaukee, nor Washington Counties are served by public transportation systems, but each offers taxi services for the elderly and disabled and/or bus commuter services into Milwaukee. The four county study area is served by several water and sewer systems typically run independently by local cities, villages, or municipalities. While each local water and/or waste management system serves to meet the needs of local residents, future land use and development projects will require collaboration across facilities and services.

Public schools within the four-county study area performed well in terms of retention rates, attendance rates, and having low truancy and school dropout rates. Jefferson and Washington Counties have the lowest rates for educational attainment and students entering into higher education following high school. Both counties also have the highest rates of students entering directly into employment following high school completion. Overall, the four counties have low enrollment of racial and ethnic minority students. However, in several instances graduation rates are lower for these students indicating increased need for supportive services. Several HUD block groups in the City of Waukesha scored low in terms of school proficiency. However, the rest of Waukesha, Washington, and Ozaukee Counties have a high level of school proficiency when compared to the rest of the Milwaukee metro area. According to HUD data, school proficiency varies in Jefferson County, with the northeast (Watertown and Ixonia), the southeast (Whitewater and Palmyra), and parts of Jefferson facing lower opportunity levels compared to the Lake Mills and Sullivan areas.

Access to Areas of Opportunity

HUD's Office of Policy Development and Research uses a methodology to "quantify the degree to which a neighborhood offers features commonly associated with opportunity."[2] These areas of opportunity are based on five "opportunity dimensions," including poverty, school proficiency, labor market engagement, jobs access, and exposure to health hazards. Higher poverty (and thus, lower neighborhood opportunity) was found in several cities and villages, including parts of Waukesha, Port Washington, West Bend, Hartford, Hartland, Watertown, and Fort Atkinson. Several block groups in the City of Waukesha also scored low in terms of school proficiency. Labor market engagement and jobs access both vary within each county. Census block groups in the Cities of Waukesha, Jefferson, West Bend, and Hartford have some of the lowest labor market engagement scores; high scores are found in block groups in Cedarburg, Mequon, Brookfield, Menomonee Falls, Delafield, and just west of the Waukesha city limits. Jobs access opportunity levels are best in block groups located in cities including Waukesha, Pewaukee, New Berlin, Brookfield, West Bend, and Hartford. Rural areas within the counties tend to have lower access to jobs. Potential exposure to health hazards is highest in the Waukesha/Pewaukee and Menomonee Falls/Germantown/Mequon areas and recedes moving out from these centers. Northern Washington and Ozaukee Counties,

[2] HUD Office of Policy Development and Research, "FHEA Data Documentation," Draft. 2013. p. 4.

western Waukesha County, and all of Jefferson County face less exposure to potential environmental toxicity than do the more urban areas located closer to the Milwaukee.

Land Use & Zoning

Comprehensive land use planning is a critical process by which communities address a myriad of public policy issues such as housing, transportation, health, recreation, environmental protection, commercial and retail services, and land values, and address how the interconnection and complexity of these issues can ultimately impact their respective jurisdictions. Under Wisconsin's zoning enabling statutes, the responsibility for administering a local zoning ordinance is divided between the local legislative body (i.e., County Board of Supervisors, City or Common Council, Village Board of Trustees, or Town Board), the plan commission, and the board of appeals/adjustment ("BOA"). In Wisconsin, the general zoning authority of counties is limited.

Housing Profile

According to 2008-2012 ACS estimates, Waukesha County contained a total of 160,639 housing units, Washington County has 54,703 units, Ozaukee County has 36,252 units, and Jefferson County has 35,079 units of housing. Homeownership rates were over 70% in each of the counties, ranging from 71.7% in Jefferson County to 78.6% in Ozaukee County. Vacancy rates for owned housing were low (less than 2%) in Waukesha, Jefferson, and Ozaukee Counties. The rental vacancy rate was higher, ranging from 4.0% in Waukesha County to 7.7% in both Jefferson and Ozaukee Counties. Jefferson County has the oldest housing stock, indicating an increased likelihood of needs for repairs, rehabilitation, and making units compliant with ADA disability requirements. In Jefferson County, 40.8% of the housing stock was built in 1959 or earlier. Each of the other counties also had a large percentage of housing stock built before 1960: 28.1% of units in Ozaukee County, 24.5% of units in Washington County, and 24.3% of units in Waukesha County. Each of the four counties has less than 1% of housing stock built in 2010 or later.

Substandard housing and overcrowding remain low for each of the four counties in the study area (below 1%). While substandard living conditions are low for Waukesha County, further analysis of relevant data indicates areas in which residents of racial and ethnic minority groups experience disproportionately greater need in relation to housing problems and severe housing problems, even when income is taken into account. Housing affordability is also an issue for residents across the region as median wages in each of the four counties falls below wages needed to rent a two-bedroom apartment at fair market rate and significant percentages of residents pay above the HUD recommended 30% of income towards housing.

Home Mortgage Disclosure Act (HMDA) Analysis

The Home Mortgage Disclosure Act of 1975 (HMDA) requires most mortgage lending institutions to disclose detailed information about their home-lending activities annually. The objectives of the HMDA include ensuring that borrowers and loan applicants are receiving fair treatment in the home

loan market. This analysis found differences in loan approvals and denials by sex, race, and ethnicity that varied depending on income levels. Low- income male and female applicants had higher approval rates and lower denial rates than male/female co-applicants. As incomes increased, this relationship reversed with male/female co-applicants with moderate- incomes becoming more likely to have loan approvals. A comparison of loan outcomes by applicant race/ethnicity found a 14.5% gap in approval rates between low- income White and low- income minority applicants. Common reasons for loan denials were explored, as available, and included debt-to-income ratio, collateral, and credit history.

Fair Housing Organizations & Activities

The Metropolitan Milwaukee Fair Housing Council (MMFHC) promotes fair housing throughout the State of Wisconsin by combating illegal housing discrimination. MMFHC operates two satellite offices, the Fair Housing Center of Greater Madison (FHCGM) and the Fair Housing Center of Northeast Wisconsin (FHCNW). Other municipalities, such as the City of New Berlin and the Counties of Jefferson, Ozaukee, and Washington assist in promoting fair housing education and outreach by implementing Fair Housing Proclamations and providing informational materials on fair housing.

Housing Discrimination Complaints

Between January 1, 2006 through July 1, 2014, HUD reported a total of 87 complaints filed from within the counties of Waukesha, Washington, Ozaukee, and Jefferson, A total of 262 basis were cited in relation to the 87 complaints filed. Disability was the most commonly cited basis in the complaints, with 40 complaints, followed by race, with 27 complaints. Familial status and national origin were cited 19 and 12 times, respectively. Housing complaints filed with HUD can also be examined by closure status. Of the 87 total complaints, 78 (90%) were found to have a no cause determination, which means that discrimination was not found. The Metropolitan Milwaukee Fair Housing Council (MMFHC) also receives complaints by households regarding alleged violations of the Fair Housing Act. Between 2008 and 2012, there were 277 complaints made to MMFHC. Of the total 277 complaints, there were 86 complaints related to disability status and 55 complaints related to race and/or color. Other notable complaints were familial status (40), sex (29), lawful source of income (18), and age (16).

Impediments and Recommendations

Impediments identified through this research are summarized below with supporting examples noted. Each impediment listed is followed by recommendations, the implementation of which will correct, or begin the process of correcting, the related impediment. It should be noted that these barriers are largely systemic and will require effort from both private sector and public sector actors to correct.

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Impediment #1: Zoning Regulations and Housing Mix Ratios that Reduce Opportunities for Affordable Housing Development

A Regional Housing Plan for Southeastern Wisconsin: 2035 prepared by the Southeastern Wisconsin Regional Planning Commission identified several zoning and regulatory impediments to the development of affordable housing. These included excessive minimum floor area requirements, excessive minimum lot sizes requirements, and other limits on density. Several communities do not permit multifamily housing by right – some require a conditional use permit and others do not allow it at all. Housing mix ratios also explicitly restrict the share of multifamily housing within a community. While density is limited in some cases by a lack of infrastructure (i.e., sewers), several villages in the study area have sewer service yet still require at least 70% of residential units to be single-family. Research conducted for the *Regional Housing Plan* shows that a lack of higher density development with municipal infrastructure, including multifamily units, disproportionately impacts minorities and low-income households who have a greater need for affordable housing.

Recommendations:

The Land Use & Zoning section of this report recommends specific actions to addressing zoning and other regulatory impediments to fair housing, including:

- Reducing minimum lot size and minimum floor area requirements and increasing density allowances;
- Expanding sanitary sewer services;
- Adopting flexible zoning regulations permitting higher densities and a mix of housing types;
- Relaxing limits on alternative types of affordable housing (e.g., accessory dwellings or manufactured homes);
- Adopting inclusionary zoning provisions; and
- Amending design regulations to promote flexibility in development and construction costs.

While Waukesha County adopted the *Regional Housing Plan's* recommendations into their Comprehensive Development Plan and other cities such as Oconomowoc have reduced zoning requirements to allow for more multifamily or high density housing development, not all study area municipalities have addressed zoning impediments. As administrator of CDBG and HOME funds, Waukesha County should take a lead role in educating HOME Consortium jurisdictions and advocating that they review their regulations and reduce any excessive barriers to development. The County should host a zoning workshop for local municipalities to review findings of the SEWRPC report, discuss potential for code changes, and provide examples of communities that have successfully modified zoning code to reduce impediments to affordable housing. A parallel effort to encourage developers to offer a mix of housing types, sizes, and building materials in order to increase local affordable housing options should also be developed. Potential collaboration with SEWRPC should be explored, such as a staff member or other representative being present at a

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zoning workshop, or advising on other forms of outreach to HOME Consortium jurisdictions or developers.

Impediment #2: Lack of Fair Housing Knowledge

Research findings indicate a general lack of knowledge about fair housing laws and the fair housing complaint process amongst several groups within the study area. While the Metro Milwaukee Fair Housing Council's fair housing enforcement program serves Ozaukee, Washington, and Waukesha Counties, when asked where they would refer a client with a housing discrimination complaint, very few of the social service agencies and housing providers interviewed mentioned MMFHC, and most were unsure of where to refer complaints.

Similarly, the Housing and Community Development Needs Survey completed by community members as part of this research revealed that many study area residents are unsure of where to file a complaint as well. While the majority of respondents (91.4%) report knowing or somewhat knowing their fair housing rights, only 40.3% knew where to file a housing complaint. Further, of the 29 respondents who report having faced housing discrimination, only 3 pursued complaints. Of those that did not file a complaint, the most common reason was not knowing what good it would do to file.

A third study area group that may lack information about fair housing laws are landlords or rental property managers. Of the 87 housing complaints filed with HUD for the study area since 2006, the largest share (27.5%) cite refusal to rent as the fair housing issue. Additionally, of the 29 survey respondents who had faced housing discrimination, the majority (23 respondents, or 79.3%) report discrimination by a landlord or property manager. Further, stakeholders mentioned that while large property management companies typically train employees regarding fair housing laws, small-scale landlords are more likely to discriminate.

<u>Recommendations</u>:

Education is needed regarding fair housing laws and options for recourse when discrimination occurs. While MMFHC conducts outreach and education to several organizations in Waukesha County, more is needed. It is recommended that Waukesha County coordinate a fair housing seminar given by MMFHC (or a similar organization) and open to all sub-recipients and any other housing and social service agencies operating in the four-county study area. This seminar would allow housing and service organizations to learn more about local fair housing services and about how best to disseminate fair housing information to their clients. Staff members from study area municipalities should also be invited.

Education is also need for rental property owners and managers, especially small-scale landlords, on the requirements of the Fair Housing Act, the definitions of protected classes, discriminatory practices, and potential consequences for non-compliance. The Apartment Association of Southeastern Wisconsin offers limited education opportunities, but could play a coordinating role

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in the outreach and education of small-scale landlords in the study area. Support for continued testing by MMFHC (or a similar organization) is also recommended.

Impediment #3: Imbalance Between Job Centers and Affordable Housing Options

Many stakeholders identified an imbalance between the locations of affordable housing and job centers, or noted that a lack of affordable housing is likely impede future economic development as businesses instead opt to locate in areas more affordable for their employees. SEWRPC's *Regional Housing Plan* notes that median monthly rents are high around several job centers (or anticipated job centers) in much of Waukesha County with the exception of the City of Waukesha, and in southern Ozaukee and southeastern Washington Counties. Because minority households tend to have lower incomes, they are less likely to be able to afford the higher housing costs around these job centers and must face either disproportionately long commute times or more limited employment options.

Recommendations:

The construction of new affordable and/or mixed-income housing would accomplish the goal of increased economic opportunity and greater standard housing available near job centers. As economic development proceeds, care must be taken to ensure that housing development includes a variety of types and rents/price points to meet housing demand generated by employees at a range of incomes. Density bonuses, fee waivers or other incentives for development of workforce or mixed-income housing should be explored as options to spur investment and development. Finally, education for elected officials and other local leaders on the benefits of providing a range of housing options, including housing for the local workforce is needed to develop additional support for these initiatives.

Impediment #4: NIMBY/Prejudiced Attitudes

Input received through interviews and meetings with over 50 stakeholders in the four-county study area reveals that opposition to affordable housing by the general public, whether due to economic and/or racial/ethnic prejudices, is prevalent in many areas. A variety of stakeholders including elected officials, city/county staff, housing developers, and community development workers described "Not In My Back Yard" (NIMBY) sentiments and a lack of understanding about affordable, workforce, and mixed-income housing as common amongst study area residents. The *MSP Real Estate, Inc. v. City of New Berlin* case exemplified the effect negative public opinion can have on housing development. While the New Berlin Planning Commission initially approved the project and its zoning permit application, this decision was reversed following public opposition, requiring a lawsuit in order to ultimately obtain development approval.

Further, while segregation is low within the study area, the Milwaukee-Waukesha-West Allis MSA is one of the most segregated in the U.S. Prejudiced attitudes toward the development of affordable or mixed-income housing in the study area, and toward the low income or minority residents who may choose to live there, only sustains existing patterns of segregation in the region.

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Recommendations:

Education and awareness is imperative to alleviating NIMBYism and prejudiced attitudes. Lack of diversity and prejudiced personal beliefs create negative impacts on social conditions and discourse and can take many years to overcome. In the near term, education and awareness of both the value of diversity and the role of affordable housing in helping low income persons secure a safe, quality place to live is especially important.

Waukesha County should develop an appropriate diversity awareness curriculum and then make it available for staff. Waukesha County should also encourage a collaboration of area nonprofit organizations and sub-recipients under the CDBG and HOME programs to integrate appropriate diversity awareness updates into organizational development training.

Separate information to educate local leaders, elected officials, and the general public in study area jurisdictions regarding what affordable, workforce and mixed-income housing is and what economic benefits they offer should also be developed. The material should identify and publicize local examples of success, such as that of the Oconomowoc School Apartments in Oconomowoc and the City Center in New Berlin. Participation in regional housing initiatives should also be encouraged.

Impediment #5: Limited Housing Options for People with Disabilities and the Aging Population

One need identified in the *Regional Housing Plan* and through stakeholder outreach conducted for this study is additional housing for people with disabilities. Demographic data indicates that this need will likely be exacerbated as Baby Boomers age and begin to face the higher disability rates common to adults over the age of 65. Although definitive data on the availability of accessible housing units in the study area is not available, a search conducted using socialserve.com revealed that of the handicap accessible properties in the four-county area, 44.1% have a wait list. The *Regional Housing Plan* estimates a regional shortage, noting that there are approximately 61,640 accessible housing units in the region, compared to 169,000 households with one or more persons with a disability.

Recommendations:

It is recommended that Waukesha County meet with disability advocates to better understand types and locations of units missing from the current accessible housing stock and to identify best practices for or examples of design of accessible units. This information should then be shared with municipal staff in jurisdictions within the HOME Consortium counties, allowing them to prioritize public funding for housing developments that meet these identified needs. For other private/market-rate projects, educate developers about and encourage them to consider these needs.

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Density bonuses or other incentives for projects built according to universal design principles such that all units are handicap accessible would open up new housing options and increase housing choice. For residential developments competing for public funding, those that offer universal design, or that otherwise exceed FHA minimum accessibility requirements (either in number of accessible units provided and/or in the design of these units) should be prioritized.

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Introduction

Equal access to housing choice is a cornerstone principle of America's commitment to equality and opportunity for all. Title VIII of the Civil Rights Act of 1968, more commonly known as the Fair Housing Act, ensures protection of housing opportunity by prohibiting discrimination in the sale or rental of housing on the basis of race, color, religion, sex, and national origin. The Act was amended in 1988 to provide stiffer penalties, establish an administrative enforcement mechanism, and to expand its coverage to prohibit discrimination on the basis of familial status and disability. The U.S. Department of Housing and Urban Development (HUD), and specifically HUD's Office of Fair Housing and Equal Opportunity (FHEO), is responsible for the administration and enforcement of the Fair Housing Act and other civil rights laws.

Provisions to affirmatively further fair housing (AFFH) are principal and long-standing components of HUD's housing and community development programs. These provisions flow from the mandate of Section 808(e)(5) of the Fair Housing Act which requires the Secretary of HUD to administer the Department's housing and urban development programs in a manner to affirmatively further fair housing.[3] A fair housing study, known as an Analysis of Impediments to Fair Housing Choice (AI), is required of HUD grantees receiving funds under the Community Development Block Grant (CDBG) and Home Investment Partnerships Act (HOME) programs. To perform this Analysis of Impediments, Waukesha County contracted with WFN Consulting.

Waukesha County is an entitlement community receiving CDBG funds from HUD and is also the lead agency for the four-county HOME Consortium that includes Waukesha, Jefferson, Washington, and Ozaukee Counties. These counties participate together in the Consortium for the purpose of accessing federal affordable housing funds under HUD's HOME program. Within the four-county area, there are 18 cities, 35 villages, and 45 towns. Through this regional analysis, the communities represented by the Consortium will have the informational basis from which to promote fair housing choices for all persons, provide opportunities for racially and ethnically inclusive patterns of housing occupancy, identify structural and systemic barriers to fair housing choice, and promote housing that is physically accessible and usable by persons with disabilities. By analyzing and taking actions to address identified impediments, the Waukesha County and the HOME Consortium can meet their obligations and certifications to HUD to affirmatively further fair housing.

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[3] U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 1: Fair Housing Planning Historical Overview, Page 13).* March 1996.

Definitions & Data Sources

Definitions

Affirmatively Further Fair Housing – In keeping with the latest proposed guidance from HUD, to Affirmatively Further Fair Housing Choice (AFFH) is to comply with "the 1968 Fair Housing Act's obligation for state and local governments to improve and achieve more meaningful outcomes from fair housing policies, so that every American has the right to fair housing, regardless of their race, color, national origin, religion, sex, disability or familial status."[4]

Fair Housing Choice - In carrying out its Analysis of Impediments to Fair Housing Choice, the Consortium utilized the following definition of "Fair Housing Choice":

- The ability of persons of similar income levels to have available to them the same housing choices regardless of race, color, religion, sex, national origin, familial status, or handicap.

Impediments to Fair Housing Choice - As adapted from the *Fair Housing Planning Guide*, impediments to fair housing choice are understood to include: [5]

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices.
- Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin.

Protected Classes - In carrying out its Analysis of Impediments to Fair Housing Choice, the Consortium utilized the following definitions of Protected Classes:

- Federally Protected Classes: Title VIII of the Civil Rights Act of 1968 prohibits housing discrimination based on race, color, national origin or ancestry, sex, or religion. The 1988 Fair Housing Amendments Act added familial status and mental and physical handicap as protected classes.
- State of Wisconsin Protected Classes: The Wisconsin Open Housing Law prohibits housing discrimination based on any of the federally protected classes, and also extends anti-discrimination protection to six additional classes: sexual orientation, marital status, lawful source of income, age, ancestry, and status as a victim of domestic abuse, sexual assault, or stalking.

Affordable - Though local definitions of the term may vary, the definition used throughout this analysis is congruent with HUD's definition:

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[4] U.S. Department of Housing and Urban Development. "HUD Publishes New Proposed Rule on Affirmatively Furthering Fair Housing Choice." Press Release No. 13-110. July 19, 2013.

[5] U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 2: Preparing for Fair Housing Planning, Page 2-17).* March 1996.

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- HUD defines "affordable" housing as housing that costs no more than 30% of a household's total monthly gross income. For rental housing, the 30% amount would be inclusive of any tenant-paid utility costs.
- For homeowners, the 30% amount would include the mortgage payment, property taxes, homeowners insurance, and any homeowners' association fees.
- Housing affordable to a family of four with an income up to 80% of the area median income would carry a total monthly cost not exceeding $1,406 in Waukesha, Washington, and Ozaukee County and $1,374 in Jefferson County, as reported by the National Low Income Housing Coalition's 2014 *Out of Reach* data.

Data Sources Used in This Analysis

Decennial Census Data – Data collected by the Decennial Census for 2010 and 2000 is used in this Assessment (older Census data is only used in conjunction with more recent data in order to illustrate trends). The Decennial Census data is used by the U.S. Census Bureau to create several different datasets:

- 2010 and 2000 Census Summary File 1 (SF 1) – This dataset contains what is known as "100 percent data," meaning that it contains the data collected from every household that participated in the 2010 Census and is not based on a representative sample of the population. Though this dataset is very broad in terms of coverage of the total population, it is limited in the depth of the information collected. Basic characteristics such as age, sex, and race are collected, but not more detailed information such as disability status, occupation, and income. The statistics are available for a variety of geographic levels with most tables obtainable down to the census tract or block level.

- 2000 Census Summary File 3 (SF 3) – Containing sample data from approximately one in every six U.S. households, this dataset is compiled from respondents who received the "long form" Census survey. This comprehensive and highly detailed dataset contains information on such topics as ancestry, level of education, occupation, commute time to work, and home value. The SF 3 dataset was discontinued for the 2010 Census; therefore, SF 3 data from the 2000 Census was the only tract-level data source available for some variables.

American Community Survey (ACS) – The American Community Survey is an ongoing statistical survey that samples a small percentage of the U.S. population every year, thus providing communities with more current population and housing data throughout the 10 years between censuses. This approach trades the accuracy of the Decennial Census Data for the relative immediacy of continuously polled data from every year. ACS data is compiled from an annual sample of approximately 3 million addresses rather than an actual count (like the Decennial Census's SF 1 data) and therefore is susceptible to sampling errors. This data is released in two different formats: single-year estimates and multi-year estimates.

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- 2012 ACS 1-Year Estimates – Based on data collected between January 2012 and December 2012, these single-year estimates represent the most current information available from the U.S. Census Bureau, however; these estimates are only published for geographic areas with populations of 65,000 or greater.

- ACS Multi-Year Estimates – More current than Census 2010 data and available for more geographic areas than the ACS 1-Year Estimates, this dataset is one of the most frequently used. Because sampling error is reduced when estimates are collected over a longer period of time, 5-year estimates will be more accurate (but less recent) than 3-year estimates. ACS datasets are published for geographic areas with populations of 20,000 or greater. The 2008-2012 ACS 5-year estimates are used most often in this assessment.

Previous Works of Research – This AI is supported by, and in some cases builds upon, previous works of significant local research conducted for or within the region, including:

- A Regional Housing Plan for Southeastern Wisconsin: 2035 – This 2013 document was prepared by the Southeastern Wisconsin Regional Planning Commission, with an advisory committee that included representatives from local, county, and State government agencies; housing advocacy organizations; home builders and real estate agents; and research and policy institutions. Elements of this comprehensive study include regional analyses of the following: local plans and programs related to housing; existing housing stock including subsidized, tax credit, and accessible housing; factors influencing housing development such as zoning regulations and development costs; demographic and economic characteristics; discrimination and fair housing activities; and the balance between jobs and housing. The *Regional Housing Plan* also shares national best practices for affordable housing and neighborhood design, and provides recommendations for bolstering affordable and fair housing within southeastern Wisconsin.

Stakeholder Engagement

Housing & Community Development Survey – This survey was designed to collect input from a broad spectrum of the community and received responses from residents across the four-county study area. The survey consisted of 29 distinct questions, allowing a mixture of both multiple choice and open-ended responses. In all, there were over 383 responses to this survey (299 English responses and 84 Spanish responses), though not every question was answered by every respondent. As a result, where a percentage of survey respondents is cited in this assessment, it refers only to the percentage of respondents to the particular question being discussed and may not be a percentage of the full number of survey respondents. Surveys were received over a 23-day period, from August 9, 2014 to August 31, 2014. Paper surveys received were manually entered by the Survey Administrator into SurveyMonkey for tabulation and analysis. To prevent "ballot stuffing," the SurveyMonkey software bars the submission of multiple surveys from a single IP address.

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The online survey was available through the project's website, which was included on all public notices advertising community meetings, distributed to more than 260 contacts via email distribution lists provided by Waukesha County, provided at each public meeting and to all stakeholders interviewed, and posted on the Waukesha County Community Development Department's website (www.waukeshacounty.gov/defaultwc.aspx?id=41442). Hard copies of the survey were also made available at each community meeting and to any sub-recipients interested in sharing hard copies with their clients. A Spanish translation of the same survey was also made available in hard copy and online.

Project Website - To promote the Consolidated Plan, Annual Action Plan, and Analysis of Impediments planning process with local residents, employees, and other stakeholders, WFN Consulting prepared a website dedicated to the project (www.waukeshacountyconplan.com). The site included an overview of the project, the public meeting schedule and copies of presentations made at the public meetings, links to English and Spanish versions of the housing and community development survey, an opportunity to provide comments, and links to more information about the CDBG and HOME programs, the Waukesha County Community Development Department, and the HOME Consortium. The site was included in all public meeting notices, advertised at public meetings and on the Waukesha County Community Development Department's website, and provided in email correspondence with all stakeholder interview participants. The site had 272 unique visitors since its launch on August 4, 2014, and one comment was received through it.

Stakeholder Interviews – Key community stakeholders were identified, contacted, and interviewed individually as part of this Analysis. These stakeholders included elected officials, representatives of nonprofit organizations, municipal and county staff, fair housing advocates, lenders, and real estate agents. Other stakeholders not belonging to any of these groups were occasionally interviewed as dictated by the course of research carried out for this Analysis. Thirty stakeholder interviews were conducted.

Public Meetings – Six public meetings were held in order to provide forums for residents of the study area and other interested parties to contribute to this AI. Meeting dates, times, and locations are listed below. Meetings were held both during the day and in the evenings in various locations across the region, providing a variety of options for residents to attend. These meetings were advertised via public notices in local newspapers and through email notifications sent by WFN Consulting to over 260 contacts provided by Waukesha County (including contacts in each of the four counties comprising the study area). The format of these meetings ranged from small-group roundtable discussions to moderated forums. Notes were taken of public comments at all meetings.

Public Kickoff Meeting
Waukesha County Administration Building
Waukesha, WI
Monday, August 11, 2014
1:30 p.m.

Jefferson County Neighborhood Meeting
UW Extension/Workforce Development
Jefferson, WI
Monday, August 11, 2014
4:00 p.m.

Waukesha County Neighborhood Meeting
Oconomowoc Public Library
Oconomowoc, WI
Monday, August 11, 2014
6:00 p.m.

Ozaukee County Neighborhood Meeting
Cedarburg Cultural Center
Cedarburg, WI
Tuesday, August 12, 2014
6:00 p.m.

Washington County Neighborhood Meeting
HHS/Public Agency Center
West Bend, WI
Tuesday, August 12, 2014
6:00 p.m.

Waukesha County Neighborhood Meeting
Citizens Bank of Mukwonago
Waukesha, WI
Wednesday, August 13, 2014
6:00 p.m.

CDBG and HOME Board Meetings – Presentations regarding the Consolidated Plan, Annual Action Plan, and Analysis of Impediments to Fair Housing Choice were made at the HOME Consortium's Board meeting held on Tuesday, August 12, 2014 at 1:00 p.m. and at the Waukesha County's CDBG Board meeting held on Wednesday, August 13, 2014 at 3:15 p.m. Meetings provided Board members the opportunity to give input on priority housing and community development needs, successful recent initiatives, potential new uses of HUD funds, fair housing activities, and access to housing for protected classes within the region.

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Limitations of this Analysis

This Analysis of Impediments to Fair Housing Choice was prepared by WFN Consulting for Waukesha County and the Waukesha County HOME Consortium, which includes Waukesha, Jefferson, Ozaukee, and Washington Counties. This report seeks to analyze the current fair housing climate in this region, identify impediments to fair housing choice and equity, and set forth recommended strategies for overcoming the identified impediments. Some of the impediments identified in this report will require additional research and on-going analysis by entities within the region. This report does not constitute a fair housing action plan or any other type of community plan, however, it should be a key resource to inform such plans as they are developed.

HUD's primary guidance for developing Analyses of Impediments is found in the Fair Housing Planning Guide, published in 1996. Since that time, HUD's approach to fair housing has greatly evolved and formal guidance has largely yet to catch up. In 2013, HUD released a new proposed rule titled "Affirmatively Furthering Fair Housing" that outlines significant changes to the development of local fair housing studies. Because this proposed rule has yet to be finalized, the methodology and components of this AI, to the greatest extent possible, meet both the revised criteria of the proposed rule as well as the traditional AI requirements found in the Fair Housing Planning Guide.

Though licensed attorneys with land use and fair housing experience have participated in the research contained herein, no portion of this Analysis shall constitute or be relied upon as legal advice or as a legal opinion.

Throughout this analysis, the authors have made careful decisions regarding which datasets to use. The choice of a dataset often involves tradeoffs between criteria. For example, more recent datasets often have a limited number of data variables available for analysis. Additionally, there is the unavoidable tradeoff between geographic and socioeconomic detail (less detailed data for smaller geographies) that sometimes restricts the availability of data. Also, the detailed definitions of data variables can change over time limiting their comparability.

Finally, all source data used in the preparation of this analysis, whether from national sources (e.g. the U.S. Census Bureau), local sources (e.g. SEWRPC's *Regional Housing Plan*), or from proprietary sources (e.g. the National Low Income Housing Coalition's *Out of Reach* report) is assumed to be accurate.

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Historical Overview

Waukesha County is located in southeastern Wisconsin and is home to more than 390,000 people and 37 municipalities within 576 square miles of suburban and rural areas.[6] Waukesha has a total of 6 percent of the population of the state of Wisconsin and is the 3rd most populous county in Wisconsin. The County encompasses 7 cities, 18 villages, and 12 towns, as shown on the map at the end of this section.

Waukesha County is located 15 miles west of the City of Milwaukee, 60 miles east of the City of Madison, and 100 miles northwest of Chicago. Waukesha County was once home to Native American tribes such as, Effigy Mound Builders and the Potawatomis, in the 1700.[7] During 1870 and 1920, Waukesha County grew from rural villages to vibrant cities and towns. The 1870s commenced the start of the Springs Era in the City of Waukesha in which several mineral springs were discovered and waters bottled.[8] As a result, Waukesha's beverage and bottling industry flourished. The County became known as the "Saratoga of the West," and was recognized as the ideal relaxation destination.[9]

Throughout the years, farming and manufacturing were also vital industries for development in Waukesha County. Limestone mined from the County was utilized for many local buildings and the surrounding areas. These industries were instrumental in aiding the major rail lines connecting Waukesha to other states. The County was once called "Cow County USA" but now has developed a diverse industrial base and is home to some of the world's leading manufacturers and businesses.

Government

Waukesha County is governed by a county executive form of government who is elected to a four-year term and a 25-member Board of Supervisors who are elected to two-year terms in even numbered years. The Executive is responsible for coordinating and directing all administrative and management functions of the County which is not vested in other elected officials. The Executive has the power to appoint the heads of all County departments, except those headed by elected officials or State statutory boards and commissions.[10] The County's fiscal year runs from January 1 to December 31.

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[6] Waukesha County Government, http://www.waukeshacounty.gov/defaultwc.aspx?id=37688
[7] Waukesha County Government, http://www.waukeshacounty.gov/defaultwc.aspx?id=37688
[8] University of Wisconsin Digital Collection, Waukesha County History http://uwdc.library.wisc.edu/collections/WI/WaukeshaCoHist
[9] Ibid.
[10] Waukesha County Government, http://www.waukeshacounty.gov/defaultwc.aspx?id=37688

The HOME Consortium

Since 1998, the Counties of Jefferson, Washington, and Waukesha have a participated as a HOME Consortium and in 1999, Ozaukee County agreed to participate in the Consortium. The Consortium allows local governments that would not otherwise qualify for funding to join with other contiguous units of local government to directly participate in the HOME Investment Partnerships Program (HOME). Every municipality in Jefferson, Ozaukee, Washington and Waukesha Counties, with the exception of Sullivan (Jefferson County) and Chenequa and Oconomowoc Lake (Waukesha County), has formally approved participation in the HOME Consortium. The Consortium assists in providing affordable housing options in the region by providing down payment assistance, acquisition/ rehabilitation assistance, and low-interest housing rehabilitation loans.

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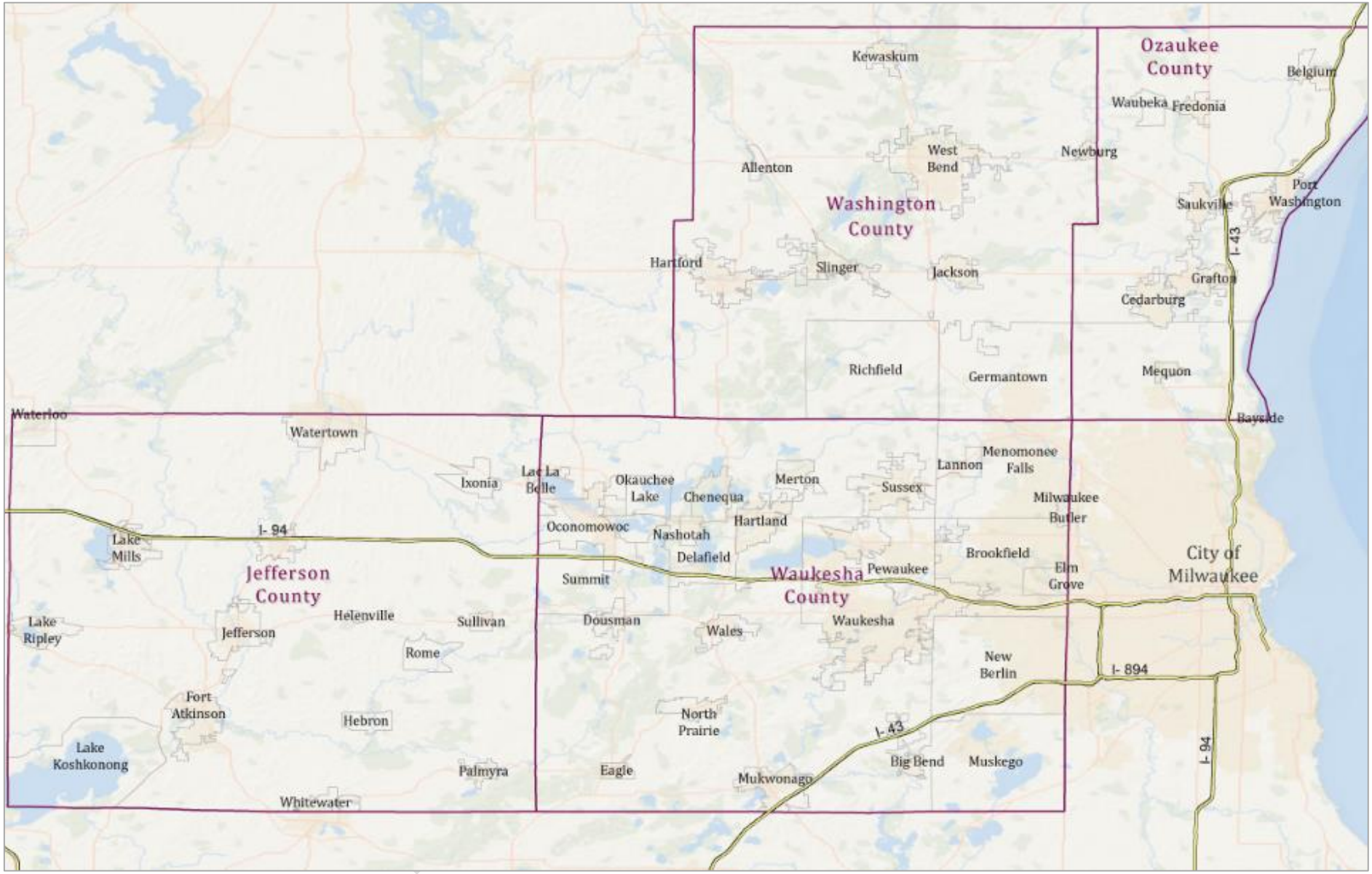
Cities and Villages in Waukesha, Jefferson, Ozaukee, and Washington Counties



Source: U.S. Census TIGER boundary files

Socioeconomic Overview

This section presents demographic and economic information collected from the Census Bureau, the Bureau of Economic Analysis, the Bureau of Labor Statistics, and other sources. Data was used to analyze a broad range of socioeconomic characteristics, including population growth, age, employment, income, and poverty. Ultimately, the information presented in this section helps illustrate the underlying conditions that have shaped housing market behavior and housing choice in the study area.

To supplement 2000 and 2010 census data, information for this analysis was also gathered from the Census Bureau's American Community Survey (ACS). The ACS data covers similar topics as the decennial counts, but also includes data not appearing in the 2010 census such as household income and poverty. The key difference in these datasets is that ACS data represents samples as opposed to a 100 percent count; however, population distributions from the ACS data can be compared to those from the census.

Population Dynamics

The table below shows the population counts in the HOME Consortium counties, as drawn from the 2000 and 2010 censuses and 2013 American Community Survey estimates. In total, the population in the region has increased from 634,598 persons in 2000 to 698,145 persons in 2010, or by 10.0%. According to the 2013 American Community Survey, the population total consists of Waukesha County with a population of 393,843 persons, 84,509 residents in Jefferson County, 87,054 in Ozaukee County and 132,739 in Washington County.

Population Change in the 4-County Study Area, 2000 to 2013

Jurisdiction	2000	2010	2013	% Change 2000-2013
Waukesha County	360,767	389,891	393,843	9.1%
Jefferson County	74,021	83,680	84,509	14.1%
Ozaukee County	82,317	86,349	87,054	5.7%
Washington County	117,493	131,905	132,739	12.9%
Total	**634,598**	**691,825**	**698,145**	**10.0%**

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

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Population by Age

Data on population by age in 2000, 2010, and 2013 in the HOME Consortium counties, presented on the following pages, reflects the largest population groups represented persons aged 5 to 19 and 35 to 54. However, these two age cohorts were also the only groups to show a decrease in population between 2000 and 2013. On the other hand, the cohort aged 55 to 64 showed a significant increases of more than 63 percent or more in all jurisdictions during this time, and the number of persons aged 20 to 24 and 65 or older both showed increases of more than 15 percent or more in each jurisdiction.

Population By Age Waukesha County, Wisconsin							
Age	2000 Census		2010 Census		2013 ACS		00 - 13 % Change
	Population	Share of Total	Population	Share of Total	Population	Share of Total	
Under 5 years	23,096	6.4%	21,474	5.5%	20,334	5.2%	-11.9%
5 to 19	80,166	22.2%	80,913	20.8%	78,908	20.0%	-1.6%
20 to 24	16,226	4.5%	18,304	4.7%	19,844	5.0%	22.2%
25 to 34	42,266	11.7%	40,172	10.3%	41,489	10.5%	-1.8%
35 to 54	121,648	33.7%	120,175	30.8%	112,514	28.6%	-7.5%
55 to 64	33,931	9.4%	53,165	14%	57,944	14.7%	70.7%
65 and Over	43,434	12.0%	55,688	14.3%	62,810	15.9%	44.6%
Total	**360,767**	**100.0%**	**389,891**	**100.0%**	**393,843**	**100.0%**	**9.1%**

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

Population By Age Jefferson County, Wisconsin							
Age	2000 Census		2010 Census		2013 ACS		00 - 13 % Change
	Population	Share of Total	Population	Share of Total	Population	Share of Total	
Under 5 years	4,695	6.3%	4,786	5.7%	4,688	5.5%	-0.1%
5 to 19	15,989	21.6%	18,284	21.9%	17,601	20.8%	10.0%
20 to 24	4,278	5.8%	5,677	4862.0%	5,227	6.2%	22.1%
25 to 34	10,042	13.6%	9,608	11.5%	10,114	12%	0.7%
35 to 54	22,886	31.0%	24,093	28.8%	23,357	27.6%	2.1%
55 to 64	6,772	9.1%	10,210	12.2%	11,300	13.4%	66.8%
65 and Over	9,359	12.6%	11,035	13.1%	12,222	14.5%	30.5%
Total	**74,021**	**100.0%**	**83,693**	**4955%**	**84,509**	**100%**	**14.1%**

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

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Population By Age Ozaukee County, Wisconsin							
Age	2000 Census		2010 Census		2013 ACS		00 - 13 % Change
	Population	Share of Total	Population	Share of Total	Population	Share of Total	
Under 5 years	5,069	6.2%	4,839	5.6%	4,420	5.1%	-12.8%
5 to 19	18,935	23%	17,450	20.2%	17,494	20.1%	-7.6%
20 to 24	3,551	4.3%	4,565	5.3%	4,726	5.4%	33.0%
25 to 34	8,435	10.2%	8,046	9.3%	8,358	9.6%	-0.9%
35 to 54	27,821	33.8%	25,672	29.7%	24,037	27.6%	-13.6%
55 to 64	8,149	9.9%	12,471	15%	13,351	15.3%	63.8%
65 and Over	10,357	12.6%	13,322	15.5%	14,668	16.8%	41.6%
Total	**82,317**	**100.0%**	**86,365**	**100%**	**87,054**	**100.0%**	**5.7%**

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

Population By Age Washington County, Wisconsin							
Age	2000 Census		2010 Census		2013 ACS		00 - 13 % Change
	Population	Share of Total	Population	Share of Total	Population	Share of Total	
Under 5 years	7,970	6.8%	8,076	6.1%	7,239	5.5%	-9.1%
5 to 19	26,146	22.3%	27,454	20.8%	26,530	20.0%	1.5%
20 to 24	5,645	4.8%	6,105	4.6%	6,512	4.9%	15.3%
25 to 34	15,425	13.1%	14,461	11%	14,362	10.8%	-6.8%
35 to 54	38,660	32.9%	41,175	31.2%	39,399	29.7%	1.9%
55 to 64	10,435	8.9%	16,791	12.8%	18,592	14.0%	78.1%
65 and Over	13,212	11.3%	17,909	13.6%	20,105	15.1%	52.1%
Total	**117,493**	**100.1%**	**131,971**	**100%**	**132,739**	**100.0%**	**12.9%**

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

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Economic Analysis

Labor Force and Employment

Data regarding the labor force, defined as the total number of persons working or looking for work, and employment, or the number of persons working, as gathered from the decennial census and American Community Survey estimates are presented below. As shown, labor force and employment figures in the Waukesha County Consortia reflects increases in the number of persons employed in 2010 and a decrease in the number of persons unemployed in 2012.

Employment Status by County								
Employment Status	Jefferson County		Ozaukee County		Washington County		Waukesha County	
	# of Persons	% of Pop.	# of Persons	% of Pop.	# of Persons	% of Pop.	# of Persons	% of Pop.
2010								
Employed	12,053	46.7%	45,682	67.0%	70,802	68.6%	205,443	66.9%
Unemployed	914	3.5%	2,783	4.1%	4,699	4.6%	12,109	3.9%
2012								
Employed	11,254	43.1%	44,329	64.1%	70,772	67.9%	204,093	65.6%
Unemployed	1,402	5.4%	2,793	4.0%	4,639	4.5%	13,382	4.3%

Source: 2000 and 2010 U.S. Census and American Community Survey 2013 1-Year Estimates

Labor Force and Total Employment

According to the Bureau of Labor Statistics, the yearly unemployment rate in the Milwaukee-Waukesha-West Allis Metropolitan Statistical Area was at its highest in the five-year period at 8.9% in 2009. As a result of the fluctuating labor force and employment rates, the unemployment rate rose to over 8 percent in 2009 but fell to 7.3% in 2013.

Unemployment Rates Milwaukee-Waukesha-West Allis, WI Metropolitan Statistical Area					
Year	**2009**	**2010**	**2011**	**2012**	**2013**
Unemployment Rate	8.9%	8.9%	8.0%	7.5%	7.3%

Source: Bureau of Labor Statistics Local Area Unemployment, http://www.bls.gov/lau/lamtrk09.htm

Household Income

The following table presents the number of households in the HOME Consortium counties by income range, as derived from the 2010 and 2012 ACS estimates. As reflected in the 2010 ACS, Waukesha County, 6.0% of households had incomes under $15,000, and an additional 7.8% of households had incomes between $15,000 and $24,999. Comparatively, in the counties of Jefferson, Ozaukee, and Washington the majority of households had income between $50,000 and $74,999. More recent ACS data showed that the percentage of households within the Consortia with incomes of $75,000 and above increased in the 2012 census data with the exception of Waukesha County. This finding suggests that incomes in the County have improved slightly over time.

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Households by Income in 2010 and 2012								
Income Range	Jefferson County		Ozaukee County		Washington County		Waukesha County	
	Households	Percent	Households	Percent	Households	Percent	Households	Percent
2010								
Less than $10,000	1,530	4.8%	681	2%	630	1.2%	5,020	3.3%
$10,000 to $14,999	2,151	6.7%	1,280	3.8%	2,145	4.2%	4,146	2.7%
$15,000 to $24,999	3,746	11.7%	2,672	7.9%	5,458	10.7%	11,744	7.8%
$25,000 to $34,999	3,926	12.3%	3,208	9.4%	4,922	9.6%	13,542	9.0%
$35,000 to $49,999	4,689	14.7%	3,609	10.6%	7,625	14.9%	17,904	11.8%
$50,000 to $74,999	7,127	22.3%	6,208	18.2%	9,842	19.2%	27,389	18.1%
$75,000 to $99,999	3,769	11.8%	4,841	14.2%	8,358	16.3%	23,649	15.6%
$100,000 to $149,999	3,435	10.8%	7,261	21.3%	8,538	16.7%	28,562	18.9%
$150,000 to $199,999	867	2.7%	1,606	4.7%	2,314	4.5%	9,707	6.4%
$200,000 or more	655	2.1%	2,661	7.8%	1,396	2.7%	9,450	6.3%
TOTALS	31,895	100%	34,027	100%	51,228	100%	151,113	100%
2012								
Less than $10,000	1,914	5.9%	1,012	2.9%	1,742	3.4%	4,978	3.2%
$10,000 to $14,999	1,189	3.7%	966	2.8%	1,651	3.2%	4,510	2.9%
$15,000 to $24,999	3,180	9.8%	2,678	7.8%	4,306	8.3%	10,874	7.1%
$25,000 to $34,999	3,455	10.7%	2,599	7.6%	5,329	10.3%	11,940	7.7%
$35,000 to $49,999	5,280	16.3%	4,026	11.7%	6,306	12.2%	18,272	11.9%
$50,000 to $74,999	6,038	18.7%	5,849	17.0%	10,980	21.2%	29,653	19.2%
$75,000 to $99,999	5,515	17.0%	5,116	14.9%	7,540	14.5%	22,994	14.9%
$100,000 to $149,999	4,284	13.2%	6,138	17.9%	8,703	16.8%	29,840	19.4%
$150,000 to $199,999	892	2.8%	2,875	8.4%	2,622	5.1%	10,666	6.9%
$200,000 or more	613	1.9%	3,106	9.0%	2,658	5.1%	10,462	6.8%
TOTALS	32,360	100%	34,365	100%	51,837	100%	154,189	100%

Source: U.S. Census Bureau, American Community Survey 2010 and 2012 1-Year Estimates

Poverty

The Census Bureau uses a set of income thresholds that vary by family size and composition to determine poverty status. If a family's total income is less than the threshold for its size, then that family, and every individual in it, is considered poor. The poverty thresholds do not vary geographically, but they are updated annually for inflation using the Consumer Price Index. The official poverty definition counts income before taxes and does not include capital gains and non-cash benefits such as public housing, Medicaid, and food stamps. Further, poverty is not defined for persons in military barracks, institutional group quarters, or for unrelated individuals under age 15 such as foster children.

The table follow reflects the persons in poverty by age throughout the Waukesha County Consortia. As noted in both the 2010 and 2012 ACS, Jefferson County had the largest percentage of persons 18 and under in poverty.

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Persons in Poverty by Age, 2010 and 2012								
Age	Jefferson County		Ozaukee County		Washington County		Waukesha County	
	Number of Households	% of Population	Number of Households	% of Population	Number of Households	% of Population	Number of Households	% of Population
2010								
18 and Under	3,900	20.2%	972	4.9%	3,547	11.0%	8,114	8.7%
18 to 64	5,528	10.8%	3,807	7.2%	3,634	4.5%	14,149	5.9%
65 and Older	286	2.7%	411	3.1%	500	2.8%	2,109	4.0%
2012								
18 and Under	2,144	11.3%	1,183	6.2%	2,379	7.7%	8,119	9.1%
18 to 64	5,305	10.4%	2,768	5.3%	4,980	6.1%	12,307	5.1%
65 and Older	975	8.5%	735	5.3%	632	3.4%	2,555	4.4%

Source: U.S. Census Bureau, American Community Survey 2010 and 2012 1-Year Estimates

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Protected Class Analysis

The Fair Housing Act lists seven prohibited bases for housing discrimination:[11] race, color, national origin, sex, familial status, disability, and religion. Wisconsin's Open Housing Law guarantees equal housing opportunity for these and six additional protected classes including sexual orientation, marital status, lawful source of income, age, ancestry, and status as a victim of domestic violence, domestic abuse, or stalking. This analysis addresses each of the federally protected groups and their geographic distribution in Waukesha, Washington, Ozaukee, and Jefferson Counties.

Race and Ethnicity

As of 2010, the vast majority of the population within the study area was non-Hispanic White (91.6%). Hispanic residents made up 3.9% of the 4-county area, followed by Asians (2.0%) and African Americans (1.1%). Remaining minorities (American Indians, Alaska Natives, Native Hawaiians, Pacific Islanders, and persons of other or multiple races) constituted less than 1.5% combined.

Between the last two censuses, racial and ethnic diversity increased slightly within the Study Area. The non-Hispanic White population grew by the largest total number of persons (31,620) but increased at the lowest rate (5.2%). Two racial groups nearly doubled their population: the number of Asian residents grew by 6,923 (or 96.0%) and the number of Black residents grew by 3,653 (or 92.2%). Hispanic and multi-racial populations also saw strong growth with rates of 78.5% and 67.5%, respectively.

Population by Race and Ethnicity in the 4-County Study Area

Race by Ethnicity	2000		2010		2000-2010 Change
	Count	Share	Count	Share	
Non-Hispanic	619,462	97.6%	664,840	96.1%	7.3%
White	602,434	94.9%	634,054	91.6%	5.2%
Black or African American	3,960	0.6%	7,613	1.1%	92.2%
American Indian/Alaska Native	1,324	0.2%	1,594	0.2%	20.4%
Asian	7,209	1.1%	14,132	2.0%	96.0%
Native Hawaiian/Pacific Islander	123	0.0%	172	0.0%	39.8%
Other race	315	0.0%	414	0.1%	31.4%
Two or more races	4,097	0.6%	6,861	1.0%	67.5%
Hispanic or Latino	15,136	2.4%	27,019	3.9%	78.5%
Total Population	634,598	100.0%	691,859	100.0%	9.0%

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

[11] *Live Free: Annual Report on Fair Housing FY 2010*, U.S. Department of Housing and Urban Development.

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Hispanic population growth and a stagnant/decreasing White population are not unique to the study area. Nationally, the Hispanic population grew by 43.0% from 2000 to 2010, well above the population growth rate for Whites of 1.2%. Further, despite increasing minority population shares, the study area remains drastically less diverse than metro Milwaukee. As of the 2010 Census, 69.0% of the Milwaukee-Waukesha-West Allis Metropolitan Statistical Area (MSA) population was non-Hispanic White, 16.4% was Black, 2.9% was Asian, and 9.5% was Hispanic. Research conducted for the US2010 project further illustrates this divide in finding that metro Milwaukee was the country's 2nd most segregated MSA in 2010 in terms of residential patterns between Black and White residents, and 13th in terms of residential patterns between Hispanic and White residents.[12] These indices will be further explored in the Segregation Analysis section of this report.

The table on the following page shows racial and ethnic composition of the population by county and indicate that trends are relatively similar across all four counties. In each, non-Hispanic White residents make up at least 90% of the population, followed by Hispanic residents who constitute between 2.3% (in Ozaukee County) and 6.6% (in Jefferson County). Jefferson and Washington Counties saw the most significant population growth between 2000 and 2010, and also the largest percentage increase in Black and Hispanic residents. The Black population increased by 241.3% in Jefferson County and 149.4% in Washington County. Comparable Hispanic population growth rates were 83.3% and 121.4%, respectively. Improved equality in terms of access to housing will be a crucial factor in promoting continued diversity in the study area, and safeguarding the fair housing rights of current residents who are members of racial and ethnic protected classes.

The maps on the following pages show the racial and ethnic composition of the study area by census tract. The study area's Black population is most concentrated in Waukesha and the area to the west along I-94, Menomonee Falls, and Mequon. African American residents do not constitute more than 3% of tract population in any other areas.

The study area's Asian population is most concentrated in the municipalities surrounding the Milwaukee city limits. Three census tracts in Brookfield and Waukesha have Asian populations above 8%, and 22 tracts in New Berlin, Brookfield, Pewaukee, Menomonee Falls, Mequon, and Germantown have Asian populations of 4.1% to 8%.

Hispanic residents make up a relatively large share of the population in four tracts in Waukesha and one in Fort Atkinson (15.1% or more). Other areas of moderate concentration (10.1% to 15%) include tracts in Jefferson, Palmyra, and Watertown in Jefferson County, and three additional tracts in Waukesha.

[12] "Data: Residential Segregation." *US2010: Discover America in a New Century.* American Communities Project: Brown University. http://www.s4.brown.edu/us2010/SegSorting/Default.aspx

Population by Race and Ethnicity by County for the 4-County Study Area										
Race by Ethnicity	2000		2010		2000-2010 Change	2000		2010		2000-2010 Change
	Count	Share	Count	Share		Count	Share	Count	Share	
	Waukesha County					Washington County				
Non-Hispanic	351,264	97.4%	373,768	95.9%	6.4%	115,964	98.7%	128,502	97.4%	10.8%
White	339,905	94.2%	353,114	90.6%	3.9%	113,870	96.9%	124,348	94.3%	9.2%
Black or African American	2,570	0.7%	4,726	1.2%	83.9%	447	0.4%	1,115	0.8%	149.4%
American Indian/Alaska Native	685	0.2%	863	0.2%	26.0%	275	0.2%	345	0.3%	25.5%
Asian	5,340	1.5%	10,675	2.7%	99.9%	666	0.6%	1,401	1.1%	110.4%
Native Hawaiian/Pacific Islander	71	0.0%	117	0.0%	64.8%	28	0.0%	22	0.0%	-21.4%
Other race	186	0.1%	252	0.1%	35.5%	50	0.0%	51	0.0%	2.0%
Two or more races	2,507	0.7%	4,021	1.0%	60.4%	628	0.5%	1,220	0.9%	94.3%
Hispanic or Latino	9,503	2.6%	16,123	4.1%	69.7%	1,529	1.3%	3,385	2.6%	121.4%
Total Population	360,767	100.0%	389,891	100.0%	8.1%	117,493	100.0%	131,887	100.0%	12.3%
	Ozaukee County					Jefferson County				
Non-Hispanic	81,244	98.7%	84,439	97.7%	3.9%	70,990	95.9%	78,131	93.4%	10.1%
White	78,894	95.8%	80,689	93.4%	2.3%	69,765	94.3%	75,903	90.7%	8.8%
Black or African American	759	0.9%	1,144	1.3%	50.7%	184	0.2%	628	0.8%	241.3%
American Indian/Alaska Native	148	0.2%	174	0.2%	17.6%	216	0.3%	212	0.3%	-1.9%
Asian	880	1.1%	1,505	1.7%	71.0%	323	0.4%	551	0.7%	70.6%
Native Hawaiian/Pacific Islander	11	0.0%	20	0.0%	81.8%	13	0.0%	13	0.0%	0.0%
Other race	49	0.1%	54	0.1%	10.2%	30	0.0%	57	0.1%	90.0%
Two or more races	503	0.6%	853	1.0%	69.6%	459	0.6%	767	0.9%	67.1%
Hispanic or Latino	1,073	1.3%	1,956	2.3%	82.3%	3,031	4.1%	5,555	6.6%	83.3%
Total Population	82,317	100.0%	86,395	100.0%	5.0%	74,021	100.0%	83,686	100.0%	13.1%

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

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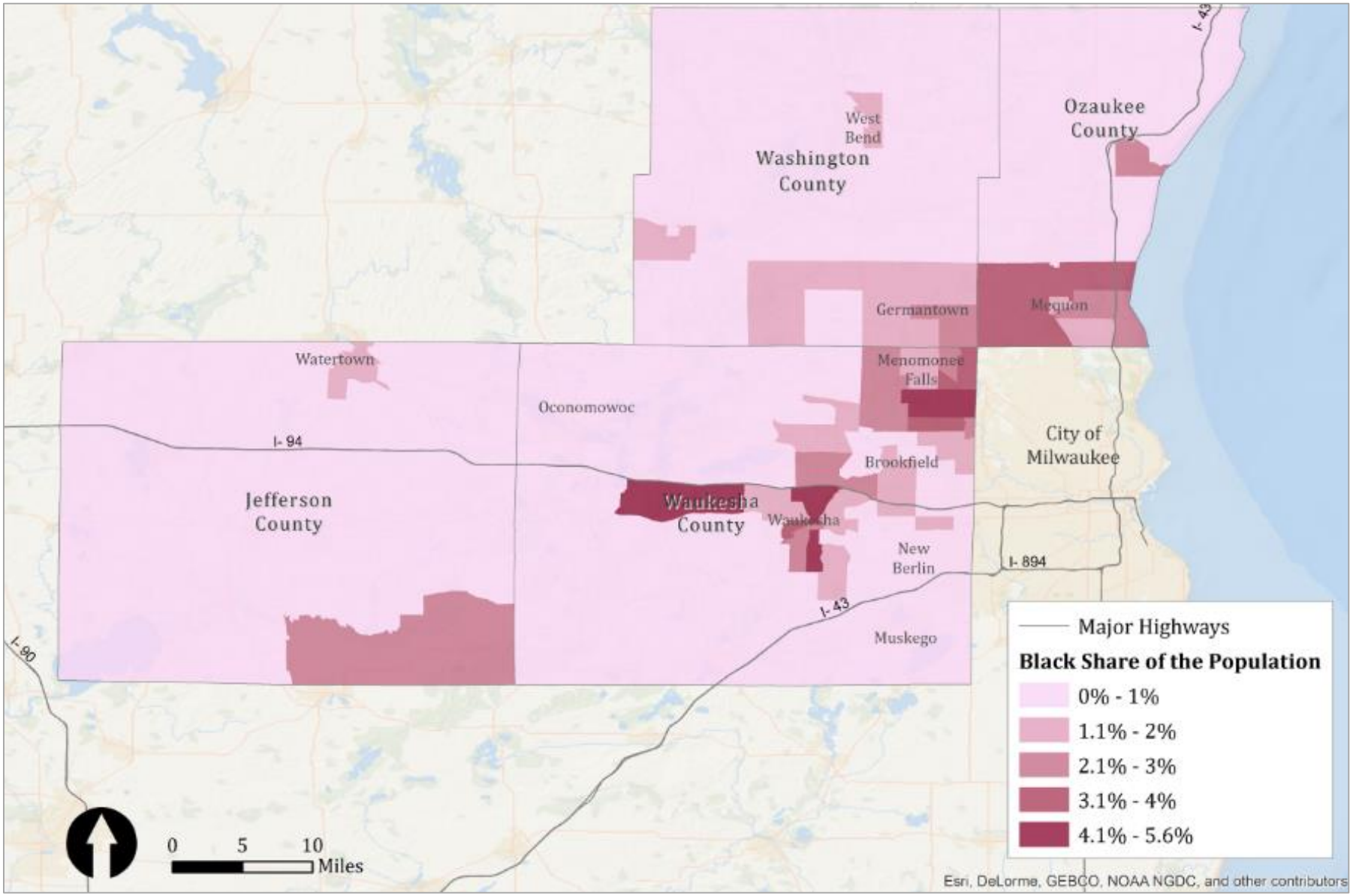
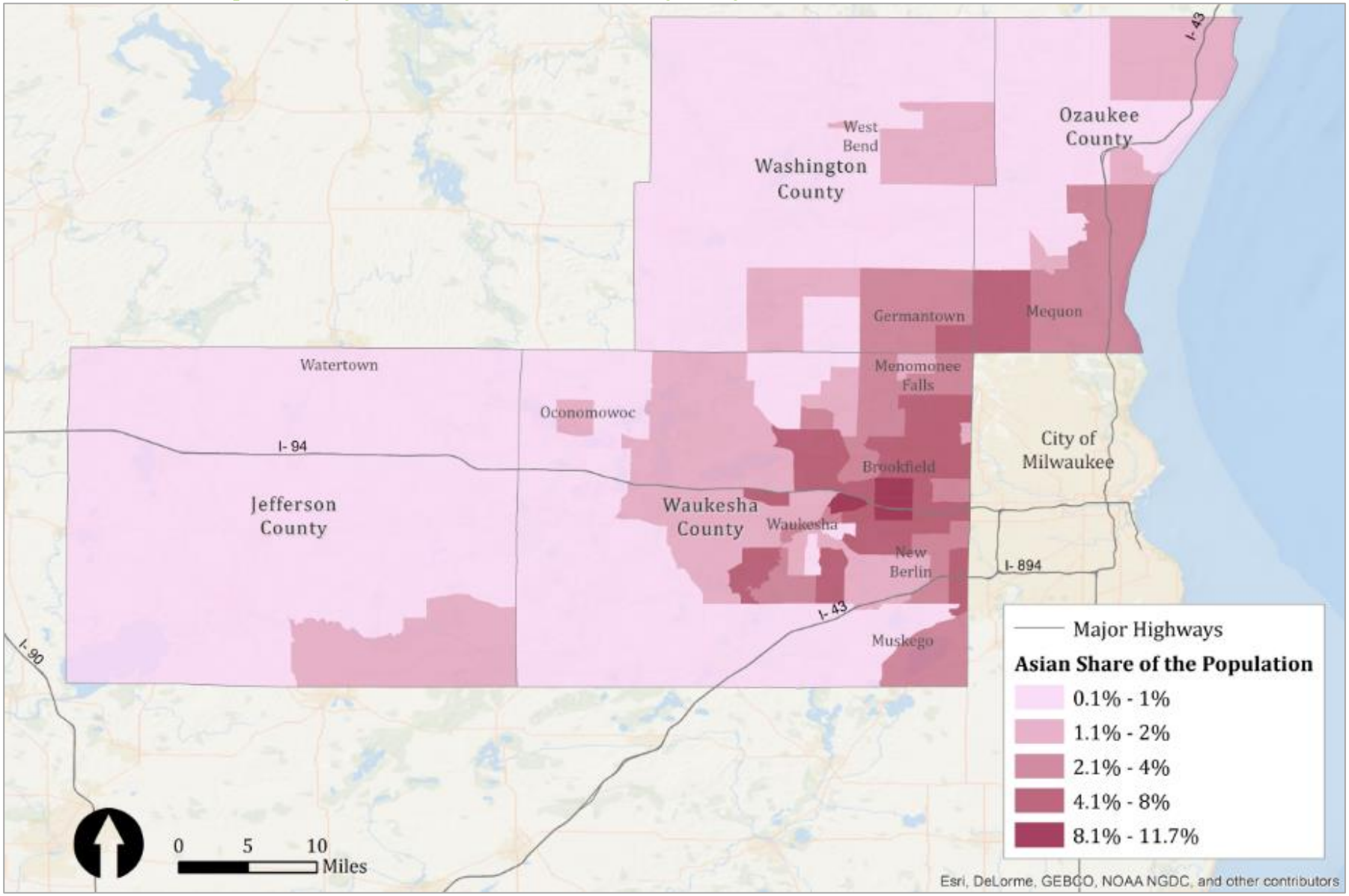
Black Share of the Population by Census Tract in the 4-County Study Area, 2010



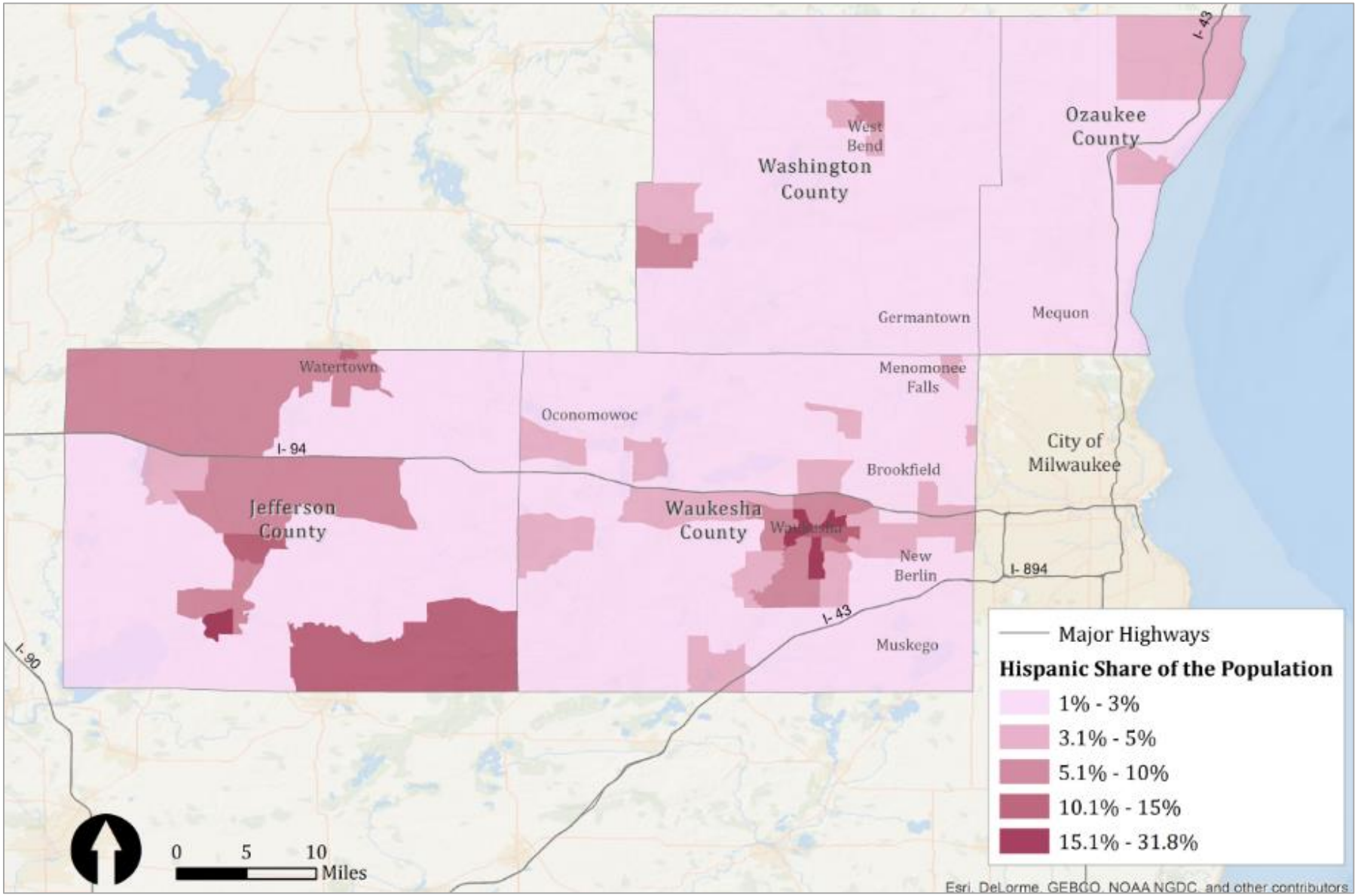
Source: U.S. Census 2010 SF1 Table P5

Asian Share of the Population by Census Tract in the 4-County Study Area, 2010



Source: U.S. Census 2010 SF1 Table P5

Hispanic Share of the Population by Census Tract in the 4-County Study Area, 2010



Source: U.S. Census 2010 SF1 Table P5

National Origin

As of the 2008-2012 American Community Survey, 4.1% of the study area's population was foreign born, considerably below the U.S. rate of 12.9%, but on par with that of Wisconsin (4.6%). Since the 2000 Census, the study area's non-native population grew by 40.7%, surpassing the growth rate of both the state (36.5%) and country (27.9%).

While nearly half of the nation's foreign born population is from the Caribbean and Central America, these regions make up only 22.7% of the study area's non-US natives. The largest shares are from Asia (35.6%) and Europe (33.2%), and native Asians increased by 84.9% since 2000.

National Origin of Foreign Born Population in the 4-County Study Area

National Origin	2000		2008-2012		Percent Change
	Count	Share	Count	Share	
Europe	8,620	43.1%	9,346	33.2%	8.4%
Asia	5,418	27.1%	10,019	35.6%	84.9%
Africa	392	2.0%	736	2.6%	87.8%
Oceania	165	0.8%	122	0.4%	-26.1%
Americas	5,395	27.0%	7,896	28.1%	46.4%
Caribbean & Central America	3,889	19.5%	6,380	22.7%	64.1%
South America	529	2.6%	534	1.9%	0.9%
North America	977	4.9%	982	3.5%	0.5%
Foreign Born Population	19,990	100.0%	28,119	100.0%	40.7%
Foreign Born Population as Share of Total	3.2%		4.1%		

Sources: U.S. Census 2000 SF3 Table PCT019 and 2008-2012 5-Year American Community Survey Table B05006

As the following table and map shows, pockets of foreign born populations are spread throughout the study area. Waukesha County has the highest share of non-natives (4.4%) and Washington County the lowest (2.8%). Asians and Europeans make up the largest share of non-natives in Waukesha, Washington, and Ozaukee Counties (74.2%, 69.8%, and 80.9%, respectively), and persons from the Caribbean and Central America make up the majority in Jefferson County (65.9%), reflecting its larger Hispanic population. As the map illustrates, the greatest concentrations (above 9.1%) of foreign born residents are in five census tracts in Waukesha, Butler, and Mequon.

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National Origin of Foreign Born Population by County for the 4-County Study Area										
Race by Ethnicity	**2000**		**2008-2012**		**Percent Change**	**2000**		**2008-2012**		**Percent Change**
	Count	**Share**	**Count**	**Share**		**Count**	**Share**	**Count**	**Share**	
	Waukesha County					**Washington County**				
Europe	5,483	42.1%	5,547	32.2%	1.2%	1,019	46.5%	1,557	42.0%	52.8%
Asia	3,988	30.6%	7,235	42.0%	81.4%	536	24.5%	1,030	27.8%	92.2%
Africa	193	1.5%	519	3.0%	168.9%	38	1.7%	4	0.1%	-89.5%
Oceania	109	0.8%	86	0.5%	-21.1%	6	0.3%	17	0.5%	183.3%
Americas	3,244	24.9%	3,839	22.3%	18.3%	591	27.0%	1,095	29.6%	85.3%
Caribbean & Central America	2,178	16.7%	2,881	16.7%	32.3%	382	17.4%	854	23.1%	123.6%
South America	374	2.9%	328	1.9%	-12.3%	70	3.2%	134	3.6%	91.4%
North America	692	5.3%	630	3.7%	-9.0%	139	6.3%	107	2.9%	-23.0%
Foreign Born Population	13,017	100.0%	17,226	100.0%	32.3%	2,190	100.0%	3,703	100.0%	69.1%
Foreign Born Pop as Share of Total	3.6%		4.4%			1.9%		2.8%		
	Ozaukee County					**Jefferson County**				
Europe	1,502	55.2%	1,608	44.4%	7.1%	616	29.8%	634	17.8%	2.9%
Asia	694	25.5%	1,323	36.5%	90.6%	200	9.7%	431	12.1%	115.5%
Africa	139	5.1%	177	4.9%	27.3%	22	1.1%	36	1.0%	63.6%
Oceania	32	1.2%	13	0.4%	-59.4%	18	0.9%	6	0.2%	-66.7%
Americas	352	12.9%	501	13.8%	42.3%	1,208	58.5%	2,461	69.0%	103.7%
Caribbean & Central America	208	7.6%	294	8.1%	41.3%	1,121	54.3%	2,351	65.9%	109.7%
South America	62	2.3%	40	1.1%	-35.5%	23	1.1%	32	0.9%	39.1%
North America	82	3.0%	167	4.6%	103.7%	64	3.1%	78	2.2%	21.9%
Foreign Born Population	2,719	100.0%	3,622	100.0%	33.2%	2,064	100.0%	3,568	100.0%	72.9%
Foreign Born Pop as Share of Total	3.3%		4.2%			2.8%		4.3%		

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

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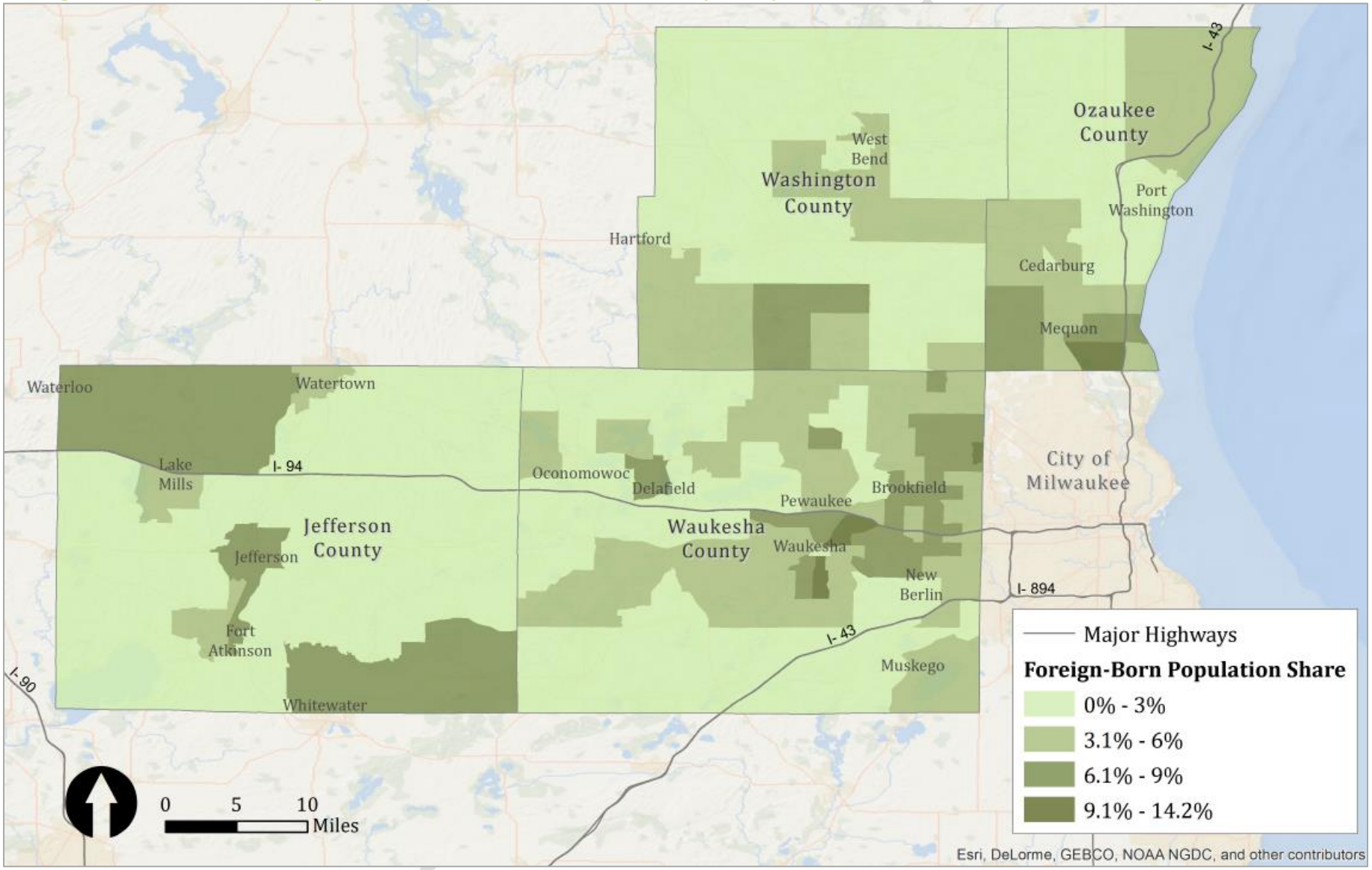
Foreign Born Share of the Population by Census Tract in 4-County Study Area, 2008-2012



Source: 2008-2012 5-Year American Community Survey Table B0500

Familial Status and Householder Sex

As of the 2010 Census, there were 270,613 households in the study area, of which 70.9% were families.[13] Nearly half of families and one-third of total households (32.1%) included children. Only 10.3% of family households had female householders, compared to 55.2% of non-family households, together totaling 63,301 (or 23.4% of total householders). Nationally, two-thirds of households were family households (66.4%) in 2010, about one-third (31.3%) of all households had children, and 34.9% had female householders.

Familial Status and Sex of Householder in the 4-County Study Area

Household Type	2000		2010		2000-2010 % Change
	Count	Share	Count	Share	
Family Households	176,167	74.0%	191,970	70.9%	9.0%
Married couple householders	152,527	64.1%	162,290	60.0%	6.4%
With related children under 18	72,087	30.3%	68,665	25.4%	-4.7%
No related children under 18	80,440	33.8%	93,625	34.6%	16.4%
Male householder, no wife	7,031	3.0%	9,786	3.6%	39.2%
With related children under 18	4,039	1.7%	5,751	2.1%	42.4%
No related children under 18	2,992	1.3%	4,035	1.5%	34.9%
Female householder, no husband	16,609	7.0%	19,894	7.4%	19.8%
With related children under 18	10,654	4.5%	12,418	4.6%	16.6%
No related children under 18	5,955	2.5%	7,476	2.8%	25.5%
Nonfamily Households	61,966	26.0%	78,643	29.1%	26.9%
Male householders	28,371	11.9%	35,236	13.0%	24.2%
Female householders	33,595	14.1%	43,407	16.0%	29.2%
Total Households	238,133	100.0%	270,613	100.0%	13.6%
Total female householders	50,204	21.1%	63,301	23.4%	26.1%
Total households with children	86,780	36.4%	86,834	32.1%	0.1%

Sources: U.S. Census 2000 SF1 Tables P027 and P035 and 2010 SF1 Tables P29 and P39

Changes in household types in the study area between 2000 and 2010 show a 4.7% drop in the number of married couple households with children. Numbers of other household types (single householders with and without children and nonfamily households), meanwhile, grew by rates ranging from 16.6% to 42.4%. These trends indicate growing diversity in terms of householders and family type in the study area.

[13] The Census defines a family household as a household with two or more people (one of whom is the householder) related by birth, marriage, or adoption residing together. A family household also includes any unrelated people who may be residing with the family.

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Looking at household type by county, shows that family households constitute around 70% of households in each (ranging from 68.1% in Jefferson County to 71.9% in Washington). All saw declines in the number of married couples with children, and substantial growth in single householder families and non-family households.

The share of female householders ranges from 22.2% in Washington County to 25.2% in Jefferson County. As the map of female householders shows, greatest concentrations are in eight tracts in Waukesha County, three tracts in Washington County, and one tract in Ozaukee County. Female householders make up 35.1% or more of households in each of these areas.

Households with children make up just under one-third of total households in each county, ranging from 31.2% in Ozaukee County to 32.9% in Washington County. Census tracts with the highest concentration of households with children (40.1% or more) are in Waukesha County (12 tracts), Ozaukee County (2 tracts), and Washington County (1 tract).

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Familial Status and Sex of Householder by County for the 4-County Study Area										
Household Type	2000		2010		Percent Change	2000		2010		Percent Change
	Count	Share	Count	Share		Count	Share	Count	Share	
	Waukesha County					Washington County				
Family Households	100,502	74.3%	108,810	71.3%	8.3%	32,757	74.7%	37,114	71.9%	13.3%
Married couple householders	87,606	64.8%	92,734	60.7%	5.9%	28,167	64.2%	31,191	60.4%	10.7%
With related children under 18	41,471	30.7%	39,453	25.8%	-4.9%	13,491	30.8%	13,229	25.6%	-1.9%
No related children under 18	46,135	34.1%	53,281	34.9%	15.5%	14,676	33.5%	17,962	34.8%	22.4%
Male householder, no wife	3,737	2.8%	5,191	3.4%	38.9%	1,447	3.3%	2,079	4.0%	43.7%
With related children under 18	2,082	1.5%	2,951	1.9%	41.7%	861	2.0%	1,245	2.4%	44.6%
No related children under 18	1,655	1.2%	2,240	1.5%	35.3%	586	1.3%	834	1.6%	42.3%
Female householder, no husband	9,159	6.8%	10,885	7.1%	18.8%	3,143	7.2%	3,844	7.4%	22.3%
With related children under 18	5,756	4.3%	6,611	4.3%	14.9%	2,072	4.7%	2,502	4.8%	20.8%
No related children under 18	3,403	2.5%	4,274	2.8%	25.6%	1,071	2.4%	1,342	2.6%	25.3%
Nonfamily Households	34,727	25.7%	43,853	28.7%	26.3%	11,085	25.3%	14,491	28.1%	30.7%
Male householders	15,643	11.6%	19,112	12.5%	22.2%	5,397	12.3%	6,886	13.3%	27.6%
Female householders	19,084	14.1%	24,741	16.2%	29.6%	5,688	13.0%	7,605	14.7%	33.7%
Total Households	135,229	100.0%	152,663	100.0%	12.9%	43,842	100.0%	51,605	100.0%	17.7%
Total female householders	28,243	20.9%	35,626	23.3%	26.1%	8,831	20.1%	11,449	22.2%	29.6%
Total households with children	49,309	36.5%	49,015	32.1%	-0.6%	16,424	37.5%	16,976	32.9%	3.4%

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

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Familial Status and Sex of Householder by County for the 4-County Study Area (continued)										
Household Type	2000		2010		Percent Change	2000		2010		Percent Change
	Count	Share	Count	Share		Count	Share	Count	Share	
	Ozaukee County					Jefferson County				
Family Households	23,014	74.6%	24,174	70.6%	5.0%	19,894	70.5%	21,872	68.1%	9.9%
Married couple householders	20,244	65.6%	20,759	60.6%	2.5%	16,510	58.5%	17,606	54.8%	6.6%
With related children under 18	9,626	31.2%	8,664	25.3%	-10.0%	7,499	26.6%	7,319	22.8%	-2.4%
No related children under 18	10,618	34.4%	12,095	35.3%	13.9%	9,011	31.9%	10,287	32.0%	14.2%
Male householder, no wife	776	2.5%	1,051	3.1%	35.4%	1,071	3.8%	1,465	4.6%	36.8%
With related children under 18	456	1.5%	601	1.8%	31.8%	640	2.3%	954	3.0%	49.1%
No related children under 18	320	1.0%	450	1.3%	40.6%	431	1.5%	511	1.6%	18.6%
Female householder, no husband	1,994	6.5%	2,364	6.9%	18.6%	2,313	8.2%	2,801	8.7%	21.1%
With related children under 18	1,270	4.1%	1,426	4.2%	12.3%	1,556	5.5%	1,879	5.9%	20.8%
No related children under 18	724	2.3%	938	2.7%	29.6%	757	2.7%	922	2.9%	21.8%
Nonfamily Households	7,843	25.4%	10,054	29.4%	28.2%	8,311	29.5%	10,245	31.9%	23.3%
Male householders	3,449	11.2%	4,282	12.5%	24.2%	3,882	13.8%	4,956	15.4%	27.7%
Female householders	4,394	14.2%	5,772	16.9%	31.4%	4,429	15.7%	5,289	16.5%	19.4%
Total Households	30,857	100.0%	34,228	100.0%	10.9%	28,205	100.0%	32,117	100.0%	13.9%
Total female householders	6,388	20.7%	8,136	23.8%	27.4%	6,742	23.9%	8,090	25.2%	20.0%
Total households with children	11,352	36.8%	10,691	31.2%	-5.8%	9,695	34.4%	10,152	31.6%	4.7%

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

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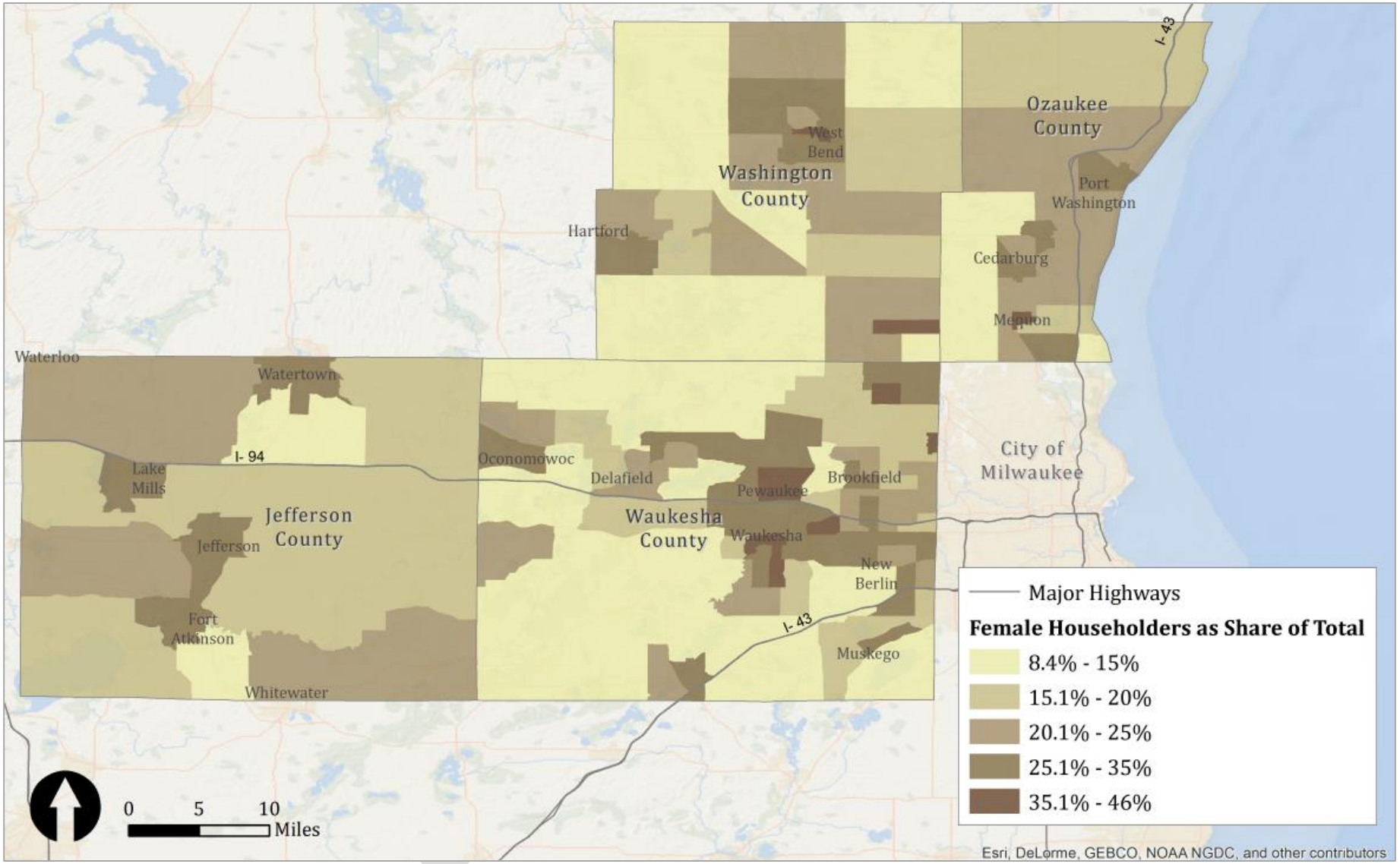
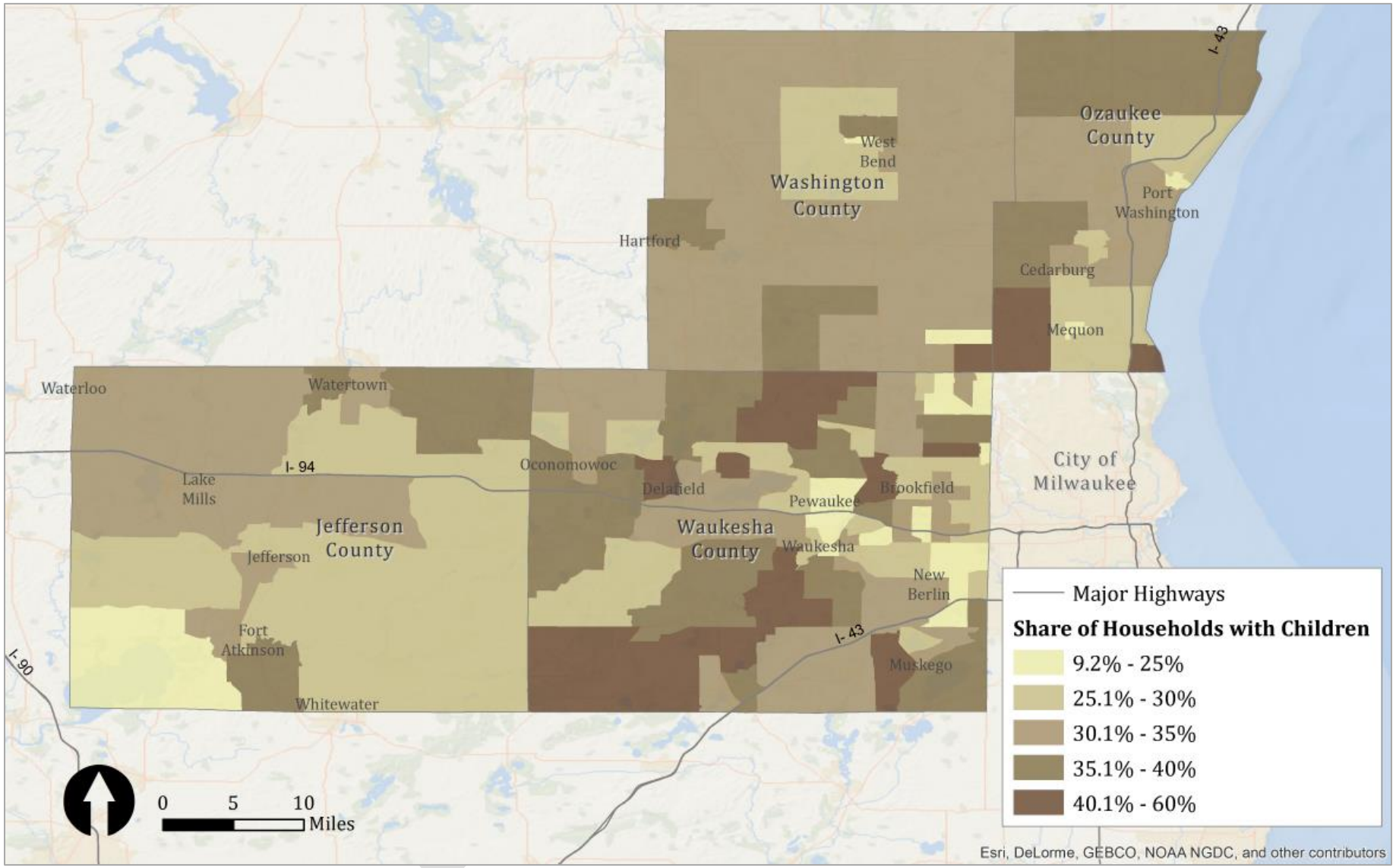
Share of Female Householders by Census Tract in the 4-County Study Area, 2010



Source: U.S. Census 2010 SF1 Tables P29 and P39

Share of Households with Children by Census Tract in the 4-County Study Area, 2010



Source: U.S. Census 2010 SF1 Table P39

Disability

Disability is defined by the Census Bureau as a lasting physical, mental, or emotional condition that makes it difficult for a person to conduct daily activities of living or impedes him or her from being able to go outside the home alone or to work.

According to the most recent five-year American Community Survey data (2008-2012), the study area had a disability rate of 9.0%, which represented 61,948 persons living with a disability, including 32,975 persons under age 65 and 28,973 seniors (age 65 and over). The disability rate varied considerably based on age – 5.6% of persons under age 65 had a disability, compared to 30.3% age 65 and over.[14]

Looking at the data by county shows that disability rates are highest in Jefferson County (10.0% overall) and lowest in Ozaukee County (8.8% overall). The map on the next page shows the geographic distribution of the disabled population, which is over 15% in seven census tracts in Waukesha County and three in Washington County. The study area's ability to meet the housing needs of its disabled residents is impacted by an array of factors – such as zoning regulations for group homes, the ease with which modifications may be made to existing homes, and the availability of fair housing services – which are each examined in other sections of this report.

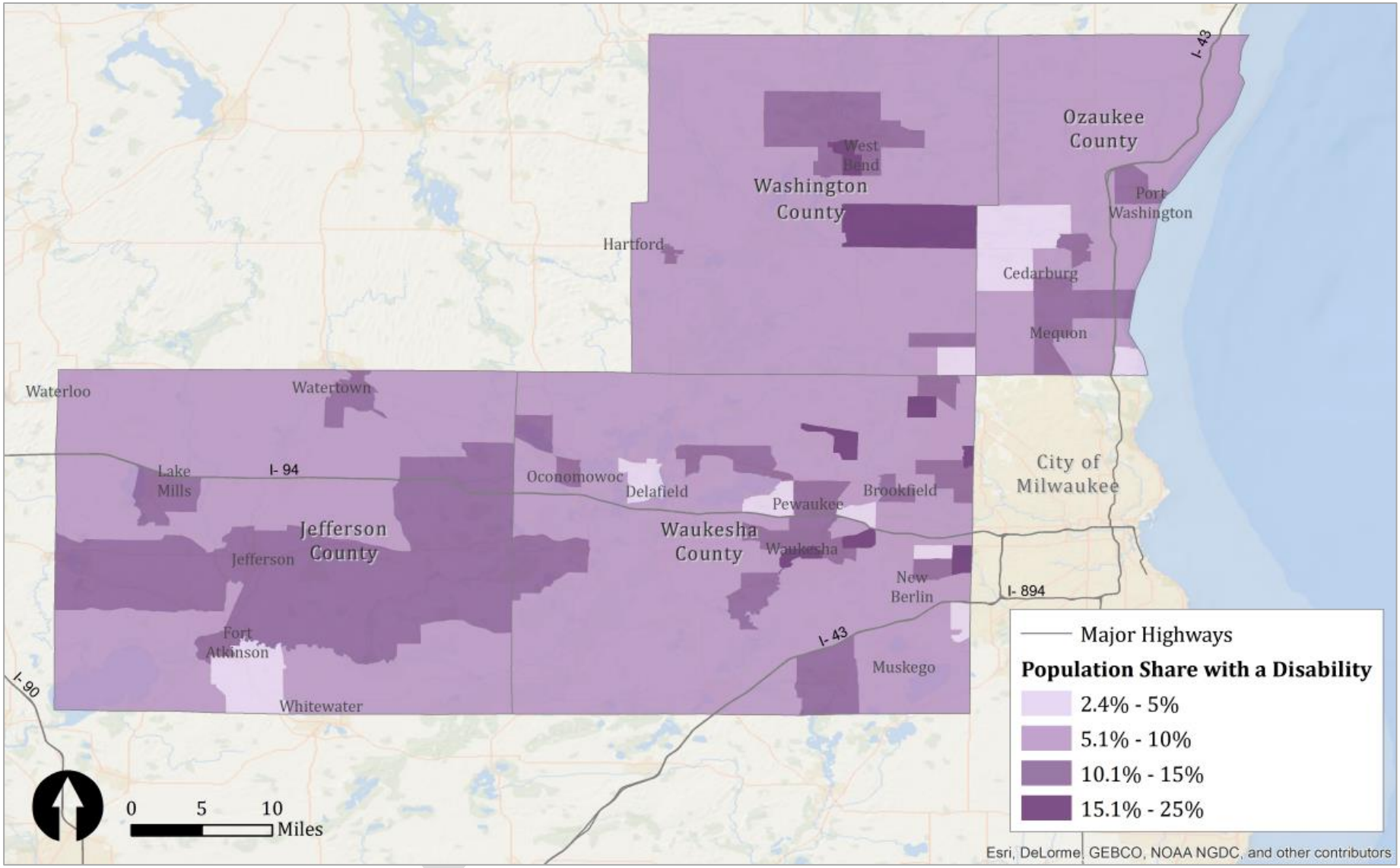
Disability Status of the Population in the 4-County Study Area, 2008-2012

Disability Status	Count	Share of Total	Count	Share of Total	Count	Share of Total
	Waukesha County		**Washington County**		**4-County Area**	
Total population	386,600	100.0%	130,916	100.0%	686,632	100.0%
With a disability	34,277	8.9%	11,852	9.1%	61,948	9.0%
Population under age 65	332,096	100.0%	113,642	100.0%	590,904	100.0%
With a disability	17,557	5.3%	6,676	5.9%	32,975	5.6%
Population age 65 and over	54,504	100.0%	17,274	100.0%	95,728	100.0%
With a disability	16,720	30.7%	5,176	30.0%	28,973	30.3%
	Ozaukee County		**Jefferson County**			
Total population	85,969	100.0%	83,147	100.0%		
With a disability	7,544	8.8%	8,275	10.0%		
Population under age 65	72,838	100.0%	72,328	100.0%		
With a disability	3,846	5.3%	4,896	6.8%		
Population age 65 and over	13,131	100.0%	10,819	100.0%		
With a disability	3,698	28.2%	3,379	31.2%		

Source: 2008-2012 American Community Survey Tables B18101

[14] Disability rates from the 2000 Census are not provided here because questions regarding disability were changed in 2008 and, according to the Census Bureau, should not compared with previous American Community Survey or Census disability data.

Share of Population with a Disability by Census Tract in 4-County Study Area, 2008-2012



Source: 2008-2012 American Community Survey Table B18101

Religious Affiliation

Religion is not one of the questions surveyed by the U.S. Census Bureau making dependable, comprehensive data on religious affiliation difficult to find. The data used in this report appears in the 2010 U.S. Religion Census: Religious Congregations & Membership Study, a county-by-county enumeration of religious bodies in the U.S. published by the Association of Statisticians of American Religious Bodies (ASARB). Data for the study area by county is provided below.

Population by Religious Affiliation in the 4-County Study Area, 2010						
Disability Status	**Count**	**Share**	**Count**	**Share**	**Count**	**Share**
	Waukesha County		**Washington County**		**4-County Area**	
Catholic	115,008	29.5%	39,943	30.3%	202,232	29.2%
Evangelical Protestant	71,237	18.3%	25,503	19.3%	133,125	19.2%
Mainline Protestant	38,654	9.9%	11,157	8.5%	72,130	10.4%
Orthodox	0	0.0%	28	0.0%	278	0.0%
Other	9,840	2.5%	532	0.4%	11,980	1.7%
Judaism	343	0.1%	35	0.0%	1,073	0.2%
Hinduism	6,026	1.5%	25	0.0%	6,128	0.9%
Other	3,471	0.9%	472	0.4%	4,779	0.7%
Unclaimed	155,152	39.8%	54,724	41.5%	272,114	39.3%
Total Population	389,891	100.0%	131,887	100.0%	691,859	100.0%
	Ozaukee County		**Jefferson County**			
Catholic	28,644	33.2%	18,637	22.3%		
Evangelical Protestant	14,469	16.7%	21,916	26.2%		
Mainline Protestant	10,289	11.9%	12,030	14.4%		
Orthodox	250	0.3%	0	0.0%		
Other	1,244	1.4%	364	0.4%		
Judaism	695	0.8%	0	0.0%		
Hinduism	77	0.1%	0	0.0%		
Other	472	0.5%	364	0.4%		
Unclaimed	31,499	36.5%	30,739	36.7%		
Total Population	86,395	100.0%	83,686	100.0%		

Source: Association of Statisticians of American Religious Bodies, *2010 U.S. Religion Census: Religious Congregations & Membership Study*

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In the study area, 69.3% of the population adhered to a religion as of 2010.[15] Of those claiming a religious affiliation, Catholics made up the largest share at 29.9% of the population. Nearly one-fifth (19.2%) of the population was Evangelical Protestant and 10.4% were Mainline Protestant. Catholicism had the most adherents in each county except Jefferson, where Evangelical Protestants constituted the largest share at 26.2%.

Summary of Findings

- As of 2010, the large majority of the four-county study area was non-Hispanic White (91.6%); Hispanic residents made up 3.9%, followed by Asians (2.0%) and African Americans (1.1%). Diversity increased since 2000 as the White population grew by only 5.2%, while the Black and Asian populations nearly doubled and the Hispanic population grew by 78.5%.
- African Americans do not make up more than 6% of any census tract; however, they are relatively concentrated in census tracts in Waukesha and just to its west, Menomonee Falls, and Mequon. The study area's Asian population is relatively most concentrated in Brookfield and Waukesha, where Asians make up more than 8% of three census tracts. Hispanic residents make up more than 15% of the population in four tracts in Waukesha and one in Fort Atkinson.
- Foreign born residents made up 4.1% of study area population in 2010, and more than 9% of the population in five census tracts in Waukesha, Butler, and Mequon. Asian and European immigrants made up the largest shares of the non-US native population in the study area at 35.6% and 33.2%, respectively.
- Nearly one-third (32.1%) of households in the study area had children as of 2010, down from 36.4% ten years earlier. The highest concentrations of households with children (40% or more of households) were in 15 tracts in Waukesha, Ozaukee, and Washington Counties.
- Female householders made up 23.4% of the study area, and over 35% of 12 tracts in Waukesha, Washington, and Ozaukee Counties. From 2000 to 2010, the number of female householders increased by 26.1% compared to 6.4% growth for married couple households.
- Persons with a disability constituted 9.0% of the study area population during the 2008-2012 American Community Survey period; of the disabled population, 53.2% were under age 65 and 46.8% were age 65 and over.
- As of 2010, 60.7% of study area residents adhered to a religion. Catholics made up 29.2% of the population, followed by Evangelical Protestants (19.2%) and Mainline Protestants (10.4%).

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[15] Congregational adherents include all full members, their children, and others who regularly attend services. "Unclaimed," are not adherents of any of the 236 groups included in the Religious Congregations & Membership Study, 2010.

Segregation Analysis

Segregation, or the degree to which two or more racial or ethnic groups live geographically separate from one another, can directly affect the quality of life in cities and neighborhoods. A study by the Federal Reserve Bank of Cleveland compared the economic growth of more than 100 areas in the U.S. between 1994 and 2004 and concluded that racial diversity and inclusion was "positively associated with a host of economic growth measures, including employment, output, productivity, and per capita income."[16] In general, diverse communities have been found to benefit from greater innovation arising out of the varied perspectives within the community. Additionally, multilingual and multicultural regions are best positioned for success in the global marketplace.

Despite the economic and other advantages of diversity, patterns of racial and ethnic segregation remain prevalent in many regions and cities. Segregation is typically perceived of negatively, but it is important to note that it is not always due to overt housing discrimination. In fact, there could be at least three reasons why patterns of segregation exist:

- personal preferences cause individuals to want to live in neighborhoods with others of a particular race and ethnicity;
- income differences across race and ethnic groups limit the selection of neighborhoods where persons of a particular race and ethnicity can live; and
- illegal discrimination in the housing market limits the selection of neighborhoods where persons of a particular race and ethnicity live.

Regardless of the causes of segregation, its effects can be detrimental. "Numerous studies have focused on the possible effects of residential neighborhoods on social and economic outcomes. Persistent economic and racial residential segregation is implicated in enduring racial and ethnic inequality."[17] For example, research demonstrates that African American homeowners earn less equity in their non-rental homes because their incomes are lower and they reside in areas that are more segregated. "Individuals take account of the race-ethnic composition of neighborhoods when deciding if and where to move. These patterns may result from a number of underlying social processes. While race-ethnic prejudice may govern residential choices to some degree, the ethnic composition of a neighborhood is also correlated with other factors that determine neighborhood attractiveness. For example, neighborhoods vary in levels of crime, quality housing, and poverty."[18]

[16] PolicyLink. 2011. "America's Tomorrow: Equity is the Superior Growth Model." http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5eca3bbf35af0%7D/SUMMIT_FRAMING_ WEB_FINAL_20120127.PDF
[17] Bruch, E. 2005. "Residential Mobility, Income, Inequality, and Race/Ethnic Segregation in Los Angeles." Princeton, NJ: Princeton, University, pp. 1.
[18] Bruch, 2005.

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The task in this Segregation Analysis is to determine the degree to which residents of the study area are segregated by race and ethnicity, based on population counts from the 2000 and 2010 U.S. Censuses.

Residential segregation is the degree to which two or more racial or ethnic groups live geographically separate from one another. Early in the field of residential segregation analysis Duncan and Duncan[19] defined a "dissimilarity index" which became the standard segregation measure for evenness of the population distribution by race. By 1988 researchers had begun pointing out the shortcomings of dissimilarity indices when used apart from other measures of potential segregation. In a seminal paper, Massey and Denton[20] drew careful distinctions between the related spatial concepts of sub-population distribution with respect to evenness (minorities may be under- or over-represented in some areas) and exposure (minorities may rarely share areas with majorities thus limiting their social interaction).

This analysis will use the methodology set forth by Duncan and Duncan for the measurement of evenness of the population distribution by race (dissimilarity index) as well as measures of exposure of one race to another (exposure and isolation indices), based on the work of Massey and Denton. Workers in the field generally agree that these measures adequately capture the degree of segregation. These measures have the advantage of frequent use in segregation analyses and are based on commonsense notions of the geographic separation of population groups. An additional analysis for the entropy index will provide a measure of multi-group diversity not accounted for by the other indices which necessarily are limited to two racial or ethnic groups at a time.

Dissimilarity Index

The Dissimilarity Index (DI) indicates the degree to which a minority group is segregated from a majority group residing in the same area because the two groups are not evenly distributed geographically. The DI methodology requires a pair-wise calculation between the racial and ethnic groups in the region. Evenness, and the DI, are maximized and segregation minimized when all small areas (census tracts in this analysis) have the same proportion of minority and majority members as the larger area in which they live (here, the four-county study area). Evenness is not measured in an absolute sense, but is scaled relative to some other group. The DI ranges from 0.0 (complete integration) to 1.00 (complete segregation). HUD identifies a DI value between 0.41 and 0.54 as a moderate level of segregation and 0.55 or above as a high level of segregation.

The regional proportion of the minority population can be small and still not be segregated if evenly spread among tracts. Segregation is maximized when no minority and majority members occupy a common area. When calculated from population data broken down by race or ethnicity, the DI

[19] Duncan, Otis D., and Beverly Duncan. 1955. "A Methodological Analysis of Segregation Indices." *American Sociological Review, Vol.* 20.
[20] Massey, Douglas, S. and Denton, N. A., 1988. "The Dimensions of Residential Segregation." *Social Forces*, Vol. 67, No. 2, University of North Carolina Press.

represents the proportion of minority members that would have to change their area of residence to achieve a distribution matching that of the majority (or vice versa).

Although the literature provides several similar equations for the calculation of the DI, the one below is the most commonly used. This equation differences the magnitude of the weighted deviation of each census tract's minority share with the tract's majority share which is then summed over all the tracts in the region:[21]

$$D = \left(\frac{1}{2}\right) \sum_{i=1}^{n} \left| \frac{Min_i}{Min_T} - \frac{Maj_i}{Maj_T} \right|$$

where:

D = Dissimilarity Index;

Min_i = Minority group population of census tract i;

Min_T = Minority group regional population;

Maj_i = Majority group population of census tract i;

Maj_T = Majority group regional population; and

n = Total number of census tracts in the region.

The table below presents the results of these calculations between non-Hispanic Whites, non-Hispanic Blacks, non-Hispanic Asians, and Hispanics in the study area.[22] The graph that follows presents the same data in a visual format so that trends can be more readily identified.

Dissimilarity Index for the 4-County Study Area			
Group Exposure	**2000**	**2010**	**Change**
Black-White	0.40	0.36	-0.04
Hispanic-White	0.37	0.34	-0.03
Asian-White	0.40	0.38	-0.02
Asian-Black	0.38	0.35	-0.03
Hispanic-Asian	0.49	0.51	0.02
Hispanic-Black	0.45	0.34	-0.11

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

[21] Calculation after Desegregation Court Cases and School Demographics Data, Brown University, Providence, Rhode Island. Source: http://www.s4.brown.edu/schoolsegregation/desegregationdata.htm. Accessed February 27, 2013.

[22] The DI methodology requires that each group be distinct from each other. Each racial or ethnic group cannot overlap. This study focuses primarily on four groups: Hispanics, non-Hispanic Whites, non-Hispanic Blacks, and non-Hispanic Asians (to be called "Whites," "Blacks," and "Asians" for simplicity).

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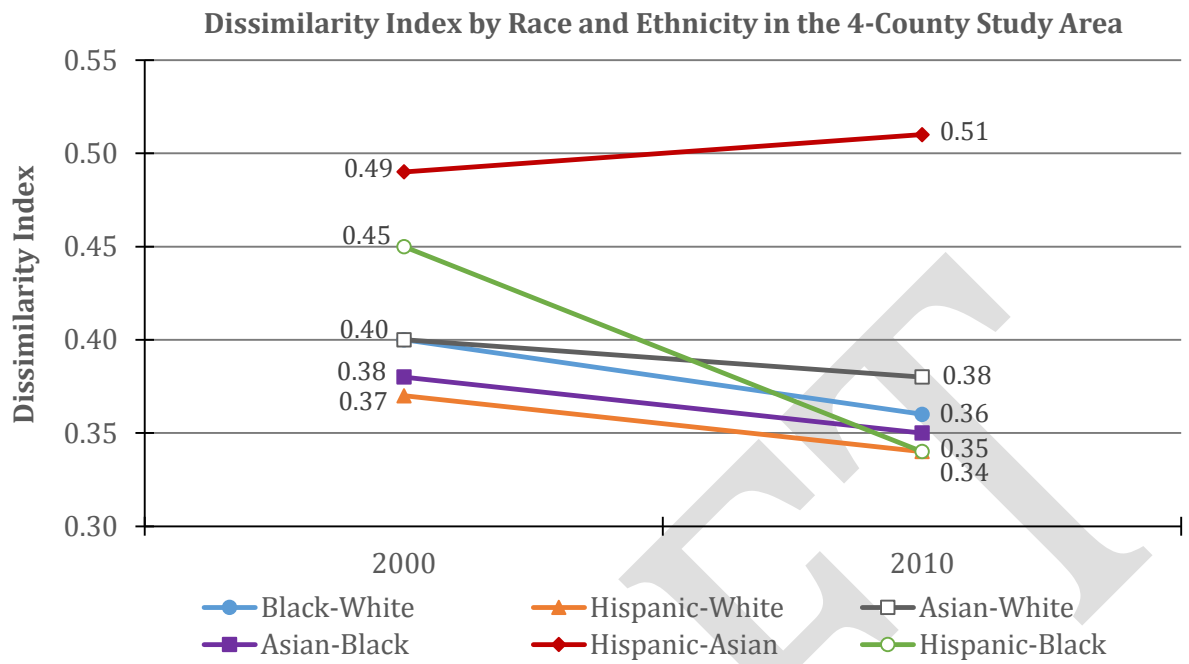

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

Overall, the DI calculations show low levels of segregation between most racial and ethnic pairings in 2010. Black and White residents had a dissimilarity index of 0.36, down from 0.40 in 2000. This can be interpreted as meaning that 36% of Black residents *or* 36% of White residents would have to move census tracts in order for the two groups to be identically distributed geographically and thus eliminate segregation within the study area.

Hispanics and Whites and Asians and Whites also showed low levels of segregation with 2010 DIs of 0.34 and 0.38, respectively; further, segregation among both these pairs declined since 2000. One racial/ethnic pairing – Hispanics and Asians – showed a moderate level of segregation (DI = 0.51) and an increase in dissimilarity since 2000. This value indicates that of all the groups compared, Hispanics and Asians are least likely to reside in similar study area census tracts. For each of the remaining pairings, segregation was low and declined from 2000 to 2010.

These findings are not surprising given the low level of diversity in the study area. They show that the small share of minority residents tend to have relatively similar geographic distributions as White residents; however, low dissimilarity indices do not imply that minority and majority populations necessarily interact frequently with one another, as the proceeding analyses will show.

Exposure Index

Two basic, and related, measures of racial and ethnic interaction are exposure (this section) and isolation (next section). These two indices, respectively, reflect the possibility that a minority

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person shares a census tract with a majority person (Exposure Index, EI, this section) or with another minority person (Isolation Index, II, next section).

"Exposure measures the degree of potential contact between minority and majority group members."[23] Exposure is a measure of the extent two groups share common residential areas and so it reflects the degree to which the average minority group member experiences segregation. The EI can be interpreted as the probability that a minority resident will come in contact with a majority resident, and ranges in value from 0.0 to 1.0, where higher values represent lower segregation.

As with the Dissimilarity Index, each calculation of EI involves two mutually exclusive racial or ethnic groups. The EI measures the exposure of minority group members to members of the majority group as the minority-weighted average (the first term in the equation below) of the majority proportion (the second term) of the population in each census tract, which can be written as:

$$Prob = \sum_{i=1}^{n} \left(\frac{Min_i}{Min_T}\right)\left(\frac{Maj_i}{Tot_i}\right)$$

where:

Prob = Probability that minority group members interact with majority group members

Min_i = Minority group population of census tract i;

Min_T = Minority group regional population;

Maj_i = Majority group population of census tract i;

Tot_i = Total population of census tract i; and

n = Total number of census tracts in the region.

The EI is not "symmetrical" so the probability of a typical Black person meeting a White person in a tract is not the same as the probability of a typical White person meeting a Black person in that tract. An illustrative example of this asymmetry is to imagine a census tract with many White residents and a single Black resident. The Black person would see all White people, but the White residents would see only one Black person. Each would see a much different world with respect to group identification.

The maximum value of the EI depends both on the distribution of racial and ethnic groups and on the proportion of minorities in the area studied. Generally, the value of this index will be highest when the two groups have equal numbers and are spread evenly among tracts (low segregation). If

[23] Massey and Denton, 1988.

a minority is a small proportion of a region's population, that group tends to experience high levels of exposure to the majority regardless of the level of evenness.[24]

The "Exposure Index" table shows that in 2010 the typical probability of a Black person interacting with a White person within their census tract was 88%, while the probability of a White person interacting with a Black person was drastically lower at 1%. These rates can also be interpreted to mean that on average 88 of every 100 people a Black person meets within his census tract is White, but only 1 of every 100 people a White person meets is Black. Asians and Hispanics had similar likelihoods of interacting with Whites (87% and 89%, respectively), although Whites exposure to both of them remained very low (4% and 2%). Interaction amongst minority residents is also low, ranging from 0.02 to 0.05, due in part to their low shares of the total population.

Exposure Index in the 4-County Study Area			
Interacting Groups	**2000**	**2010**	**Change**
Black-White	0.92	0.88	-0.04
White-Black	0.01	0.01	0.00
Hispanic-White	0.90	0.87	-0.03
White-Hispanic	0.02	0.04	0.02
Asian-White	0.93	0.89	-0.04
White-Asian	0.01	0.02	0.01
Asian-Black	0.01	0.02	0.01
Black-Asian	0.02	0.03	0.01
Hispanic-Asian	0.01	0.02	0.01
Asian-Hispanic	0.03	0.04	0.01
Hispanic-Black	0.01	0.02	0.01
Black-Hispanic	0.03	0.05	0.02

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

The "Exposure Index by Race and Ethnicity" graph shows three downward sloping lines indicating a decline in exposure of all three minority groups (Blacks, Asians, and Hispanics) to Whites. In the remaining nine pairings, exposure levels increased slightly (by 0.02 or less in every case). These changes indicate that as diversity increases, the chances of minority residents being exposed to one another and Whites being exposed to minority residents increases, while minority exposure to Whites decreases correspondingly.

[24] John Iceland, Weinberg D.H., and Steinmetz, E. 2002. "Racial and Ethnic Residential Segregation in the United States: 1980-2000." U.S. Census Bureau. Paper presented at the annual meetings of the Population Association of America, Atlanta, Georgia.

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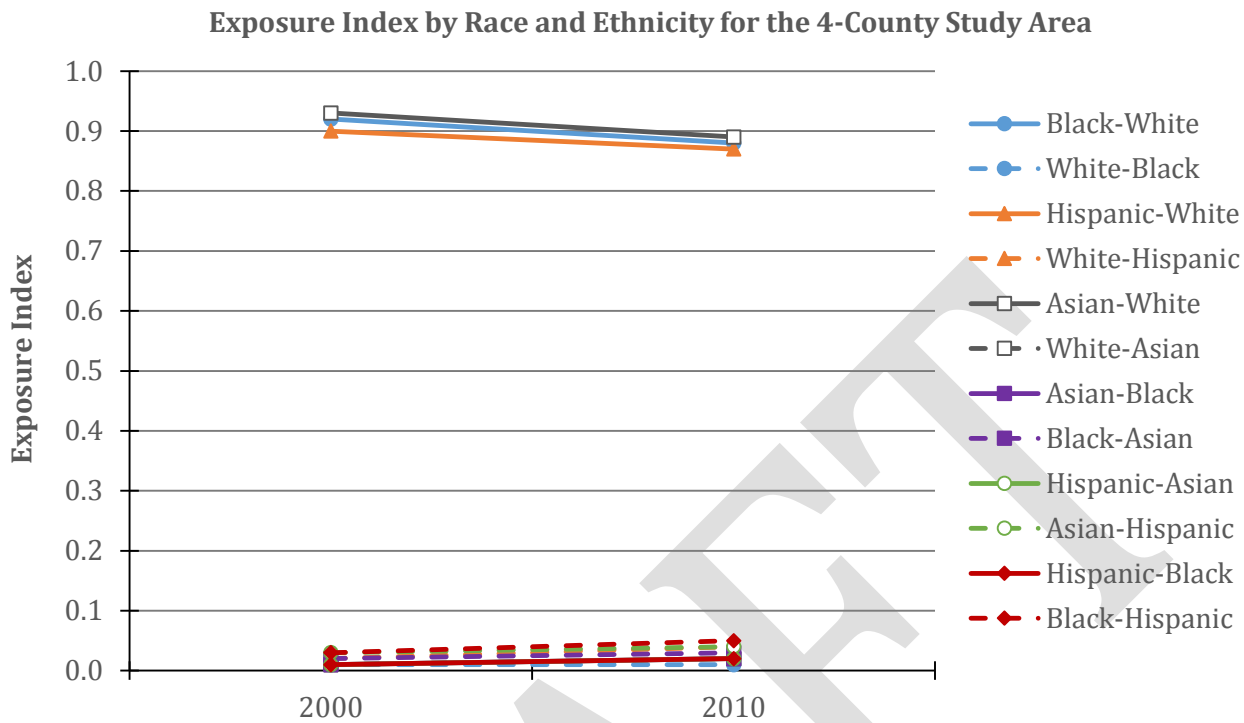

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

Isolation Index

The Isolation Index (II) measures "the extent to which minority members are exposed only to one another" (Massey and Denton, p. 288). Not a measure of segregation in a strict sense, the II is a measure of the probability that a member of one group will meet or interact with a member of the same group. The II can be viewed more as a measure of sociological isolation.

A simple change in notation from the Exposure Index equation yields the formula for the Isolation Index given below. This measure is calculated for one racial or ethnic group at a time so unlike the DI or EI, it does not compare the distribution of two groups. Instead, each calculation measures the isolation of a single group.

Similar to the EI, this index describes the average neighborhood for racial and ethnic groups. It differs in that it measures social interaction with persons of the same group instead of other groups. The II is the minority weighted average (the first term of the equation) of each tract's minority population (the second term) and can be defined as:

$$Prob = \sum_{i=1}^{n} \left(\frac{Min_i}{Min_T}\right)\left(\frac{Min_i}{Tot_i}\right)$$

where:

Prob = Probability that minority group members share an area with each other;

Min_i = Minority group population of census tract i;

Min_T = Minority group regional population;

Tot_i = Total population of census tract i; and

n = Total number of census tracts in the region.

The II is a region-level measure for each race/ethnicity summed up from tracts within the region. The II can be interpreted as a probability that has a lower bound of 0.0 (low segregation corresponding to a small dispersed group) to 1.0 (high segregation implying that group members are entirely isolated from other groups).

The Isolation Index values for the study area show Whites to be by far the most isolated, in effect segregated, from other racial and ethnic groups. In 2010, the average White resident lived in a tract that was 92% White, down from an average of 95% in 2000. Isolation was lower for minority populations – the average Black resident lived in a tract that was only 2% Black, the average Asian resident in a tract that was 4% Asian, and the average Hispanic in a 1% Hispanic tract.[25] IIs for the latter two population segments are up since 2000, while the II for Black residents remained constant.

Isolation Index in the 4-County Study Area			
Group	**2000**	**2010**	**Change**
White	0.95	0.92	-0.03
Black	0.02	0.02	0.00
Asian	0.02	0.04	0.02
Hispanic	0.07	0.08	0.01

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

[25] The Exposure and Isolation Index methodologies implicitly assumes that the tract populations are evenly distributed within a census tract so that the frequency of social interactions is based on the relative population counts by tract for each race or ethnicity. Within actual neighborhoods racial and ethnic groups are not homogenous (e.g., families or small area enclaves) so that the chances of one group meeting another of the same group may be different than an even distribution might imply.

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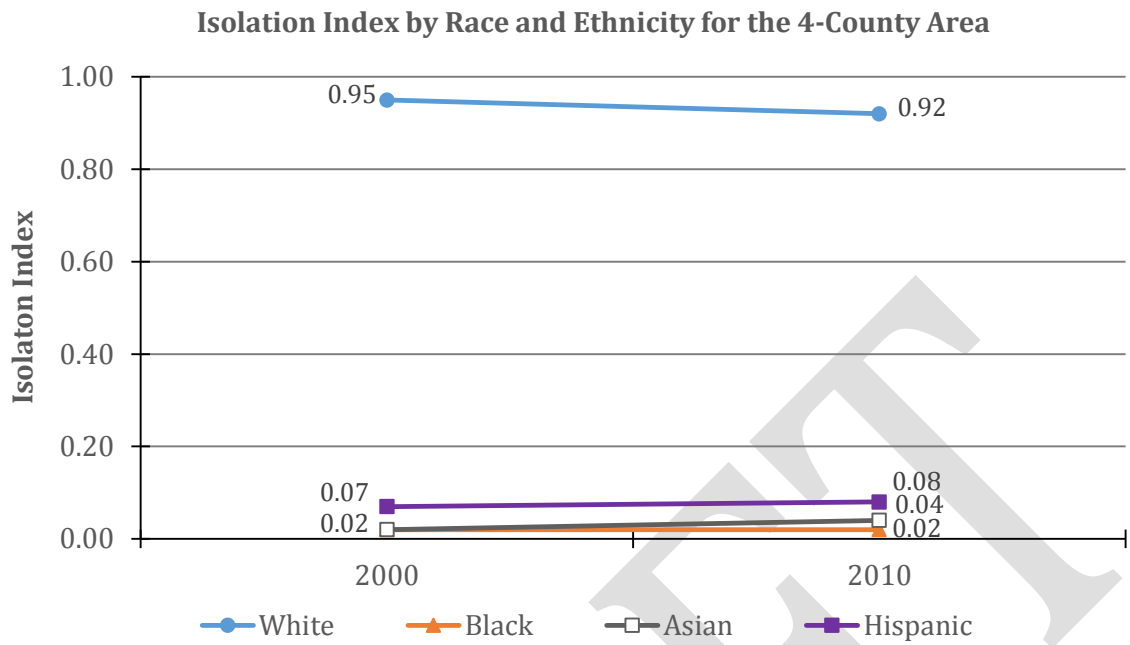

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

Entropy Index

Entropy, a mathematical concept based on the spatial evenness of the distribution of population groups, can be used to calculate diversity among racial and ethnic groups in a geographical area.[26] Both the Dissimilarity Index and Exposure Index can only measure the segregation of two groups relative to each other, but the Entropy Index has the advantage of being able to measure the spatial distribution of multiple racial and ethnic groups simultaneously.

The Entropy Score (h) for a census tract is given by:

$$h_i = -\sum_{j=1}^{k} p_{ij} ln\left(p_{ij}\right)$$

where:

k = Number of groups;

p_{ij} = Proportion of population of jth group in census tract i (= n_{ij}/n_i);

n_{ij} = Number of population of jth group in tract i; and

n_i = Total population in tract i.

[26] Iceland, John. 2004. "The Multigroup Entropy Index (Also Known as Theil's H or the Information Theory Index)." University of Maryland.

The higher the calculated value for h, the more racially and/or ethnically diverse the tract. The maximum possible level of entropy is given by the natural logarithm (ln) of the number of groups used in the calculations. The maximum score occurs when all groups have equal representation in the geographic area. In this case k = 4 (non-Hispanic Whites, non-Hispanic Blacks, other non-Hispanic populations, and Hispanics) so the maximum value for h is ln(4) = 1.39. A tract with h = 1.39 would have equal proportions of all groups (high diversity) and a tract with h = 0.0 would contain only a single group (low diversity).

The Diversity Index map below shows the results of the tract-level calculations of the Entropy Score as a measure of diversity in the study area in 2010. Visually, it can be seen that most tracts have low levels of diversity. Of the 153 study area tracts, 90.8% have h scores below 0.5; no tract has an h scores above 0.81. The study area's six most diverse tracts are located in the City of Waukesha, and each has an h score above 0.60. Other areas of relatively higher levels of diversity include the Cities of Jefferson and Fort Atkinson, southeast Jefferson County, and southern Ozaukee County. Diversity was low in most parts of Washington County and in rural areas of Jefferson, Waukesha, and Ozaukee Counties, where most tracts have entropy scores of 0.20 or below.

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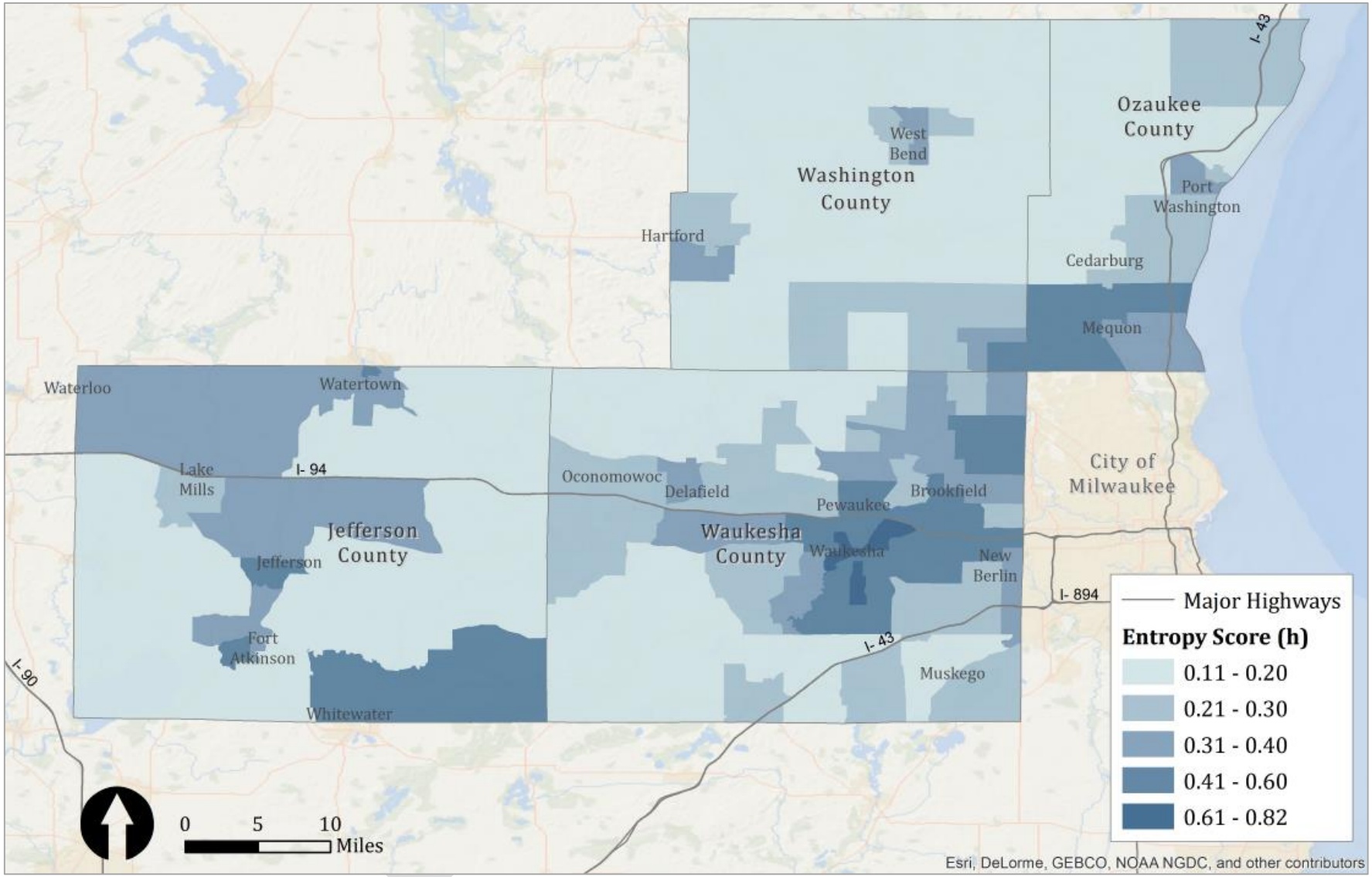
Diversity Index by Census Tract in the 4-County Study Area, 2010



Source: U.S. Census 2010 SF1 Table P5

The Entropy Score is not a true measure of segregation because it does not assess the distribution of racial and ethnic groups across a region. A region can be very diverse if all minority groups are present but also highly segregated if all groups live entirely in their own neighborhoods (or census tracts). However, Entropy Scores, measures of tract-level diversity, can be used to calculate the Entropy Index[27] (EI) which measures the distribution of multi-group diversity across tracts and an entire region.

The EI measures unevenness in the distribution of multiple racial and ethnic groups in a region by calculating the difference in entropy between census tracts and the larger region as a whole. The Entropy Index (H) for a region is the weighted average variation of each tract's entropy score differenced with the region-wide entropy as a fraction of the region's total entropy (Iceland 2004):

where:

$$H = \frac{\hat{H} - \overline{H}}{\hat{H}}$$

$\hat{H}$ = Entropy for the region's tracts as a whole;

$\overline{H}$ = Average of the individual census tracts' values of h weighted by the population; and

H = Entropy Index for the region.

The EI ranges between H = 0.0 when all tracts have the same composition as the entire region (minimum segregation) to a maximum of H = 1.0 when all tracts contain one group only (maximum segregation).[28] Regions with higher values of H have less uniform racial distributions and regions with lower values of H have more uniform racial distributions.

The table below gives the result of an entropy calculation for the study area as a whole. In both 2000 and 2010 the entropy index was very low (0.09 and 0.08, respectively), indicating that levels of diversity vary little throughout the region. On average, diversity at the tract level very closely matches diversity for the entire study area.

Entropy Index for the 4-County Study Area		
2000	**2010**	**Change**
0.09	0.08	-0.01

Sources: U.S. Census 2000 SF1 Table P008 and 2010 SF1 Table P5

[27] Iceland, John. 2002. "Beyond Black and White: Metropolitan Residential Segregation in Multi-Ethnic America," U.S. Census Bureau, Housing and Household Economic Statistics Division, paper presented at the American Sociological Association meetings, Chicago, Illinois.

[28] White, Michael J. 1986. "Predicted Ethnic Diversity Measures for 318 U.S. Metropolitan Areas by Census Region, 1980." *Population Index*, Vol. 52.

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Stakeholder Input

Most stakeholders reported segregation being a result of either income or ethnic and racial minority groups who wished to remain in regions close to other family. Most stakeholders reported a lack of awareness of housing discrimination that would result in racial segregation of communities and, within Waukesha County, described neighborhoods that were racially mixed and diverse. Racialized segregation was reported as due more to the likelihood that residents from ethnic and racial groups were more likely to have lower wages or be low income. Interviewees generally reported good upkeep of public facilities, road ways ,and street lights, in areas where racial and ethnic minorities made up the majority of residents, but reported that the housing stock was older and in need of repairs. Very-low income residents of all racial groups, were reported to live in substandard housing units. Washington, Ozaukee, and Jefferson county stakeholders reported extremely low numbers of ethnically diverse residents that made it difficult to access segregation and housing discrimination.

Reconciliation of the Four Segregation Indices

One important question concerns whether or not the overall racial and ethnic segregation in the four-county area has worsened, improved, or remained about the same between 2000 and 2010. The methodologies used in this analysis indicate low levels of segregation among minority and White residents, but a high level of isolation for Whites with very limited levels of exposure to minority populations. While slight improvements have occurred since 2000, diversity throughout the region remains low: Whites have a low likelihood of interacting with minority residents, and minorities have a low likelihood of interacting with one another.

Residential patterns in the study area are part of a larger regional picture for metro Milwaukee. While segregation is low within the four-county area, the Milwaukee-Waukesha-West Allis MSA has the 2nd highest dissimilarity index for Black and White residents in the nation, and the 13th highest for Hispanic and White residents.[29] Low levels of diversity in Waukesha, Washington, Jefferson, and Ozaukee Counties continue to contribute to persistent segregation region-wide, and any impediments in the four-county area that limit housing choice or inhibit housing options for protected classes must be addressed to improve conditions both locally and regionally.

[29] "Data: Residential Segregation." *US2010: Discover America in a New Century.* American Communities Project: Brown University. http://www.s4.brown.edu/us2010/SegSorting/Default.aspx

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Housing Profile

The section provides a snapshot of current housing conditions within the four-county study area, including the age of the housing stock, home values, housing problems, and housing cost burdens.

Characteristics of the Housing Stock

According to 2008-2012 ACS estimates, Waukesha County contained a total of 160,639 housing units, Washington County had 54,703 units, Ozaukee County had 36,252 units, and Jefferson County had 35,079 units of housing. Single-family detached units were the most common housing type in each of the four counties: 70.3% of the units in Waukesha County, 69.2% in Ozaukee County, 68.2% in Washington County, and 68.5% in Jefferson County. Multifamily housing consisting of five or more units comprised 16.9% of the housing stock in Waukesha County, 14.3% of the housing stock in Ozaukee County, 13.7% of the housing stock in Washington County, and 11.1% of housing stock in Jefferson County.

Housing Unit Overview by County, 2008-2012

Subject	Waukesha County		Jefferson County		Washington County		Ozaukee County	
	Count	%	Count	%	Count	%	Count	%
Number of Units	160,639	--	35,079	--	54,703	--	36,252	--
1-Unit, Detached	112,979	70.3%	24,027	68.5%	37,652	68.8%	25,103	69.2%
1-Unit, Attached	10,617	6.6%	1,879	5.4%	4,622	8.4%	3,149	8.7%
2 Units	4,123	2.6%	1,661	4.7%	2,274	4.2%	1,660	4.6%
3 or 4 Units	5,065	3.2%	1,875	5.3%	1,841	3.4%	1,027	2.8%
5 to 9 Units	8,619	5.4%	1,725	4.9%	2,923	5.3%	2,527	7.0%
10 to 19 Units	5,241	3.3%	816	2.3%	1,962	3.6%	1,152	3.2%
20 or More Units	13,191	8.2%	1,385	3.9%	2,647	4.8%	1,504	4.1%
Mobile Home	804	0.5%	1,711	4.9%	767	1.4%	120	0.3%
Boat, RV, Van, etc.	0	0.0%	0	0.0%	15	0.0%	10	0.0%
Owner-Occupied Units	117,369	76.7%	23,205	71.7%	40,476	78.0%	26,808	78.6%
% Vacant Owner Units	1.5%	--	--	1.3%	--		1.4%	--
Renter-Occupied Units	35,626	23.2%	9,155	28.3%	11,405	22.0%	7.285	21.4%
% Vacant Renter Units	4.0%	--	--	7.7%	--	--	7.7%	--

Source: 2008-2012 American Community Survey Table DP04

It is important to note that demographic trends impacting the four-county study area include an aging population, increased immigrant and racial and ethnic populations, and increasing numbers of millennial workers. These changing aspects are expected to increase demand for multifamily housing units, rental units, and units with accessibility for disabled residents. Mobile homes were significantly more common in Jefferson County representing 4.9% of housing stock. Mobile homes

represented 1.4% of the housing stock in Washington County, and nominal amounts of housing stock in both Waukesha County (0.5%) and Ozaukee County (0.3%).

Homeownership rates were over 70% in each of the counties, ranging from 71.7% in Jefferson County to 78.6% in Ozaukee County. Vacancy rates for owned housing were low (less than 2%) in Waukesha, Jefferson, and Ozaukee Counties. The rental vacancy rate was higher, ranging from 4.0% in Waukesha County to 7.7% in both Jefferson and Ozaukee Counties.

Age of Housing Stock

The age of an area's housing stock typically has a substantial impact on the overall housing conditions in a community. The time period in which housing was built can be indicative of when repairs, rehabilitation, and revitalization projects for buildings will be required. Post World War II housing units typically has a life cycle of 20-30 years before repairs are needed. As housing ages, maintenance costs rise, which can present significant housing affordability issues for low-income and moderate-income homeowners. Additionally, the age of housing stock also indicates the likelihood that the housing is accessible to people with disabilities, and, by extension, that housing choice is truly available.

Age of Housing Stock by County, 2008-2012

Year Built	Waukesha County	Jefferson County	Ozaukee County	Washington County
2010 or later	0.7%	0.6%	0.4%	0.8%
2000-2009	13.5%	13.0%	12.9%	16.7%
1990-1999	19.5%	15.2%	15.9%	21.1%
1980-1989	11.2%	7.5%	12.1%	11.1%
1970-1979	18.5%	12,6%	18.0%	17.6%
1960-1969	11.5%	10.3%	12.5%	8.2%
1950-1959	12.3%	9.3%	11.9%	6.4%
1940-1949	4.0%	5.1%	3.6%	4.1%
1939 or earlier	8.8%	26.4%	12.6%	14.0%

Source: 2008-2012 American Community Survey

Jefferson County has the oldest housing stock, indicating an increased likelihood of needs for repairs, rehabilitation, and making units compliant with ADA disability requirements. In Jefferson County, 40.8% of the housing stock was built in 1959 or earlier. Each of the other counties also had a large percentage of housing stock built before 1960: 28.1% of units in Ozaukee County, 24.5% in Washington County, and 24.3% in Waukesha County. Each of the four counties has less than 1% of housing stock built in 2010 or later.

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Home Values

Home values, as reported in the 2008-2012 ACS estimates, reflect significant variance across the study area. The highest median home value was found in Waukesha County ($244,000) followed by Ozaukee County ($241,700), Washington County ($212,000), and Jefferson County ($183,000).

Median Home Value by County, 2008-2012			
Waukesha County	**Jefferson County**	**Ozaukee County**	**Washington County**
$244,100	$183,000	$241,700	$212,000

Source: 2008-2012 American Community Survey

Because home value data in the American Community Survey is self-reported by respondents, it is not always the most reliable source for this information. As a secondary source, the website Trulia.com, was used to determine median listing prices for the counties in the Consortium for the week ending August 21, 2014. The median sales prices were $215,000 in Waukesha County, $157,200 in Jefferson County, $237,900 in Ozaukee County, and $202,000 in Washington County indicating that housing prices are strong, but still recovering from the 2007-2009 recession.

Neither the data from the American Community Survey or Trulia are solely definitive. However, combined they illustrate a general pattern of pricing and home values. Further, stakeholder input in each county indicated that rising housing costs are not affordable based on average and median worker wages, which will be discussed further in this section.

Housing Problems

An examination of certain housing problems, such as foreclosure rates, substandard housing conditions, overcrowding, and cost burdens are useful in determining varying needs related to housing assistance. Data on substandard housing units with incomplete plumbing or kitchen facilities, overcrowding, and the cost burden for housing in relation to monthly income is available from HUD's Comprehensive Housing Affordability Strategy (CHAS) data. The CHAS dataset is a custom tabulation of American Community Survey data provided to HUD for the purposes of housing and community development planning.

According to CHAS data documentation, a housing unit is classified as lacking complete plumbing facilities when any of the following are not present: piped hot and cold water, a flush toilet, and a bathtub or shower. Similarly, housing units lacking a sink with running water, a range, or a refrigerator are described as having incomplete kitchen facilities. Overcrowding occurs when a housing unit has more than one, but less than 1.5 people per room; severe overcrowding is defined as 1.5 or more people per room.

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Housing Problems: Substandard Conditions and Overcrowding by County								
Housing Problem	**Waukesha**		**Jefferson**		**Washington**		**Ozaukee**	
	Count	**%**	**Count**	**%**	**Count**	**%**	**Count**	**%**
Total Occupied Units	152,995	--	31,925	--	51,881	--	34,093	--
Substandard Conditions								
Lacking complete plumbing facilities	299	0.2%	52	0.2%	152	0.3%	91	0.3%
Lacking complete kitchen facilities	724	0.5%	249	0.8%	249	0.5%	145	0.4%
Overcrowding								
1.00 or fewer per room (no overcrowding)	151,703	99.2%	31,577	98.9%	51,881	99.3%	33,935	99.5%
1.01 to 1.50 per room (overcrowded)	876	0.6%	220	0.7%	306	0.6%	102	0.3%
1.51 or more per room (severe overcrowding)	416	0.3%	128	0.4%	70	0.1%	56	0.2%

Source: 2008-2012 American Community Survey Table DP04

A cost burden occurs when a household has gross housing costs that range from 30% to 49.9% of overall household income; *severe* cost burden occurs when gross housing costs represent 50% or more of overall household income. For homeowners, gross housing costs include property taxes, home and mortgage insurance, association fees (i.e. home owner's association, condo, and mobile home fees) and utilities, such as, energy payments, water and sewer service, and refuse collection. If the homeowner has a mortgage, the determination also includes principal and interest payments on the mortgage loan. For renters, this threshold represents monthly rent plus utility charges, but does not include the costs of home maintenance, as this expense should be incurred by landlords. It should be noted that given the varied age of housing stock throughout the four-county area, home maintenance and repair costs associated with older construction may add significant housing costs that are not included in calculations of cost burden.

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Household Cost Burden by County								
Cost Burden	Waukesha		Jefferson		Washington		Ozaukee	
	Owners	Renters	Owners	Renters	Owners	Renters	Owners	Renters
30% or less	88,060	20,140	16,265	5,400	29,490	6,900	20,120	4,570
Over 30% to 50%	18,955	7,360	4,480	1,765	7,475	2,270	4,210	1,680
Over 50%	10,020	6,9175	2,170	1,564	3,450	2,135	2,025	1,305
Data not available	345	375	150	130	80	70	100	40
Total	117,390	34,790	23,070	8,865	40,490	11,375	26,465	7,605

Source: CHAS Data from the 2007-2011 American Community Survey

Substandard housing and overcrowding remain low for each of the four counties in the study area (below 1%). While substandard living conditions are low for Waukesha County, analysis of the CHAS data indicates areas in which residents of racial and ethnic minority groups experience disproportionately greater need in relation to housing problems and severe housing problems, even when income is taken into account. HUD defines disproportionately greater need as persons from racial or ethnic minority groups that have problems at a rate 10% or more of the income group as a whole. For the purposes of this analysis, HUD's definition of disproportionately greater need will apply. Notably, some residents of racial and ethnic groups continue to experience housing problems and severe housing problems even as income rises. Below is a summary of these needs:

- At 30% of Area Median Income (AMI), American Indians/Alaska Natives and Pacific Islanders both have disproportionately greater need, with 100.0% of households in each group experiencing housing problems. Hispanic residents also have disproportionately greater need, with 98.1% of households experiencing housing problems. Within this income group, all racial and ethnic groups experience disproportionately greater rates of severe housing problems (100.0% for American Indians/Alaska Natives, 85.5% for Hispanics, 81.7% for Blacks, and 80.0% for Asians).

- At the 30-50% AMI income level, Hispanic households have a disproportionately greater need, with 89.7% of Hispanic residents experiencing housing problems. Within this income bracket, 65.5% of Black households, 57.7% of Asian households, and 54.4% of Hispanic households experience severe housing problems and have disproportionately greater need.

- At 50-80% AMI, housing problems affect 78.5% of African American households, 65.6% of Asian households, and 58.2% of Hispanic households. In this income group, 32.1% of Black households experience severe housing problems, resulting in a disproportionately greater need.

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- At 80-100% AMI, 67.4% of Black households experience housing problems, as do 47.4% of Asian households. In this income level, 18.9% of Asian residents experience severe housing problems, resulting in a disproportionately greater need.

Stakeholder Input

The main housing needs identified in each of the four counties were general renovations including making units accessible for elderly and disabled residents via retro-fitting or repairs to older units. It was reported that multi-family units were more likely to make repairs for accessibility, but that it was more difficult to get accessibility features added to single family rental units with private owners. The housing stock available for affordable housing was described as older housing stock in need of façade repairs and rehabilitation in each of the counties. Some who were interviewed described the housing stock for very-low income and low-income residents to be substandard in each of the four counties studied. Many interviewees identified absentee landlords as the main reason for substandard properties with land lords either being out of state or owning multiple low-income properties throughout the counties. Nearly all stakeholders expressed a preference towards rehabilitation of older housing stock before building newer units.

Housing Affordability

Because many minorities, people with disabilities, and other protected classes tend to have lower than average incomes, housing affordability becomes an important aspect of fair housing choice. HUD considers housing affordable if less than 30% of a family's income is spent on housing.[30] For homeowners the 30% threshold includes mortgage payments, real estate taxes, homeowners and mortgage insurance, any association fess (i.e. homeowner's association, condo, or mobile home fees), and utilities, while rent and utilities is included in the threshold for renters. As discussed in the section above, households that spend beyond that threshold are considered by HUD to be "cost burdened" while families paying 50% or more of income for housing expenses are considered to be "severely cost burdened." Cost burdened households are statistically more likely to have difficulty affording other basic necessities such as food, clothing, healthcare, and, especially, transportation.

Households unable to afford food are described as having food insecurity. Research indicates a cyclical effect in which food insecurity negatively impacts health and, in turn, lowers both the amount of hours spent working per week and work productivity. This results in decreased income available for food, housing, transportation, and healthcare. Other studies indicate that cost-burdened households have a lower quality of life and sense of well-being with higher rates of depression and anxiety, and lower rates of overall satisfaction than households that are not cost burdened. Yet, according to HUD, 12 million renters and homeowners in the United States spend *more than 50%* of their income on housing, or, in other words, 12 million households are severely cost burdened.

[30] U.S. Department of Housing and Urban Development, www.hud.gov/offices/cpd/affordablehousing/index.cfm

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Due to generally lower and less stable incomes, studies have shown that cost burdened renters are less able to cope with financial setbacks (such as a reduction in job hours and income, or a job loss) and therefore are often at an increased risk of poverty and homelessness. Faced with such a financial setback, a cost burdened household often must choose between rent and food or rent and healthcare.

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Housing Costs by County								
Subject	Waukesha		Washington		Jefferson		Ozaukee	
	Count	%	Count	%	Count	%	Count	%
Selected Monthly Owner Costs								
With a mortgage	85,373	--	28,814	--	16,212	--	18,175	--
Less than $300	53	0.1%	0	0.0%	0	0.0%	15	0.1%
$300 to $499	384	0.4%	205	0.7%	135	0.8%	86	0.5%
$500 to $699	1,267	1.5%	484	1.7%	294	1.8%	212	1.2%
$700 to $999	3,904	4.6%	2,095	7.3%	1,581	9.8%	795	4.4%
$1,000 to $1,499	18,462	21.6%	7,689	26.7%	5,767	35.6%	4,378	24.1%
$1,500 to $1,999	25,828	30.2%	8,710	30.2%	4,884	30.1%	4,833	26.6%
$2,000 or more	35,633	41.7%	9.644	33.5%	3,551	21.9%	7,856	43.2%
Median (dollars)	1,855	--	1,703	--	1,531	--	1,855	--
Without a mortgage	31,838	--	11,649	--	6,596	--	8,633	--
Less than $100	33	0.1%	46	0.4%	28	0.4%	44	0.5%
$100 to $199	209	0.7%	100	0.9%	146	2.2%	16	0.2%
$200 to $299	602	1.9%	259	2.2%	191	2.9%	131	1.5%
$300 to $399	1,752	5.5%	832	7.1%	831	12.6%	608	7.0%
$400 or more	29,242	91.8%	10,412	89.4%	5,400	81.9%	7,834	90.7%
Median (dollars)	632	--	570	--	526	--	657	--
Gross Rent								
Occupied units	34,712	--	11,072	--	8,700	--	6,982	--
Less than $200	138	0.4%	27	0.2%	101	1.2%	56	0.8%
$200 to $299	465	1.3%	283	2.6%	260	3.0%	113	1.6%
$300 to $499	1542	4.4%	587	5.3%	877	10.1%	260	3.7%
$500 to $749	7,712	22.2%	3,669	33.1%	3,017	34.7%	2,123	30.4%
$750 to $999	11,795	34.0%	3,885	35.1%	2,929	33.7%	2,553	36.6%
$1,000 to $1,499	9,920	28.6%	2,218	20.0%	1,317	15.1%	1,506	21.6%
$1,500 or more	3,140	9.0%	403	3.6%	199	2.3%	369	5.3%
Median (dollars)	906	--	800	--	757	--	819	--
Gross Rent (as a percent of household income)								
> 15.0%	4,659	13.6%	1,295	11.8%	981	11.4%	982	14.1%
15.0% to 19.9%	5,088	14.8%	1,713	15.6%	1,235	14.3%	1,170	16.9%
20.0% to 24.9%	5,200	15.1%	1,784	16.2%	1,431	16.7%	1,026	14.8%
25.0% to 29.9%	4,210	12.3%	1,557	14.1%	1,086	12.6%	829	11.9%
30.0% to 34.9%	2,780	8.1%	1,053	9.6%	861	10.0%	598	8.6%
35.0% or more	12,398	36.1%	3,611	32.8%	3,007	34.9% %	2,338	33.7%

Source: 2008-2012 American Community Survey Table DP04

The National Low Income Housing Coalition's *Out of Reach* 2014 Annual Report is designed to examine housing affordability by utilizing HUD's Fair Market Rate (FMR) and calculating the necessary wages to afford a property based on HUD's recommendation that housing costs not exhaust more than 30% of income. While data is available at the county level, state-wide results are useful in order to help demonstrate how affordable properties are in Waukesha, Jefferson, Washington, and Ozaukee Counties. In Wisconsin, a worker earning minimum wage would need to work 81 hours per week for a total of 52 weeks per year in order to afford the fair market rate for a two-bedroom apartment. The FMR for a two-bedroom apartment is $767 requiring income of $2,558 per month, or $30,697annually, to be affordable.

In Waukesha County, the wage needed to afford the $812 FMR rate for a two-bedroom apartment is $15.62 per hour while average hourly wages for a renter are only $12.63, a deficit of $2.99 per hour. Monthly rent would have to be $657 per month to meet the 30% HUD recommendation. Results are similar for Washington County, except that the average renter wage ($10.42) is lower, causing an even greater economic shortfall and requiring a rental rate of $542 to meet the 30% threshold. Jefferson also has a FMR of $812 and a necessary hourly income of $15.62. However, the average hourly wage for a renter is only $10.02, resulting in a large shortage of $5.60 per hour. Rent would have to decrease to $521 in order to meet the 30% threshold.

Stakeholder Input

Many stakeholders identified a limited amount of affordable housing units, especially rental units, in each of the four counties of the study area. Newly built housing units were reported to be less affordable and equipped with higher end amenities and structural materials. These properties have credit and income requirements that make them inaccessible to very- low- income, low-income, and some moderate-income residents. Interviewees indicated that there were larger selections of rental options for those with very-low incomes and those with higher incomes, but limited options for residents earning moderate incomes. There were several reports of residents spending more than the recommended HUD amount of 30% or less of monthly income on housing costs. Some stakeholders reported residents paying in access of 50% of their monthly income towards housing expenses and having extremely limited monies left for other necessities, such as, transportation, food, clothing, etc.

Stakeholders also indicated limited multi-family units and an increased need for these units as the overall population is increasing and aging in each of the four counties. Stakeholders also expressed concern regarding the clustering of affordable housing units in specific areas potentially creating segregation and having a negative impact on school performance. Stakeholders also reported wait list of 6-8 years to receive voucher assistance with affordable housing and noted that the first-come-first serve policy often makes it difficult for the neediest residents to receive assistance.

Regarding the development of new affordable housing units, several barriers were identified. One of the major barriers identified in each of the four counties were negative community perceptions

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of what constitutes affordable housing. Many stakeholders indicated a misconception that affordable housing was aimed at only very-low and low-income residents and that affordable housing would decrease property values, increase crime rates, and reduce the performance of local schools. During the planning process, many of those interviewed described significant challenges from the public regarding the development of affordable housing units. Economic development and job growth was closely connected to developing housing near current and planned industrial and business parks. However, there was not a clear definition in either county of what constituted workforce housing with the definition changing between government agencies, developers, and service providers. While most interviewees agreed that workforce housing should allow workers to live and work in the same region, agreement regarding salary ranges and overall cost of rental and single family homes varied. It was indicated that the pricing of single family homes exceeds affordability based on average household incomes.

Land acquisition, zoning laws, and leveraging public and private funds in order to garner the necessary resources to build affordable units were identified as barriers to expanding affordable housing. Land costs were described as high, as where the cost of construction, serving as barriers to acquisition and building. There was also indications that zoning and planning throughout the region was inconsistent. Stakeholders indicated difficulty in planning due to the vastness of the region and the varying housing and planning needs of rural residents versus residents in more urban and sub-urban areas. Additionally, within the varying counties, especially Jefferson and Washington Counties, there are smaller communities located 10-20 miles apart with varying needs. In relation to zoning, many cities, towns, and villages establish their own zoning regulations that impact the development of single family units, multi-family units, lot sizes, etc.

Housing Accessibility

As a protected class, people with disabilities have a right to fair housing choice, yet the housing needs of this population can diverge significantly from the needs of other groups. People with mobility impairments are likely to need housing with features that improve accessibility and facilitate maneuverability within the unit, i.e. first floor units, elevators, ramps, floor level bathrooms tubs, etc.. People with visual and hearing deficiencies may need accommodation for service animals, alternative types of fire and smoke alarms, alternative phone services, and communications in braille. People with cognitive disabilities may require the assistance of live-in aides or a group home setting. Group homes are discussed elsewhere in this report in sections related to zoning and land use, however the availability of accessible units is generally discussed here.

HUD's Office of Multi-Family Housing maintains a directory by state of HUD-insured and HUD-subsidized properties containing units for the elderly and disabled.[31] The directory for Wisconsin lists over 35,000 properties throughout the state, however the directory is not sortable by factors

[31] http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_13056.pdf

such as location, disability type, or unit size and availability. Other more dynamic resources exist for the identification of accessible units, notably a nonprofit housing locator service known as Socialserve.com. A sample search conducted on August 29, 2014 found 220 properties in Waukesha County (94 with a wait list), 33 properties in Jefferson County (19 with a wait list), 16 properties in Ozaukee County (13 with a wait list) , and 180 properties in Washington County (72 with a wait list) accessible units that were available for rent.

Stakeholder Input

Many stakeholders identified current housing stock able to meet the needs of disabled and elderly residents. However, the populations are aging in each of the four counties increasing the number of elderly residents. Stakeholders identified the need to plan for increased units of affordable housing for elderly residents and those with physical disabilities. Providing supportive services, such as, supportive living, memory care, social services, health care, and transportation to medical and community appointments were also reported as needs in affordable housing communities for elderly residents. It was also indicated that, while many elderly residents often want to downsize and move to communities targeting their needs, currently programming is limited to allow the elderly to age and remain in their home.

Barriers accessing affordable and accessible housing for younger residents were identified including a stigma associated with staying in units designed for elderly residents and a misconception that these communities and resources do not serve younger residents with disabilities. A need for greater resources, education, and outreach to help younger disabled residents seek affordable and accessible housing was identified by stakeholders. Ensuring that younger disabled residents were able to access supportive services in their living environments including transportation, health care, supportive counseling, and mental health counseling were also an identified needs.

During the planning process, stakeholders indicated concern that facilities serving disabled and elderly residents were located in specific areas that prevented mainstreaming and lead to segregation of these residents. Severe stigmas associated with housing residents with mental health and behavioral health issues that made housing inaccessible to these residents were reported by several stakeholders. While current zoning was reported to allow the building of group homes, some stakeholders indicated a stigma with having group homes build in communities by local residents, creating a challenge for residents in need of a group home setting to receive accessible housing in a mainstreamed environment.

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Public Investment, Infrastructure and Education

Public investment in transportation and infrastructure has an impact on both housing availability and affordability. Within the four-county study area, the availability and affordability of housing are linked to public resources that are expended for essential services. This section addresses transportation services, the availability of safe and accessible water, and the availability of sanitary sewer systems that collect, treat, and discharge wastewater.

This section also reports on the performance of public schools serving the residents of Waukesha, Jefferson, Ozaukee, and Washington Counties. Research indicates that the presence of high quality and high performing educational systems and facilities is a key criteria utilized by residents as they choose were to live. The relationships between educational attainment, educational resources, and housing choice are also explored.

Transportation

Waukesha County has a regional airport situated in the city of Waukesha. The County airport is used for the transportation of good and services by businesses and also transports the general population in some instances. Characterized as a Transports/Corporate/ Airport, it serves small airplanes, corporate jests, and small passenger and cargo jets. Three aviation organization are located at the airport including, The Waukesha Aviation Club (provides information and tours to residents and visitors), Civil Air Patrol (volunteer assistance in the case of emergencies, aerospace education, and a Cadet Program), and the Wisconsin Wing of the Commemorative Air force. The airport has been shown in local studies to have a positive economic impact on the region. This positive impact includes direct impact revenues like jobs, payroll, and sales; indirect impact, such as, monies spent by visitors using the airport on goods, lodging, gas, shopping, etc.; and induced impacts by suppliers to both the airport and visitors of the airports like office supply chains, water companies, restaurants, etc. [32]

Waukesha Metro Transit oversees the operation of bus routes that travel throughout the City of Waukesha, and parts of Waukesha and Milwaukee Counties. Waukesha Metro Transit directly operates routes to provide bus service within the City of Waukesha and its environs. Waukesha Metro Transit also administers for Waukesha County the County's service contracts with the Milwaukee County Transit System and Wisconsin Coach Lines, Inc. for bus routes comprising the Waukesha County Transit System. Wisconsin Coach Lines and the Milwaukee County Transit System operate these routes for Waukesha Metro Transit. Only 27% of riders on city routes had access to an automobile and 79% of riders had household incomes under $35,000.

[32] http://www.waukeshacounty.gov/uploadedFiles/Media/Images/Airport/Final_Economic_Impact_Analysis_Report_2009.pdf

In addition, a paratransit service for people with disabilities is provided by the City of Waukesha transit system. Paratransit service is provided to disabled individuals that cannot use fixed route service in accordance with the Federal Americans with Disabilities Act (ADA) of 1990. All transit vehicles that provide conventional fixed-route transit service must be accessible to persons with disabilities, including those persons using wheelchairs.

Cash only fares range from $2.00 one-way, $5.00 day passes, $1.00 for senior citizen and disabled passengers (Medicare or Metro ID of disability required), and $1.25 for youth ages 5-18 (valid proof of school enrollment required). Passes for 31 days are available at special Metro Fare Outlets at the following rates, adults ($46.00), youth ($30.00), and senior citizens/disabled ($35.00). Express routes services can be purchased at additional higher rates in the range of $1.00-$2.00 each way. The Aging and Disability Resource Center operates two taxi services for senior citizen and disabled residents with fares ranging from $3.50-$7.25 one-way. While, rates appear affordable, households may have more than one resident needing to use bus services. For examples, a household of one adult and 2 children would require $106 for a 31 day pass. The housing affordability section of this analysis indicated that over 30% of residents in each county were cost burdened. These residents are most likely to utilize public transportation, although they are less likely to be able to afford it due their housing costs.

Neither Jefferson, Ozaukee, nor Washington Counties are served by public transportation systems. Stakeholder input, which will be discussed in greater detail in the stakeholder input section, indicated that lack of transit is a barrier to employment and accessing amenities and public/social services. Jefferson County has a taxi service available for disabled and elderly residents which offers within city limit rides at a rate $2.00 one way in Fort Mills, Jefferson, Lake Mills, and Watertown. Rides to Senior Dining are provided at a rate of $1.00-$2.00 each way, this service unavailable in Watertown, depending on the city. Medical Transportation Management provides transportation to medical appointments for a co-pay of $10.00 out of county and $2.00 within county. Jefferson County Human Services operates a volunteer driver program for elderly and disabled residents needing transportation to medical appointments whose benefits have not begun. The county department of human services also provides a van to take elderly and disabled residents shopping for $1.00 per trip. Jefferson County transport veteran's to the VA hospital throughout the week.

Ozaukee County operates a Shared-Ride taxi which began as a service for only the elderly and disabled. Taxi services are provided throughout the county, which is divided into six zones. Costs vary from $2.75-6.50 per trip for adults, $2.25-$5.25 per trip for students, and $2.25-$5.25 per trip for elderly and disabled, depending on the zone. The taxi service does operate wheelchair accessible vans. Weekly out of county transit for veterans is provided. Two local nonprofits provide voluntary driving services for the elderly and disabled and Life Star Emergency Medical Services provides ambulance services within Ozaukee and Milwaukie counties. Ozaukee County Express provides bus service between Ozaukee and Milwaukee Counties with included shuttle service to most employer

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from designated park and ride lots. Fare ranges from $2.25 per way. $17.50 for a weekly pass, or $64.00 for a monthly pass.

Washington County also operates a Shared-Ride taxi system which provides service throughout Washington County and into areas of Menomonee Falls. Fares are based on distance and range from $4.25-$9.00 one-way for adults, $3.25-$ 8.00 one-way for students, and $2.50-$5.75 one-way for senior citizen and the disabled. Washington Commuter Express provides service from Washington County to Milwaukie and park and rides that service business parks in West Bend, Germantown, and Richfield. Fares is $3.25 one-way.

Stakeholder Input

Nearly all stakeholders interviewed during the planning process identified transportation as a crucial area of need. Stakeholders in Waukesha County identified a persistent misconception that people do not utilize local bus transit that may inhibit planning in this area. It was also reported that the cost of public transportation within Waukesha County was high and that several of the residents in need of public transit were unable to afford it. Low availability of public transit near business and industrial parks were identified as barriers to attracting new business and workers. Low availability of bike paths and walkways were also identified as barriers to accessing employment and community services and amenities for residents unable to afford cars or public transit. Jefferson, Washington, and Ozaukee Counties all lack public transportation beyond taxi services, which typically run only within the county, and transportation services designed for the elderly and disabled. It was reported that this is limiting to residents ability to access employment and services in other counties. Social and public services were described as concentrated in Waukesha County, leaving residents unable to afford cars with an inability to access services.

Water & Sewer

The four county study area is served by several water and sewer systems typically run independently by local cities, villages, or municipalities. Waukesha County consists of 10 public sewage treatment plants. Seven plants are located within the County including plants in Oconomowoc, Dousman, Delafield-Hartland, Mukwonago, Fox River, Sussex, and the city of Waukesha. Two plants, Jones Island and South Shore, are operated by the Milwaukee Metropolitan Sewage district, and the final plant, is located in the town of Norway in Racine County. Administration of private sewage systems is governed by Waukesha County with responsibility assigned to the Department of Parks and Land Use – Environmental Health Division. Waukesha County is served by 16 water supply facilities which provide water for approximately 62% of the County's residents. Two systems located in Mukwonago and Prairie Village also provide water services and supply for neighboring towns and villages. [33]

[33] http://www.ci.waukesha.wi.us/web/guest/enggsewer

The City of Waukesha completed reports on its storm water management system in 2013 and its waste water treatment facilities in 2011. The 2011 waste water treatment report reviewed existing treatment facilities, permit requirements, and space needs. Findings included a need to reduce hydraulic bottlenecks and overflow, a need for replacement of equipment at the plant due to end of life cycle use for several key components, and a need to increase UV disinfection capacity to meet peak hourly flow. The report develops a 20 year plan, with 5 year increments, that will allow the city to make needed upgrades and repairs. In 2012, the City of Waukesha established a goal and plan to reduce storm water flooding throughout the city. Based on property impact, public safety, financial leveraging, and environmental impact drainage priority areas were set that addressed street flooding.

Jefferson County's water and sewer systems are managed independently from various public works in small cities, towns, and villages including: Jefferson, Palmyra, Sullivan, Lake Mills, etc. Ozaukee County operates a Department of Public Works with a focus on transportation issues within the County and a Department of Land and Water Management with a focus on water supply and waste management. According to the 2010 Ozaukee County report for the Department of Land and Water Management, a storm water outreach and education program was launched in the County to aid in the elimination of storm water from municipal separate storm sewer systems and 10 permits were issued for regions within the county to operate waste management protocols. [34] Washington County, similar to Jefferson County, has several smaller water and waste treatment facilities operated by cities, towns, and villages including Jackson, Addison, Port of Washington, etc. While each local water and/or waste management system serves to meet the needs of local residents, future land use and development projects will require collaboration across facilities and services. A further discussion and graphic depiction of zoning issues related to water, sewer, and development occurs in the zoning section of this report.

Stakeholder Input

Stakeholders reported a high level of satisfaction with the quantity, distribution, and maintenance of community resources and public works, such as parks, recreational facilities, police and fire services, etc. Interviewees expressed pride in these facilities and their upkeep and noted that some police and fire services consisted of engaged community volunteers. Stakeholders identified strong school systems in each of the counties. Schools, parks, and recreational facilities were described as community assets. There were no barriers reported relate to resource allocation. A small number stakeholders did report awareness of instances in which students of racial and ethnic minority groups, primarily Hispanic and African American, were teased and discriminated against by students in the school systems, especially in the middle and high schools.

[34] http://www.co.ozaukee.wi.us/ArchiveCenter/ViewFile/Item/165

Education and Schools Analysis

Overview of School Districts

Waukesha Public School System has a total of 109 schools including 70 elementary schools, 21 middle schools, and 24 high schools serving a total of 63,402 students. Several cities, towns, and villages within Waukesha County operate their own school districts and systems. Students who are members of racial and ethnic minority groups account for 16% of students enrolled throughout the entire Waukesha system, which is less than the Wisconsin rate of 27% minority enrollment. Racial and ethnic minority enrollment is 18% for elementary schools, 16% for middle schools, and 14% for high schools. Hispanic and Asian students account for the majority of minority student enrollment throughout the districts, especially in elementary schools. However, there are schools in which African American students are the primary minority group enrolled including East High School, Menomonee Falls High School, North Middle School, and Hamilton High School. The student to teacher ratio is 17:1, slightly above the Wisconsin state ratio of 15:1.[35]

Jefferson County Public School system has a total of 30 schools, and similar to Waukesha, many cities and towns operate their own schools and districts. There are 17 elementary schools, 7 middle schools, and 6 high schools with a total of 10, 810 students. Enrollment for racial and ethnic minority students is 16%, primarily Hispanic, for the entire district and 19% for elementary schools, 15% of middle schools, and 12% for high schools. These rates are below statewide rates for minority student enrollment. The student to teacher ratio is the same as that of the state at 15:1.[36]

Ozaukee County Public School System has a total of 26 schools that serve 12,848 students. There are 15 elementary schools, 7 middle schools, and 6 high schools. Cities and towns located within Ozaukee County operate their own schools and school systems. Enrollment of ethnic and minority students across the County is 12%, which is below the statewide enrollment rate, and the second lowest of the four-county study area. Hispanics and Blacks are the primary ethnic and racial minority groups enrolled across the county. Minority enrollment is 13% for elementary schools, 13% for middle schools, and 12% for high schools. The student to teacher ratio is 16:1 which is slightly above the ratio for the state.[37]

Washington County Public School System serves a total of 20,056 students. There are 35 schools in the County including 23 elementary schools, 7 middle schools, and 7 high schools. As is the case across the study area, cities and towns within the region operate their own schools and districts. Enrollment of students from racial and ethnic minority groups is 10%, which is below state enrollment and is the lowest of any Consortium county. Minority enrollment is 11% for elementary

[35] http://www.publicschoolreview.com/county_schools/stateid/WI/county/55133
[36] http://www.publicschoolreview.com/county_schools/stateid/WI/county/55055
[37] http://www.publicschoolreview.com/county_schools/stateid/WI/county/55089

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schools, 12% for middle schools, and 8% for high schools. The student to teacher ratio is 17:1 which is slightly above the state ratio.[38]

Educational Attainment Levels

The charts below depict information obtained from the 2008-2012 American Community Survey regarding age and educational attainment in each of the four Consortium counties. Wisconsin state and national goals and trends require high rates of high school graduation and an increasingly college educated workforce. This data is useful in examining the performance of each county in these key areas.

Waukesha County Age and Educational Attainment					
	Age 18-24	**Age 25-34**	**Age 35-44**	**Age 45-64**	**Age 65+**
Less than High School	11.2%	3.7%	2.6%	2.6%	11.4%
High School Completion or Equivalent	29.0%	96.3%	97.4%	97.4%	89.6%
Bachelor's degree of higher	13.4%	44.2%	49.0%	39.9%	25.6%

Source: 2008-2012 American Community Survey

Completion of high school increased as age level increased in Waukesha County with the exception of residents age 65 or older. Completion of a Bachelor's degree rose from ages 18 to 44, leveling off for residents in the 45 to 64 age group, before decreasing in the 65+ age bracket. In general, this data is indicative of higher educational levels and attainment with high school completion rates by age 25 in the high ninetieth percentile. The American Community Survey also tracks poverty rates in relation to educational attainment. In Waukesha County, residents with less than a high school education had a poverty rate (13.0%) that was more than double the poverty rate of high school graduates (5.5%).

Jefferson County Age and Educational Attainment					
	Age 18-24	**Age 25-34**	**Age 35-44**	**Age 45-64**	**Age 65+**
Less than High School	10.5%	6.6%	7.2%	8.0%	17.5%
High School Completion or Equivalent	31.7%	93.4%	92.8%	92.0%	82.5%
Bachelor's degree of higher	6.9%	27.3%	23.4%	23.2%	17.6%

Source: 2008-2012 American Community Survey

High school completion rates improved as residents aged in Jefferson County with the exception of residents age 65 or older. Jefferson County has higher rates of residents who have not completed high school and lower rates of residents completing a Bachelor's degree. Completion of a Bachelor's degree remained steady between ages 25 and 64, before decreasing for residents who are age 65

[38] http://www.publicschoolreview.com/county_schools/stateid/WI/county/55131

years or older. Poverty rates for non-high school graduates (17.5%) are nearly double the poverty rates for high school graduates (9.5%). Jefferson County had the highest poverty rates for both graduates and non-graduates across the Consortium region indicating that educational attainment is less of a determinant of income and likelihood of poverty than in other Consortium counties.

Ozaukee County Age and Educational Attainment					
	Age 18-24	**Age 25-34**	**Age 35-44**	**Age 45-64**	**Age 65+**
Less than High School	11.1%	2.6%	2.1%	1.8%	11.1%
High School Completion or Equivalent	34.2%	97.4%	97.9%	98.2%	88.9%
Bachelor's degree of higher	15.5%	45.4%	51.4%	46.7%	31.6%

Source: 2008-2012 American Community Survey

Educational attainment was highest in Ozaukee County in comparison to the other counties in the Consortium. High school completion rose with age with the exception of residents who are 65 years of age or older. Bachelor's degree completion also rose with age until residents reached ages 45 years of age or more. Over half of residents age 35-44 have completed Bachelor's degrees. Poverty rates for non-high school graduates (7.7%) did not vary greatly from high school graduates (5.5%). Poverty rates for both high school graduates and non-graduates were lower in Ozaukee County than in other counties in the Consortium.

High school completion rose with age in Washington County with the exception of residents who are 65 years of age or older. Bachelor's degree completion also rose with age until residents reached ages 45 years of age or more. The poverty rate for non-high school graduates (11.1%) was more than double that of high school graduates (4.9%).

Washington County Age and Educational Attainment					
	Age 18-24	**Age 25-34**	**Age 35-44**	**Age 45-64**	**Age 65+**
Less than High School	12.6%	6.0%	4.6%	4.2%	19.7%
High School Completion or Equivalent	38.3%	94.0%	95.4%	95.8%	80.3%
Bachelor's degree of higher	6.1%	30.4%	38.0%	26.8%	15.2%

Source: 2008-2012 American Community Survey

The Wisconsin School District maintains data on post-graduation plans as part of its Performance Report. These numbers help illustrate students' plans towards higher education or job and military training, which can be beneficial to economic growth and workforce development. Notably, Jefferson County had the lowest rate of students planning to attend a 4-year college, while Washington and Jefferson County both had large numbers of high school graduates preparing to immediately enter the workforce. Post high school graduate plans for the four-county schools are depicted in the table below.

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Post Graduation Plans by School District						
School District	4-year College	Vocational/ Technical College	Employ-ment	Military	Job Training	Misc-ellaneous
Waukesha	56.1%	20.3%	2.1%	2.9%	1.9%	16.6%
Jefferson	35.8%	25.2%	19.5%	4.1%	0.0%	11.3%
Ozaukee	46.0%	48.0%	6.0%	0.0%	0.0%	0.0%
Washington	66.7%	16.7%	16.7%	0.0%	0.0%	0.0%

High School Graduation Rates

Graduation rates were analyzed for academic years 2010-2011, 2011-2012, and 2012-2013 as an indicator of school performance, with higher graduation rates being indicative of higher performance. Graduation rates were obtained from the Wisconsin Department of Instruction, which utilizes an adjusted cohort rate formula.[39] The tables below show high school graduation rates throughout the four-county region. Note that rates are tracked as "on time", i.e. some students may have graduated later than their 4th year in high school; thus increasing graduation rates.

On-time graduation rates in Waukesha County are generally high, however they decreased between the 2010-2011 academic year and the 2012-2013 academic year from 92.2% to 87.8%, indicating that students may require greater support graduating by their 4th year in high school. American Indian/Alaska Native students have the lowest graduation rates for the two years they were tracked at 60.0% and 70.0% indicating a high need for support services for these students. African American and Hispanic student graduation rates were also lower than the rates for White students in each academic year, which indicates a need for greater support for these students. English proficiency was a strong determinant of graduation rates, with English proficient students graduating at rates higher than English as a second language students who were not proficient.

Waukesha County On-Time Graduation Rates			
Population Group	2010-2011	2011-2012	2012-2013
District Total	92.2%	91.5%	87.8%
African American	80.4%	86.4%	73.3%
Hispanic	85.9%	86.4%	83.2%
Asian	96.9%	90.7%	91.4%
American Indian/Alaska Native	60.0%	---	70.0%
White	93.7%	92.1%	89.3%
ESL/English Proficient	92.7%	91.8%	87.9%
ESL/Limited English Proficiency	78.7%	82.5%	84.2%

*--- Indicates graduation rate was not tracked due to a low number of students (in most cases less than 15).

[39] http://wisedash.dpi.wi.gov

On-time graduation rates in Jefferson County were high ranging from 93.9% to 96.3% across the three year academic periods. Most racial and ethnic minority group rates were not tracked for the County due to low enrollment rates. However, Asian student graduation rates (86.7%) were lower than overall district rates. English proficiency had an inverse impact on graduation rates, with non-proficient students having the higher graduate rate.

Jefferson County On-Time Graduation Rates			
Population Group	**2010-2011**	**2011-2012**	**2012-2013**
District Total	93.9%	95.1%	96.3%
African American	---	---	---
Hispanic	---	---	86.7%
Asian	---	---	---
American Indian/Alaska Native	---	---	---
White	95.2%	96.2%	97.0%
ESL/English Proficient	93.5%	---	96.2%
ESL/Limited English Proficiency	100.0%	---	100.0%

*--- indicates graduation rate was not tracked due to a low number of students (in most cases less than 15).

Ozaukee County had on-time graduate rates that improved across the three year academic period from 83.7% to 91.5% indicating that services and support that students need for on-time graduation are improving. Data was not collected on minority and English proficient student graduation numbers due to limited minority student enrollment.

Ozaukee County On-Time Graduation Rates			
Population Group	**2010-2011**	**2011-2012**	**2012-2013**
District Total	83.7%	88.6%	91.5%

Washington County on-time graduation rates decreased during the two academic years in which data was collected, from 100.0% to 88.9%. Data was not collected on minority and English proficient student graduation numbers due to the limited number of minority students.

Washington County On-Time Graduation Rates			
Population Group	**2010-2011**	**2011-2012**	**2012-2013**
District Total	---	100.0%	88.9%

Retention rates throughout Waukesha County were at 93.0%, with high school dropout rates at 2.3% for the district. Truancy rates were at 4.9% across the district and attendance rates were high, averaging 94.5%. Jefferson County has a retention rate of 92.0%, an attendance rate of 95.6% across the district, a dropout rate of less than 1%, and a truancy rate of 0.1% (only 2 students were truant). Ozaukee County had a retention rate of 94%, a dropout rate of 4.2%, a truancy rate of 0.4%, and an

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attendance rate of 98.5%. Finally, Washington County had a retention rate of 100.0%, a truancy rate of 1.0%, an attendance rate of 93.6%, and a dropout rate of 0.0%. Across the Consortium, attendance and retention rates were high, while dropout and truancy rates were low.

Conclusion

The schools within the four-county study area performed well in terms of retention rates, attendance rates, and having low truancy and school dropout rates. Jefferson and Washington Counties have the lowest rates for educational attainment and students entering into higher education following high school. Both counties also have the highest rates of students entering directly into employment following high school completion. Overall, the four counties have low enrollment of racial and ethnic minority students. However, in several instances graduation rates are lower for these students indicating increased need for supportive services.

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Access to Areas of Opportunity

This section analyzes the four-county study area using a methodology developed by HUD's Office of Policy Development and Research to "quantify the degree to which a neighborhood offers features commonly associated with opportunity."[40] For each block group in the U.S., HUD provides a score on five "opportunity dimensions," including poverty, school proficiency, labor market engagement, jobs access, and exposure to health hazards.[41] HUD's index scores are calculated based on the following:

- Poverty index – family poverty rates and share of households receiving public assistance;
- School proficiency index – school-level data regarding student performance on state exams;
- Labor market engagement index – employment levels, labor force participation and educational attainment;
- Jobs access index – distance to job locations and labor supply levels; and
- Health hazards exposure index – distance to facilities releasing toxic chemicals and levels of toxicity, according to the Environmental Protection Agency (EPA).

For each block group, a value is found for each of the five indices; results are then standardized on a 0 to 100 scale based on relative ranking within the metro area (or non-metro balance of the state). For each opportunity dimension, a higher index score indicates more favorable neighborhood characteristics.

The maps that follow show the HUD-provided opportunity scores for block groups in the study area. In each map, lighter shading indicates areas of lower opportunity and darker shading indicates higher opportunity. The poverty index map indicates higher poverty (and thus, lower neighborhood opportunity) in several cities and villages, including parts of Waukesha, Port Washington, West Bend, Hartford, Hartland, Watertown, and Fort Atkinson. Several block groups in the City of Waukesha also scored low in terms of school proficiency, while the rest of Waukesha, Washington, and Ozaukee Counties have high school proficiency when compared to the rest of the Milwaukee metro area. According to HUD data, school proficiency varies in Jefferson County, with the northeast (Watertown and Ixonia), the southeast (Whitewater and Palmyra), and parts of Jefferson facing lower opportunity levels compared to the Lake Mills and Sullivan areas.

Labor market engagement and jobs access both vary within each county. Census block groups in the Cities of Waukesha, Jefferson, West Bend, and Hartford have some of the lowest labor market engagement scores; high scores are found in block groups in Cedarburg, Mequon, Brookfield, Menomonee Falls, Delafield, and just west of the Waukesha city limits. Jobs access opportunity levels are best in block groups located in cities including Waukesha, Pewaukee, New Berlin,

[40] HUD Office of Policy Development and Research, "FHEA Data Documentation," Draft. 2013. p. 4.
[41] HUD also calculates at sixth index that scores access to transit by block group. However, given that HUD's data does not reflect Waukesha Metro Transit bus service, the transit access index is omitted from this analysis.

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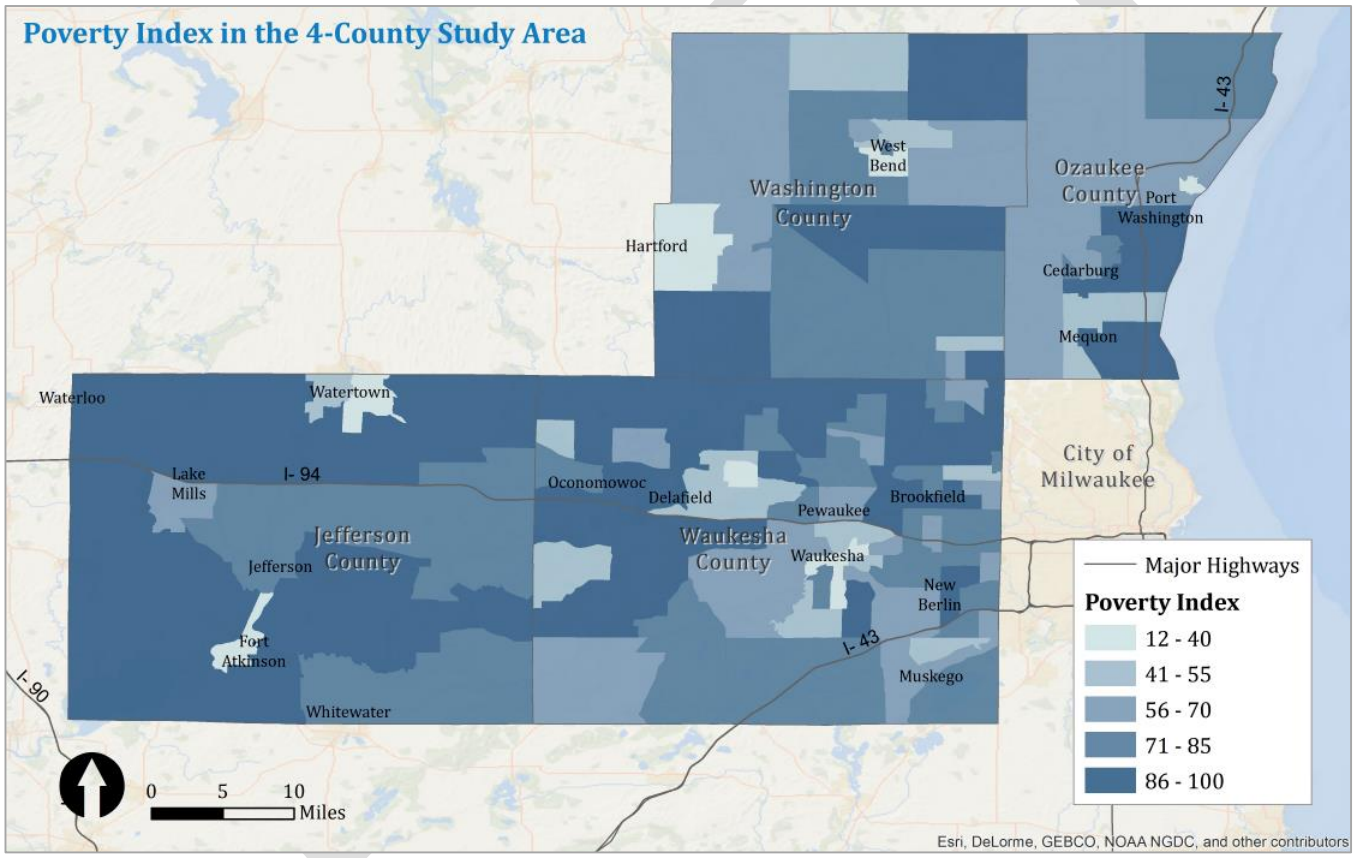
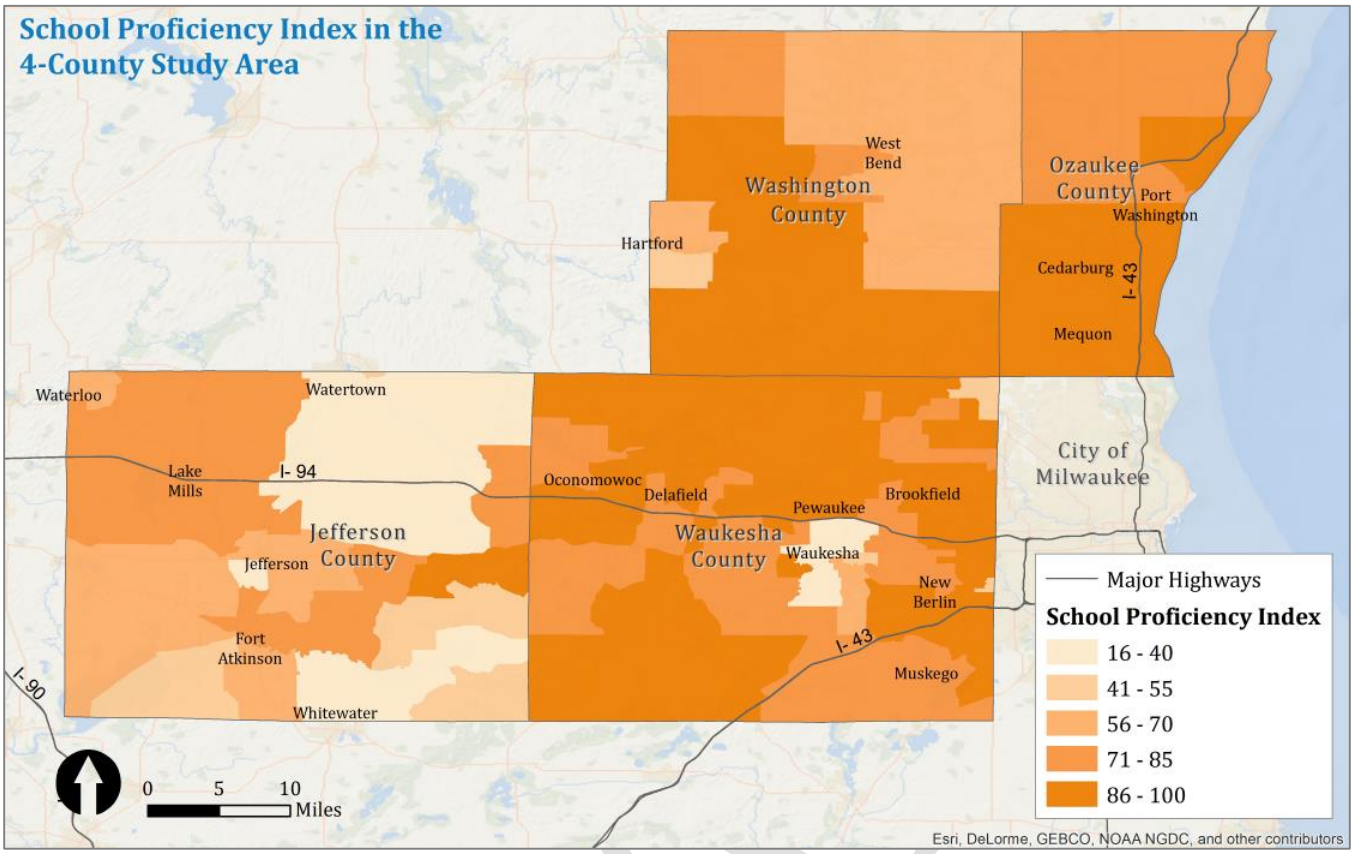
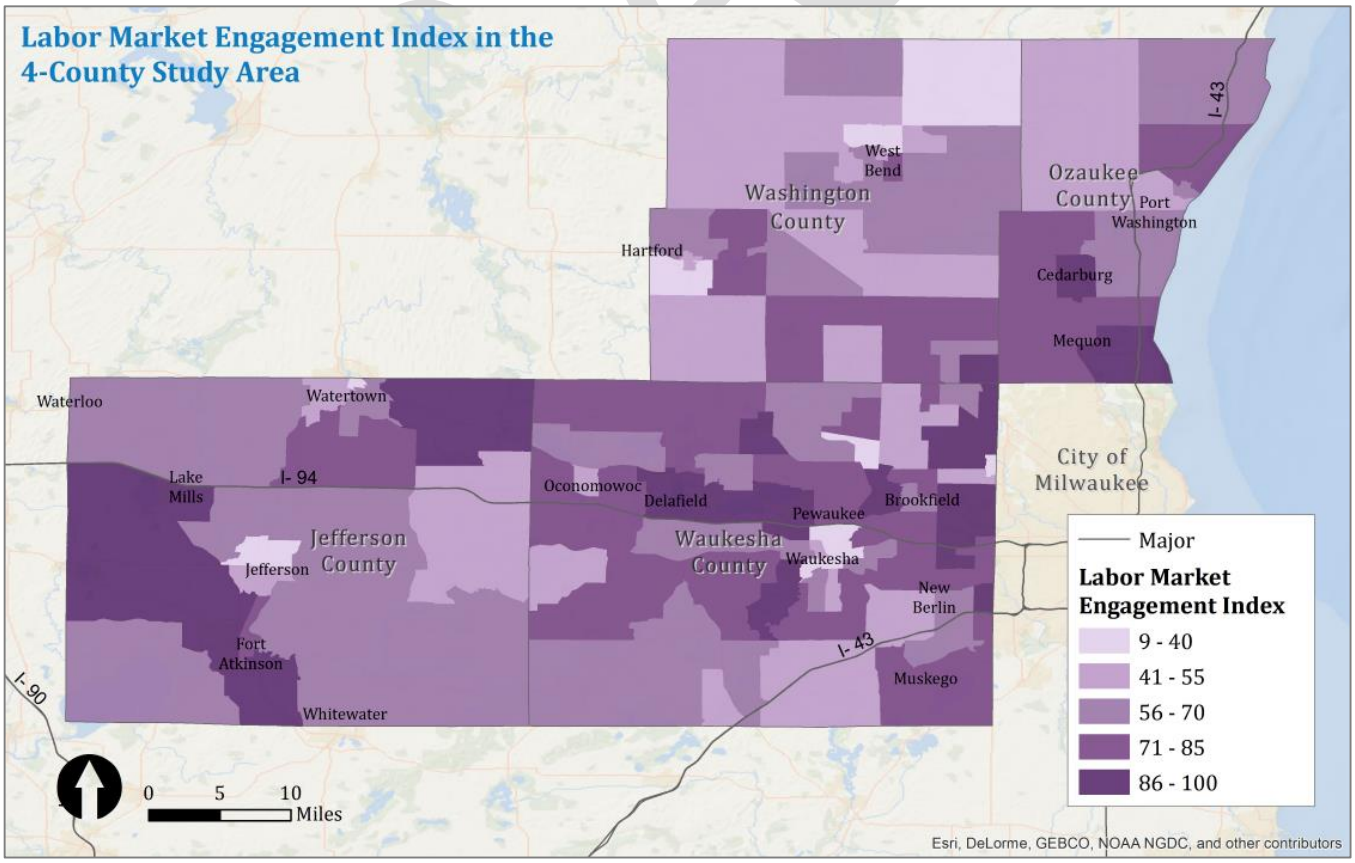
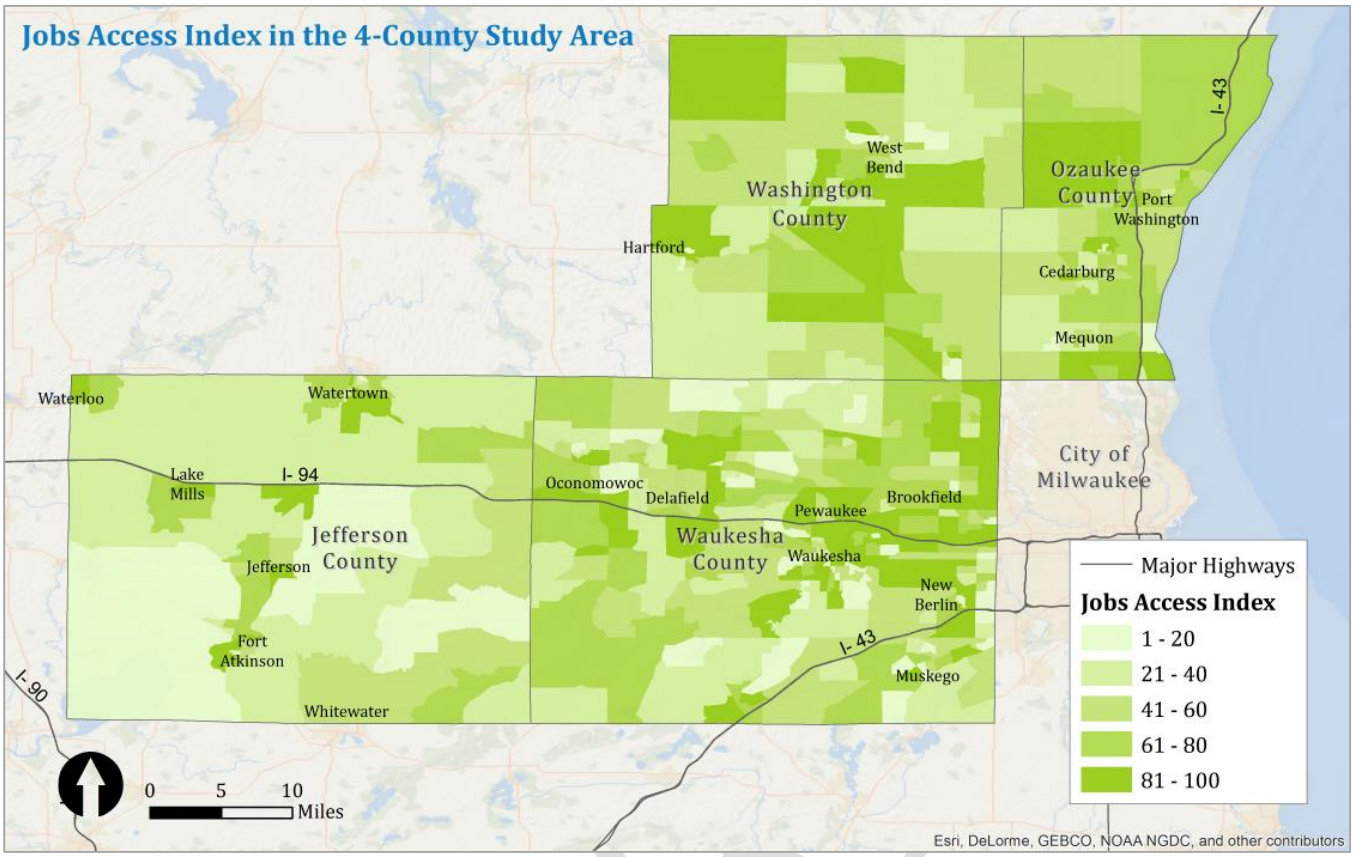
Brookfield, West Bend, and Hartford. As one would expect, rural areas within the counties tend to have lower access to jobs. This dynamic is especially evident in Jefferson County, where the high scoring areas of Watertown, Waterloo, Lake Mills, Jefferson, and Fort Atkinson are surrounded by low scoring, more rural block groups.

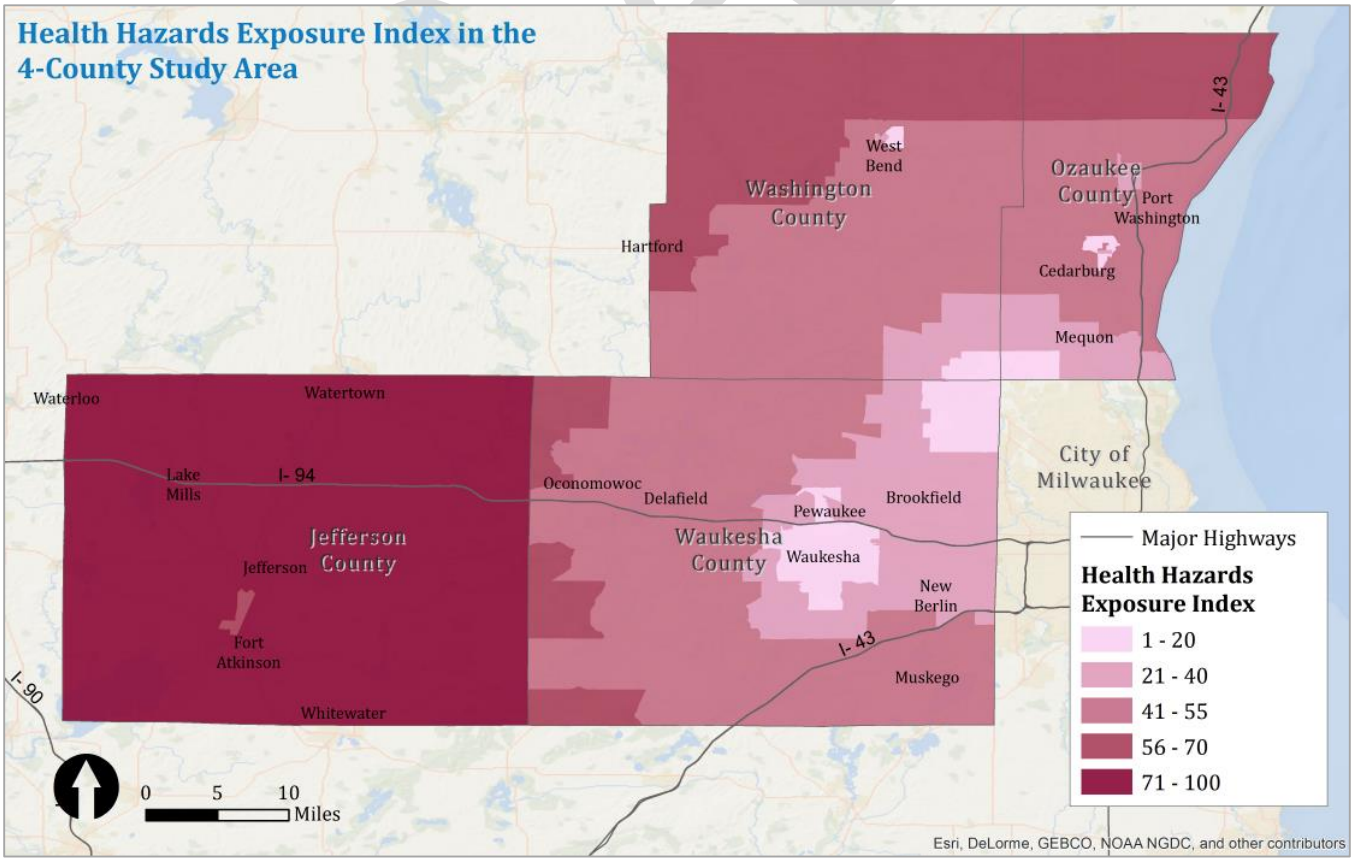
Of all the opportunity indices, the health hazards exposure index shows the most clear geographic pattern. Potential exposure to health hazards is highest in the Waukesha/Pewaukee and Menomonee Falls/Germantown/Mequon areas and recedes moving out from these centers. Northern Washington and Ozaukee Counties, western Waukesha County, and all of Jefferson County face less exposure to potential environmental toxicity than do the more urban areas located closer to the City of Milwaukee.




School Proficiency Index in the
4-County Study Area
West
Bend
Washington
County
Ozaukee
County
Port
Washington
Hartford
Cedarburg
I- 43
Mequon
Waterloo
Watertown
Lake
Mills
I- 94
Oconomowoc
Delafield
Pewaukee
Brookfield
City of
Milwaukee
Jefferson
County
Jefferson
Waukesha
County
Waukesha
New
Berlin
Fort
Atkinson
I- 43
Muskego
I- 90
Whitewater
0 5 10
Miles
Major Highways
School Proficiency Index
16 - 40
41 - 55
56 - 70
71 - 85
86 - 100
Esri, DeLorme, GEBCO, NOAA NGDC, and other contributors


Labor Market Engagement Index in the
4-County Study Area
I- 43
West
Bend
Washington
County
Ozaukee
County
Port
Washington
Hartford
Cedarburg
Mequon
Waterloo
Watertown
Lake
Mills
I- 94
Oconomowoc
Delafield
Pewaukee
Brookfield
City of
Milwaukee
Jefferson
County
Jefferson
Waukesha
County
Waukesha
New
Berlin
Fort
Atkinson
I- 43
Muskego
I- 90
Whitewater
0 5 10
Miles
Major
Labor Market
Engagement Index
9 - 40
41 - 55
56 - 70
71 - 85
86 - 100
Esri, DeLorme, GEBCO, NOAA NGDC, and other contributors


Jobs Access Index in the 4-County Study Area
West Bend
Washington County
Ozaukee County
Port Washington
I- 43
Hartford
Cedarburg
Mequon
Waterloo
Watertown
Lake Mills
I- 94
Oconomowoc
Delafield
Pewaukee
Brookfield
City of Milwaukee
Jefferson County
Jefferson
Waukesha County
Waukesha
New Berlin
Fort Atkinson
I- 43
Muskego
I- 90
Whitewater
0 5 10 Miles
Major Highways
Jobs Access Index
1 - 20
21 - 40
41 - 60
61 - 80
81 - 100
Esri, DeLorme, GEBCO, NOAA NGDC, and other contributors


Health Hazards Exposure Index in the 4-County Study Area
West Bend
Washington County
Ozaukee County
Port Washington
I- 43
Hartford
Cedarburg
Mequon
Waterloo
Watertown
Lake Mills
I- 94
Oconomowoc
Delafield
Pewaukee
Brookfield
City of Milwaukee
Jefferson County
Jefferson
Waukesha County
Waukesha
New Berlin
Fort Atkinson
I- 43
Muskego
I- 90
Whitewater
0 5 10 Miles
Major Highways
Health Hazards Exposure Index
1 - 20
21 - 40
41 - 55
56 - 70
71 - 100
Esri, DeLorme, GEBCO, NOAA NGDC, and other contributors

Land Use & Zoning

Comprehensive land use planning is a critical process by which communities address a myriad of public policy issues such as housing, transportation, health, recreation, environmental protection, commercial and retail services, and land values, and address how the interconnection and complexity of these issues can ultimately impact their respective jurisdictions. For example, the decision to develop a parcel of land for a shopping mall will not only influence the value and use of surrounding property, but will also impact future traffic and environmental decisions as well (i.e. intensive commercial use will increase traffic flow and large impervious parking lots will increase storm water runoff). For this reason, "[t]he land-use decisions made by a community shape its very character – what it's like to walk through, what it's like to drive through, who lives in it, what kinds of jobs and businesses exist in it, how well the natural environment survives, and whether the community is an attractive one or an ugly one."[42] Likewise, decisions regarding land use and zoning have a direct and profound impact on affordable housing and fair housing choice.

The following sections will explore (I) how Wisconsin state law impacts local land use and zoning authority and decision-making; (II) housing affordability and fair housing impediments within the Study Area (as identified by *A Regional Housing Plan for Southeastern Wisconsin: 2035* prepared by the Southeastern Wisconsin Regional Planning Commission in 2013); and (III) fair housing issues faced by persons with disabilities within the Study Area as a result of state laws, construction codes, accessibility requirements, and other local powers.

Overview of Wisconsin Zoning and Land Use Laws

From a regulatory standpoint, local government measures to control land use typically rely upon zoning codes, subdivision codes, and housing and building codes, in conjunction with comprehensive plans. Courts have long recognized the power of local governments to control land use, and the State of Wisconsin authorizes local counties, cities, villages, and towns to regulate land use and zoning within their respective jurisdictions through various state zoning enabling statutes.

One goal of zoning is to balance individual property rights with the power of government to promote and protect the health, safety, and general welfare of the overall community. Local zoning regulations in Wisconsin fall under two types: general regulations and special-purpose regulations (e.g., regulations related to shorelands, floodplains, wetlands, agricultural lands, and other special concerns). Zoning laws regulate how a parcel of land in a community may be used and the density of development. Local governments may divide their jurisdiction into zoning districts by adopting a zoning map; define categories of permitted and special approval uses for those districts; and establish design or performance standards for those uses. Zoning may regulate the height, shape, and placement of structures and lot sizes or shapes. Jurisdictions can also expressly prohibit certain types of uses within zoning districts. In this way, local ordinances may define the type and density

[42] John M. Levy. *Contemporary Urban Planning, Eighth Edition*. Upper Saddle River, NJ: Pearson Prentice Hall, 2009.

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of housing resources available to residents, developers and other organizations within certain areas, and as a result influence the affordability of housing.

Under Wisconsin's zoning enabling statutes, the responsibility for administering a local zoning ordinance is divided between the local legislative body (i.e., County Board of Supervisors, City or Common Council, Village Board of Trustees, or Town Board), the plan commission, and the board of appeals/adjustment ("BOA"). Permitted uses are those allowed as a matter of right in a zoning district and may be authorized by the zoning administrator or building inspector with a simple permit. For a use not expressly permitted by right, a property owner may seek special approval through a conditional use, variance, or zoning amendment. Conditional uses are identified in the zoning ordinance district regulations and may be allowed if they meet certain standards listed in the zoning ordinance following the public hearing process. In Wisconsin, variances come in two types: use variances and area variances. Use variances allow a property owner to use a property in a manner that is not allowed by the zoning ordinance. Area variances allow a property owner to deviate from a dimensional requirement, such as a building setback or height limitation. The local BOA determines whether to grant a variance request based on the criteria outlined in state statutes and local ordinances.

Counties and Towns

In Wisconsin, the general zoning authority of counties is limited. County zoning does not apply to lands inside the jurisdictional limits of incorporated cities and villages. Counties may adopt zoning ordinances which apply to unincorporated (town) lands within their boundaries, provided the town board adopts the county ordinance. (WIS. STAT. § 59.69(5)). A town in which the county ordinance is in effect also may petition the county for an amendment to the zoning map or ordinance text (§ 59.69(5)(e)(1)). Towns have authority to disapprove most amendments to a county zoning ordinance. For instance, individual towns may veto a zone change (map amendment) if the proposed change falls within the town boundaries. In the case of county zoning ordinance text amendments affecting multiple towns, a majority of affected towns may prevent a general amendment from taking effect by filing a disapproving resolution with the county clerk within a specified time period. Once under county zoning, a town may not adopt its own zoning even with county approval, and may not withdraw unless the county adopts a comprehensive revision (§ 59.69(5)(d)). A comprehensive revision is "a complete rewriting of an existing zoning ordinance which changes numerous zoning provisions and alters or adds zoning districts" accomplished by a single ordinance.

Under Wisconsin Law, ((§ 60.62(3)), in counties having a county zoning ordinance, no town or county zoning ordinance or amendment of a zoning ordinance may be adopted under this section unless approved by the county board. With regard to a town that is located in a county that has a population exceeding 380,000; is located adjacent to a county that has a population exceeding 800,000 and where the county in which the town is located has a zoning ordinance in effect on

January 1, 2013, the town may not adopt or amend a zoning ordinance under this section without county board approval.

A town may adopt its own zoning ordinance in one of two ways. Where county zoning does not already exist, a town board may petition the county board to adopt a county ordinance. If, within one year, the county board has not passed such an ordinance, the town board is free to adopt its own ordinance. (§ 60.61). Or, the town board may adopt village powers and pass a town general zoning ordinance under the procedures available to cities and villages with county board approval of the ordinance and any later amendments. (§ 60.62). In such cases, ordinance administration and enforcement are a town responsibility.

The requirements and procedures for regulating subdivisions (the division of land parcels into smaller parcels for sale and development) provided under the Wisconsin statutes are different from the statutory requirements for zoning. For example, towns do not need county approval to adopt subdivision regulations. Likewise, counties do not need town approval for county subdivision regulations.

In contrast to Wisconsin counties' limited general zoning authority, counties also are vested by the state with special purpose zoning authority for management of floodplains (§ 87.30), shorelands (§ 59.692), agricultural preservation (§ 91.71), and airport protection (§ 114.136). Shoreland, floodplain, and airport protection zoning applies in unincorporated areas and does not require approval of town boards to be in effect. Counties also may zone county-owned land without town approval.

Cities and Villages

Cities and villages may adopt general zoning which applies to lands within their municipal boundaries without needing the consent of the county (WIS. STAT. § 62.23(7)). Cities and villages also may adopt extraterritorial zoning ("ETZ") which applies to surrounding unincorporated areas, either a 3-mile (for populations of 10,000 or more) or a 1.5-mile extent of zoning control, if the proper cooperative steps with the adjoining town are followed. (§ 62.23(7a)). The ETZ powers must be exercised by a joint extraterritorial zoning committee that includes members from affected towns. This allows a city or village to exercise land use control over new development that otherwise might be incompatible with its future growth and makes regional planning easier. Administrative and enforcement roles for the ETZ may be negotiated between the city/village and the town.

Cities must adopt floodplain zoning that applies to floodplain lands within their boundaries, and they also may adopt airport protection zoning. Cities and villages with wetlands of 5 acres or greater in shoreland areas also are required to zone for them. If a city or village does not adopt the required wetland ordinance, the Department of Natural Resources (DNR) may adopt an ordinance for the respective village or city.

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Nonconforming Structures and Uses

Pursuant to Wisconsin's Nonconforming Structure Law (2005 WIS. ACT 81; 2011 WIS. ACT 170), the Wisconsin legislature significantly constrained the authority of local municipalities to prohibit or limit the rehabilitation or expansion of nonconforming structures. A nonconforming structure is defined as: "A dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance." Generally, local ordinances often place limitations on the ability to repair, maintain, replace and expand nonconforming structures in an effort to phase out nonconforming structures and bring the parcel in compliance with current zoning regulations. However, under current state law, local governments may not prohibit nonconforming homes and structures from being rebuilt if destroyed by natural disaster and local ordinances may not prohibit or limit the value of maintenance, repairs, and remodeling of nonconforming homes and buildings. In 2009, the DNR updated the state's shoreland zoning regulations (Wis. Admin. Code Ch. NR 115) to allow for unlimited maintenance and repair of nonconforming principal structures and more flexibility regarding expansions depending on how close the structures are located from the water. In contrast to nonconforming structures, the state statutes and local ordinances place greater limitations on a property owners' ability to expand, alter or reconstruct a nonconforming *use*, prohibiting nonconforming uses from expanding and permitting no more than 50% of the building's assessed value from being structurally repaired or altered.

Comprehensive Planning Law

Wisconsin's Comprehensive Planning Law (WIS. STAT. § 66.1001 (1999)), adopted in 1999 and amended periodically, provides a framework for the adoption and implementation of comprehensive plans by counties, cities, villages, and towns and by regional planning commissions to help guide land-use planning and zoning decisions. The Comprehensive Planning Law ("CPL") does not expressly mandate that local municipalities adopt a comprehensive plan. However, beginning on January 1, 2010, if a local government enacts, revises, updates, or otherwise amends a general zoning, shoreland/wetland zoning, subdivision, or official mapping ordinance, the ordinance must be consistent with that municipality's comprehensive plan. (WIS. STAT. § 66.1001(3)). Therefore, by implication, most local governments will adopt a comprehensive plan in accordance with the CPL as a prerequisite to adopting or amending a local zoning/land use ordinance.

The CPL defines nine elements that must be addressed in a municipality's comprehensive plan: issues and opportunities; housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; intergovernmental cooperation; land use; and implementation. The CPL also details land use regulations that must be consistent with a comprehensive plan beginning in 2010, and lists mandatory public participation procedures for adopting a comprehensive plan. A comprehensive plan is not itself a regulation but "a guide to the physical, social, and economic development of a local governmental unit."

The housing element of a comprehensive plan must identify "a range of housing choices that meet the needs of persons of all income levels and of all age groups and persons with special needs, policies and programs that promote the availability of land for the development or redevelopment of low-income and moderate-income housing. . . ." (WIS. STAT. § 66.1001(2)(b)). The state's planning guide for the housing element, *Housing Wisconsin: A Guide to Preparing the Housing Element of a Local Comprehensive Plan*[43], recommends various implementation tools for meeting this standard. The planning guide encourages local governments to amend building, zoning, and subdivision ordinances to permit smaller minimum lot sizes and setbacks, mixed-use developments, zero-lot line housing, cluster and conservation developments, accessory apartments, inclusionary zoning, smaller impact fees, and simplified permitting processes. These measures could go a long way in fostering housing affordability and opportunity, and complement HUD's requirement that its entitlement communities affirmatively further fair housing.

The CPL encourages coordinated planning and regional approaches to land use issues between local jurisdictions, but does not require consistency between individual plans. One criticism therefore, is that due to the relationship between counties and their respective towns, a county and town may disagree about future planning uses of particular lands within the town and their respective comprehensive plans will reflect the inconsistency. Towns are not required to attain village powers to adopt a comprehensive plan. However, the town may need village powers to carry out the actions called for in the plan (i.e. the town may need village powers before it can adopt a zoning ordinance under § 60.62 to implement and enforce its plan strategies). In a county with an adopted comprehensive plan and a zoning ordinance, land use decisions by the county with respect to unincorporated areas will be consistent with the comprehensive plan. Therefore, it is important that a town comprehensive plan be consistent with the adopted county plan.

Intersection of Local Zoning with Federal and State Fair Housing Laws

While local governments have the power to enact zoning and land use regulations, that power is limited by state and federal fair housing laws (e.g., Wisconsin Open Housing Law (WOHL), Fair Housing Act (FHA), Americans With Disabilities Act (ADA), constitutional due process and equal protection). Fair housing laws do not preempt local zoning laws, but do apply to municipalities and local government units and prohibit them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons. And even where a specific zoning decision does not violate a fair housing law, HUD entitlement communities must certify annually that they will set and implement standards and policies that protect and advance fair housing choice for all.

Similarly, the WOHL obligates cities, villages, towns, and counties to assist in the prevention or removal of all housing discrimination. While it does not define specific actions local governments

[43] Available at http://www.doa.state.wi.us/Documents/DIR/Comprehensive%20Planning/Element-Guides/housing_guide_2.pdf

must take to prevent or remove housing discrimination within their jurisdictions, state law does recommend that local governments enact anti-discrimination housing ordinances, and provides that such an ordinance may be "more inclusive in its terms or in respect to the different types of housing subject to its provisions" than the protected classes and types of housing protected by the WOHL alone. (§ 66.1011(2)).

Housing Affordability and Fair Housing Choice Issues Identified by: *A Regional Housing Plan for Southeastern Wisconsin: 2035*

Although comprehensive plans and zoning and land use codes play an important role in regulating the health and safety of the structural environment, overly restrictive codes can negatively impact housing affordability and fair housing choice within a jurisdiction. Examples of zoning provisions that most commonly result in barriers to fair housing choice include the following:

- Restrictive forms of land use that exclude any particular form of housing, particularly multi-family housing, or that require large lot sizes or low-density that deter affordable housing development by limiting its economic feasibility;
- Restrictive definitions of family that impede unrelated individuals from sharing a dwelling unit;
- Placing administrative and siting constraints on group homes for persons with disabilities;
- Restrictions making it difficult for residents with disabilities to locate housing in certain neighborhoods or to modify their housing;
- Restrictions on occupancy of alternative sources of affordable housing such as accessory dwellings, mobile homes, and mixed-use structures.

Our research has shown that restricting housing choice for certain historically/socio-economically disadvantaged groups and protected classes can happen in any number of ways and should be viewed on a continuum. The following narrative is not designed to assert whether a specific municipality's zoning and land use codes create a per se violation of the FHA or HUD regulations, but to highlight areas where zoning and land use ordinances within the Study Area may otherwise jeopardize the spirit and intent of fair housing protections and HUD's AFFH standards for its entitlement communities.

Due to the number of municipalities within the Study Area and cost and time constraints, individual zoning and land use ordinances within the Study Area were not independently reviewed. Rather, the issues and recommendations identified below are drawn from an extensive and detailed housing planning document titled *A Regional Housing Plan for Southeastern Wisconsin 2035*.

The Southeastern Wisconsin Regional Planning Commission ("SEWRPC") is the planning agency for the seven-county Southeastern Wisconsin Region, which includes the counties of Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha, and the cities and villages therein (the "Region"). On March 13, 2013, the SEWRPC adopted and published an updated housing

planning document titled *A Regional Housing Plan for Southeastern Wisconsin 2035* (the "Regional Plan"). The advisory committee to the document included representatives from local, county, and State government agencies; housing advocacy organizations; home builders and realtors; and research and policy institutions. The Regional Plan also was reviewed by an Environmental Justice Task Force, which provided input regarding the impact of the Regional Plan's recommendations on minority and low-income populations and persons with disabilities.

The Regional Plan identifies housing needs and makes recommendations to meet current and probable future housing needs, including a variety of housing options for affordable housing for residents of all income levels and age groups and persons with disabilities. The data and inventory information related to housing, demographics, employment, land use, transportation, and zoning regulations contained in the 900+ page Regional Plan are provided to the Region as a planning framework for the preparation of local comprehensive plans. Although the Region accounts for a relatively small physical portion of the State (5% of the total area), it contains about 36% of the total population of Wisconsin, about 36% of all jobs in the state, and approximately 37% of the total equalized property value in the state. Accordingly, the housing problems identified and the recommended solutions are significant not only to the Region but to the welfare of all of Wisconsin.

The Regional Plan's Findings

In drafting the Regional Plan, the SEWRPC reviewed community comprehensive plans, zoning and subdivision ordinances, and policies regarding preferred housing types/mix ratios throughout the Region to identify regulations impacting residential densities, housing structure types, and housing unit sizes. Each of the cities and villages reviewed had adopted their own zoning codes, 31 towns were under the jurisdiction of county zoning, and 26 towns had adopted their own zoning codes. The Regional Plan also analyzed housing affordability by comparing low and moderate household incomes within the Region with housing development costs (land, site improvement, regulatory/permitting/impact fees, building/construction materials, review regulations, etc.).

HUD guidelines establish that housing costs should not exceed 30% of household income. Currently, 36% of households in the Region pay more than 30% of their incomes for housing, including about 15% of households that spend more than 50% of their income on housing. Over 67% of the households with high housing costs are low- and moderate-income households.

For the time surveyed, the Region's median annual household income was $53,879, based on data compiled from the 2005-2009 American Community Survey by the U.S. Bureau of the Census. According to the Regional Plan, minority households in the Region are much more likely than non-minority households to have low incomes. About 41% of minority households have incomes below 50% of the Region median income, compared to about 20% of non-minority households. The Region's minority residents are concentrated in the central portions of the cities of Milwaukee, Racine, and Kenosha.

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a) Minimum lot sizes, minimum floor areas, and maximum densities as an impediment to affordable housing and fair housing choice.

The Regional Plan calculates that for household incomes between 50 and 80% of the Region's median income ($26,940 to $43,104), housing affordability for market-rate (nonsubsidized) housing may occur with multi-family housing at a density of at least 10 housing units (apartments) per acre where two-bedroom apartments are permitted to be 800 square feet or smaller. For household incomes between 80 and 135% of the Region median income ($43,104 to $72,737), housing affordability for single-family market-rate homes may occur with lots of 10,000 square feet or less and home sizes less than 1,200 square feet. Housing costs at these recommended densities and sizes would meet HUD's 30% guideline. However, the average monthly gross rent charged in the Region in 2008 was $761, which would not be affordable to a household earning 50 percent of the Region's median income.

The Regional Plan defines high density residential zoning districts as those that allow for a minimum area per dwelling unit of less than 6,000 square feet. The Regional Plan found that most communities that provide urban services, including sanitary sewer service, have a zoning district with a maximum density greater than 7.0 units per acre (high density), and are most likely to support multi-family housing. Medium density residential zoning districts allow for a minimum area per dwelling unit of between 6,000 and 19,999 square feet; and low density residential zoning districts allow for a minimum area per dwelling unit of between 20,000 square feet and 1.49 acres. Overall, the amount of land zoned for higher density residential use decreased between 1971 and 2000 by about 1%, from 64,770 acres to 63,936 acres. Land zoned for medium density residential development decreased by about 24%, from 141,786 acres in 1971 to 107,328 acres in 2000.

The Regional Plan also found that the minimum floor area requirements, which can be beneficial for ensuring safe housing and reducing overcrowding, in many communities exceeds the amount of space that is actually necessary to avoid these housing problems. According to the Regional Plan's data, between 1971 and 2012 the average minimum floor area requirement for a two-bedroom multifamily unit increased by about 6%, from 776 to 825 square feet, and the average minimum floor area requirement for a three bedroom single-family home has increased in the Region by 19%, from 994 square feet to 1,179 square feet. On the other hand, the average household size in the Region decreased from 3.20 to 2.45 persons per household between 1970 and 2010, and is projected to decrease to 2.39 persons per household in 2035. The increase in the required minimum floor area size is therefore not due to changes in household size.

There are municipalities that include residential zoning districts where multifamily housing at medium- to high- densities are permitted by right, and where single-family districts allow minimum lot sizes (10,000 sq. ft. or less) and minimum floor areas (1,200 sq. ft. or less) that meet the Regional

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Plan's estimation of affordability.[44] (*See, e.g.*, the Cities of West Bend and Hartford in Washington County, the City of Waukesha in Waukesha County, and the Cities of Cedarburg and Port Washington in Ozaukee County.) However, a significant number of the Region's zoning codes reviewed do not accommodate the densities, minimum lot sizes, and minimum floor areas recommended by the Regional Plan to make feasible the development of enough affordable housing to meet the current and future affordable housing needs of the Region's moderate- to low-income households. And there are whole communities which either require a conditional use permit for multi-family housing (which may impede development and/or increase the cost of development) or which fully restrict multifamily development. Six community zoning ordinances that allowed multifamily housing in 1971 do not permit such housing in 2012 (the towns of Cedarburg, Fredonia, and Grafton in Ozaukee County, and the towns of Delafield, Mukwonago, and Waukesha in Waukesha County). As shown, this disproportionately impacts minorities and low-income households who have a greater need for affordable housing.

The Regional Plan's Map 69 shows the communities which do not allow multifamily housing or require a conditional use permit before development. The Regional Plan's Map 71 provides a visual of the sewered communities where residential zoning district minimum lot sizes and/or minimum floor area requirements may restrict affordable single-family housing. Map 72 provides a visual of the sewered communities where maximum density or minimum floor area requirements may restrict affordable multi-family housing.

Of the 146 cities, villages, and towns in the Region, 93 communities provide sanitary sewer service to all or the majority of residents. Of the 93 sewered communities, 44, or only about 47%, include a district in the local zoning ordinance that allows single-family residential development with lot sizes of 10,000 square feet or less and home sizes of less than 1,200 square feet. The remaining 49 sewered communities either require minimum lot sizes larger than 10,000 square feet, do not allow home sizes smaller than 1,200 square feet, or both. Of the 93 sewered communities in the Region, 41, or only about 44%, include a district in the local zoning ordinance that allows multifamily residential development at a density of at least 10 dwelling units per acre and two bedroom dwelling unit sizes of 800 square feet or less. Eight of these communities require approval of a conditional use permit for the development of any multifamily housing, or the development of multifamily housing at a density of 10 or more units per acre. The remaining 51 sewered

[44] The Regional Plan's Table 51 provides a summary of each zoning ordinance's smallest minimum lot and home size requirements for single family zoning districts, and maximum density and minimum unit size for multifamily zoning districts throughout the Region. Appendix B of the Regional Plan provides the minimum lot sizes and floor areas (minimum sizes for individual housing units) for each residential district in each communities' zoning ordinance. Several counties and communities allow planned unit developments (PUDs) or conservation subdivisions in their zoning and/or subdivision ordinances, which may allow smaller lot sizes and/or higher densities than those listed in this table.

communities either do not allow multifamily residential development of at least 10 dwelling units per acre, two bedroom dwelling units of 800 square feet or smaller, or both.

As illustrated, most of the communities that do not allow multi-family dwellings as a principal use or small-lot housing are towns that do not have the infrastructure, such as sanitary sewer, to provide service to more intensive residential uses. The Regional Plan concedes that large-scale multi-family housing would not be appropriate unless adequate public services could be provided. Unsewered communities, which account for a majority of the land area of the Region were not held to the same standards by the Regional Plan, and this is addressed below in the Recommendations section.

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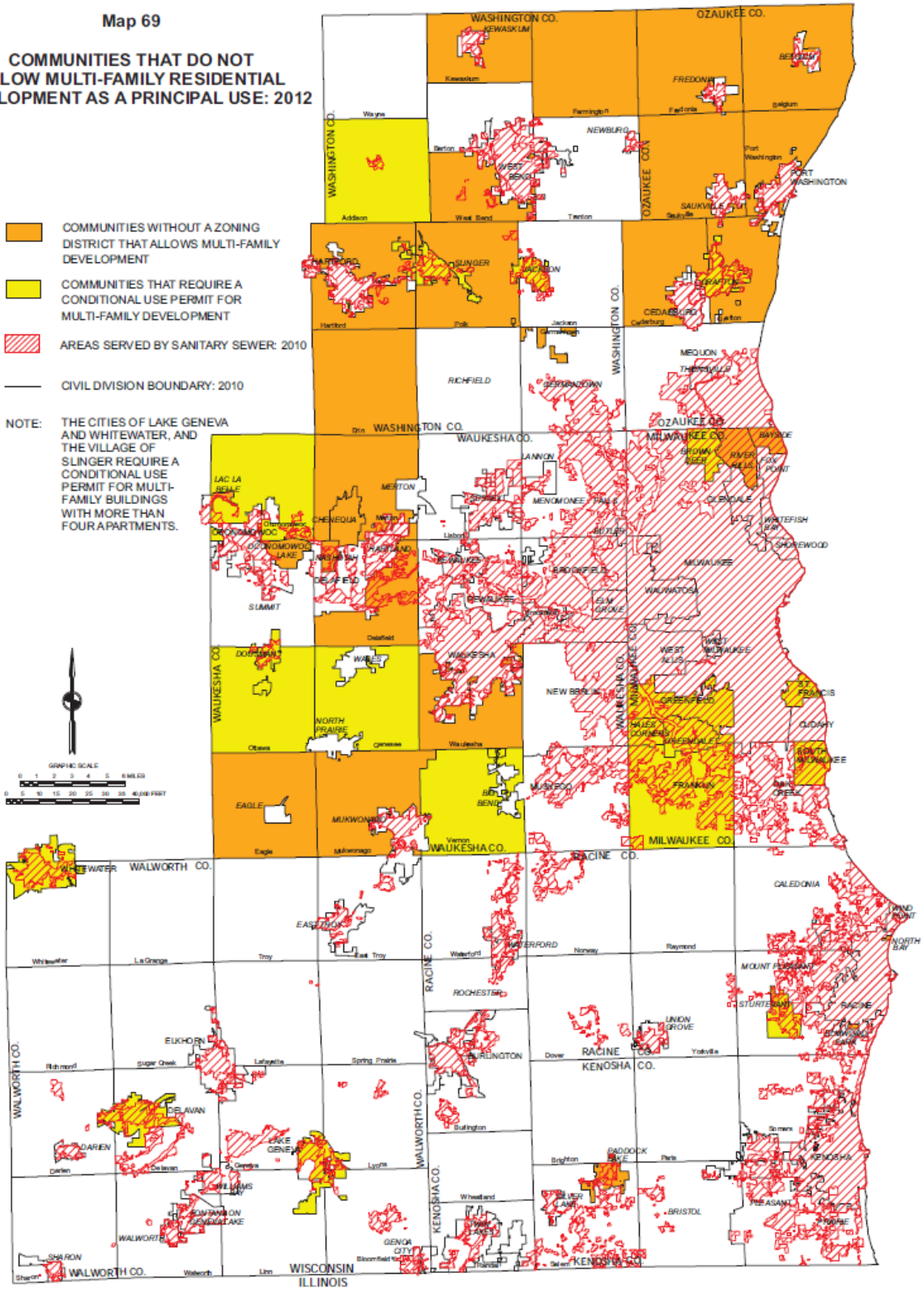
Map 69

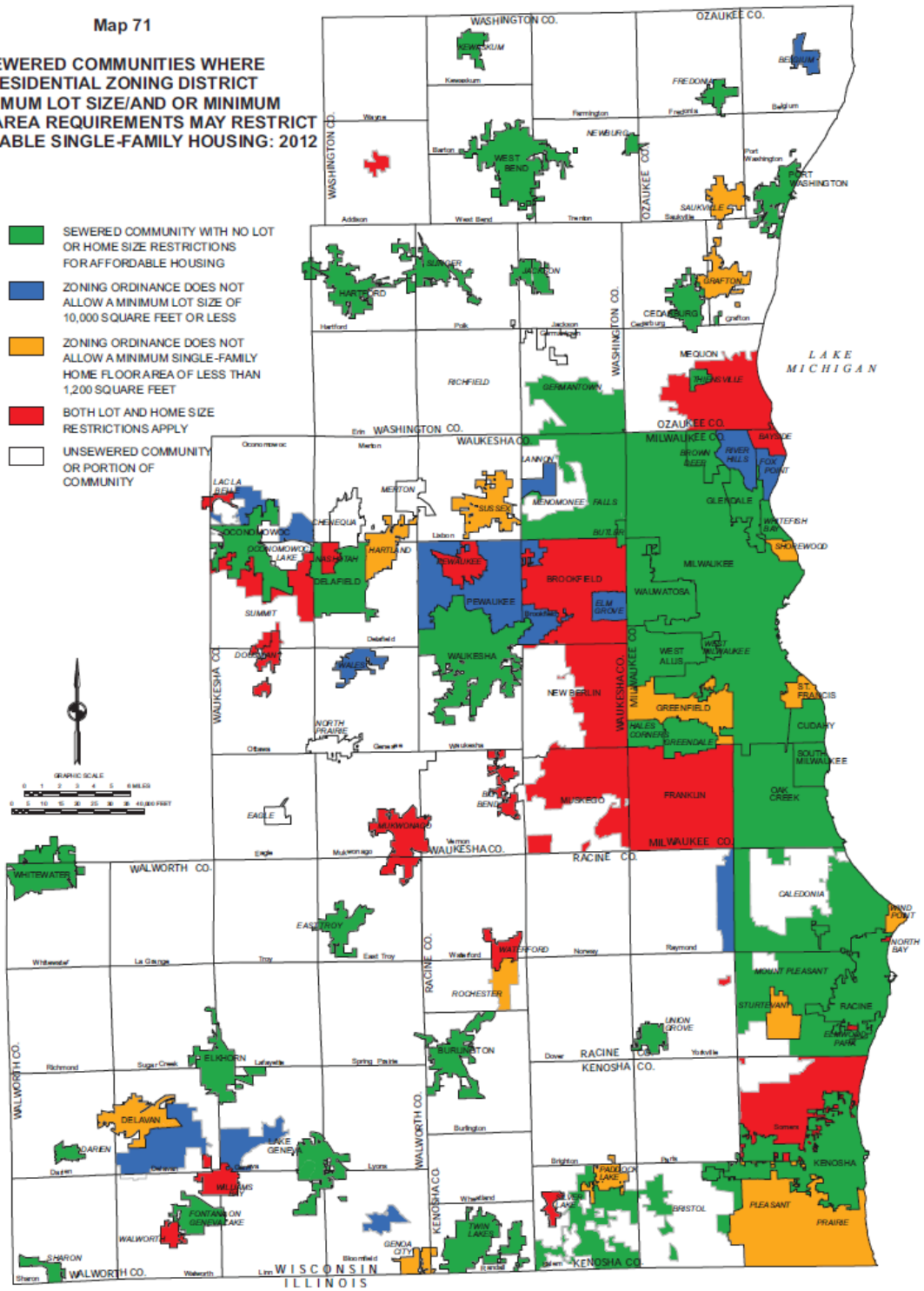
COMMUNITIES THAT DO NOT ALLOW MULTI-FAMILY RESIDENTIAL DEVELOPMENT AS A PRINCIPAL USE: 2012



Source: SEWRPC.

Map 71

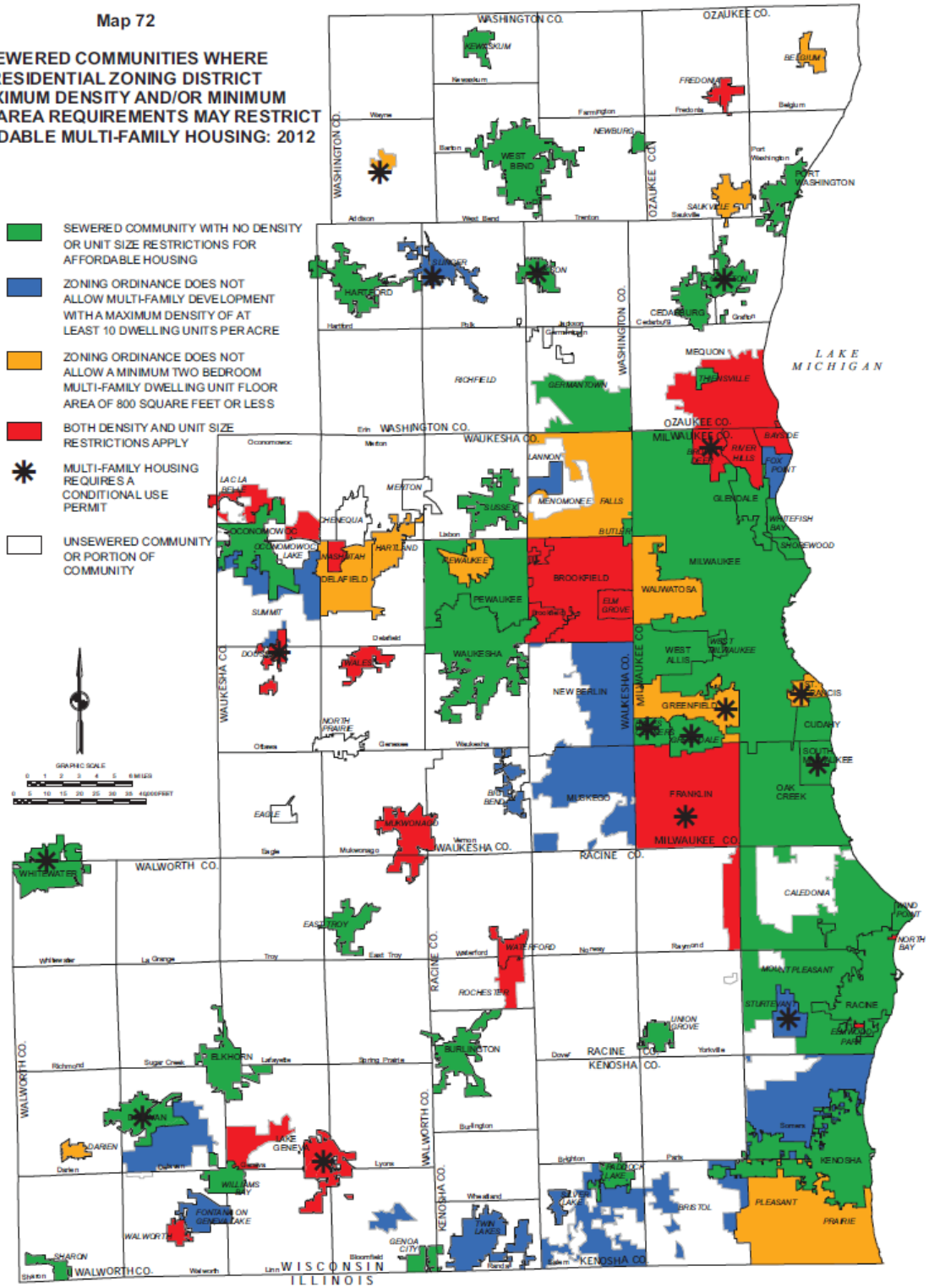
SEWERED COMMUNITIES WHERE RESIDENTIAL ZONING DISTRICT MINIMUM LOT SIZE/AND OR MINIMUM FLOOR AREA REQUIREMENTS MAY RESTRICT AFFORDABLE SINGLE-FAMILY HOUSING: 2012



Source: Community Zoning Ordinances and SEWRPC.

Map 72

SEWERED COMMUNITIES WHERE RESIDENTIAL ZONING DISTRICT MAXIMUM DENSITY AND/OR MINIMUM FLOOR AREA REQUIREMENTS MAY RESTRICT AFFORDABLE MULTI-FAMILY HOUSING: 2012



Source: Community Zoning Ordinances and SEWRPC.

b) Housing mix ratios as an impediment to affordable housing and fair housing choice.

A number of the Region's municipalities have adopted housing mix ratio policies (or rental percentage limitations) that unreasonably impede the development of affordable and low-income housing. A housing mix policy assigns a target percentage to permitted units of housing types (single family, two-family/duplex, townhomes, multifamily rental, condominium, etc.). Communities with sewer service that have adopted a policy recommending that 70 percent or more of the housing units in the community should be single-family (which are more likely to be owner-occupied as opposed to rental units) include the Villages of Fredonia and Thiensville in Ozaukee County, and the City of New Berlin and Village of Mukwonago in Waukesha County.

Housing mix ratios may impede fair housing choice as they create barriers to housing development based on actual market demands, and fail to take into account regional housing needs or future needs due to changes in demographics, shifting employment opportunities, and aging populations. Government-regulated limitations on the percentage of rental housing or affordable housing types have become the subject of fair housing discrimination complaints.

Recommendations

Zoning and land-use laws should accommodate housing and uses that are based on regional needs, and not simply maintain the status quo within an individual jurisdiction. The following recommendations illustrate concrete actions the municipalities could make in terms of their respective zoning and land use regulations to uphold the commitment to furthering fair housing. The issues highlighted below show where zoning ordinances and policies could go further to protect fair housing choice for protected and disadvantaged classes, and still fulfill the zoning objective of protecting the public's health, safety, and general welfare.

a) Reduce minimum lot size and minimum floor area requirements and increase density allowances to promote the feasibility of developing affordable housing units.

Many of the surveyed jurisdictions' zoning and land use standards pose a risk of housing discrimination because they constitute exclusionary zoning that precludes development of affordable or low-income housing. Zoning codes which impose unreasonable residential design regulations (such as high minimum lot sizes, large minimum building square footage, and/or low maximum density allowances) that are not congruent with the actual standards necessary to protect the health and safety of current average household sizes, and which make the development of affordable housing cost prohibitive, may disproportionately impact minorities and low-income households.

The Regional Plan recommends that local governments that provide sanitary sewer and other urban services should amend their zoning codes and comprehensive plans to allow for the development of new single-family and two-family homes on lots of 10,000 square feet or smaller, with home sizes less than 1,200 square feet, to accommodate the development of housing affordable to moderate-

income households. Communities with sewer service also should provide zoning districts for the development of multi-family housing at a density of at least 10 units per acre, and 18 units or more per acre in highly urbanized communities or areas of the Region with higher land costs such as infill and redevelopment, to accommodate the development of housing affordable to lower-income households. To promote fair housing choice, communities should include at least one district that allows single-family residential development of this nature and at least one district that allows multi-family residential development of this nature in their zoning ordinance. Where comprehensive plans identify new and expanding major employment centers outside central cities, additional zoning districts consistent with these standards should be included ("workforce housing"). This would increase housing opportunities for minority and low-income households near employment centers, and would also provide opportunities for minority and low-income households to live in areas with better schools and safer neighborhoods.

b) Expand sanitary sewer services.

In areas not served by a sanitary sewerage system, larger minimum lot sizes and lower densities may be required to meet State and County requirements for private onsite wastewater treatment systems (POWTS). However, communities that do not provide sanitary sewer service should not be given a pass on their obligation to support affordable housing development. A majority of the Region's land area lies within unsewered communities, and not holding these municipalities to the same standard of providing for affordable and low-income housing dis-incentivizes them from extending sewer and other municipal services to these areas. Program funds should be allocated to infrastructure improvements like sewer service so that more land becomes available that can support higher density multi-family developments and smaller lot sizes for single- and two-family developments.

c) Adopt flexible zoning regulations that permit higher housing densities and multiple housing types.

Some communities in the Region have embraced alternatives to traditional zoning that give the municipality and developers more flexibility in lot configurations, density, housing types, and mixed uses, by focusing on comprehensive plan goals rather than the strict regulatory requirements of the underlying zoning district. Alternative or flexible zoning regulations that have been used by local governments in the Region include Planned Unit Developments (PUD) and Traditional Neighborhood Developments (TND). Floating zones and conservation districts are other types of flexible zoning techniques. The Regional Plan finds that these types of flexible zoning regulations can result in an increase in affordable market based housing units and housing units that are more accessible to the Region's aging population and persons with disabilities where density restrictions are relaxed.

A PUD is a special type of floating zoning district which generally does not appear on the municipal zoning map until a developer applies and is approved for the designation. Approval may include

conditions to encourage clustering of buildings, designation of common open space, and a variety of building types and mixed land uses. A TND incorporates compact, mixed use neighborhoods where residential, commercial, and civic buildings are within close proximity to each other. TNDs can promote more efficient use of land and lower the costs of providing public infrastructure and services. Section 66.1027 of the Wisconsin Statutes requires any city or village with a population of 12,500 or more residents to include provisions that would accommodate TNDs. However, local governments were not required to include TND districts on their zoning map. Rather than adopting TND regulations, several communities include TND design concepts in their PUD regulations. (See Regional Plan, Table 53 and 54.)

A conservation subdivision (or cluster development) typically contains smaller minimum lot sizes than would be required for each home in a conventional subdivision, while maintaining the overall density of development specified by the local comprehensive plan or zoning ordinance. Homes are generally located on a portion or portions of a development site, and the balance of the site is maintained as open space or in agricultural use. As of 2010, only 15 of the 42 communities in the Region that had adopted specific regulations for conservation subdivisions provided density bonuses. For the most part, existing conservation district regulations also fail to provide for a mixture of housing types. While most of the conservation subdivisions in sewered areas accommodate primarily single-family homes, two of the subdivisions accommodate lots for two-family dwellings, one subdivision includes lots for four-family dwellings, and one includes an area for development of a commercial/office building in addition to lots for single-family homes. (Table 55 of the Regional Plan lists county and local governments that have adopted conservation subdivision regulations and Appendix C includes a summary of those regulations.)

While many of the communities that have adopted PUD, TND, and/or conservation subdivision regulations allow flexible lot design and building placement and smaller minimum lot sizes (which may bring down the total development costs, and, therefore potentially have a trickle-down effect on housing affordability), a significant number do not also make allowance for increased density or required set-asides for affordable or workforce housing or mixed land uses. Local governments should adopt standard density bonuses for affordable and workforce housing and allowances for a mixture of housing types as part of their PUD, TND, and conservation subdivision regulations to strengthen and incentivize these types of flexible zoning developments.

d) Relax limitations on the construction, rental, and occupancy of alternative types of affordable or low-income housing (for example, accessory dwellings or mobile/manufactured homes).

Municipalities could further bolster how they affirmatively further fair housing by allowing greater flexibility in the types of low-impact alternative types of affordable housing permitted, such as accessory dwelling units in single family districts and mobile/manufactured homes. The use of accessory structures as dwellings provides private market opportunities to incorporate smaller,

more affordable housing units in neighborhoods of opportunity that otherwise would be expensive places to live.

Several communities in the Region allow accessory apartments as a conditional use, but these units are typically limited for use by relatives of the individuals residing in the primary dwelling. This is an unnecessary restriction that limits the usefulness of this type of alternative affordable housing and generally maintains the status quo of the neighborhood in terms of race and national origin status rather than increasing diversity. Mobile homes are permitted in the Villages of Germantown and Jackson in Washington County, but not otherwise widely permitted within the Study Area.

e) Adopt inclusionary zoning provisions.

Waukesha County and the HOME Consortium counties could further bolster how they affirmatively further fair housing by adopting inclusionary zoning provisions and incentives, such as higher density allowances and a waiver or modification of other development standards where certain set-asides are made for affordable housing for moderate and low-income families. To ensure long-term affordability of these units, legal mechanisms such as deed covenants, the preemptive right to purchase, the right to cure a foreclosure, the right to purchase a home entering foreclosure, and requirements of notice of default or delinquency; resale formulas; and monitoring and stewardship partnerships with local housing authorities and nonprofit housing advocacy organizations should be included.

f) Amend zoning and design regulations to better promote flexibility in development and construction costs.

The Regional Plan analyzed housing development costs within the Region and particularly those costs which government regulations directly impact. To lower the cost of development of housing, and in turn make development of affordable housing more feasible, local governments can reduce raw land costs by lowering minimum lot size requirements. They also can help reduce construction costs by lowering minimum home sizes and permitting affordable façade materials and alternative construction methods (such as panelized building process). Local governments also can incentivize the development of affordable housing by reducing permitting fees to the actual cost of review, reducing or waiving impact fees, and reducing time frames for project review and approval for proposed housing that meets the affordability thresholds for lot and home size and densities. In many jurisdictions, multifamily housing requires approval of a conditional use application following the administrative and public review process. This significantly impacts the feasibility of developing affordable multifamily housing.

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Analysis of impact on housing for persons with disabilities under Wisconsin law regarding construction codes, accessibility requirements, spacing and density requirements for CLAs, and others identified in the *Regional Housing Plan*.

Congress amended the federal Fair Housing Act ("FHA") in 1988 to add protections for persons with disabilities (and families with children). Congress explicitly intended for the FHA to apply to zoning ordinances and other laws that would restrict the placement of group homes for persons with disabilities. *H.R. Rep. No. 100-711, at 24* (1988), reprinted in *1988 U.S.C.C.A.N. 2173, 2185* (stating that the amendments "would also apply to state or local land use and health and safety laws, regulations, practices or decisions which discriminate against individuals with handicaps"); *see also Hemisphere Bldg. Co. v. Village of Richton Park, 171 F.3d 437, 438 (7th Cir. 1999)* ("the cases hold or assume...that the [FHA] applies to municipalities, and specifically to their zoning decisions"). In addition, the FHA requires accommodation in rules, policies, and procedures if such accommodation (1) is reasonable and (2) necessary (3) to afford persons with a disability the equal opportunity to use and enjoy a dwelling. *42 U.S.C. § 3604(f)(3)(B).* The requirements for reasonable accommodation under the Americans with Disabilities Act (ADA) are the same as those under the FHA. *42 U.S.C. 12131(2)*.

Since the FHA amendments took effect, there has been a significant amount of litigation concerning the power of local governments to exercise control over group living arrangements, particularly for persons with disabilities, through zoning and other land use policies. The FHA is not a zoning statute and does not pre-empt local zoning laws. However, it does prohibit local governments from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including individuals with disabilities. If a local government's zoning power is exercised in a way that is inconsistent with the FHA, the federal law will control. For example, the FHA makes it unlawful to treat groups of persons with disabilities less favorably than groups of non-disabled persons; to take action against, or deny a permit, for a home because of the disability of its residents; and to refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.

The Department of Justice's Civil Rights Division has focused its enforcement efforts on behalf of persons with disabilities in two major areas: (1) zoning and land use regulations that discriminate against persons with disabilities or impair their fair housing choice, including unreasonably restricting congregate living arrangements (group homes); and (2) accessibility requirements so that housing is accessible to and usable for persons with disabilities. These two areas provide a framework for reviewing Wisconsin state and local laws that impact housing for persons with disabilities.

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a) Housing choice for persons with disabilities under Wisconsin state law and local ordinances.

Wisconsin state law does preempt local zoning power regarding certain regulations related to housing for persons with disabilities. Wisconsin law defines a number of different types of group housing arrangements for persons with disabilities requiring supportive services, including an Adult Family Home (AFH), Community Based Residential Facility (CBRF), Nursing Home, and Residential Apartment Complex (RCAC). (*See* WIS. STAT. § 50.01). AFHs, licensed for up to four residents, and CBRFs, licensed for five or more residents, are residential facilities where persons with disabilities may receive care, treatment, or services that are above the level of "room and board" and may include a certain number of hours per week per resident of nursing care.

The state statutes governing the location of group housing arrangements in residential areas are set forth for counties in Sec. 59.69(15); for towns in Sec. 60.63; for cities in Sec. 62.23(7)(i); and for villages in Sec. 61.35 with cross-reference to Sec. 62.23. Under these provisions, CBRFs and AFHs (as well as community living arrangements for children and foster care homes for children) for up to eight residents must be treated as a permitted land use in any single family or two-family zoning district, and those that house up to 15 residents must be treated as a permitted land use in any multifamily zoning district, without the need to obtain special zoning permission. Facilities serving 16 or more persons must apply for special zoning permission in any areas zoned for residential use.

The statutes, however, give local municipalities the authority to limit the number of CBRFs, AFHs, and other group living arrangements within their respective jurisdictions by establishing a 2,500 feet spacing requirement between facilities. Local governments may choose whether or not to enforce the spacing requirement or to reduce it. The state statutes also set forth a capacity standard limiting group living arrangements within a jurisdiction to 25 persons or 1% of the municipality's population (whichever is greater). And the capacity within each aldermanic district of a municipality shall also not exceed the greater of 25 persons or 1% of the district's population.

The Department of Health Services (DHS) licenses and regulates group living arrangements for persons with disabilities. Municipalities that are considering special zoning permission for a new facility may request DHS staff to review plans and provide advanced approval or disapproval. Furthermore, local governments may review annually the "effect" a group living arrangement has "on the health, safety or welfare of the residents of the [community]." Local governments are given the power to force the CBRF or AFH to close if it determines the facility "poses a threat." Procedural requirements for the determination are spelled out by statute, including hearing and notice requirements. Upon such a finding, special zoning permission would be required for the facility's continued operation. As a check on potentially discriminatory local actions, the law provides that a facility may seek judicial review.

The Department of Justice and HUD take the position, and federal courts that have addressed the issue mostly agree, that spacing and density restrictions are generally inconsistent with the FHA.

Wisconsin's spacing and density ceilings limit the overall aggregate capacity of housing for persons with disabilities even if the need in the community or region is greater than the thresholds.

On a number of occasions, Wisconsin courts have found in the context of legal challenges to a municipality not granting a reasonable accommodation, that the refusal to grant an exception to the spacing requirement is a violation of the reasonable accommodation requirements of the FHA. *See "K" Care, Inc. v. Town of Lac du Flambeau*, 181 Wis.2d 59, 510 N.W.2d 697 (Wis. Ct. App. 1993) (town required to accommodate elderly by granting special exception to state statute imposing 2,500-foot spacing requirement in that proposed extra facility would not adversely affect residential character of neighborhood); *Tellurian U.C.A.N., Inc. v. Goodrich*, 178 Wis. 2d 205, 504 N.W.2d 342 (Wis. Ct. App. 1993) (village violated FHAA by not granting exception to spacing restriction where exception was feasible, practical, and would not entail undue burdens to the village). *See also, U.S. v. Village of Marshall*, 787 F. Supp. 872 (W.D. Wis. 1991) (finding the Village's refusal to grant exception to spacing restriction constituted discrimination under FHA).

In *Oconomowoc Residential Programs, Inc. v. City of Milwaukee*, 300 F.3d 775 (7th Cir. 2002), ORP, a provider of housing and other services for persons with disabilities, applied for an occupancy permit for a community-based residential facility (CBRF) for six adults impaired by traumatic brain injury and/or developmental disabilities. The City refused to issue an occupancy permit, citing a municipal ordinance restricting such homes from operating within 2,500 feet (approximately one half of a mile) of another community living arrangement. ORP applied to the Board of Zoning Appeals (BOZA) for a waiver of the spacing requirement, but neighbors spoke out against permitting the CBRF and the BOZA denied the request. The City expressed concern for the safety of the residents due to the high traffic and lack of sidewalks along the home's street, and stated that, based on the allegations of problems emanating from other ORP facilities, the proposed facility could impose undue costs, expenses, or other burdens on the City.

Plaintiffs then brought suit against the City for violations of the FHA and ADA. The United States District Court for the Eastern District of Wisconsin granted Plaintiffs' motion for partial summary judgment and denied the City's motion for summary judgment. On appeal before the Seventh Circuit, Plaintiffs were required to show under the FHA that the requested accommodation (1) is reasonable and (2) necessary (3) to afford a person with a disability the equal opportunity to use and enjoy a dwelling. (Citing *42 U.S.C. §3604(f)(3)(B)).*

The City argued that it had done its fair share of providing community living arrangements and group homes, in part by granting thirty-nine variances to the spacing ordinance, and that the rest of Milwaukee County had many sites available. In response, ORP demonstrated that, because of the 2,500-foot rule, no one could open a group home anywhere in the City of Milwaukee other than in two aldermanic Districts or in nine prohibitively expensive suburbs in Milwaukee County.

The Court found that the Plaintiffs sufficiently established that the accommodation was reasonable and necessary to provide them with an equal opportunity to enjoy housing in a residential

community in Milwaukee. The City failed to put forth evidence regarding the purported undue financial and administrative burdens that would result from ORP's history of problems operating other group homes. The Court noted that cities may not rely on the anecdotal evidence of neighbors opposing a group home as evidence of unreasonableness or base a denial of a variance on blanket stereotypes about persons with disabilities rather than particularized concerns about individual residents such as public safety concerns or concerns for the safety of the residents themselves.

Having determined that the City failed to provide a reasonable accommodation, the Seventh Circuit affirmed the district court's grant of partial summary judgment to the Plaintiffs and declined to address whether the FHA or ADA preempts the spacing ordinance.

In an earlier district court opinion, *Oconomowoc Residential Programs v. City of Greenfield*, 23 F. Supp. 2d 941 (E.D. Wis. 1998), the federal district court for the Eastern District of Wisconsin did address whether Wisconsin's spacing and capacity laws for housing for persons with disabilities are preempted by federal fair housing laws, and ruled that the state laws are preempted by the FHA and ADA.

Recommendations

Despite this precedent, Wisconsin's spacing and capacity laws as applied to housing for persons with disabilities have not been repealed. If followed and enforced by local zoning authorities, distance and capacity standards may limit the number of community living arrangements and thus the overall aggregate availability of housing for persons with disabilities, even where the need in the community is greater than the thresholds.

Although plaintiffs will likely win any legal challenge against a municipality that enforced the spacing or capacity limitations, the restrictions create a time-consuming and expensive hurdle to overcome for housing providers and residents in need of supportive housing. Additionally, many persons within the protected class may not have the sophistication, resources, or adequate legal representation to challenge such discriminatory limits.

To avoid discrimination on the basis of disability and affirmatively further fair housing choice for persons with disabilities, communities within Waukesha County and the other HOME Consortium counties should repeal any existing ordinances that seek to enforce the spacing requirements against persons with disabilities or other protected classes (i.e. foster homes under familial status protection), and expressly provide for AFHs, CBRFs, and other group/community housing for persons with disabilities as permitted uses within all residential districts.

Rather than imposing spacing and density restrictions, a local government that believes a particular area within its boundaries has its "fair share" of group homes, could offer incentives or suggestions to providers to locate future homes in other neighborhoods.

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Another area for improvement would be for each jurisdiction to adopt a reasonable accommodation ordinance for making requests for reasonable accommodation/ modification in land use, zoning and building regulations, policies, practices and procedures. Federal and state fair housing laws require that municipalities provide individuals with disabilities or developers of housing for people with disabilities flexibility in the application of land use and zoning and building regulations, practices and procedures or even waiving certain requirements, when it is necessary to eliminate barriers to housing opportunities. However, the FHA does not set forth a specific process that must be used to request, review, and decide a reasonable accommodation and most local governments and zoning authorities fail to provide a clear and objective process.

Often municipalities handle the mandate to provide a reasonable accommodation through their variance or conditional use permit procedures. However, the purpose of a variance is not congruent with the purpose of requesting a reasonable accommodation. To obtain a variance, an applicant must usually show special circumstances or conditions applying to the land, building, or use that are preexisting and not owing to the applicant. In contrast, a reasonable accommodation is to allow individuals with disabilities to have equal access to housing. The jurisdiction does not comply with its duty to provide reasonable accommodation if it applies a standard based on the physical characteristics of the property rather than considering the need for modification based on the disabilities of the residents of the housing. Whereas simple administrative procedures may be adequate for the granting of exceptions, the variance and conditional use permit procedures subject the applicant to the public hearing process where there is the potential that community opposition based on stereotypical assumptions about people with disabilities may impact the outcome. Adopting a reasonable accommodation ordinance is one specific way to address barriers in land use and zoning procedures and would help municipalities more fully comply with the intent and purpose of fair housing laws.

Model ordinances are available that have been approved by HUD or the DOJ as part of fair housing settlement or conciliation agreements. These include a standardized process and gives the director of planning, or her designee, the authority to grant or deny reasonable accommodation requests without the applicant having to submit to the variance or conditional use permit or other public hearing process.

b) Accessibility requirements and the need for more accessible units for persons with disabilities.

Federal and State laws overlap to set forth minimum accessibility design and construction standards that apply to multi-family residential structures, which are intended to decrease barriers to housing opportunities for persons with disabilities.

Federal accessibility standards are promulgated under the FHA, Section 504 of the Rehabilitation Act, the ADA, and the Architectural Barriers Act. The FHA's accessibility requirements apply to all multi-family buildings of four or more units ready for first occupancy after March 13, 1991. In

buildings of four or more units with an elevator, all units must be accessible. In buildings without an elevator, all units on the ground floor must be accessible. Entrances and common areas must also be accessible. HUD periodically publishes design manuals that provide technical guidance to implementing the accessibility requirements of the FHA.

State accessibility requirements are codified in the Wisconsin Open Housing Law (WIS. STAT. §106.50), WIS. STAT. § 101.132 (accessibility requirements for covered multifamily housing), and the Wisconsin Administrative Code - Uniform Dwelling Code ("UDC"), SPS 320 – 325 (applies to one- and two-family dwellings. The UDC cross-references ICC/ANSI A117.1 accessibility standards. The UDC applies uniformly throughout the state, and local governments may not adopt a more or less stringent code. The UDC is typically enforced by a local government's designated building inspector. State regulations apply to multi-family units in buildings with three or more units that were first ready for occupancy on or after October 1, 1993. State regulations apply only to grade level units in buildings without an elevator. Buildings originally constructed prior to October 1, 1993, also may be subject to accessibility standards if they undergo substantial rehabilitation or remodeling after that date. If 25 - 50% of the interior square footage is remodeled, units or areas included in the remodeling must be made accessible. If more than 50% of the interior square footage is remodeled, regardless of when the housing was first occupied, then all units in buildings with an elevator and all ground floor units in buildings without an elevator must be made accessible.

To be considered accessible, covered multi-family housing, including remodeled multifamily housing, must comply with the applicable ANSI (American National Standards Institute) guidelines, or other guidelines that provide an equivalent or greater level of accessibility. Required design features include: an accessible route to and at least one accessible entrance into each building; accessible public and common use areas; interior and exterior doors and interior passageways that are sufficiently wide to accommodate wheelchairs; light switches, electrical outlets, circuit controls, thermostats, and other environmental controls located in accessible locations; bathroom walls are reinforced to allow installation of grab bars; and single lever door controls and plumbing fixtures on request of the renter. Additional accessibility requirements beyond those set forth in the Statutes are required for projects that receive financing through HUD or apply for Low Income Housing Tax Credits through WHEDA.

The Regional Plan identified, as a component of the region's housing analysis, the need for more units of accessible housing for persons with disabilities. For example, there are more persons with ambulatory disabilities in each of the Region's Counties than multi-family housing units constructed between 1990 and 2009, which could result in an inadequate supply of accessible dwelling units. (See Regional Plan, Table 159). And communities that lack public transit service and/or multifamily housing (especially those that expressly prohibit multifamily housing) may further limit options for persons with disabilities who may wish to reside in those communities.

Although there is no definitive data on the number of accessible housing units in the Region, the Regional Plan estimates that up to 61,640 housing units in the Region may be accessible to persons

with mobility disabilities based on estimates of the number of multifamily units constructed since 1991 and units constructed using Federal subsidized housing and LIHTC funds which were required to meet Federal and State accessibility and construction laws. Community living arrangements (CLA) and nursing homes provide accommodation for approximately 25,000 persons in the Region, some of whom are elderly or persons with disabilities. According to 2010 ACS data, about 169,000 households, or about 21 percent of households in the Region, included at least one person with a disability. Moreover, as the number and percentage of persons aged 65 and older is expected to steadily increase over the next 20 to 30 years (from about 13% in 2000 to 20% in 2035), the expected incidence of disability can be assumed to increase as populations age. When compared to the estimated amount of accessible housing, the numbers indicate a need for additional accessible housing, particularly in light of the expected increase in persons with disabilities related to the aging population.

Recommendations

While private housing developers are responsible for designing and constructing accessible units, local permitting and inspection authorities have a significant role to play in monitoring compliance and making development of more accessible units more feasible.

The Regional Plan recommends that jurisdictions provide a greater level of accessibility than what is statutorily required (a way to affirmatively further fair housing) by adopting or promoting construction design concepts such as universal design (UD) and Visitability standards and features in all new housing, including consideration of providing density bonuses or other incentives to encourage such housing. Examples of these design concepts include: low- or no-threshold entrance to the home with an overhang, lever-style door handles, no change in levels on the main floor, use of handrails for all steps, wider doors, and at least one accessible half bath on the main floor. According to 2010 ACS data, about 169,000 households, or about 21 percent of households in the Region, included at least one person with a disability. Heightened design standards such as these may especially help meet this growing Regional need for accessible housing.

Federal and State accessibility regulations for multi-family housing units are largely intended to address the housing needs of persons with mobility impairments, but jurisdictions should look beyond just accessibility requirements that relate mostly to wheelchair accommodation. These standards may not meet the accessibility needs of persons with other types of disabilities such as a sensory disability, hearing difficulty, vision difficulty, cognitive difficulty, self-care difficulty, independent living difficulty, or other disability that is not physical in nature. Persons with these types of disabilities may require a greater level of accessible design features or other services than required by fair housing laws.

Housing affordability is also a concern to persons with disabilities, whose median annual earnings are about half that of a person without a disability. The previously discussed recommendations for

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the development of more multifamily and affordable housing would help persons with disabilities obtain housing that would be both accessible and more affordable.

Finally, zoning and municipal codes could be improved by directing builders, residents, and tenants to the specific provisions of the Wisconsin Statutes and Administrative Code relating to building, construction, and accessibility code standards.

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Home Mortgage Disclosure Act (HMDA) Analysis

Homeownership is vital to a community's economic well-being. To live up to the requirements of fair housing law, all persons must have the ability to live where they want and can afford to. Prospective homebuyers need access to mortgage credit, and programs that offer homeownership should be available without discrimination. The task in this Home Mortgage Disclosure Act (HMDA) analysis is to determine the degree to which the housing needs of study area residents are being met by home loan lenders.

The Home Mortgage Disclosure Act of 1975 (HMDA) requires most mortgage lending institutions to disclose detailed information about their home-lending activities annually. The objectives of the HMDA include ensuring that borrowers and loan applicants are receiving fair treatment in the home loan market.

The national 2012 HMDA data consists of information for 15.3 million home loan applications reported by 7,400 home lenders, including banks, savings associations, credit unions, and mortgage companies.[45] HMDA data, which is provided by the Federal Financial Institutions Examination Council (FFIEC), includes the type, purpose, and characteristics of each home mortgage application that lenders receive during the calendar year. It also includes additional data related to those applications including loan pricing information, action taken, property location (by census tract), and additional information about loan applicants including sex, race, ethnicity, and income.

The source for this analysis is HMDA data for Waukesha, Jefferson, Ozaukee, and Washington Counties for the years 2010 through 2012[46], which includes a total of 21,718 home purchase loan application records. Within each HMDA record some of the data variables are 100% reported: "Loan Type," "Loan Amount," "Action Taken," for example, but other data fields are less complete. For the study area, for example, 3.5% of the records lack complete information about applicant and co-applicant sex, and 5.6% lack complete data regarding race and ethnicity. According to the HMDA data, these records represent applications taken entirely by mail, Internet, or phone in which the applicant declined to identify their sex, race, and/or ethnicity.

Missing race, ethnicity, and sex data are potentially problematic for an assessment of discrimination. If the missing data are non-random there may be adverse impacts on the accuracy of the analysis. Ideally, any missing data for a specific data variable would affect a small proportion of the total number of loan records and therefore would have only a minimal effect on the analytical results.

[45] Federal Financial Institutions Examination Council, "Federal Financial Examination Council Announces Availability of 2012 Data on Mortgage Lending," September 18, 2013.

[46] Loan records were examined for a three year time frame in order to include a greater number of observations, thereby allowing stronger conclusions about approval rates, denial rates, and reasons for denials.

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There is no requirement for reporting reasons for a loan denial, and this information was not provided for 13.9% of loan denials in the study area. Further, the HMDA data does not include a borrower's total financial qualifications such as an actual credit score, property type and value, loan-to-value ratio or loan product choices. Research has shown that differences in denial rates among racial or ethnic groups can arise from these credit-related factors not available in the HMDA data.[47] Despite these limitations, the HMDA data play an important role in fair lending enforcement. Bank examiners frequently use HMDA data in conjunction with information from loan files to assess an institution's compliance with the fair lending laws.

Loan Approvals and Denials by Applicant Sex

The 2010-2012 HMDA data for the study area includes complete information about applicant and co-applicant sex and household income for 20,569 of the total 21,718 loan application records (94.7%). About one-sixth of applications (17.3%) were by female applicants, one-quarter (24.2%) by male applicants, and the remaining majority by male/female co-applicants (58.6%). The table on the following page presents a snapshot of loan approval rates and denial rates for low, moderate, and upper income applicants by sex.[48] Note that denial rates are not simply the complement of approval rates because the "Loan Action" variable allows other outcomes including application withdrawal by the applicant and file closure for incompleteness.

Regardless of gender, loan approval rates were lowest and denial rates highest for low income applicants. Within that category, female applicants had the highest approval rate at 74.6%, compared to 71.3% for male applicants and 65.8% for male/female co-applicants. Male/female co-applicants had a relatively small number of applications in this category (275 out of 1,663), possibly reflecting their greater likelihood of being dual income households and thus, having incomes above 50% of the area's median.

In both the moderate and high income brackets, male/female co-applicants made up the largest share of applicants and had the highest approval rates (85.5% and 86.4%, respectively). Approval rates for females lagged by 2.1 percentage points at moderate incomes and 2.3 percentage points at high incomes. In both of these income categories, male applicants had the lowest approval rates and highest denial rates. At the moderate income level, approval rates for male applicants were 2.0 percentage points below those for female applicants and 4.1 percentage points below those for male/female co-applicants. This disparity increased to 3.8 and 6.1 percentage points, respectively, for high income applicants.

[47] R. B. Avery, Bhutta N., Brevoort K.P., and Canne, G.B. 2012. "The Mortgage Market in 2011: Highlights from the Data Reported Under the Home Mortgage Disclosure Act." Board of Governors of the Federal Reserve System. Federal Reserve Bulletin, Vol. 98, No. 6.

[48] The low income category includes applicants with a household income below 50% of area median family income (MFI). The moderate income range includes applicants with household incomes from 50% to 120% MFI, and the upper income category consists of applicants with household incomes above 120% MFI.

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Overall, home purchase loans for male/female co-applicants are 1.05 times more likely to be approved than for female applicants and 1.07 times more likely than for male applicants. Approval ratings for male/female co-applicants are more strongly correlated with income, showing a 20.6 percentage point increase from low to high income categories, compared to ranges of less than 10 points for male and female applicants.

For each applicant group, denial rates decline as income increases. At low incomes, male/female co-applicants are the most likely to be denied loans (23.3%), while denial rates for females and males are considerably lower (16.9% and 17.2%, respectively). This relationship inverts as incomes increase; in the high income category, female applicants are 1.5 times more likely to be denied loans than are male/female co-applicants and male applicants are 1.6 times as likely to be denied.

Loan Approval and Denial Rates by Sex
Four-County Study Area, 2010-2012

Applicant Income	Female Applicant(s)*	Male Applicant(s)*	Male/Female Co-Applicants	All Applicants
Low Income				
Total Applications	706	682	275	1,663
Approved	74.6%	71.3%	65.8%	71.8%
Denied	16.9%	17.2%	23.3%	18.0%
Withdrawn/Closed Incomplete	8.5%	11.6%	10.9%	10.2%
Moderate Income				
Total Applications	2,274	2,967	4,591	9,832
Approved	83.4%	81.4%	85.5%	83.8%
Denied	9.1%	9.9%	7.7%	8.7%
Withdrawn/Closed Incomplete	7.5%	8.7%	6.8%	7.5%
High Income				
Total Applications	573	1,323	7,178	9,074
Approved	84.1%	80.3%	86.4%	85.4%
Denied	8.4%	9.0%	5.5%	6.2%
Withdrawn/Closed Incomplete	7.5%	10.7%	8.1%	8.4%
All Applicants				
Total Applications	3,553	4,972	12,044	20,569
Approved	81.8%	79.7%	85.6%	83.5%
Denied	10.5%	10.7%	6.7%	8.3%
Withdrawn/Closed Incomplete	7.7%	9.6%	7.6%	8.1%

*Includes single male or female applicant and applications with male/male or female/female co-applicants.
Source: FFIEC 2010, 2011, and 2012 Home Mortgage Disclosure Act Data

Under the provisions of the HMDA, reporting institutions may choose to report the reasons they deny loans to consumers, although there is no requirement to do so. Of the 1,803 loan denials

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examined here, reasons are provided in 86.2% of total cases; reporting rates vary little by applicant sex, ranging from 85.3% for female applicants to 86.9% for male/female co-applicants.

The table that follows breaks down outcomes for completed loan applications, including reasons for loan denials by sex. Of applications completed by female applicants, 11.5% were denied; male/female co-applicants were denied in 11.9% of cases; and male applicants in 7.8%. For each applicant group, the three most common denial reasons were the same: debt-to-income ratio, credit history, and collateral. These three factors each relate to the applicant's long-term ability to repay the loan, rather than short-term availability of cash (for downpayment and closing costs) or incomplete/unverifiable information.

Reasons for Loan Denial by Applicant Sex
Four-County Study Area, 2010-2012

Reasons for Denial	Female Applicant(s)*		Male Applicant(s)*		Male/Female Co-Applicants	
	Count	Share	Count	Share	Count	Share
Completed Loan Applications	3,326	100.0%	11,319	100.0%	4,558	100.0%
Applications Approved	2,945	88.5%	10,440	92.2%	4,015	88.1%
Applications Denied	381	11.5%	879	7.8%	543	11.9%
Denial reason provided**	325	9.8%	757	6.7%	472	10.4%
Collateral	93	2.8%	186	1.6%	98	2.2%
Credit application incomplete	35	1.1%	91	0.8%	60	1.3%
Credit history	79	2.4%	187	1.7%	105	2.3%
Debt-to-income ratio	102	3.1%	199	1.8%	147	3.2%
Employment history	15	0.5%	41	0.4%	35	0.8%
Insufficient cash	12	0.4%	67	0.6%	20	0.4%
Mortgage insurance denied	1	0.0%	18	0.2%	9	0.2%
Other	39	1.2%	86	0.8%	56	1.2%
Unverifiable Information	15	0.5%	53	0.5%	21	0.5%
Denial reason not provided	56	1.7%	122	1.1%	71	1.6%

*Includes applications with a single male or female applicant and applications with male/male or female/ female co-applicants.

**Note that for some denials, multiple reasons were listed. Thus, the sum of individual denial reason counts is greater than the total count.

Source: FFIEC 2010, 2011, and 2012 Home Mortgage Disclosure Act Data

Loan Approvals & Denials by Applicant Race & Ethnicity

The below table disaggregates loan approval rates by race and ethnicity for different levels of income. Complete race, ethnicity, and income data was available for 20,089 loan records, or 92.5% of the 21,718 total records for the study area from 2010 to 2012. The vast majority of loan applicants

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were non-Hispanic White (94.1%). Minority applicants included Asians (2.5%), Hispanic (2.2%), Blacks (0.8%), and a small share of other racial groups (0.4%).

Loan Approval and Denial Rates by Applicant Race and Ethnicity Four-County Study Area, 2010-2012						
Applicant Income	**Non-Hispanic**				**Hispanic**	**Total**
	White	**Black**	**Asian**	**Other***		
Low Income						
Total Applications	1,527	4	25	5	68	1,629
Approved	73.3%	100.0%	60.0%	60.0%	55.9%	72.4%
Denied	16.7%	0.0%	24.0%	40.0%	30.9%	17.4%
Withdrawn/Closed Incomplete	10.0%	0.0%	16.0%	0.0%	13.2%	10.1%
Moderate Income						
Total Applications	9,158	62	186	37	215	9,658
Approved	83.5%	72.6%	79.6%	67.6%	81.4%	83.3%
Denied	9.0%	16.1%	10.8%	13.5%	10.2%	9.1%
Withdrawn/Closed Incomplete	7.5%	11.3%	9.7%	18.9%	8.4%	7.6%
High Income						
Total Applications	8,215	95	330	46	155	8,841
Approved	86.0%	78.9%	81.5%	78.3%	81.3%	85.6%
Denied	6.2%	12.6%	5.5%	4.3%	9.0%	6.2%
Withdrawn/Closed Incomplete	7.9%	8.4%	13.0%	17.4%	9.7%	8.1%
All Applicants						
Total Applications	18,900	161	502	88	438	20,089
Approved	83.8%	77.0%	77.1%	72.7%	77.4%	83.4%
Denied	8.4%	13.7%	12.4%	10.2%	13.0%	8.6%
Withdrawn/Closed Incomplete	7.9%	9.3%	10.6%	17.0%	9.6%	8.0%

*Includes American Indians and Alaskan Natives, Native Hawaiians and Pacific Islanders, and persons of multiple races.
Note: Analysis is based on applicants only and does not include co-applicants.
Source: FFIEC 2010, 2011, and 2012 Home Mortgage Disclosure Act Data

For low-income applicants, loan approval rates ranged from 55.9% for Hispanics to 100.0% for four Black applicants. For all minority groups except African Americans, loan approval rates are below and denial rates are above those of Whites. While the low number of minority applicants in this income range impedes a stronger conclusion on the relationship between race/ethnicity and loan outcomes, a disparity does exist. Taken together, low income minority applicants are 1.7 times as likely to be denied loans than their White counterparts, and only 0.8 times as likely to be approved. Additionally, minority applicants are 1.3 times more likely to withdraw or not complete their applications.

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Moderate income applicants had higher approval rates and lower denial rates than the low income group for all races/ethnicities with the exception of African Americans. In the moderate income band, minority applicants had approval rates ranging from 67.6% to 81.4%, compared to 83.5% for Whites. Denial rates ranged from 9.0% for White applicants to 16.1% for Black applicants. Looking at minority applicants in comparison to Whites shows that the former are 1.3 times more likely than the latter to be denied loans; they are also 1.3 times more likely to withdraw or not complete an application, and 0.9 times as likely to be approved for a loan.

At the high income level, approval and denial rates for White applicants show less variation from those of minority applicants. Approval rates ranged from 78.3% to 86.0% and denial rates from 4.3% to 12.6%. At high incomes, minority applicants are 1.2 times more likely than Whites to be denied loans, 1.5 times more likely to withdraw or not complete an application, and 0.9 times as likely to be approved.

Overall, this analysis indicates that, at low and moderate income levels, loan outcomes for Whites were consistently better than for most minority applicants (with the exception of the limited number low income Black applicants). In the high income bracket, there was more variation amongst minority groups in terms of loan approval and denial rates. Denial rates for Asian and "other" applicants were below those of Whites, although all minority groups had lower loan application approval rates than Whites.

The table on the following page identifies outcomes of completed applications and provides reasons for loan denials by race and ethnicity. For each minority group, the distribution of loan denial reasons is compared to that of White applicants (as a reference group). Findings are summarized below:

- Denial reasons were more likely to be provided for minority applicants than for Whites. Reasons for loan denial were not reported in 14.2% of denials to Whites, compared to 9.1% for Blacks, 11.1% for Asians, and 12.3% for Hispanics.

- For White, Asian, and Hispanic loan applicants, the most common reason for denial was debt-to-income ratio, impeding approval of 2.2% of applications completed by Whites, 2.9% of those by Asians, and 4.1% of those by Hispanics.

- Black applicants were denied loans due to debt-to-income ratio in 2.8% of cases; however, credit history and unverifiable information were much more likely to impact applications completed by an African American, leading to denials in 6.2% and 4.8% of cases, respectively. In comparison to Whites, Black applicants were 5.1 times as likely to be denied a loan due to unverifiable information and 3.5 times as likely to be denied due to credit history. They also faced denial due to the inability to obtain mortgage insurance at a much higher rate than Whites (5.6 times).

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Reasons for Loan Denial by Applicant Race and Ethnicity Four-County Study Area, 2010-2012							
Reasons for Denial	**Non-Hispanic**					**Hispanic**	
	White	**Black**		**Asian**			
	Share	**Share**	**Ratio to Whites**	**Share**	**Ratio to Whites**	**Share**	**Ratio to Whites**
Completed Loan Applications	17,727	145		484		391	
Applications Approved	90.9%	84.8%	0.93	90.7%	1.00	85.4%	0.94
Applications Denied	9.1%	15.2%	1.66	9.3%	1.02	14.6%	1.60
Denial reason provided*	7.8%	13.8%		8.3%		12.8%	
Collateral	1.9%	2.1%	1.06	1.7%	0.85	2.3%	1.18
Credit application incomplete	1.0%	0.7%	0.72	1.9%	1.95	0.8%	0.80
Credit history	1.8%	6.2%	3.49	0.8%	0.47	4.1%	2.30
Debt-to-income ratio	2.2%	2.8%	1.23	2.9%	1.29	4.1%	1.83
Employment history	0.4%	0.7%	1.55	1.0%	2.32	1.0%	2.30
Insufficient cash	0.5%	0.7%	1.49	0.6%	1.34	1.8%	3.87
Mortgage insurance denied	0.1%	0.7%	5.56	0.2%	1.66	0.5%	4.12
Unverifiable information	0.9%	4.8%	5.09	0.2%	0.22	1.3%	1.35
Other	0.5%	0.0%		0.4%	0.92	1.0%	2.27
Denial reason not provided	1.3%	1.4%		1.0%		1.8%	

*Note that for some denials, multiple reasons were listed. Thus, the sum of individual denial reason counts is greater than the total count.

Source: FFIEC 2010, 2011, and 2012 Home Mortgage Disclosure Act Data

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- Asian loan applicants were denied loans at a similar rate to Whites (both in about 9% of cases), and reasons followed a somewhat similar pattern. Notably, however, Asians were twice as likely to be denied due to an incomplete credit application and 2.3 times as likely to be denied due to employment history. Credit history and collateral were less likely to be factors.

- About 15% of loan applications completed by Blacks and Hispanics were denied, a rate that was 1.6 times as high as that of Whites. Top reasons included debt-to-income ratio, credit history, and collateral, which were each more likely to impede Hispanic applicants than Whites. Additionally, mortgage insurance denials were 4.1 times as likely to cause a loan denial for Hispanic applicants as Whites, and insufficient cash was 3.9 times as likely to be a reason.

Loan Actions by Census Tract Minority Percentage

Census tracts often approximate neighborhoods and can provide a convenient measure of the small area effects of loan discrimination. The following table (HMDA Loan actions by Census Tract Minority Percentage) provides the counts and rates of loan actions[49] for study area census tracts by level of minority population. Note that no census tract had a minority population percentage greater than 40%.

HMDA Loan Actions by Census Tract Minority Percentage
Four-County Study Area, 2010-2012

Tract Minority Percentage	Loan Originated	Approved, Not Accepted	Denied by Financial Institution	Withdrawn by Applicant	Closed Incomplete	Total
Loan Action (Counts)						
0.0%-9.9%	15,057	705	1,607	1,393	228	18,990
10%-19.9%	1,865	54	208	170	38	2,335
20%-29.9%	107	2	21	8	3	141
30%-39.9%	135	10	22	21	2	251
Total	17,164	771	1,858	1,592	271	21,656
Loan Action (Rates)						
0.0%-9.9%	79.3%	3.7%	8.5%	7.3%	1.2%	100.0%
10%-19.9%	79.9%	2.3%	8.9%	7.3%	1.6%	100.0%
20%-29.9%	75.9%	1.4%	14.9%	5.7%	2.1%	100.0%
30%-39.9%	71.1%	5.3%	11.6%	11.1%	1.1%	100.0%
Total	79.3%	3.6%	8.6%	7.4%	1.3%	100.0%

Source: FFIEC 2010, 2011, and 2012 Home Mortgage Disclosure Act Data

[49] Loan approvals include "Loan Originated" and "Approved but Not Accepted." "Application Denials by the Financial Institution" was the single category used to calculate Denial Rates. Other loan action categories included "Application Withdrawn by Client" and "File Closed for Incompleteness."

The categories shaded in green show loans that were approved by a HMDA-reporting loan institution. Many loans were approved and resulted in a mortgage (Loan Originated), although in some cases an application was approved but the applicant decided not to finalize the loan; these are categorized as "Approved But Not Accepted."

The vast majority of loan applications (87.7%) were for homes in census tracts with minority population shares under 10%, not surprising given the limited level of diversity throughout the study area. One-tenth of loan applications were in tracts with between 10% and 19.9% minority population, and only 331 (1.5%) were in tracts with a minority population share of 20% or more.

Loan approval rates declined somewhat as census tract minority population shares increased above 20%, dropping 4 percentage points between the 10%-19.9% range and the 20%-29.9% range and another 4.8 percentage points to the 30%-39.9% range. Denial rates increased for applications in tracts above the 20% minority population level, but fell at 30% mark, albeit not as low as denial rates for tracts with less than 20% minority residents.

Tracts with minority population shares over 30% also showed a greater likelihood of having loans approved but not accepted by the applicant, or having applications withdrawn by the applicant. Given the relatively low number of applications in that category, however, it is difficult to draw strong conclusions from this data.

Summary of HMDA Analysis

This analysis found differences in loan approvals and denials by sex, race, and ethnicity varied depending on income levels, as outlined below:

- At the low income level, male and female applicants had higher approval rates and lower denial rates than male/female co-applicants. As incomes increased, this relationship reversed: male/female co-applicants with moderate incomes saw loan approval rates that were 2.1 percentage points above those of female applicants and 4.1 points above male applicants. These spreads widen slightly to 2.3 and 6.1 points, respectively, for high income applicants.

- A comparison of loan outcomes by applicant race/ethnicity shows that there is a 14.5 percentage point gap in approval rates between low income White and low income minority applicants. At moderate incomes, Whites are approved loans at a rate that is 10.9 percentage points above that of Black applicants, 3.9 percentage points above Asians and 15.9 percentage points above other minorities. These gaps are reduced as incomes increases, but a disparity remains.

- Common reasons for loan denials were debt-to-income ratio, collateral, and credit history. Comparing denial reasons for White and Black applicants shows that Blacks were more likely to be denied due to unverifiable information, mortgage insurance denial, and credit history; Hispanics were more likely to be hindered by mortgage insurance denial and insufficient cash. Denial reasons varied little by applicant sex.

While this data uncovers disparity in loan approvals by race, ethnicity, and sex at some income levels, it is not possible to determine if the lender motivation for this disparate treatment was due to economic reasons, social discrimination, or both.

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Fair Housing Organizations & Activities

In general, fair housing services include the investigation and resolution of housing discrimination complaints, discrimination auditing and testing, and education and outreach, including the dissemination of fair housing information such as written material, workshops, and seminars. Landlord/tenant counseling is another fair housing service that involves informing landlords and tenants of their rights and responsibilities under fair housing law and other consumer protection legislations as well as mediating disputes between tenants and landlords.

U.S. Department of Housing and Urban Development

The United States Department of Housing and Urban Development (HUD) oversees, administers, and enforces the federal Fair Housing Act. HUD's regional office in Chicago, Illinois, oversees housing, community development, and fair housing enforcement in Wisconsin as well as Illinois, Indiana, Michigan, Ohio, and Minnesota. The Office of Fair Housing and Equal Opportunity (FHEO), within HUD's Chicago office, enforces the Fair Housing Act and other civil rights laws that prohibit discrimination in housing, mortgage lending, and other related transactions in Wisconsin. HUD also provides education and outreach and monitors agencies that receive HUD funding for compliance with civil rights laws.

HUD works with state and local agencies under the Fair Housing Assistance Program (FHAP) and Fair Housing Initiative Program (FHIP). Currently, the state of Wisconsin does not have any recipients of the FHAP grant. Many agencies can also apply to receive funding directly from HUD under the Fair Housing Initiatives Program (FHIP). The recipient must be a government agency, a private nonprofit, or a for-profit organization and is selected through a competitive grant program that provides funds to organizations to carry out projects and activities designed to enforce and enhance compliance with fair housing laws. The Metropolitan Milwaukee Fair Housing Council was a 2012 FHIP grant recipient and provides fair housing education and outreach throughout southeast Wisconsin, including Waukesha, Ozaukee, and Washington Counties.

Metropolitan Milwaukee Fair Housing Council

The Metropolitan Milwaukee Fair Housing Council (MMFHC) promotes fair housing throughout the State of Wisconsin by combating illegal housing discrimination. MMFHC operates two satellite offices, the Fair Housing Center of Greater Madison (FHCGM) and the Fair Housing Center of Northeast Wisconsin (FHCNW).

MMFHC operates provides the following fair housing programs:

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Fair Housing Enforcement Program

- Intake of fair housing complaints and counseling on options for administrative or judicial remedy.
- Investigative services for persons who allege housing discrimination.
- Referrals to attorneys and government agencies.
- Systemic investigations of institutional discrimination.

Fair Housing Outreach and Education Program

- Presentations to consumers, advocates, and the general public.
- Fair housing training for property owners and managers, real estate agents, and other members of the housing industry.
- Fair housing technical assistance and professional support to government agencies, civil rights organizations, social service agencies and housing providers.
- Development and distribution of fair housing educational materials.

Fair Housing Lending Program

- Investigates allegations of predatory lending, mortgage rescue scams, and other fair lending violations.
- Monitors financial institutions' fair lending practices and compliance with the federal Community Reinvestment Act.
- Provides information to financial institutions on how to improve service to low- and moderate- income communities and people of color.
- Provides technical assistance and education on fair lending and foreclosure prevention to lenders, policy makers and the general public.

Inclusive Communities Program

- Technical assistance and professional support to community organizations, developers and local policy makers on inclusionary housing policies and the promotion of racial and economic integration.
- Assistance with consumers' access to pro-integrative housing choices.
- Research, analysis and documentation of fair and affordable housing opportunities and impediments.

In addition to these fair housing agencies, other municipalities, such as the City of New Berlin and the Counties of Jefferson, Ozaukee, and Washington assist in promoting fair housing education and outreach by implementing Fair Housing Proclamations and providing informational materials on fair housing.

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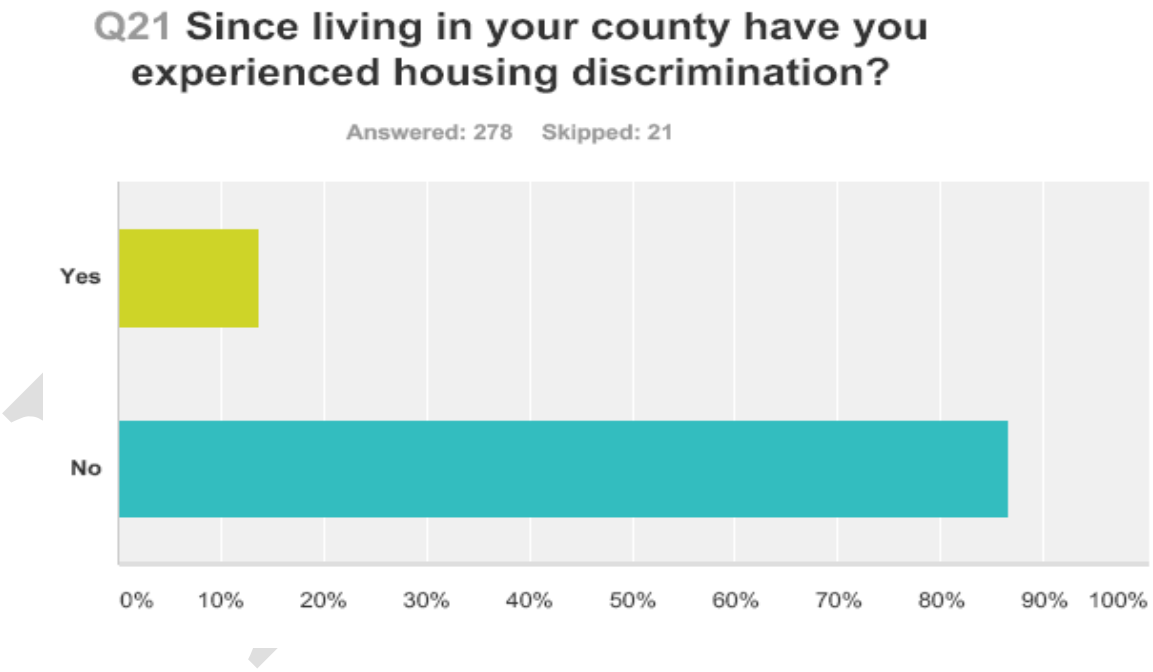
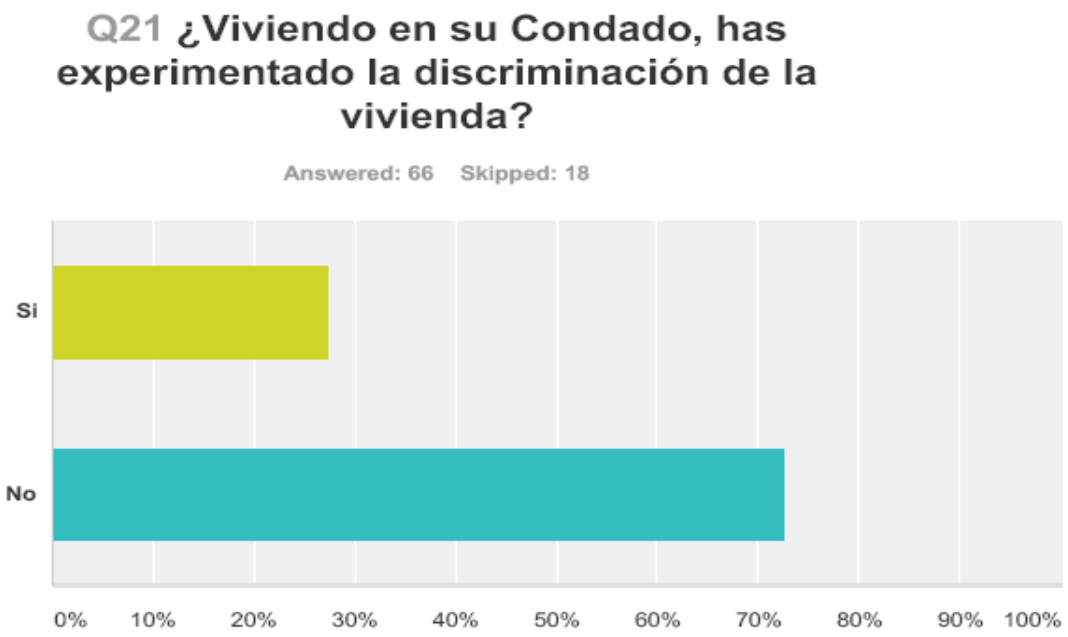
Community Survey of Fair Housing

Additional evaluation of perceptions related to fair housing in Waukesha, Washington, Ozaukee, and Jefferson Counties was conducted via a community survey designed to gather insight into the knowledge, experience, opinions, and feelings of local residents, employees, and service providers. A total of 299 persons in the four-county area completed the English survey and 84 respondents completed the Spanish version. Most questions in the survey required simple "yes," "no," or "don't know" responses, although several questions allowed respondents to offer written comments. While a summary of findings and comments are presented in this section, complete results are available in the Appendix to this report.

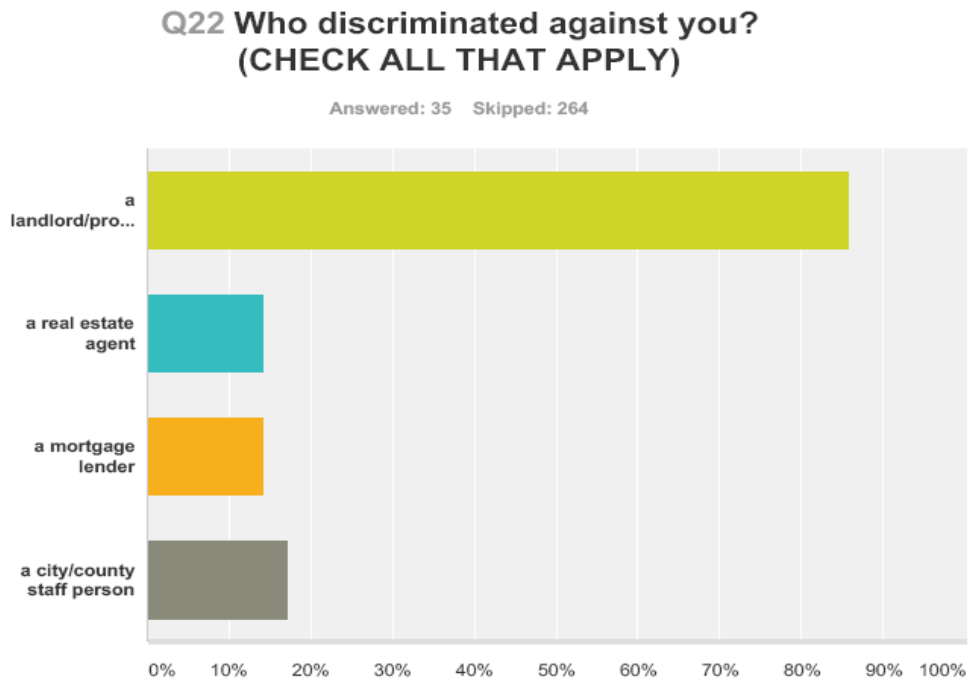
Respondents who completed the survey in English were asked if they had ever experienced housing discrimination, to which 240 out of 278 (86%) respondents stated they had never experienced housing discrimination and 38 respondents (14%) reported that they had experienced discrimination.

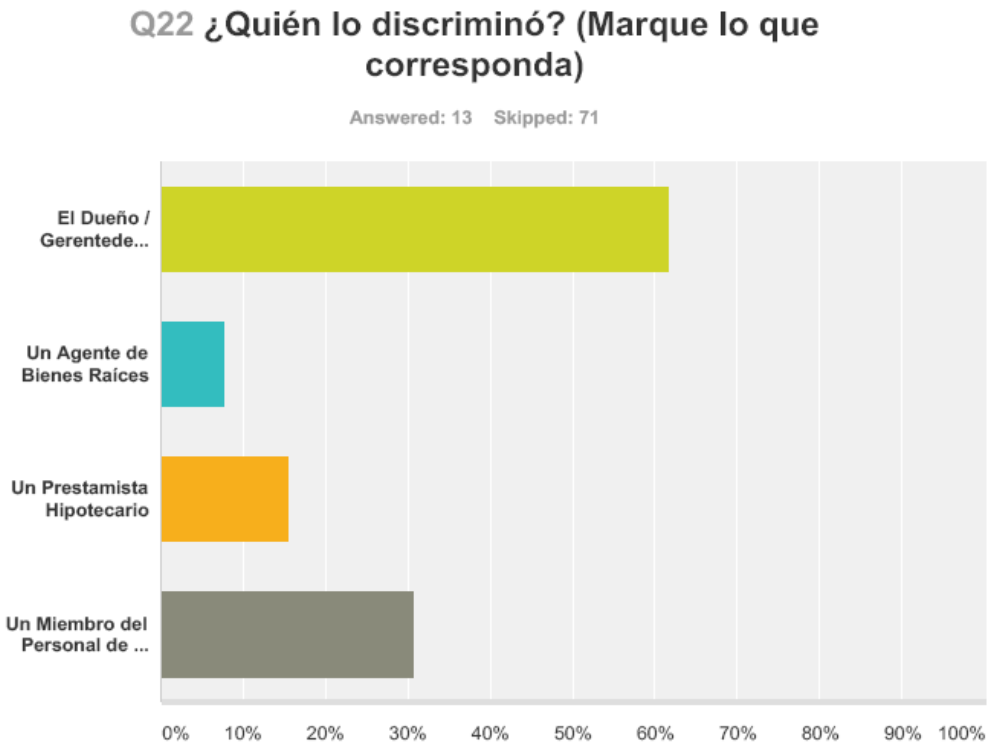
Comparatively, 18 (27%) of respondents to the Spanish survey noted they had experienced housing discrimination, while 48 of 66 (73%) stated they had never experienced housing discrimination.



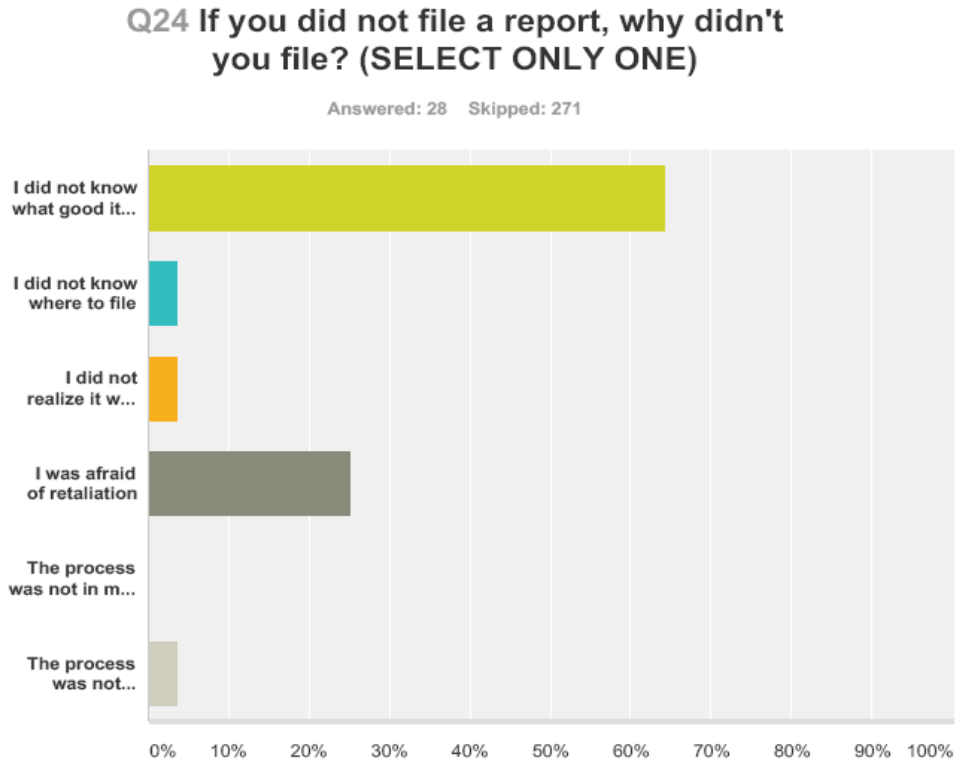


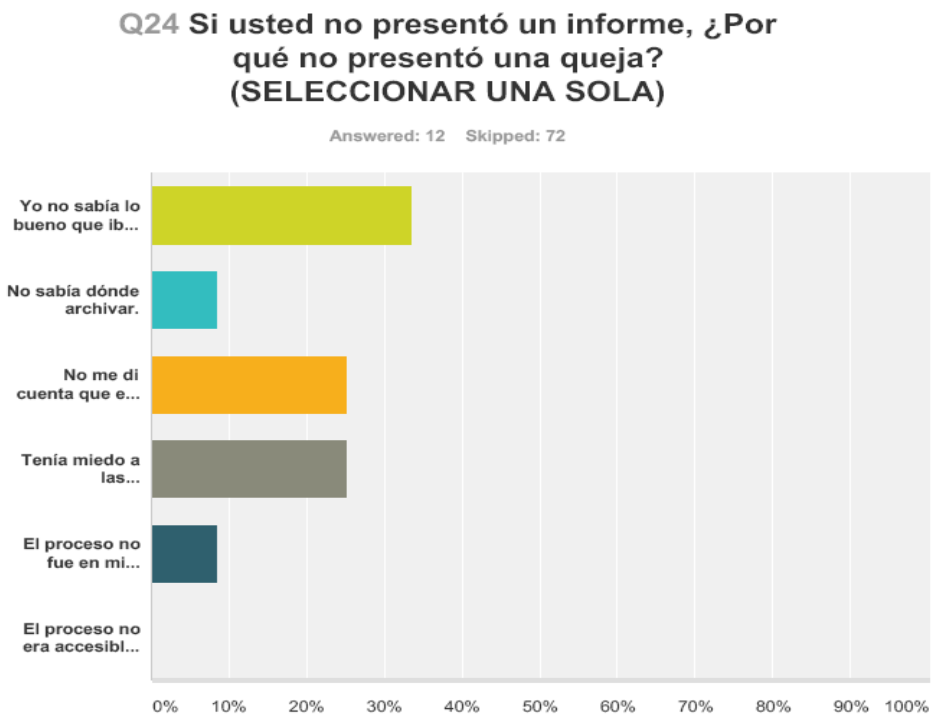
The respondents that had experienced discrimination were asked a follow-up question to ascertain the source of discrimination. Thirty (85%) of the English and 8 (61%) of the Spanish survey respondents who reported discrimination were discriminated against by a landlord or property manager.



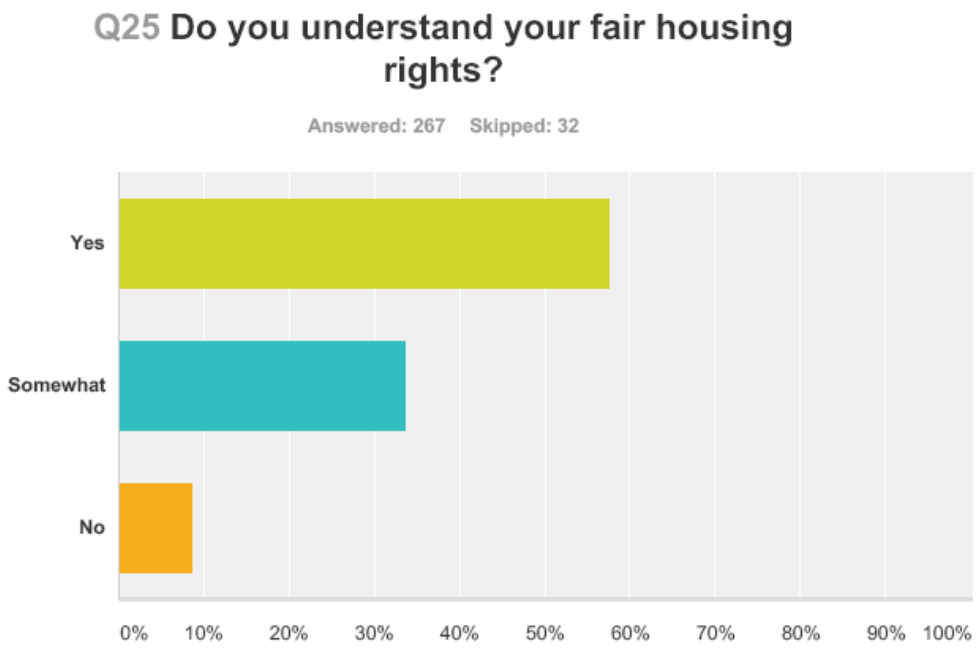


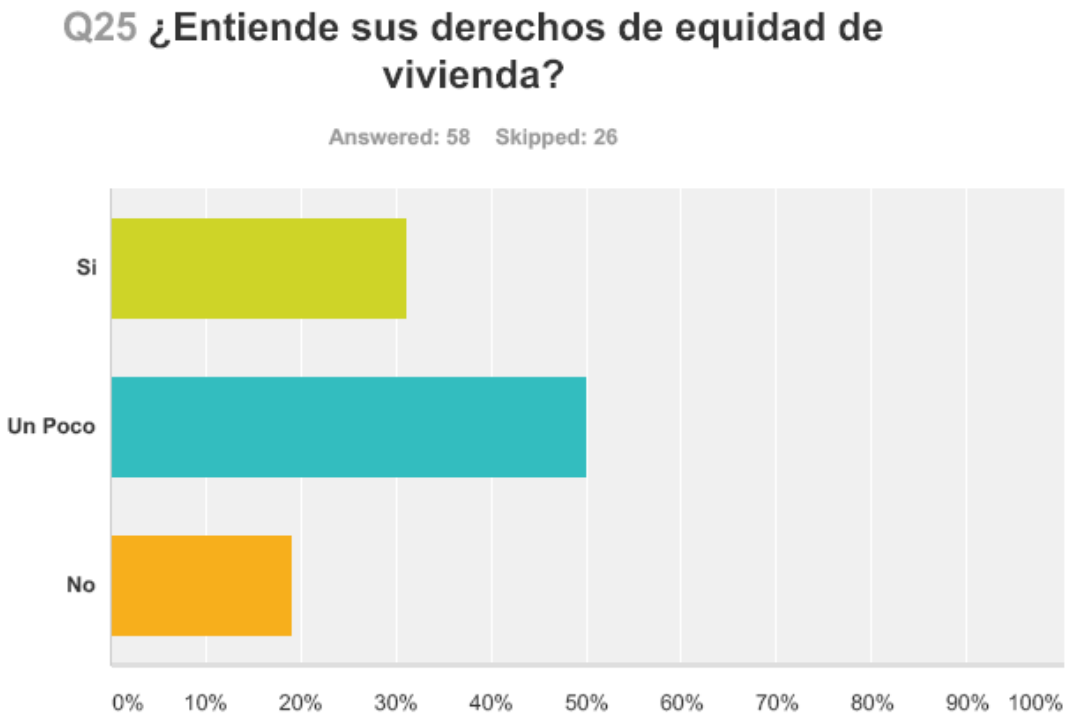
When asked the reason they did not file a fair housing complaint, 18 (64%) of English and 4 (33%) of Spanish survey respondents stated that they did not know what good it would do; 7 (25%) of English and 3 (25%) of Spanish survey respondents responded that they feared retaliation.



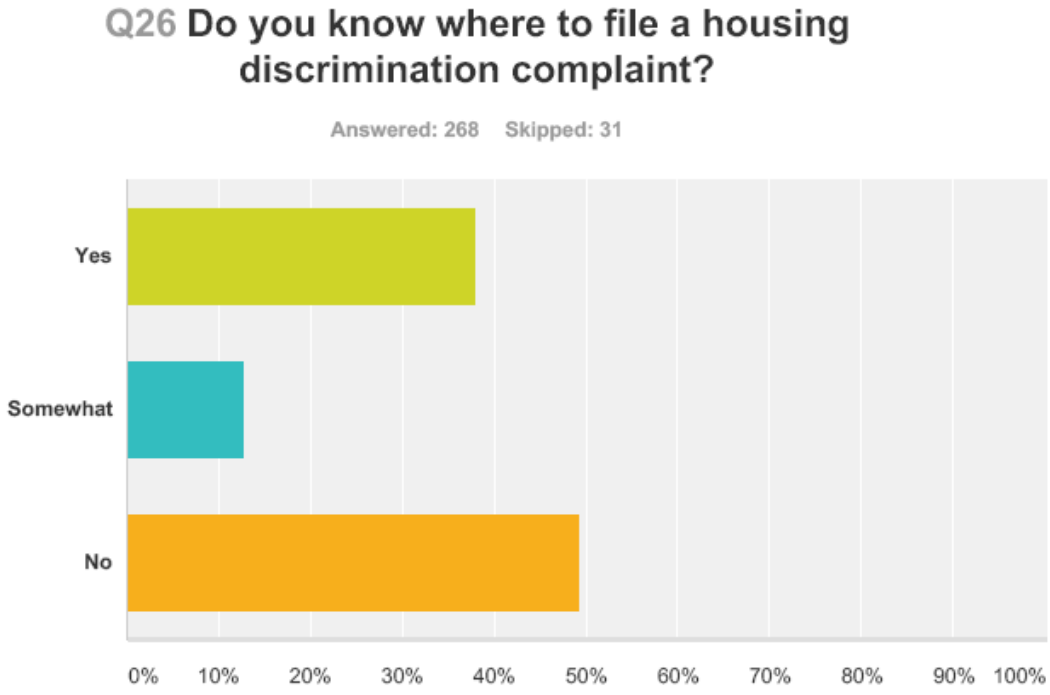


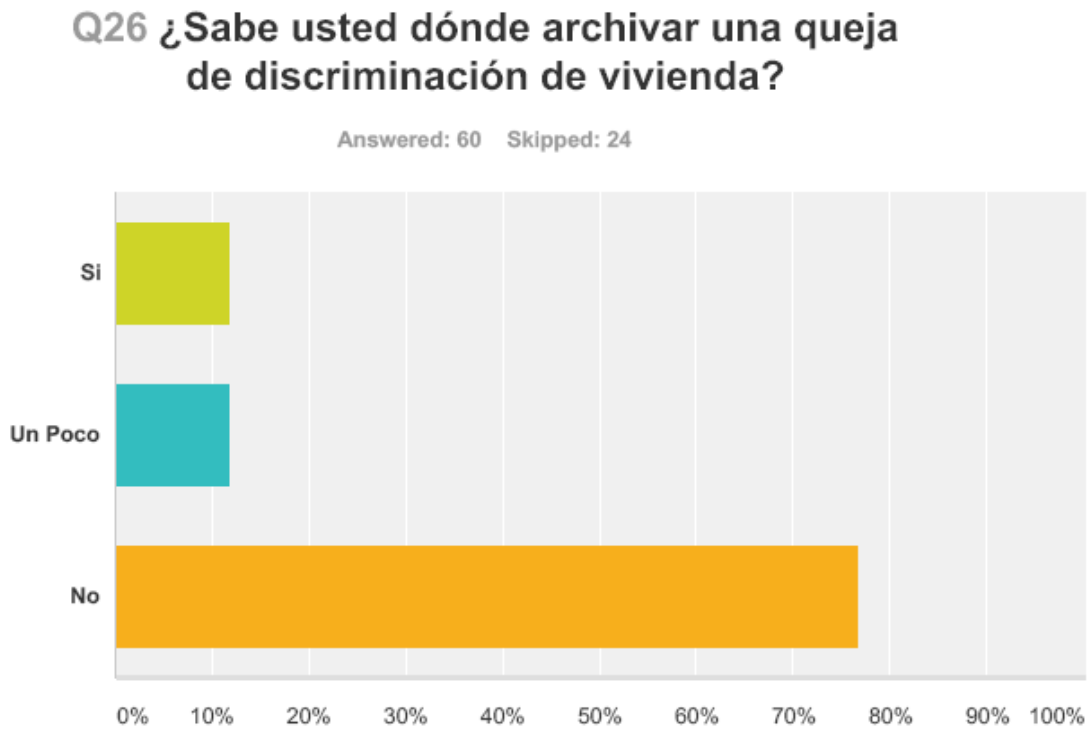
When asked if they were knowledgeable about their fair housing rights, 90 (33%) of English and 29 (50%) of Spanish survey respondents stated they were either familiar or somewhat familiar with fair housing rights. Twenty-three (8%) of English and 11 (18%) of Spanish survey respondents stated they did not know their fair housing rights.





Survey respondents were asked if they knew where to file a housing discrimination complaint, to which 132 (49%) of English and 46 (76%) of Spanish survey respondents stated they did not where to file a discrimination complaint.





Respondents were asked to identify whether each of the following was a barrier to fair housing within their county:

1. Income levels of minority and female-headed households;
2. Concentration of low-income housing in certain areas;
3. Concentration of group homes in certain neighborhoods;
4. Limitations on density of housing;
5. Lack of adequate zoning for manufactured housing;
6. Restrictive covenants by homeowner associations or neighborhood organizations;
7. Limited capacity of a local organization devoted to fair housing investigation/testing;
8. Lack of knowledge among residents regarding fair housing;
9. Lack of knowledge among large landlords/property managers regarding fair housing;
10. Lack of knowledge among real estate agents regarding fair housing; and
11. Lack of knowledge among bankers/lenders regarding fair housing.

The total number of persons who responded to this question varied by each impediment, however the four most common factors to be identified as barriers to fair housing were:

1. Lack of adequate zoning for manufactured housing;
2. Restrictive covenants by homeowner associations or neighborhood organizations;
3. Concentration of group homes in certain neighborhoods; and
4. Limitations on density of housing.

Hate Crimes

Hate crimes are crimes that are committed because of a bias against race, religion, disability, ethnicity, or sexual orientation. In an attempt to determine the scope and nature of hate crimes, the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting Program collects statistics on these incidents. However, it was not until early in this decade that the federal government began to collect data on the number and type of hate crimes are being committed, and by whom.

Fair housing violations due to hate crimes occur when people will not consider moving into certain neighborhoods, or have been run off from their homes for fear of harassment or physical harm.

To a certain degree, hate crimes are an indicator of the environmental context of discrimination. These crimes should be reported to the police or sheriff's department. On the other hand, a hate incident is an action or behavior that is motivated by hate but is protected by the First Amendment right to freedom of expression. Examples of hate incidents can include name calling, epithets, distribution of hate material in public places, and the display of offensive hate-motivated material on one's property. The freedom guaranteed by the U.S. Constitution, such as the freedom of speech, allows hateful rhetoric as long as it does not interfere with the civil rights of others. Only when these incidents escalate can they be considered an actual crime.

Hate crimes become a fair housing concern when residents are intimidated or harassed at their residence or neighborhood. Fair housing violations due to hate crimes also occur when people will not consider moving into certain neighborhoods, or have been run off from their homes for fear of harassment or physical harm. The Federal Fair Housing Act makes it illegal to threaten, harass, intimidate or act violently towards a person who has exercised their right to free housing choice. Persons who break the law have committed a serious crime and can face time in prison, large fines, or both, especially for violent acts, serious threats of harm, or injuries to victims. In addition, this same behavior may violate similar state and local laws, leading to more punishment for those who are responsible. Some examples of illegal behavior include threats made in person, writing or by telephone; vandalism of the home or property; rock throwing; suspicious fires, cross-burning or bombing; or unsuccessful attempts at any of these.

Reporting hate crimes is voluntary on the part of the local jurisdictions. Some states started submitting data only recently, and not all jurisdictions are represented in the reports. Many jurisdictions, including those with well-documented histories of racial prejudice, reported zero hate crimes. Another obstacle to gaining an accurate count of hate crimes is the reluctance of many victims to report such attacks.

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A total of 237 hate crimes were reported in the State of Wisconsin between 2010 and 2012. Of the 273 hate crimes reported, only 1 hate crime was reported in the Waukesha County Consortia. Many of the hate crime offenses between 2010 and 2012 were attributed to race as the motivation category of the hate crimes. The following tables will present hate crime incidents per bias motivation from 2010 to 2012.

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Hate Crime Incidents
per Bias Motivation and Quarter
by State and Agency, 2010

Agency type	Agency name	Number of incidents per bias motivation					Number of incidents per quarter [1]				Population [2]
		Race	*Religion*	*Sexual orientation*	*Ethnicity*	*Disability*	*1st quarter*	*2nd quarter*	*3rd quarter*	*4th quarter*	
Total		**42**	**13**	**28**	**8**	**2**					**93**
Cities		**37**	**11**	**27**	**8**	**2**					
	Appleton	1	0	0	0	0	0	0	1	0	70,975
	Berlin	0	1	0	0	0	1	0	0	0	4,932
	Fond du Lac	0	1	0	0	0	0	0	1	0	42,369
	Green Bay	1	0	0	0	0	0	1	0	0	101,320
	Hudson	4	0	0	0	0	0	4	0	0	12,832
	Janesville	1	0	1	0	0	1	0	0	1	63,651
	Kaukauna	0	0	1	0	0	0	0	0	1	15,948
	Kenosha	0	0	0	1	0	1	0	0	0	98,961
	La Crosse	1	0	1	0	0	1	0	1	0	51,184
	Madison	8	0	5	3	2	1	4	7	6	238,224
	Merrill	1	0	0	0	0	0	1	0	0	9,433
	Milwaukee	16	6	12	1	0	8	10	9	8	605,921
	North Fond du Lac	0	1	0	0	0	0	1	0	0	5,108
	Oak Creek	1	0	1	1	0	1	0	0	2	34,572
	Rhinelander	0	0	1	0	0	0	0	0	1	7,471
	Ripon	0	1	0	0	0	0	0	1	0	7,481
	River Falls	0	0	1	0	0	0	0	0	1	14,745
	Seymour	0	0	2	1	0	1	1	0	1	3,396
	Sheboygan	0	1	1	0	0	0	2	0	0	47,516
	Shiocton	1	0	0	1	0	0	0	0	2	943
	Tomahawk	1	0	0	0	0	1	0	0	0	3,580
	Wausau	1	0	0	0	0	0	0	0	1	38,429
	Whitewater	0	0	1	0	0	0	0	1	0	14,211
Universities and Colleges		**1**	**0**	**0**	**0**	**0**					
	University of Wisconsin, Platteville	1	0	0	0	0			0	1	7,803
Metropolitan Counties		**3**	**1**	**0**	**0**	**0**					
	Dane	1	0	0	0	0	0	0	0	1	
	Iowa	0	1	0	0	0	0	1	0	0	
	Outagamie	1	0	0	0	0	1	0	0	0	
	Racine	1	0	0	0	0	0	0	0	1	
Nonmetropolitan Counties		**1**	**1**	**1**	**0**	**0**					
	Clark	0	1	1	0	0	2	0	0	0	
	Manitowoc	1	0	0	0	0	1	0	0	0	

[1]Agencies published in this table indicated that at least one hate crime incident occurred in their respective jurisdictions during the quarter(s) for which they submitted a report to the Hate Crime Statistics Program. Blanks indicate quarters for

[2]Population figures are published only for the cities. The figures listed for the universities and colleges are student enrollment and were provided by the United States Department of Education for the 2009 school year, the most recent

Source: FBI 2011 Hate Crime Statistics, http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2011/tables/table-13-1/table_13_wisconsin_hate_-crime_incidents_per_bias_motivation_and_quarter_by_state_and_agency_2011.xls

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WISCONSIN
Hate Crime Incidents
per Bias Motivation and Quarter
by State and Agency, 2011

		Number of incidents per bias motivation					*Number of incidents per quarter* [1]				
Agency type	*Agency name*	*Race*	*Religion*	*Sexual orientation*	*Ethnicity*	*Disability*	*1st quarter*	*2nd quarter*	*3rd quarter*	*4th quarter*	*Population* [2]
Total		**49**	**4**	**16**	**6**	**1**					**76**
Cities		**44**	**4**	**14**	**5**	**1**					
	Appleton	3	0	0	0	0	0	2	0	1	72,939
	Caledonia	1	0	0	0	0	0	1	0	0	24,813
	Everest	4	0	0	0	0	0		4	0	17,111
	Fond du Lac	2	2	0	0	0	1	1	1	1	43,208
	Fox Valley Metro	0	0	0	0	1	0	1	0	0	16,991
	Green Bay	1	0	1	0	0	0	0	0	2	104,510
	Hayward	1	0	0	0	0	0	0	1	0	2,328
	Kenosha	1	0	0	0	0	0	0	0	1	99,650
	Madison	8	1	5	2	0	3	4	5	4	234,225
	Manitowoc	3	0	1	0	0	1	1	1	1	33,883
	Milwaukee	15	1	5	3	0	4	9	9	2	597,426
	Minocqua	1	0	0	0	0	0	1	0	0	4,404
	Oak Creek	1	0	0	0	0	0	1	0	0	34,601
	Rhinelander	0	0	2	0	0	2				7,832
	Seymour	1	0	0	0	0	0	0	0	1	3,466
	Wausau	1	0	0	0	0	1	0	0	0	39,276
	West Allis	1	0	0	0	0	0	0	1	0	60,674
Metropolitan Counties		**2**	**0**	**2**	**1**	**0**					
	Chippewa	0	0	1	1	0	0	2	0	0	
	Dane	1	0	1	0	0	0	0	1	1	
	Kenosha	1	0	0	0	0	0	0	0	1	
Nonmetropolitan Counties		**3**	**0**	**0**	**0**	**0**					
	Portage	1	0	0	0	0	1	0	0	0	
	Sawyer	2	0	0	0	0	0	0	1	1	

[1] Agencies published in this table indicated that at least one hate crime incident occurred in their respective jurisdictions during the quarter(s) for which they submitted a report to
[2] Population figures are published only for the cities.
Source: FBI 2011 Hate Crime Statistics, http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2011/tables/table-13-1/table_13_wisconsin_hate_-crime_incidents_per_bias_motivation_and_quarter_by_state_and_agency_2011.xls

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WISCONSIN
Hate Crime Incidents
per Bias Motivation and Quarter
by Agency, 2012

Agency type	Agency name	Number of incidents per bias motivation					Number of incidents per quarter [1]				Population [2]
		Race	Religion	Sexual orientatio	Ethnicity	Disability	1st quarter	2nd quarter	3rd quarter	4th quarter	
Total		**32**	**10**	**13**	**5**	**8**					**68**
Cities		**29**	**9**	**7**	**4**	**1**					
	Appleton	6	0	1	1	0	1	3	4	0	73,431
	Caledonia	1	0	0	0	0	0	1	0	0	24,764
	Fond du Lac	0	0	2	0	0	0	2	0	0	43,319
	La Crosse	1	1	0	0	0	0	0	1	1	51,851
	Madison	8	3	0	0	1	3	4	3	2	237,508
	Milwaukee	5	4	4	1	0	4	1	2	7	599,395
	Minocqua	1	0	0	0	0	0	0	0	1	4,372
	Oak Creek	0	1	0	0	0	0	0	1	0	34,715
	Rhinelander	0	0	0	1	0	0	1	0	0	7,776
	River Falls	1	0	0	0	0	0	0	0	1	14,927
	Seymour	1	0	0	0	0	0	1	0	0	3,481
	Sheboygan	2	0	0	1	0	1	1	1	0	49,261
	Waukesha	1	0	0	0	0	0	0	0	1	71,049
	Wausau	1	0	0	0	0	1	0	0	0	39,313
	West Allis	1	0	0	0	0	0	1	0	0	60,870
Universities and Colleges		**1**	**0**	**5**	**0**	**0**					
	University of Wisconsin, Platteville	1	0	5	0	0	0	1	0	5	8,262
Metropolitan Counties		**1**	**0**	**1**	**0**	**0**					
	Dane	1	0	0	0	0	1	0	0	0	
	Iowa	0	0	1	0	0	0	0	0	1	
Nonmetropolitan Counties		**1**	**1**	**0**	**1**	**7**					
	Burnett	1	1	0	0	1	0	1	2	0	
	Grant	0	0	0	1	0	0	0	0	1	
	Juneau	0	0	0	0	5	1	1	2	1	
	Lincoln	0	0	0	0	1	0	1	0	0	

[1] Agencies published in this table indicated that at least one hate crime incident occurred in their respective jurisdictions during the quarter(s) for which they submitted a report to the Hate Crime Statistics Program.

[2] Population figures are published only for the cities. The figures listed for the universities and colleges are student enrollment and were provided by the United States Department of Education for the 2011 school year, the most recent available. The enrollment figures include full-time and part-time students.

FBI 2012 Hate Crime Statistics, http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2012/tables-and-data-declarations/13tabledatadecpdf/table-13-state-cuts/table_13_hate_crime_incidents_per_bias_motivation_and_quarter_by_wisconsin_and_agency_2012.xls

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Housing Discrimination Complaints

Complaints Filed with the U.S. Department of Housing and Urban Development

HUD's Office of Fair Housing and Equal Opportunity (FHEO) administers federal laws and establishes national policies that make sure all Americans have equal access to the housing of their choice. Individuals who believe they are victims of housing discrimination can choose to file a fair housing complaint through their respective Regional Office of FHEO. Typically, when a complaint is filed with the agency, a case is opened and an investigation of the allegations of housing discrimination is initiated. If the complaint cannot be successfully mediated, the FHEO determines whether reasonable cause exists to believe that a discriminatory housing practice has occurred. Where reasonable cause is found, the parties to the complaint are notified by HUD's issuance of a "Determination", as well as a "Charge of Discrimination", and a hearing is scheduled before a HUD administrative law judge. Either party (complainant or respondent) may cause the HUD-scheduled administrative proceeding to be terminated by electing instead to have the matter litigated in Federal court.

The number and types of reported incidents of discrimination speak not only to the level of intolerance in a community but also to the level awareness of what constitutes a violation of law, and the level of comfort those victimized have to seek redress for those violations. This section reviews the administrative structure of fair housing enforcement in Waukesha County and the protected classes. It describes the discrimination complaints filed over the past eight years and their outcomes.

Administrative enforcement of housing discrimination laws in Waukesha County is the responsibility of a number of agencies: the Chicago Regional Office of Fair Housing and Equal Opportunity of the U.S. Department of Housing and Urban Development (FHEO) and the Metropolitan Milwaukee Fair Housing Council. The jurisdiction of these offices is overlapping but not identical, and depends on the authority delegated by the underlying laws, the classes of people protected by each law, and the size or type of the housing involved in a complaint of discrimination.

HUD maintains records of complaints that represent violations of federal housing law. Over the January 1, 2006 through July 1, 2014 period, HUD reported a total of 87 complaints filed from within the counties of Waukesha, Washington, Ozaukee, and Jefferson as shown in the Complaints of Housing Discrimination table. This table presents complaint data by basis, or the protected class status of the person allegedly aggrieved in the complaint. Complainants may cite more than one basis, so the number of bases cited can exceed the total number of complaints. As shown therein, a total of 262 basis were cited in relation to the 87 complaints filed. Disability was the most commonly cited basis in the complaints, with 40, followed by race, with 27. Familial status and national origin were cited 19 and 12 times, respectively.

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Complaints of Housing Discrimination Received in Waukesha County Urban County Jurisdiction January 1, 2006 - July 1, 2014																				
Jurisdiction	**Violation City**	**# Filed**		**# Closed**	**# Open**	**With Cause**	**Settle-ment**		**Dis-ability**	**Color/ Race**	**Fam. Stat.**	**Mar. Stat.**	**Sex**	**Nat. Origin**	**Age**	**Citizen-ship**	**Reli-gion**	**Retalia-tion**	**Harrass-ment**	**Other/ Criminal Status**
WAUKESHA COUNTY	Menomonee Falls	4		4	0	1	1		0	3	1	0	0	0	0	0	0	0	0	0
	Waukesha	28		25	3	10	9		13	9	5	0	5	5	0	0	0	0	0	0
	Madison	1		1	0	1	1		0	1	1	0	0	0	0	0	0	0	0	0
	Hartland	2		2	0	2	2		1	0	1	0	0	0	0	0	0	0	0	0
	Brookfield	4		3	1	2	2		1	2	2	0	0	2	0	0	0	0	0	0
	Nashotah	1		1	0	1	1		0	0	1	0	0	1	0	0	0	0	0	0
	Oconomowoc	4		4	0	2	2		3	1	0	0	0	0	0	0	0	0	0	0
	New Berlin	3		3	0	1	1		1	1	0	0	0	1	0	0	0	0	0	0
	Pewaukee	1		1	0	1	1		1	0	0	0	0	0	0	0	0	0	0	0
	Lannon	1		1	0	1	1		1	0	0	0	0	0	0	0	0	0	0	0
	Hales Corners	1		1	0	0	0		0	0	1	0	0	0	0	0	0	0	0	0
	Dousman	1		1	0	0	0		1	0	0	0	0	0	0	0	0	0	0	0
	Sussex	2		2	0	1	1		1	1	0	0	0	0	0	0	0	0	0	0
WASHINGTON COUNTY	West Bend	7		7	0	2	1		3	0	3	0	0	2	0	0	0	1	0	0
	Hartford	3		3	0	1	0		0	2	1	0	0	0	0	0	0	0	0	0
	Slinger	3		3	0	2	1		2	0	0	0	0	0	0	0	0	0	0	0
	Kewaskum	2		2	0	2	0		1	1	1	0	0	0	0	0	0	0	0	0
	Germantown	1		1	0	1	0		1	0	0	0	0	0	0	0	0	0	0	0
OZAUKEE COUNTY	Plymouth	1		1	0	0	0		1	0	0	0	1	0	0	0	0	0	0	0
	Port Washington	2		2	0	1	1		1	0	1	0	1	0	0	0	0	0	0	0
	Fredonia	1		1	0	1	0		0	1	0	0	0	0	0	0	0	0	0	0
	Mequon	1		1	0	1	0		1	1	0	0	1	0	0	0	0	0	0	0
	CedearBurg	1		1	0	1	0		0	0	0	0	0	1	0	0	0	0	0	0
	Saukville	1		1	0	1	0		1	0	0	0	0	0	0	0	0	0	0	0
JEFFERSON COUNTY	Watertown	2		2	0	0	0		1	0	1	0	0	0	0	0	0	0	0	0
	Madison	1		1	0	0	0		0	1	0	0	0	0	0	0	0	0	0	0
	Lake Mills	4		2	2	0	0		3	2	0	0	2	0	0	0	0	0	0	0
	Stanley	1		1	0	1	1		1	1	0	0	0	0	0	0	0	1	0	0
	Sullivan	1		0	1	0	0		1	0	0	0	0	0	0	0	0	0	0	0
	Whitewater	2		0	2	0	0		0	0	0	2	0	0	0	0	0	0	0	0
TOTAL COMPLAINTS		**87**		**78**	**9**	**37**	**26**	**0**	**40**	**27**	**19**	**2**	**10**	**12**	**0**	**0**	**0**	**2**	**0**	**0**

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Housing complaints filed with HUD can also be examined by closure status. Of the 87 total complaints, 78 (90%) were found to have a no cause determination, which means that discrimination was not found. In an additional 37 complaints, cause was found, and these complaints were successfully conciliated or settled. Of the 37 complaints found to be with cause, there were 102 bases cited, with 40 related to disability, 27 related to race, 19 to familial status, and 12 related to national origin, with the few remaining complaints spread across several other bases.

The issues, or alleged discriminatory actions related to each complaint, are presented in the table and figures on the following pages. In the same way that bases are reported, more than one issue may be associated with each complaint. In this case, 102 issues were cited, with discrimination in terms, conditions, or privileges relating to rental cited 27 times; failure to make reasonable accommodation cited 8 times; discriminatory terms, conditions, privileges, or services and facilities cited 21 times; discriminatory acts under Section 818, which refers to issues of intimidation or coercion, was cited 6 times; and discriminatory refusal to rent was cited 24 times. The most commonly cited issues in this complaint data set related predominantly to rental transactions, which suggests that discriminatory acts leading to the filing of fair housing complaints were more commonly associated with the rental market.

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Type of Fair Housing Issue	Number of Complaints
Discriminatory refusal to rent	24
Discriminatory advertising, statements and notices	10
False denial or representation of availability – rental	1
Discriminatory terms, conditions, privileges, or services and facilities	21
Discriminatory acts under Section 818 (coercion, Etc.)	6
Otherwise deny or make housing unavailable	3
Discriminatory refusal to negotiate for rental	2
Discriminatory refusal to rent and negotiate for rental	9
Failure to make reasonable accommodation	1
Discrimination in terms/conditions/privileges relating to rental	15
Discrimination in services and facilities relating to rental	1
Using ordinances to discriminate in zoning and land use	1
Non-compliance with design and construction requirements (handicap)	1
Failure to provide an accessible building entrance	2
Failure to provide usable doors, etc.	2
Failure to provide an accessible route into and thru the covered unit	1
Failure to provide accessible light switches, electric outlets	1
Failure to provide reinforced walls for grab bars	1
TOTALS	102

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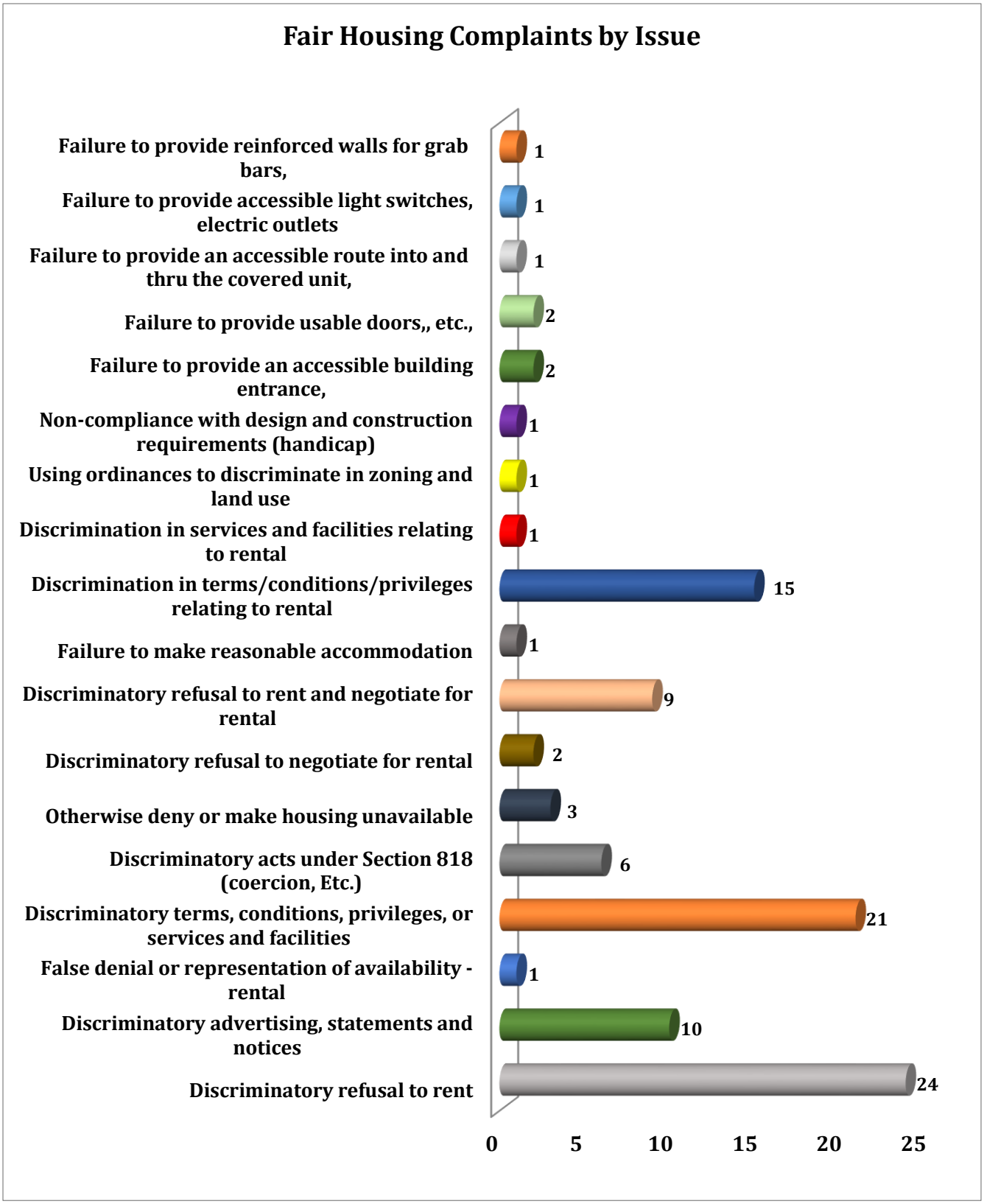
Fair Housing Complaints by Issue
Failure to provide reinforced walls for grab bars,
1
Failure to provide accessible light switches, electric outlets
1
Failure to provide an accessible route into and thru the covered unit,
1
Failure to provide usable doors,, etc.,
2
Failure to provide an accessible building entrance,
2
Non-compliance with design and construction requirements (handicap)
1
Using ordinances to discriminate in zoning and land use
1
Discrimination in services and facilities relating to rental
1
Discrimination in terms/conditions/privileges relating to rental
15
Failure to make reasonable accommodation
1
Discriminatory refusal to rent and negotiate for rental
9
Discriminatory refusal to negotiate for rental
2
Otherwise deny or make housing unavailable
3
Discriminatory acts under Section 818 (coercion, Etc.)
6
Discriminatory terms, conditions, privileges, or services and facilities
21
False denial or representation of availability - rental
1
Discriminatory advertising, statements and notices
10
Discriminatory refusal to rent
24
0
5
10
15
20
25

Complaints Filed With the Metropolitan Milwaukee Fair Housing Council

The Metropolitan Milwaukee Fair Housing Council (MMFHC), established in 1977, also receives complaints by households regarding alleged violations of the Fair Housing Act. The organization is a private, non-profit fair housing advocacy organization that provides fair housing education and outreach services, as well as, accepts and investigates fair housing discrimination complaints for several counties in Milwaukee and Wisconsin to include: Washington, Waukesha, Ozaukee, Dane, Outagamie, Brown, Winnebago, Calumet Counties, and the City of Fond du Lac.

Between 2008 and 2012, there were 277 complaints made to MMFHC. Of the total 277 complaints, there were 86 complaints related to disability status and 55 complaints related to race and/or color. Other notable complaints were familial status (40), sex (29), lawful source of income (18), and age (16). The table below identifies the MMFHC complaint data by issue as investigated by the organization.

Protected Class Basis of Fair Housing Complaint - Metropolitan Milwaukee*						
Type of Complaints	**2008**	**2009**	**2010**	**2011**	**2012**	**Total**
Age	4	1	5	4	2	16
Arrest/Conviction Record	0	0	1	3	0	4
Disability	19	15	19	19	14	86
Familial Status	6	0	9	16	9	40
Lawful Source of Income	4	1	5	5	3	18
Marital Status	2	0	0	3	1	6
National Origin	10	0	1	1	2	14
Race/Color	1	16	15	15	8	55
Religion	1	0	0	1	0	2
Sex	7	4	7	7	4	29
Sexual Orientation	0	3	0	1	0	4
Status as Victim of Domestic Abuse, Sexual Assault or Stalking	0	0	1	1	1	3
TOTAL	54	40	63	76	44	277

*Includes Milwaukee, Ozaukee, Washington, and Waukesha Counties.
Source: Metropolitan Milwaukee Fair Housing Council http://www.fairhousingwisconsin.com/

While the MMFHC was unable to provide more recent data, the organization's Annual Report captures complaints by issue during the reviewed period. As such, the MMFHC investigates complaint data from either the complainant or the respondent in order to accurately report the circumstance in the following areas Metropolitan Milwaukee, Dane County, Northeast Wisconsin, and other out of service areas.

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An examination of fair housing complaints for jurisdictions can be used as an indicator to identify heavily impacted areas and characteristics of households experiencing discrimination in housing. However, it is important to note that reviewing the number of fair housing complaints filed within a given community cannot by itself be used as a direct indicator of fair housing problems in that community. Among HUD and MMFHC accepting fair housing complaints for the Waukesha County region, the largest numbers of complaints filed were alleged claims of discrimination based on disability status and race/color. It must be noted a lack of complaints filed with no cause determination is also not indicative of the quantity of fair housing discrimination in a community. Many households do not file complaints because they are uneducated about the process of filing a complaint. However, there are households that are aware that they are experiencing housing discrimination, but they are simply not aware that this discrimination is against the law.

To provide a comparative context for the fair housing profile in Waukesha County region, the "2012 Fair Housing Trends Report" by the National Fair Housing Alliance was reviewed. Each year National Fair Housing Alliance [NFHA] collects data from both private, non-profit fair housing organizations and government entities to present an annual snapshot of fair housing enforcement in the United States.[50] According NFHA in 2012, there were 28,519 complaints of housing discrimination, compared to 27,092 in 2011. As noted in the NFHA 2013 Fair Housing Trends Report, more disability complaints have been filed than any other type of fair housing complaints. NFHA suggest that this may be attributed to the apartment owner's direct refusal to make reasonable accommodations or modifications for people with disabilities. Architects and developers continue to design and construct obviously inaccessible apartment buildings and condominium complexes that do not meet the Fair Housing Act's standards, despite HUD's 10 year "Fair Housing Accessibility FIRST" education campaign educating architects and builders about their fair housing responsibilities, and even though, HUD has devoted an office solely to disability issues.

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[50] National Fair Housing Alliance 2013 Fair Housing Trends Report
http://www.nationalfairhousing.org/LinkClick.aspx?fileticket=rJOodoEJhG4%3d&tabid=3917&mid=5321

Housing Discrimination Lawsuits

This section provides a summary of the nature, extent, and disposition of significant housing discrimination lawsuits and administrative complaints filed and/or adjudicated between January 2009 and June 2014 involving or affecting parties and local governments within Waukesha, Washington, Jefferson, and Ozaukee Counties, which may impact fair housing choice. Significant housing discrimination cases involving parties and jurisdictions outside the four-county area—including fair housing cases reviewed by the U.S. Supreme Court and the United States Court of Appeals for the Seventh Circuit—also are included for this time period because the issues presented may impact future legislation and litigation or fair housing choice within the HOME Consortium area.

Wisconsin has adopted a parallel version of Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq*. (the "Fair Housing Act"), known as the Wisconsin Open Housing Law (WIS. STAT. § 106.50). Both the FHA and Wisconsin Open Housing Law ("WOHL") prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on sex, race, color, disability, religion, national origin, or familial status. Additionally, the WOHL extends anti-discrimination protection based on six additional characteristics: sexual orientation; marital status; lawful source of income; age; ancestry; and status as a victim of domestic abuse, sexual assault, or stalking. Wisconsin's statutory definition of "family status" also is broader than the federal "familial status" counterpart, applying to households with one or more minor or adult relatives so that households that are intergenerational or include extended families are protected (e.g. a household with a grandparent, adult child, and minor child). Unlike FHA, the WOHL expressly covers single-family residences which are owner-occupied because the state has recognized that the sale and rental of single-family dwellings make up a significant portion of the housing stock within the state. The WOHL generally prohibits discrimination in single-family and multi-family housing not covered by the FHA, in addition to housing covered by the FHA.

An individual who believes he or she has been the victim of an illegal housing practice under the FHA may file a complaint with the Department of Housing and Urban Development ("HUD") or file a lawsuit in federal or state court. The Department of Justice may bring suit on behalf of individuals based on referrals from HUD. The WOHL also allows aggrieved persons alleging a violation of fair housing rights to seek redress in state or federal court, or by filing an administrative complaint with the Department of Workforce Development's Equal Rights Division or a local Fair Housing Council. Unlike HUD, which need only find reasonable cause to proceed with a discrimination complaint, the Equal Rights Division must find probable cause before it can issue a charge on behalf of the complainant. The parties may then choose to have the complaint decided by an administrative law judge of the Equal Rights Division or in a civil action in circuit court.

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Though the FHA and Wisconsin Open Housing Law are not identical, they are congruent, and accordingly Wisconsin courts have historically been guided by both state and federal law in deciding claims of housing discrimination.

Housing discrimination claims have been brought against local governments and zoning authorities and against private housing providers. The cases reviewed below reflect the interests of a wide variety of aggrieved plaintiffs including individuals and families impacted by discrimination, local civil rights advocacy groups on behalf of protected classes, and by the U.S. Department of Justice, which brings suits on behalf of individuals through referrals from HUD.

Disparate Impact Claims and the FHA

In 2013, the U.S. Supreme Court granted a writ of certiorari on the following issue: "*Are disparate impact claims cognizable under the Fair Housing Act?*" *Mt. Holly Gardens Citizens in Action, Inc. v. Township of Mount Holly*, 658 F.3d 375 (3d Cir. 2011), *cert. granted*, 133 S. Ct. 2824, 186 L. Ed. 2d 883 (2013). However, that case was ultimately settled before oral argument. All of the federal circuits, including the Seventh Circuit which has jurisdiction to hear appeals from Wisconsin district courts, have held that the FHA affords plaintiffs the ability to prove fair housing violations on the theory of disparate impact. The principal disparate impact case followed in the Seventh Circuit has been Metropolitan Housing Development Corp. v. Village of Arlington Heights, 558 F.2d 1283, 1290 (7th Cir. 1977) (holding that a significant discriminatory effect could establish a violation of the Fair Housing Act), *cert. denied*, 434 U.S. 1025 (1978). Moreover, on February 15, 2013, HUD issued a Final Rule establishing that disparate impact claims are cognizable under the FHA. *See* 78 Fed. Reg. 11460 (Feb. 15, 2013) (codified at 24 C.F.R. § 100.500 (2013)).

Under Wisconsin and Seventh Circuit precedent, a plaintiff can establish a violation under the FHA by proving discrimination in the form of: (1) disparate treatment or intentional discrimination; (2) disparate impact of a law, practice or policy on a covered group; or (3) by demonstrating that the defendant failed to make reasonable accommodations in rules, policies, or practices so as to afford people with disabilities an equal opportunity to live in a dwelling. *See Oak Ridge Care Ctr. v. Racine County*, 896 F. Supp. 867, 874 (E.D. Wis. 1995). The cases discussed below generally proceed under one or more of these theories of housing discrimination.

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Analysis of Case Law

The cases presented in this section fall under four main fair housing categories: (1) complaints brought against a local municipality for alleged discriminatory zoning or land use practices; (2) complaints brought against major banks for alleged discriminatory lending or REO practices; (3) complaints brought against homeowners' associations for alleged post-sale or post-occupancy discriminatory practices; and (4) complaints brought by the U.S. DOJ against housing providers for alleged discriminatory rental practices.

A. Issue 1: Discriminatory zoning or land use practices, including the failure to affirmatively further fair housing (AFFH).

1. *United States v. City of New Berlin*, Civil Action No. 11-CV-608 (E.D. Wis.); *MSP Real Estate, Inc. v. City of New Berlin*, Civil Action No. 11-CV-281 (E.D. Wis.).

In 2011, housing developer MSP Real Estate, Inc. filed a lawsuit against the City of New Berlin alleging that the City blocked a 180-unit affordable housing project (with 100 units reserved for seniors and 80 "workforce housing" units designated for general or family occupancy) proposed for the City Center Planned Unit Development area in violation of the FHA. Financing for the development was provided under the federal Low Income Housing Tax Credit Program ("LIHTC"), 42 U.S.C. 26 *et seq.*, and pursuant to LIHTC requirements, occupancy was to be restricted to those households earning 60% or less of the area's median income, with rents below market-rate. The City's Planning Commission initially approved the project and zoning permit application, but following public opposition, the City reversed the decision. The developer's lawsuit alleged that opposition to the project was based partly on racial stereotypes and fear that the tenants would be African American. The lawsuit also alleged that following MSP's proposal, the City changed its zoning and land use requirements to bar affordable housing in the City Center in the future.

The United States Department of Justice filed its own lawsuit against the City in 2011, alleging that the City made unavailable or denied dwellings to persons on the basis of race or color in violation of 42 U.S.C. § 3604(a) of the FHA and interfered with the exercise or enjoyment of rights under the FHA in violation of 42 U.S.C. 3617. The DOJ alleged that the City's actions were done with the intent and effect of discriminating against prospective African American tenants of MSP's proposed development and such actions amounted to a pattern or practice of discrimination on the basis of race or color. The district court subsequently consolidated the two cases.

The City denied that any of its actions were undertaken with any discriminatory motive, intent or result. However, shortly thereafter, New Berlin agreed to issue the necessary permits to allow MSP to commence construction of the proposed senior and workforce affordable housing units. Under a settlement agreement with MSP, New Berlin was required to issue a building permit to MSP for construction of 102-units, of which 90 units would be income-restricted and rent-restricted as required by the federal LIHTC program.

New Berlin then settled with the DOJ through a Consent Decree that required that the City not take any further action to obstruct or delay the affordable housing project, and take affirmative steps to provide for future affordable housing, including the following: modifying certain zoning and land use requirements; lifting a moratorium on development in the City Center; increasing the total number of dwelling units that may be built in the City Center; allowing construction of multifamily housing on three parcels up to the same density and building height as the MSP workforce housing development; establishing a Housing Trust Fund; developing a Fair Housing Outreach Plan; appointing a fair housing compliance officer; and providing fair housing training to all City officials and employees who have duties related to planning, zoning, permitting, construction, or occupancy of housing.

The Consent Decree remains in effect until April 20, 2016, unless the DOJ moves for an extension, and the Court retains jurisdiction to interpret and enforce its terms as necessary.

The project that became so controversial and litigious has generally been viewed as a success. The 102 first-phase affordable apartments opened at 100 percent occupancy, and MSP states the development has had a low turnover rate for more than a year. The developer reports that the second-phase, which includes market rate apartments, has a waiting list of prospective tenants.

2. *Crabtree Residential Living, Inc. v. City of Kenosha*, Civil Action No. 2:10-CV-00691 (E.D. Wis.) (filed Aug. 13, 2010; settled and dismissed June 1, 2011).

Plaintiff Crabtree Residential Living, Inc. ("Crabtree") provides services to developmentally disabled adults, including the development and operation of group homes identified under state law as Adult Family Homes ("AFH") (with up to four residents) and Community Based Residential Facilities ("CBRF") (with five or more residents). In 2010, Crabtree applied to the City of Kenosha for approval to add two more residents to an existing state-licensed, four-person AFH known as Aspen House to convert it to a six-person CBRF. This request required Crabtree to go through the public hearing process, during which its special request was approved twice by the Plan Commission but ultimately denied in a vote by the Common Council. This denial prevented a prospective Aspen House resident from living in the housing of his choice and prevented Crabtree from providing housing to persons with disabilities.

The City refused Crabtree's request citing the State's distance and density limits (WIS. STAT. § 62.23(7)(i)) for group homes. Wisconsin Statute § 62.23(7)(i) gives Wisconsin cities the authority to limit the number of AFHs and CBRFs by establishing a 2,500-foot distance requirement between AFHs or CBRFs and a 25 person or 1% population ceiling on the number of CBRF residents in a given area of a city. Wisconsin cities must choose whether or not to enforce the distance and density limits. Kenosha had adopted these distance and density limits into its zoning code.

Plaintiffs filed a federal lawsuit alleging discrimination under the FHA, Americans with Disabilities Act (42 U.S.C. § 12101 et seq.), and Rehabilitation Act (29 U.S.C. § 794 et seq.), and seeking injunctive

relief directing the City to permit Crabtree to operate Aspen House and further directing the City to refrain from enforcing the State's distance/density limitation at Aspen House or any other location in the future. Plaintiffs also sought compensatory and punitive damages.

The City denied liability, but agreed to mediation. The case was then settled, with the City agreeing to amend its zoning ordinance to repeal sections imposing distance and density limits on housing for persons with disabilities with eight or fewer residents. Housing for more than eight residents that does not meet the requirements of WIS. STAT. § 62.23(7)(i) still requires Plan Commission and Common Council approval. The remainder of the settlement agreement is confidential and has not been disclosed.

B. Issue 2: Discriminatory lending and discriminatory REO practices.

1. *National Fair Housing Alliance v. U.S. Bank, NA*, Housing Discrimination Complaint filed with HUD on April 2012 (subsequently amended to add new parties and cities).

In 2012, the National Fair Housing Alliance (NFHA)—a nationwide alliance of private, nonprofit, fair housing organizations—and four of its member organizations filed an administrative housing discrimination complaint with HUD against U.S. Bank, N.A. and U.S. Bancorp (the "Bank"). The Complaint was the result of NFHA's multi-city investigation of U.S. Bank REO (Real Estate Owned) properties, allegedly revealing significant disparities based on race, color, or national origin in all surveyed metropolitan areas. The NFHA amended the complaint twice to add new complainant organizations, including the Metropolitan Milwaukee Fair Housing Council, and new evidence of discriminatory practices in more cities, bringing the total to 35 cities in 15 metropolitan areas (including Milwaukee, Dayton, Chicago, Atlanta, Dallas, Memphis, New Orleans, Washington D.C., and others).

Under NFHA's methodology, Complainant fair housing organizations evaluated maintenance and marketing problems or deficiencies at REO properties in selected zip codes with high foreclosure rates in moderate, middle, and higher income areas across racial lines. The Complainants' evidence showed that the Bank's foreclosed single-family and townhome properties in predominately white neighborhoods and zip codes are more likely to have well-maintained lawns, secured entrances, and professional sales marketing, whereas REO properties in majority non-white neighborhoods within the same metropolitan areas are more likely to have poorly maintained yards, unsecured entrances, appear to be vacant or abandoned, and have poor curb appeal. In Milwaukee, Wisconsin, for example, Complainants evaluated 34 REO properties owned by the Bank, finding that 78% of REO properties in predominantly white neighborhoods had fewer than five maintenance or marketing deficiencies, while only 48% of properties in minority communities had fewer than five deficiencies.

The amended complaint alleges that as a result of the Bank's discriminatory conduct, cities, residents, and homeowners in the subject cities have been: "(a) subjected to deteriorating and

dilapidated living conditions in their neighborhoods; (b) denied opportunities for neighborhood stabilization and economic recovery; and (c) harmed in their home investments because of Respondents' efforts to unnecessarily depress the property value of REOs." The Complainants assert that the pattern and practice of maintaining and marketing REO properties in predominantly white communities in a materially better manner than the REO properties in predominately African American and Latino neighborhoods violates the Fair Housing Act, 42 U.S.C. § 3604(a), (b), (c), and (d), and HUD's implementing regulations. The complaint is still under investigation with the U.S. Dept. of Housing and Urban Development.

2. *National Fair Housing Alliance v. Bank of America, Corp.*, HUD Complaint filed September 25, 2012 (subsequently amended to add new parties and cities).

In 2012, the NFHA and five of its member organizations filed a discriminatory housing complaint with HUD against Bank of America, Corp., Bank of America, N.A., and BAC Home Loan Servicing, LP (the "Bank"). The allegations against the Bank were substantially similar to those made against U.S. Bank, discussed previously. The NFHA alleged that a multi-city investigation of foreclosed homes owned, managed, and serviced by the Bank revealed significant disparities based on race, color, or national origin in all surveyed metropolitan areas. Using the methodology employed in the U.S. Bank case, NFHA showed that since at least 2009 and continuing to the present, the Bank's REO foreclosed single-family and townhome properties in predominately white neighborhoods and zip codes are overall better maintained and marketed than its REO properties in predominately black, Latino, or non-white communities.

NFHA amended the complaint multiple times to add new cities, properties, and complaining housing advocacy organizations, including the Milwaukee region and the Metropolitan Milwaukee Fair Housing Council. The latest amended complaint brings the total to 20 metropolitan areas where Bank of America is alleged to have discriminated in its maintenance and marketing of its bank-owned homes.

The Complainants assert that Bank of America's discriminatory practices violate the Fair Housing Act, 42 U.S.C. § 3604(a), (b), (c), and (d), and HUD's implementing regulations. Complainants allege that Bank of America's disparate treatment has the effect of discouraging potential purchasers from buying homes in communities of color and foreclosed properties remain vacant for extended periods of time; reinforcing differences in property values between communities of color and White communities; reinforcing negative stereotypes about communities and individuals based on race and national origin; perpetuating and exacerbating racial segregation in the housing market; adversely affecting home values and wealth of homeowners in communities of color; and adversely affecting the emotional and physical health of residents of communities of color. The complaint is still under investigation with the HUD.

3. *United States v. Southport Bank*, Civil Action No. 2:13-CV-01086 (E.D. Wis.) (complaint filed Sept. 26, 2013, and consent order entered Oct. 11, 2013).

In 2013, the United States filed a "discriminatory pattern or practice" lawsuit against Southport Bank of Kenosha, Wisconsin following a referral by the Federal Deposit Insurance Corporation (FDIC). In 2007 and 2008, 96% of the Bank's home mortgage loans were made to borrowers in two metropolitan Statistical Areas, Chicago-Naperville-Joliet and Milwaukee-Waukesha. The government alleged that the bank violated the FHA and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f ("ECOA") by discriminating against African American and Hispanic borrowers in its residential mortgage lending from 2007 to 2008.

The suit arose following a Compliance Examination by the FDIC into Southport's lending practices based on statistical analyses of 2007 and 2008 Home Mortgage Disclosure Act data. These analyses indicated that brokers who generated loan applications for the Bank had charged hundreds of African American and Hispanic wholesale borrowers higher fees than similarly situated non-Hispanic white borrowers (on average thousands of dollars more). The government alleged that loan prices for these African American and Hispanic borrowers were altered not as a result of the borrower's creditworthiness or other objective criteria related to borrower risk, but by subjective and unguided pricing practices based on the borrower's race and national origin. The FDIC referred the case to the U.S. Department of Justice pursuant to 15 U.S.C. § 1691e(g), and following the DOJ's own review of the data and investigation, it brought this lawsuit.

The Bank denied the allegations, but agreed to pay $687,000 into a Settlement Fund to be disbursed to African American and Hispanic borrowers who were victims of discrimination by the Bank and its mortgage brokers. The Consent Order provides that any money remaining in the Settlement Fund following notifications to affected borrowers must be distributed to organizations that provide housing services such as credit counseling, legal representation of borrowers seeking loan modification or foreclosure prevention, or financial education targeted to assist African American and Hispanic communities where Southport presently or formerly operated.

C. Issue 3: Post-sale/occupancy discriminatory practices

1. *Bloch v. Frischholz*, Civil Action No. 6-3376, 587 F.3d 771 (7th Cir. 2009).

Plaintiffs in this case were long-time residents of a condominium building in Chicago and, as such, were subject to the rules and regulations enacted by the Condo Association's Board of Managers (the "Association"). As observant Jews, Plaintiffs displayed a small religious item called a mezuzot on the doorposts outside of their condo units. When the Association enacted and enforced new rules prohibiting "objects of any sort" outside dwelling unit entrance doors, the Association began taking down and confiscating mezuzot (along with other items outside residents' units). The Plaintiffs explained that Jewish law requires mezuzot to be displayed on the exterior doorpost and that observant Jews could not live in a place that prohibited them. The Association, however, refused to oblige the Plaintiffs' formal request for a rule change.

In 2005, the Plaintiffs filed a federal lawsuit based on claims under *§§ 3604(a)*, *3604(b)*, and *3617 of* the FHA (*42 U.S.C. §§ 3601 et seq.)* and the Civil Rights Act, *42 U.S.C. § 1982*. A judge ordered the Defendants not to remove the Plaintiffs' mezuzot and shortly thereafter the Association ratified a rule change creating an exception for religious objects. The City of Chicago and the Illinois legislature subsequently adopted laws prohibiting restrictions on affixing religious signs or symbols to doorposts. These legislative changes mooted the Plaintiffs' claim for an injunction, but their claim for damages remained.

The district court, however, would not apply the FHA to the Plaintiff's case, concluding that the Seventh Circuit decision in *Halprin v. Prairie Single Family Homes of Dearborn Park Ass'n*, 388 F.3d 327 (7th Cir. 2004) (holding that post-sale harassment of homeowners did not violate the FHA's prohibition on discrimination in the sale of a dwelling), precluded the condo owners from relying on §§ 3604(a) and 3604(b) of the FHA to safeguard their rights from any post-acquisition discrimination. The district court also found a lack of evidence of intentional discrimination and denied the § 3617 and §1982 claims.

A panel of the Seventh Circuit affirmed the district court's judgment (see *Bloch v. Frischholz*, 533 F.3d 562 (7th Cir. 2008) (Wood dissenting), *vac'd en banc*, 587 F3d 771 (7th Cir 2009)), finding that *Halprin* precludes claims for post-sale conduct under §§ 3604(a) and 3604(b) unless the conduct is so severe as to amount to a constructive eviction. However, the Seventh Circuit subsequently granted an en banc review of the case and, in a unanimous opinion, partially reversed itself to find that under specific and limited circumstances the FHA *can* reach post-occupancy discrimination. The Court determined that §3604(a)—which proscribes the refusal "to sell or rent…or to refuse to negotiate for the sale or rental of, or otherwise make unavailable…a dwelling to any person" because of the protected class status—can support a post-occupancy claim similar to constructive eviction (such as post-sale practices tantamount to "redlining").

The Court emphasized that *§3604(a)* protects "availability" and that constructive eviction requires surrender of possession by the tenant. Although Plaintiffs asserted that under Jewish law they would be prohibited from living there without the muzuzot, Plaintiffs never moved out. Thus, the Court found that Defendants' conduct had not rendered housing unavailable to Plaintiffs and dismissed their claim under §3604(a).

Section 3604(b) makes it unlawful to discriminate "in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith," on the basis of any of the six protected classes. The Blochs purchased their dwelling units subject to the condition that the Association can enact rules that restrict the condo-owners' post-sale rights in the future. The Court found it was this contractual connection between the Blochs and the Association that distinguishes the case from *Halprin*, which concerned isolated acts of discrimination by an individual not linked to the terms or conditions related to acquisition. Without overruling *Halprin*, the Court determined that the agreement to be governed by the Association's bylaws was a term or condition of sale that brings the case within § 3604(b). Accordingly, §3604(b) can be invoked to

prohibit the condominium from "discriminating against the Blochs through its enforcement of the rules," even facially neutral rules, since compliance with those rules is part of the original condition of sale. This allowed the Plaintiffs' damages claim to go forward but would still require proof of intentional discrimination.

The Plaintiffs' final claim under the FHA was under § 3617, which makes it unlawful to "coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed…any right granted or protected by" §§3603 –3606. The court stated that a §3617 cause of action can exist independent of other violations of the FHA, determining that "§3617 reaches a broader range of post-acquisition conduct" and that a §3617 claim does not require a plaintiff to actually vacate the premises." On this ground, the Court would allow Plaintiffs to proceed to prove intentional discrimination that Defendants "coerced, intimidated, threatened, or interfered with the Blochs' exercise or enjoyment of their right to inhabit their condo units because of their race or religion."

Plaintiffs offered evidence that Defendants' interpretation and enforcement of the rule was intentionally discriminatory because of the Plaintiffs' religion and the case was finally settled by consent decree in 2011. The decree bars the Association from retaliating against Plaintiffs, interfering with the sale or lease of their condo units, or taking any action against residents "on account of their race or religion that would interfere with their right to use — or the exercise or enjoyment of — their property or fair housing rights." The remaining terms of the settlement are confidential.

The *Halprin* and *Bloch* cases create a split among the federal circuits. Eight of the Circuit Courts of Appeals (the First, Fourth, Sixth, Eighth, Ninth, Tenth, Eleventh, and D.C. Circuits) have held that the FHA does apply to post-acquisition discrimination. However, the Fifth Circuit has followed *Halprin* in concluding that the FHA does not protect post-acquisition occupancy of housing. (*See, e.g.*, *Cox v. City of Dallas*, 430 F.3d 734 (5th Cir. 2005)).

2. *Mehta v. Beaconridge Improvement Assoc.*, 432 Fed. Appx. 614, 2011 U.S. App. LEXIS 15761 (7th Cir. July 28, 2011).

Plaintiff homeowner sued Defendants (a homeowners' association, its board, and two employees) alleging national origin (Indian) discrimination and retaliation under the FHA and *42 U.S.C.S. § 1983.* The district court (N.D. Ill.) dismissed his complaint finding that the allegations were insufficient to establish a claim for discrimination or retaliation. Plaintiff appealed.

Plaintiff alleged that the homeowners' association gave preferential treatment to white residents in its management and maintenance of common areas, while withholding services to his family and other minority residents. After Plaintiff complained to the board, the association put his family's account on delinquent status and barred them from using the subdivision's pool, club house, and

tennis court. At one point, an employee shouted at him in racial terms, "You are not moved out yet, you Indian."

Following its en banc decision in *Bloch*, infra, on appeal the Seventh Circuit began its analysis by recognizing that "the FHA grants homeowners a cause of action against homeowners' associations for invidious discrimination or retaliation linked to the terms, conditions, or privileges accompanying their property." *See 42 U.S.C. §§ 3604(b)*, *3617*; *Bloch v. Frischholz, 587 F.3d 771, 779-84 (7th Cir. 2009)* (*en banc*). If a homeowners' association fails to provide maintenance services or limits the use of privileges, services, or facilities associated in an intentionally discriminatory manner, a homeowner may sue under the FHA. The Seventh Circuit reversed the district court for too quickly dismissing Plaintiff's claims as conclusory, and found that the Plaintiff's allegations suffice to state a plausible claim of discrimination and retaliation. It then remanded the case back to the district court to be adjudicated on the merits of Plaintiff's factual allegations. The parties entered a confidential settlement agreement, and the case was dismissed.

D. Issue 4: Discriminatory rental practices investigated by HUD and referred to the DOJ for civil prosecution

During the survey period, the Department of Housing and Urban Development (HUD) referred multiple cases to the Department of Justice following elections by the aggrieved parties to have their respective FHA claims resolved in a civil action in federal district court pursuant to 42 U.S.C. § 3612(a). HUD may authorize the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o), following the timely filing of a fair housing complaint by an aggrieved party, a complete investigation, failed conciliation attempts, and the issuance of a Charge of Discrimination showing reasonable cause exists to believe that illegal discriminatory housing practices had occurred. While these cases, standing alone, may not have a significant impact on fair housing choice within a community due to the small number of prospective tenants and housing units they represent, taken together they illustrate HUD's and the DOJ's efforts to protect the housing opportunities guaranteed by the Fair Housing Act for persons of protected classes who may not otherwise have the resources to fight for redress.

1. *United States v. Bachmaga*, Civil Action No. 2:13-CV-01243 (E.D. Wis.) (filed Nov. 4, 2013, and settled by consent decree May 8, 2014).

The Department of Justice brought suit in this case on behalf of a complainant alleging that the owners of six rental units in Oak Creek, Wisconsin discriminated against her based on race and familial status. Complainant, who is African American, sought to apply for a unit at the subject property for her and her minor daughter, who also is African American. The manager quoted a higher price for the unit than what was originally advertised and made statements regarding no other children living on the property and other tenants preferring quiet. The manager failed to make himself available to receive a rental application and then stopped returning her phone calls. The

unit was subsequently rented to a white woman with no children for less than the cost quoted to Complainant.

Following testing by the Metropolitan Milwaukee Fair Housing Council, the DOJ sought relief for the aggrieved complainant and her daughter under the FHA based on the housing provider's following violations: (1) discrimination in the terms, conditions, or privileges of rental of a dwelling because of race and familial status, in violation of 42 U.S.C. § 3604(b); and (2) representations because of race and familial status that a dwelling was not available for rental when such dwelling was in fact so available, in violation of 42 U.S.C. § 3604(d).

The parties agreed to resolve the claim via Consent Decree, which enjoined Defendants from (1) refusing to rent after the making of a bona fide offer, or refusing to negotiate for the rental of, or otherwise making unavailable or denying, a dwelling to any person because of race; (2) discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race; (3) making or publishing any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race; and (4) representing to any person because of race that any dwelling is not available for rental when such a rental is in fact so available. Defendants also were required to attend fair housing training approved by the United States. The Court retains jurisdiction to enforce the terms of Consent Decree for one year, unless extended by motion of a party.

2. *United States v. Allegro Apartments, LLC*, Civil Action No. 2:13-CV-01358 (E.D. Wis.) (filed Dec. 2, 2013, and settled by consent decree January 8, 2014).

In this case, the Department of Justice represented a complainant alleging that the owners of a rental property in Racine, Wisconsin violated the FHA on the basis of disability by refusing to rent an apartment because plaintiff needed an assistance dog. A manager of the apartment complex claimed there was a strict "no animals" policy and refused to rent to the complainant despite her specific request for a reasonable accommodation. The Complaint alleged that at the time, several tenants had dogs and other animals residing with them in their units at the subject property.

The DOJ sought relief for the aggrieved complainant and her husband under the FHA based on the housing provider's following violations: (1) discrimination in the rental of and denial of a dwelling to the prospective tenants because of disability, in violation of 42 U.S.C. § 3604(f)(1)(A); (2) refusal to make reasonable accommodations in the rules, policies, practices, or services, when such accommodations were necessary to afford the complainants an equal opportunity to use and enjoy a dwelling, in violation of 42 U.S.C. § 3604(f)(3)(B); and (3) making statements with respect to the rental of a dwelling that indicates a limitation or discrimination based on complainant's disability, in violation of 42 U.S.C. § 3604(c).

The parties agreed to resolve the claims via Consent Decree, which enjoined the defendants from further discriminating against protected persons in the rental of a dwelling, refusing to make reasonable accommodations, or making statements with respect to the rental of a dwelling that indicates a limitation or discrimination because of a disability. Defendants also were required to adopt a reasonable accommodation policy addressing requests for service animals, to attend fair housing training, and to pay the complainants $8,500.

3. *United States v. McCoy*, Civil Action No. 2:11-CV-00388 (E.D. Wis.) (filed Oct. 3, 2011, and settled by consent decree Aug. 29, 2012).

In 2011, the Department of Justice represented Complainants alleging that the owner of single-family rental units in Green Bay, Wisconsin discriminated against them based on race. Complainant Walker, in response to a newspaper advertisement, spoke to Defendant by telephone about renting a three-bedroom home for herself, Complainant Robinson, and Robinson's three children. The Complaint stated that Walker's voice is readily identifiable as African American. The Complaint alleged that during repeated phone calls to Defendant in an attempt to obtain housing, Defendant stated to Complainant Walker that he did not rent to persons from Milwaukee and that neighbors would have a problem with her renting in their nice neighborhood. He then refused to return Complainant's calls.

Following testing by the Metropolitan Milwaukee Fair Housing Council, the DOJ sought relief for the aggrieved Complainants under the FHA based on the Defendant's following violations: refusing to negotiate for the rental of, or otherwise making unavailable or denying dwellings to persons because of race, in violation of 42 U.S.C. § 3604(a); and making statements with respect to the rental of dwellings that indicate a preference, limitation, or discrimination based on race, or an intention to make any such preference, limitation, or discrimination, in violation 42 U.S.C. § 3604(c).

Defendant denied the allegations, but agreed to resolve the claims via Consent Decree, which enjoined the Defendant from discriminating against prospective tenants because of race or familial status or from making any statements that indicate a preference for tenants based on race or familial status. The Consent Decree also required Defendant to attend approved fair housing training and pay $35,000 to the Complainants.

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Impediments & Recommendations

In the *Fair Housing Planning Guide*, HUD defines an impediment to fair housing choice as an action, omission or decision based on race, color, religion, sex, disability, familial status, or national origin that restricts or has the effect of restricting housing choices or the availability of housing choices.[51] Throughout this assessment various community issues have surfaced, both positive and negative. Some of these issues represent general community needs (e.g. the quality of jobs available) and, while valid, do not restrict or have the effect of restricting housing choice and thus do not constitute impediments. Even some affordable housing-related issues (e.g. low credit scores leading to denial of apartment rental applications) fall short of classification as impediments to fair housing choice.

For this analysis, qualitative data received in the form of input from interviews and community meetings was combined with quantitative data from the U.S. Census and from the many other sources consulted. In some cases, the quantitative data collected from a single source was clear and compelling enough on its own to indicate the existence of an impediment. In other cases, and particularly with the use of qualitative data, the cumulative effect of a comment or criticism repeated many times over in many different settings was sufficient to indicate a barrier. Sometimes a weak or inconclusive correlation of quantitative data from one source could be supported by public comments and input or data from another source to constitute an impediment.

In this section, the impediments identified are summarized with supporting examples noted. Each impediment listed is followed by recommendations, the implementation of which will correct, or begin the process of correcting, the related barrier. It should be noted that these barriers are largely systemic and will require effort from both private sector and public sector actors to correct.

Impediment #1: Zoning Regulations and Housing Mix Ratios that Reduce Opportunities for Affordable Housing Development

A Regional Housing Plan for Southeastern Wisconsin: 2035 prepared by the Southeastern Wisconsin Regional Planning Commission identified several zoning and regulatory impediments to the development of affordable housing. These included excessive minimum floor area requirements, excessive minimum lot sizes requirements, and other limits on density. Several communities do not permit multifamily housing by right – some require a conditional use permit and others do not allow it at all. Housing mix ratios also explicitly restrict the share of multifamily housing within a community. While density is limited in some cases by a lack of infrastructure (i.e., sewers), several villages in the study area have sewer service yet still require at least 70% of residential units to be single-family. Research conducted for the *Regional Housing Plan* shows that a lack of higher density development with municipal infrastructure, including multifamily units, disproportionately impacts minorities and low-income households who have a greater need for affordable housing.

[51] U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity. *Fair Housing Planning Guide: Volume 1 (Chapter 2: Preparing for Fair Housing Planning, Page 2-17).* March 1996.

Recommendations:

The Land Use & Zoning section of this report recommends specific actions to addressing zoning and other regulatory impediments to fair housing, including:

- Reducing minimum lot size and minimum floor area requirements and increasing density allowances;
- Expanding sanitary sewer services;
- Adopting flexible zoning regulations permitting higher densities and a mix of housing types;
- Relaxing limits on alternative types of affordable housing (e.g., accessory dwellings or manufactured homes);
- Adopting inclusionary zoning provisions; and
- Amending design regulations to promote flexibility in development and construction costs.

While Waukesha County adopted the *Regional Housing Plan's* recommendations into their Comprehensive Development Plan and other cities such as Oconomowoc have reduced zoning requirements to allow for more multifamily or high density housing development, not all study area municipalities have addressed zoning impediments. As administrator of CDBG and HOME funds, Waukesha County should take a lead role in educating HOME Consortium jurisdictions and advocating that they review their regulations and reduce any excessive barriers to development. The County should host a zoning workshop for local municipalities to review findings of the SEWRPC report, discuss potential for code changes, and provide examples of communities that have successfully modified zoning code to reduce impediments to affordable housing. A parallel effort to encourage developers to offer a mix of housing types, sizes, and building materials in order to increase local affordable housing options should also be developed. Potential collaboration with SEWRPC should be explored, such as a staff member or other representative being present at a zoning workshop, or advising on other forms of outreach to HOME Consortium jurisdictions or developers.

Impediment #2: Lack of Fair Housing Knowledge

Research findings indicate a general lack of knowledge about fair housing laws and the fair housing complaint process amongst several groups within the study area. While the Metro Milwaukee Fair Housing Council's fair housing enforcement program serves Ozaukee, Washington, and Waukesha Counties, when asked where they would refer a client with a housing discrimination complaint, very few of the social service agencies and housing providers interviewed mentioned MMFHC, and most were unsure of where to refer complaints.

Similarly, the Housing and Community Development Needs Survey completed by community members as part of this research revealed that many study area residents are unsure of where to file a complaint as well. While the majority of respondents (91.4%) report knowing or somewhat knowing their fair housing rights, only 40.3% knew where to file a housing complaint. Further, of the 29 respondents who report having faced housing discrimination, only 3 pursued complaints. Of

those that did not file a complaint, the most common reason was not knowing what good it would do to file.

A third study area group that may lack information about fair housing laws are landlords or rental property managers. Of the 87 housing complaints filed with HUD for the study area since 2006, the largest share (27.5%) cite refusal to rent as the fair housing issue. Additionally, of the 29 survey respondents who had faced housing discrimination, the majority (23 respondents, or 79.3%) report discrimination by a landlord or property manager. Further, stakeholders mentioned that while large property management companies typically train employees regarding fair housing laws, small-scale landlords are more likely to discriminate.

Recommendations:

Education is needed regarding fair housing laws and options for recourse when discrimination occurs. While MMFHC conducts outreach and education to several organizations in Waukesha County, more is needed. It is recommended that Waukesha County coordinate a fair housing seminar given by MMFHC (or a similar organization) and open to all sub-recipients and any other housing and social service agencies operating in the four-county study area. This seminar would allow housing and service organizations to learn more about local fair housing services and about how best to disseminate fair housing information to their clients. Staff members from study area municipalities should also be invited.

Education is also need for rental property owners and managers, especially small-scale landlords, on the requirements of the Fair Housing Act, the definitions of protected classes, discriminatory practices, and potential consequences for non-compliance. The Apartment Association of Southeastern Wisconsin offers limited education opportunities, but could play a coordinating role in the outreach and education of small-scale landlords in the study area. Support for continued testing by MMFHC (or a similar organization) is also recommended.

Impediment #3: Imbalance Between Job Centers and Affordable Housing Options

Many stakeholders identified an imbalance between the locations of affordable housing and job centers, or noted that a lack of affordable housing is likely impede future economic development as businesses instead opt to locate in areas more affordable for their employees. SEWRPC's *Regional Housing Plan* notes that median monthly rents are high around several job centers (or anticipated job centers) in much of Waukesha County with the exception of the City of Waukesha, and in southern Ozaukee and southeastern Washington Counties. Because minority households tend to have lower incomes, they are less likely to be able to afford the higher housing costs around these job centers and must face either disproportionately long commute times or more limited employment options.

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Recommendations:

The construction of new affordable and/or mixed-income housing would accomplish the goal of increased economic opportunity and greater standard housing available near job centers. As economic development proceeds, care must be taken to ensure that housing development includes a variety of types and rents/price points to meet housing demand generated by employees at a range of incomes. Density bonuses, fee waivers or other incentives for development of workforce or mixed-income housing should be explored as options to spur investment and development. Finally, education for elected officials and other local leaders on the benefits of providing a range of housing options, including housing for the local workforce is needed to develop additional support for these initiatives.

Impediment #4: NIMBY/Prejudiced Attitudes

Input received through interviews and meetings with over 50 stakeholders in the four-county study area reveals that opposition to affordable housing by the general public, whether due to economic and/or racial/ethnic prejudices, is prevalent in many areas. A variety of stakeholders including elected officials, city/county staff, housing developers, and community development workers described "Not In My Back Yard" (NIMBY) sentiments and a lack of understanding about affordable, workforce, and mixed-income housing as common amongst study area residents. The *MSP Real Estate, Inc. v. City of New Berlin* case exemplified the effect negative public opinion can have on housing development. While the New Berlin Planning Commission initially approved the project and its zoning permit application, this decision was reversed following public opposition, requiring a lawsuit in order to ultimately obtain development approval.

Further, while segregation is low within the study area, the Milwaukee-Waukesha-West Allis MSA is one of the most segregated in the U.S. Prejudiced attitudes toward the development of affordable or mixed-income housing in the study area, and toward the low income or minority residents who may choose to live there, only sustains existing patterns of segregation in the region.

Recommendations:

Education and awareness is imperative to alleviating NIMBYism and prejudiced attitudes. Lack of diversity and prejudiced personal beliefs create negative impacts on social conditions and discourse and can take many years to overcome. In the near term, education and awareness of both the value of diversity and the role of affordable housing in helping low income persons secure a safe, quality place to live is especially important.

Waukesha County should develop an appropriate diversity awareness curriculum and then make it available for staff. Waukesha County should also encourage a collaboration of area nonprofit organizations and sub-recipients under the CDBG and HOME programs to integrate appropriate diversity awareness updates into organizational development training.

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Separate information to educate local leaders, elected officials, and the general public in study area jurisdictions regarding what affordable, workforce and mixed-income housing is and what economic benefits they offer should also be developed. The material should identify and publicize local examples of success, such as that of the Oconomowoc School Apartments in Oconomowoc and the City Center in New Berlin. Participation in regional housing initiatives should also be encouraged.

Impediment #5: Limited Housing Options for People with Disabilities and the Aging Population

One need identified in the *Regional Housing Plan* and through stakeholder outreach conducted for this study is additional housing for people with disabilities. Demographic data indicates that this need will likely be exacerbated as Baby Boomers age and begin to face the higher disability rates common to adults over the age of 65. Although definitive data on the availability of accessible housing units in the study area is not available, a search conducted using socialserve.com revealed that of the handicap accessible properties in the four-county area, 44.1% have a wait list. The *Regional Housing Plan* estimates a regional shortage, noting that there are approximately 61,640 accessible housing units in the region, compared to 169,000 households with one or more persons with a disability.

Recommendations:

It is recommended that Waukesha County meet with disability advocates to better understand types and locations of units missing from the current accessible housing stock and to identify best practices for or examples of design of accessible units. This information should then be shared with municipal staff in jurisdictions within the HOME Consortium counties, allowing them to prioritize public funding for housing developments that meet these identified needs. For other private/market-rate projects, educate developers about and encourage them to consider these needs.

Density bonuses or other incentives for projects built according to universal design principles such that all units are handicap accessible would open up new housing options and increase housing choice. For residential developments competing for public funding, those that offer universal design, or that otherwise exceed FHA minimum accessibility requirements (either in number of accessible units provided and/or in the design of these units) should be prioritized.

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Conclusion

Through this Analysis of Impediments to Fair Housing Choice, several barriers have been identified that restrict the housing choice available to residents of Waukesha, Jefferson, Washington, and Ozaukee Counties. These barriers may prevent residents from realizing their right to fair and equitable treatment under the law. It is imperative that residents know their rights and that those providing housing or related services know their responsibilities. Waukesha County and the HOME Consortium will work diligently toward achieving fair housing choice for their residents using the recommendations provided here to address the identified impediments. However, it should be noted that these impediments are largely systemic and will require effort from both private sector and public sector actors to correct. Each jurisdiction has an important role to play but cannot on its own bring about the change necessary to remove these impediments to fair housing choice.

The recommendations proposed in this document address impediments relative to the need for fair housing education, the availability of affordable housing, an imbalance between job centers and housing options, restrictive zoning or other regulatory requirements, limited accessible housing options, and NIMBYism/lack of understanding about affordable housing. Implementation of the recommendations can assist the four-county area in achieving the reality of an open and inclusive region that truly embraces fair housing choice for all its residents.

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