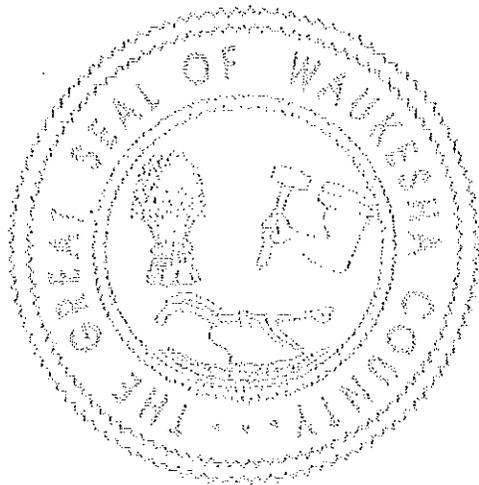


AN ANALYSIS OF
IMPEDIMENTS TO
FAIR HOUSING
WAUKESHA COUNTY, WISCONSIN
2010—2014



EQUAL HOUSING
OPPORTUNITY

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1/29/09

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AFFIRMATIVELY FURTHER FAIR HOUSING
WAUKESHA COUNTY, WISCONSIN
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I. INTRODUCTION

This analysis is a follow-up to previous reports completed for Waukesha County, Wisconsin, as required by the U.S. Department of Housing and Urban Development Fair Housing Equal Opportunity Division. This report will review the policies, procedures and practices within Waukesha County that affect the location, availability and accessibility of housing and the residential patterns and conditions related to Fair Housing choices.

In 1993, Waukesha County in conjunction with the University of Wisconsin - Milwaukee Urban Research Center undertook a comprehensive analysis of impediments to affordable housing that largely have not changed. It was the intent of Waukesha County to utilize the State Smart Growth Plan process to identify current data and future planning, as required under the Smart growth statutes, to provide information for this plan with an emphasis on the 1.) affordable housing and 2.) land use chapters of the Small Growth Plan. Since these two sections are not complete, and could provide valuable information, insight, and planning, Waukesha County reserves the right to modify this plan based on the Smart Growth completed plan. In addition, Waukesha County will provide the opportunity for public comment and input from various resources involved in housing.

Waukesha County through the County Executive's Office and its Community Development Division, which administers the federally funded Community Development Block Grant (CDBG) Program and the four county HOME Investment Partnership Program, have been strong advocates and supporters of efforts to encourage affordable housing, affirmative action, and support of equal opportunity in housing.

II. FAIR HOUSING STATEMENT

Fair Housing is a civil right that guarantees equal housing opportunities for all persons regardless of race, color, religion, sex, disability familial status, national origin (under state law only), These categories, which are defined in the federal Fair Housing Act and the Wisconsin Open Housing Law, are known as "protected classes". An impediment to fair housing is anything that may hinder or prevent a person from having equal access to housing because of their membership in a protected class. Impediments may take the form of a city or other governmental entity's policy, practice or procedure, housing industry practices or other societal factors.

III. CITIZEN PARTICIPATION

Upon completion of the "draft" of the Analysis of Impediments to Fair Housing, a public notice will be advertised in the official newspaper of Waukesha County (Milwaukee Journal/sentinel) seeking public comment. Waukesha County will also transmit a copy of the "draft" plan to the following resources seeking their comment: The Waukesha Housing Authority, Milwaukee / Waukesha Board of Realtors, Executive Committee of the Waukesha Lenders Coalition, Waukesha Housing Action Coalition members, Waukesha Smart Growth subcommittee, Waukesha NAACP, and the Metropolitan Milwaukee Fair Housing Council.

Revisions to the "draft" report will be made based upon comments received.

IV. COMMUNITY PROFILE

Racial Composition - 1990 and 2000

Waukesha County population increased from 308,228 in 1990 to 369,709 in 2000, an increase of 61,481. Of that increase, the White population increased from 298,313 in 1990 to 348,496 in 2000 or 50,183, which is a 16.8% increase, which was 77.5% of the overall population increase between 1990 and 2000.

Significantly, greater increases in population percentages between 1990 and 2000 were shown for all minority groups and the Hispanic population. The highest percentage increase was for African Americans whose population increased from 1,096 in 1990 to 3,480 in 2000, an increase of 317.5%. The second highest minority group increase was American Indian with a 257.9% increase in population from 672 in 1990 to 1,733 in 2000. The third minority group with a significant increase in population was Asian or Pacific Islander with a population increase of 240.7% from 2,699 in 1990 to 6,497 in 2000. Although by census definition is not a racial group, the Hispanic Origin population, the largest group of the population other than white, increased in population from 5,448 in 1990 to 9,503 in 2000, an increase of 74.4%.

Additional data related to the Waukesha County Community Profile can be found in the approved Smart Growth Plan.

V. IDENTIFICATION OF IMPEDIMENTS TO FAIR HOUSING CHOICE

A. Lack of an Approved Fair Housing Ordinance

Waukesha County does not have as an approved Fair Housing ordinance. This is a shortfall of the County Impediments to Fair Housing. The development of such an ordinance include provisions required by State and Federal Fair Housing laws and regulations related to protected classes and a comprehensive enforcement policy must be enacted. Besides passages of a Fair Housing ordinance, the County needs to adopt a policy and procedure for the disposition of complaints between the County Corporation Counsel, the State Division of Equal Rights, County District Attorney Office, HUD Equal Opportunity Office and the Metropolitan Milwaukee Fair Housing Council.

Following are general observations of issues that impact housing choice and are obstacles related to Affordable Housing and Housing Choice identified during the Smart Growth discussions;

B. Generalized Contributing Factors

- A general lack of affordable housing throughout the County

- Lack of political support
- Tax base the driving force for development
- Local NIMBY opposition
- Lack of vacant land
- High cost of land
- Lack of high density zoning
- Lengthy review process
- Limited funds for affordable housing development
- Limited Section 8 vouchers and other rent assistance
- Limited non-profit CHDO capacity to develop housing
- Limited interest of developers due to local opposition
- Lack of services in parts of the County to meet emergency, special need and supportive housing needs

Following are impediments identified through various sources, which could have an impact on housing choice. Note: the impediments are not identified in any priority or order.

SPECIFIC IMPEDIMENTS

A.) Community Development - Municipal Services, Employment, Affordable Housing, and Transportation Linkages

The attachments to this Plan, as incorporated in the "draft" Smart Growth Plan, underscore the lack of any linkage between various components, which serve residents. The lack of a comprehensive transportation system clearly inhibits persons without a vehicle from accessing many employment areas / businesses in the County. Since businesses often do not consider the accessibility of employees during their vocational decisions, the lack of a countywide public transportation system is an impediment to Fair Housing choice and access. Related to job creation is the pay to employees and the availability of affordable housing. Most local subdivision decisions are based on the type and value of the homes to be constructed and the tax benefit rather than any consideration of employees at local businesses. Land use will be its own impediment, however, local municipal services, particularly the lack of sewer and water services and cost to construct such services impede possible affordable housing development. More relevant is the Dept. of Natural Resources rules for development in unincorporated areas, which are the only areas that the County itself call influence development, which restrict unincorporated areas to large lot development.

B.) Zoning, Land Use and Building Codes

Waukesha County contains three types of jurisdictions: cities, villages and towns. Under State Statutes, the county only has zoning, land use and building code decision-making in townships. Cities and villages control internally their own zoning and land use along with the development of their own building codes. The impact of these three components is enormous. The cost of land relative to the construction of affordable housing is a severe detriment. Combining the high cost of land with minimum lot sizes, minimum home construction, along with specific building codes have a tremendous impact on housing choice since the three components individually and collectively restrict housing choice for lower income households by reducing the availabilities of affordable housing,

While the availability and the cost of land are major factors impeding affordable housing and the relationship to supply / demand and the market for land; local land use policies further impede affordable housing construction and therefore choice. Land Use restricting rental apartments, duplexes, townhouses, cluster development or any restricted zoning reduce the opportunities for absorbability and therefore the opportunities for housing choice.

Many communities have onerous building restrictions and require a complex approval process that only conforming conventional single-family housing is allowed. The most devastating effect of zoning, land use, and building codes is that housing allowed in some communities becomes affordable only to the very rich.

Many community Planning and Zoning Boards do not have a mix of income residents who understand the housing needs of lower income households, disabled, single head of households, or minority households, and therefore do not consider housing diversity and choice in their decision making.

C.) Discrimination

While discrimination on a countywide basis cannot be proven based on racial, handicap, or any-other protected class, the discrimination is more subtle in the form of economic discrimination. While service sector employment increases, the housing opportunities for lower income households decrease. Few, if any, affordable housing either rental or for sale, have been built since the comprehensive impediments study in 1993. This type of exclusionary development is a form of NIMBY (Not In My Back Yard), which denies housing opportunities

and choice, particularly for lower income households, This subtle form of discrimination can also be seen in the location and availability of housing opportunities for persons with special needs such as group homes, community based residential facilities, single room occupancy, and services for this population. Communities often agree to construct senior housing to show their willingness to provide a diverse housing stock.

D.) Violations of Fair Housing Practices

The following data was provided by the Metropolitan Milwaukee Fair Housing Council in 2007:

48 Complaints and Allegations in Waukesha County for 2005 through 2007

- 19 in 2005 (representing 23 protected classes claimed)
- 14 in 2006 (representing 18 protected classes claimed)
- 14 in 2007 (representing 15 protected classes claimed)

2007 Waukesha Compliance Data		Percentage Count
Industry	Rental	79% (11)
	Sales	21% (3)
Protected Class Claimed	Age	7% (1) **
	Disability	47% (7)
	Familial Status	20% (3)
	Race	27% (4)
Gender of Complainant	Female	64% (9) **
	Male	29% (4)
	Unknown	7% (1)
Race of Complainant	Black	29% (4)
	White	64% (9)
	Unknown	7% (1)
Income Source	Subsidized	50% (7)
	Non-subsidized	43% (6)
	Unknown	7% (1)

** Percentages may not total 100 % due to rounding.

In 2007, complaints / allegations were filed for the following cities: Brookfield (2), Hartland (3), Menomonee Falls (2), Muskego (1), New Berlin (1), Sussex (3), and Waukesha (2).

Trends for 2005 through 2007: Mirroring trends on the national level, disability has eclipsed race as the most frequently claimed protected class. Disability, race, and familial status continue to represent the highest proportions of complaints / allegations.

A case based on familial status and age was tiled with the Wisconsin Equal Rights Division in 2006, and settled (for undisclosed terms) in 2007. Another case based on familial status and age was filed with the Wisconsin Equal Rights Division in 2007, and is still pending.

E.) Institutional Practices

For communities in Waukesha County subdivision approval is modeled by the process outlined in the Wisconsin State Statutes. The length of time for approval can vary significantly community by community and development by development. Increasing the approval process is the issue of rezoning which combined with the required plat approval process, required public hearings, staff review and other reviews (County, DNR, and as necessary Milwaukee Metropolitan Sewerage District, SEWRPC) can all lengthen the approval process. Because of local, state or federal laws and regulations, associations overseeing specific groups (Federal Home Loan Bank, Association of Realtors, Metropolitan Milwaukee Fair Housing Council, etc.) are closely monitored for fair housing compliance. Thus, such procedures as residential residency requirements or preferences (a negotiated settlement between Waukesha Housing Authority, HUD and Metropolitan Fair Housing has been completed), approved procedure for mortgage loans and home insurance (modified loan criteria established by Lenders Consortium for low and moderate income households in Waukesha County, and insurance lawsuit in Milwaukee), advertising used by real estate and lending institutions (regulated by state/federal law), as well as multiple listing services, home appraisal practices and location of mortgage loan approvals by race (monitored through various organizations) are closely monitored.

F.) Lending Practices - Subprime Mortgage Lending

Given the current state of the housing market (2005-2007), predatory lending has become the single largest issue and most significant impediment in recent years.

Although quoting from the City of Kenosha Impediments to Fair Housing Choice as stated by lenders "the concept of credit worthiness can potentially be misconstrued as a discriminatory lending practice. However, as long as the precepts of credit evaporations are used universally. such activity is not discriminatory. "

While in theory the lender quote may be accurate, unscrupulous secondary lenders failed to provide adequate information, undertake responsible credit analysis and provided questionable loan terms that have put the entire housing market in jeopardy. This impediment is a national concern and cannot be entirely resolved locally. While most lenders are under the scrutiny of federal legislators monitoring, secondary mortgage lenders are not held to the same regulator standards.

* Waukesha County is attempting to obtain HOME Mortgage Disclosure Act (HMDA) data for Waukesha County, which currently is available as metro data.

G.) Other Institutional Practices

Waukesha County contracts with the Metropolitan Milwaukee Fair Housing Council to monitor and identify violations of institutional practices that have been identified as impediments to fair housing. With the exceptions of the specific cases identified in Section D Violations of Fair Housing Practices, Waukesha County has not identified nor been notified of fair housing violations related to:

- 1.) Real Estate Practices
- 2.) Unlawful Real Estate Brokerage Services
- 3.) Discriminatory lending, appraisal or underwriting
- 4.) Unlawful Real Estate Advertising practices
- 5.) Discriminatory Insurance practices
- 6.) Realtor Steering
- 7.) Unfair Appraisal practices

H.) Lack of Community Housing Resource Board and Affirmative Action Commission

Waukesha County (since the Community Housing Resource Board disbanded in 1996 and never having developed an Affirmative Action Commission) has no public body to oversee, implement, or direct Fair Housing functions. The Waukesha County Community Development Block Grant program provides some funding, \$ 12,500 in 2007 and \$15,000 in 2008, to the Metropolitan Milwaukee Fair Housing Council (MMFHC) to provide minimal service to Waukesha County related to Fair Housing, education, information, technical assistance and enforcement, no local organization (the Waukesha NAACP chapter may involve itself in an individual, or class act lawsuit, but does not act as an official housing discrimination agency) has responsibility for fair housing issues. All issues related to Fair Housing, equal opportunity, tenant-landlord or housing discrimination are referred to MMFHC.

I.) No Existing County Fair Housing Ordinance

The County lacks a comprehensive Fair Housing Ordinance, incorporating all regulatory requirements, enforcement and protected classes.

J.) Public Housing Policy

Waukesha County and the City of New Berlin contract with the City of Waukesha Housing Authority to administer public housing, including, but not limited to: sector housing, scattered site housing, special need housing, and the Section 8 Voucher program. The Waukesha Housing Authority is currently in compliance with HUD Public Housing Rules and Regulations, and has demonstrated through its program implementation Fair Housing and Equal Opportunity policies and procedures.

K.) Lack of a Regional Housing Plan

While the relationship between jobs, economic development, transportation, and population growth are viewed regionally, housing as an important component for a regional economy is often overlooked as an economic tool. The Southeastern Wisconsin Regional Planning Commission (SEWRPC) would be the appropriate organization to conduct a regional housing study that has not occurred for over 25 years. The recently organized Milwaukee 7, a seven county collaborative organization, may be influential in the development of housing as part of its regional economic development promotion.

L.) Smart Growth Plan

Incorporated into this plan are specific relevant sections of the Waukesha Smart Growth Plan. The Smart Growth Plan can be reviewed as a tool for fair housing - providing citizens an opportunity to participate in the planning process. Unfortunately, as written, the Smart Growth Plan legislation is lacking in an enforcement provision that could expand housing choice if implemented in accordance with the legislation. The Smart Growth law lacks any means to enforce the provision that "communities provide a range of housing choices that meet the needs of persons of all income levels all age groups, and persons with special needs and implement policies and procedures that promote the availability of land for the development or redevelopment of low and moderate income housing and maintenance / rehabilitation of the existing housing stock. "

M.) Wisconsin Housing and Economic Development Authority (WHEDA) Low Income Housing Tax Credit (LIHTC) Allocation Scoring

WHEDA's tool for scoring LIHTC applicants, the Qualified Allocation Plan (QAP), gives preference to development projects that have community support. For example, a developer of a LIHTC project must have a letter from the mayor or village president of a community in support of their affordable housing proposal. Under WHEDA'S current tax credit scoring policy, it is unlikely that communities that already have affordable housing will continue to allow its development.

However, those communities that have a shortage of affordable housing, even though there is a need for it, can continue to deny its development. This policy has the potential to limit housing opportunity and contribute to the concentration of poverty that exists in some communities.

The process of obtaining low income housing tax credits in Wisconsin is highly competitive and can only be done through WHEDA. Even though the local support category is just 6% of the total QAP scoring, this can be enough to eliminate a project, thus preventing its construction in a community in which it may be greatly needed. This policy, in effect, is an impediment to housing opportunity.

N.) Fair Housing Enforcement and Public Information

While Waukesha County through its Community Development Block Grant (CDBG) Program provides funding (\$12,500 in 2007 and \$ 15,000 in 2008) to the Metropolitan Milwaukee Fair Housing Council, the funding is inadequate to provide the resources necessary to provide education, information, technical assistance, and enforcement of fair housing laws to the general population. Fair Housing implementation is the responsibility of all parties involved in housing from government program to housing providers, realtors, rental property owners, lenders, insurance and mortgage companies, and the media to publicize cases of discrimination. Consumers must be knowledgeable of their rights and responsibilities and speak up when discrimination occurs. A grievance policy and forum to be heard must be available and community-wide fair housing education needs to be provided.

O.) IndependenceFirst

Waukesha County through the CDBG program provided \$3,000 in 2007 and 2008 to IndependenceFirst, a Milwaukee based metropolitan agency serving persons with disabilities. IndependenceFirst provides advocacy, information, and housing assistance to persons with disabilities. As noted by the Metropolitan Milwaukee Fair Housing council, disability discrimination is the fastest growing area of housing complaints and violations.

RECOMMENDATIONS

I. Pass a Countywide Fair Housing Ordinance

Develop in accordance with State and Federal laws a comprehensive all encompassing Fair Housing Ordinance to include enforcement provisions, penalties, relief for victims, and a comprehensive list of protected classes and local enforcement policy.

II. Encourage and Facilitate the Production of Affordable Housing

Coordinate through government officials a countywide seminar on affordable housing to begin the process of encouraging the development of a diverse affordable housing stock. The county should coordinate this seminar with local officials, planners, and developers to include the discussion of the relationship between the Smart Growth chapter elements, including but not limited to land use, zoning, economic development / jobs, transportation, and affordable housing. This seminar should result in specific recommendations for the development of affordable housing throughout the county, providing housing choice for all consumers for all types of housing.

III. Continuation of Housing Assistance Programs

Since 1989, Waukesha County has qualified as an Urban County, for Community Development Block Grant (CDBG) funding and since 1998 as a participant in the four county HOME Investment Partnership Program (HOME). These two programs provide financial resources for housing development on a project-by-project basis for rental, homeownership, and special need housing. Both the CDBG and HOME programs provide funds for Housing Rehabilitation to maintain and preserve the existing housing stock. Funding is also provided in the form of Downpayment Assistance to assist LMI households purchase a home. New in 2008 will be a Purchase - Rehab program to assist new LMI homebuyers purchase a home in need of repairs, Outside of CDBG and HOME funding, Hebron House of Hospitality and Cooperating Congregations of Waukesha County (CCWC) have some State funding for temporary and emergency housing assistance and a number of agencies receive McKinney and State Emergency Shelter funds. Finally, an innovative program begun in 2007 assists eligible individuals with an accelerated process to receive SSD Social Security Disability to stabilize their incomes.

IV. Advocate for Change

Waukesha County should work with its Wisconsin U.S. Senators and Representatives to advocate for increased CDBG and HOME funding, increasing the Section 8 Voucher Program to meet demand, encourage new legislation to affect Subprime Lending, modification in the WHEDA scoring formula, and other federal programs to promote housing and / or directed funding for Fair Housing programs.

V. Support the Establishment of a County Housing Trust Fund

Identify a source of funding to support on-going affordable housing efforts. Such a fund would be a permanent source of funds for a wide range of housing, while maintaining affordability.

VI. Identify and Overcome Housing Production Impediments

This recommendation correlates to recommendation number two by identifying and overcoming negative impacts, attitudes, policies and procedures that are blocking the production of housing throughout the County. This could include specific local initiatives such as land use, zoning, building, and permit policies and procedure changes to education of the population to increase knowledge, information and support for diverse affordable housing. Increase opportunities for persons to participate in Rent Smart to expand individuals understanding of tenant / landlord issues, responsibilities and fair housing laws. Enforce the recommendations of the Smart Growth Plan as related to affordable housing construction to meet new job creation - linking municipal set-vices, jobs, development, transportation, and housing as a comprehensive economic development effort, Ensure that realtors, lenders, and consumers are knowledgeable about fair housing laws and discrimination is processed to the full extent of the law.

Meet the housing production needs of the entire population based on a diverse housing stock. Disperse and create a diverse housing stock of rental, ownership, and special need housing for all income levels. Engage those in the population who practice, influence, and promote NIMBYism in any form to change policy and attitudes that inhibit fair and equal housing throughout the County. A need for increased understanding regarding the collection between housing and community and regional economics.