



# **Analysis of Impediments to Fair Housing Choice**

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**Minnesota Housing, Department of  
Employment and Economic  
Development, Department of Human  
Services**

**Final Report**

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# Analysis of Impediments to Fair Housing Choice

**Prepared for**

Minnesota Housing  
Department of Employment and Economic Development  
Department of Human Services

**Prepared by**

BBC Research & Consulting  
1999 Broadway, Suite 2200  
Denver, Colorado 80202-9750  
303.321.2547 fax 303.399.0448  
[www.bbcresearch.com](http://www.bbcresearch.com)  
[bbc@bbcresearch.com](mailto:bbc@bbcresearch.com)



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# SECTION ES.

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## Executive Summary

# Executive Summary

This document is the 2018 State of Minnesota Analysis of Impediments to Fair Housing Choice (AI). The State of Minnesota is required to assess barriers to housing choice with development of its five-year Consolidated Plan for federal block grants funding for housing and community development. The state agencies that are direct recipients of these funds are the Minnesota Housing Finance Agency (Minnesota Housing), the Minnesota Department of Employment and Economic Development (DEED) and the Department of Human Services (DHS).

## An Economic Opportunity Approach

This study approaches the analysis of fair housing issues through an “opportunity lens.” This was done to:

- Incorporate recent research that links long-term economic gains of cities and states to advancing economic growth of residents,
- Incorporate the latest legal developments around fair housing, and
- Most importantly, identify where the Grantees can best intervene to improve the economic opportunities of residents and, ultimately the fiscal health, across the state.

**How does economic opportunity relate to fair housing?** The Federal Fair Housing Act requires that HUD programs and activities be administered in a manner that affirmatively furthers (AFFH) the policies of the Fair Housing Act. Federal courts have interpreted this to mean doing more than simply not discriminating: The AFFH obligation also requires recipients of federal housing funds to take meaningful actions to overcome historic and current barriers to accessing housing and economically stable communities.

It is important to recognize that fair housing planning has benefits beyond complying with federal funding. This has been articulated by HUD as: “the obligations and principles embodied in the concept of fair housing are fundamental to healthy communities...and...actions in the overall community planning and development process lead to substantial positive change.”

HUD is not prescriptive in its approach to fair housing planning, although the agency does place high importance on fair housing strategies that facilitate positive economic environments in all communities—whether these be bustling urban areas, quaint and stable suburbs, or pastoral rural towns.

In sum, this new approach to fair housing provides a more comprehensive evaluation of the circumstances within the state’s geographic focus and authority that affect fair housing choice and economic prosperity.

This document is modeled after the structure of the HUD-proposed Assessment of Fair Housing for States and Insular Areas. It includes a:

- Demographic Summary (Section I)—review of demographic indicators, which may be linked to fair housing issues;
- Housing Choice Analysis (Section II)—examination of barriers to housing choice and the effects on protected classes;
- Access to Opportunity (Section III)—exploration of how relevant State of Minnesota policies and practices support access to economic opportunity;
- Disability and Access Analysis (Section IV)— examination of the housing experience and access to opportunity for Minnesota residents with disabilities;
- Complaint and Regulatory Review (Section V)— review of the fair housing enforcement and regulatory environment; and
- Contributing Factors, Priorities, and Goals (Section VI)—identifies fair housing issues found in the analysis conducted for the State of Minnesota AI and also includes actions the State will take in response to these issues.

## **Community Engagement Process**

In addition to analysis of publicly available demographic and socioeconomic data, HUD-provided data, and review of state, regional and local studies, the Minnesota AI provided opportunities for residents and stakeholders to share their experience with housing choice and access to opportunity. The engagement process included:

- Community conversations held in Worthington, Marshall, Willmar and Bemidji with Anuak, Eritrean, Hispanic, Karen, Oromo, Vietnamese, and Somali residents, residents with disabilities and members of the Red Lake, Leech Lake and White Earth bands of Chippewa Indians—69 residents participated;
- In-depth interviews focused on organizations providing services to or advocacy on behalf of: African immigrants and refugees, Asian Pacific residents, residents with disabilities, Karen refugees and immigrants, low income residents, Minnesota’s tribal nations, and interviews with organizations serving residents of racially or ethnically concentrated areas of poverty in the Twin Cities—17 organizations and agencies participated;
- A survey of public housing authorities operating in greater Minnesota—27 participated;
- A comprehensive stakeholder survey—467 stakeholders participated;
- A thorough review of community engagement results from the Twin Cities Regional AI Addendum process conducted in early 2017 and additional discussions with the organizations that led community engagement for the Addendum to identify common fair housing issues with the State AI.

- A public comment period including wide distribution of draft materials and a public hearing.

## Summary of Findings

Key findings from the AI as are described fully in the following chapters are below.

### Demographic analysis findings:

- Minnesota's racial and ethnic diversity has increased since 2000, due to strong growth in Black/African American, Asian, Hispanic, and multi-race residents. Yet these groups still comprise a very small portion of the State's residents: About 80 percent of residents report their race and ethnicity as white, non-Hispanic.
- Except for Native Americans, the state's racial and ethnic diversity is predominantly in the Twin Cities. Nearly two-thirds of the state's Black/African American residents live in Hennepin and Ramsey Counties.
- The state's non-white residents—especially Black/African American and Native American residents—are more likely to experience poverty than white, non-Hispanic residents. The gap is most pronounced for children: More than four in 10 Black/African American and Native American children in Minnesota lived in poverty in 2014, as well as three in 10 Hispanic children. This compares to just 7 percent of white, non-Hispanic children.
- As defined through the HUD framework, areas of concentrated poverty are most commonly located in the Twin Cities and on Native American reservations. Residents of these areas are employed (very few receive public assistance as their primary source of income), yet they earn low wages and cannot afford the costs of housing: 75 percent of residents in areas of concentrated poverty are cost burdened.
- Segregation by race and ethnicity is not exclusively an urban problem. In fact, segregation in the Twin Cities is declining as a result of migration of Black/African American residents into suburban communities, overall growth in Hispanic residents, and an increase of white households in inner-city neighborhoods. The highest levels of segregation in the state, as measured by the Dissimilarity Index (DI), are found in Becker, Beltrami, Cass, Kandiyohi, Nobles, and Todd Counties in Greater Minnesota, and in Hennepin and Ramsey Counties in the Twin Cities Metro.

### Housing choice findings:

- Housing needs in the state have grown significantly in the past 15 years, particularly for renters, due to rising rental costs and stagnant incomes. Large families, immigrant families, and many racial and ethnic minorities are disproportionately affected by market changes like lower vacancy rates that result from this dichotomy
- Between 2010 and 2015, the total number of mortgage loan applications declined by 19 percent, following trends identified in the past State Analysis of Impediments fair housing study: Between 2004 and 2009, applications declined 34 percent.



- The proportion of mortgage loans that were denied has changed little over time and gaps in approvals among different races and ethnicities persist. Denials remain consistently highest for American Indian/Alaskan Native, Black/African American, and Hispanic applicants, and lowest for White and Asian applicants. The highest percentage point difference in denials in 2015 is a 12 percentage point disparity for American Indian/Alaskan Native and White borrowers.
- Since 2008, there has been a divide in urban and rural mortgage loan applicants' approval rates. The gap is more significant in Minnesota than in the U.S. overall. Research by the Minneapolis Federal Reserve bank attributes the gap to a larger share of applicants in rural areas, suggesting an unmet demand for residential capital in rural Minnesota. A recent study by the NBER suggests that lack of access to capital (due to physical proximity or the digital divide) is another factor explaining lending differences.
- Several counties in Minnesota stand out for their large gaps in residential mortgage loan denials between minority and non-minority applicants. These counties are all located in rural areas; most have moderate levels of segregation; and some are home to Indian Reservations.
- To respond to these needs, Minnesota Housing has established strategic priorities that focus on closing the homeownership gap for minority residents; supporting renters through creation of new units and preserving existing affordable housing; prioritizing creation of family rental units; while offering flexibility to respond to individual communities' needs.

#### **Access to opportunity findings:**

- There are disparities in access to proficient schools, particularly in the Twin Cities.
- Residents and stakeholders have described a lack of capacity for in-person language interpretation at schools, especially in communities that have seen high growth in immigrants and refugees from non-Spanish-speaking countries.
- Resources for local provision of adult basic education, especially English as a Second Language and adult literacy are perceived to be lacking.
- From community conversations, it's clear that residents, and many landlords, are not aware of their rights and responsibilities under the Fair Housing Act. Education and outreach is needed.

#### **Disability and access findings:**

- A lack of affordable, integrated housing for individuals who need supportive services is a significant barrier to fair housing choice for residents with disabilities statewide and was identified as a serious issue in each region of the state.
- Similarly, a lack of housing available for persons with disabilities transitioning out of institutions and nursing homes was the 12<sup>th</sup> most serious contributing factor to fair housing issues statewide and is a more pressing issue outside of the Twin Cities.

- Lack of public transportation limits housing choice and access to opportunity for residents with disabilities living in communities with no, infrequent or solely regional transportation services.
- Affordable and accessible housing for residents with disabilities should have greater visibility within Minnesota Housing.
- Requiring residents with disabilities to begin the application process for the Developmental Disability Waiver and other services onsite at county offices places a significant burden on residents with disabilities, particularly those living in greater Minnesota. There may be a need for county staff who administer programs benefitting residents with disabilities to receive training on best practices for successful interactions with residents with intellectual disabilities and mental illness.

### **Regulatory review findings:**

- Annually, about 100 Minnesotans file fair housing complaints. Forty-percent of the complaints allege discrimination on the basis of disability; about one-quarter allege race-based discrimination. Hennepin County had the most complaints filed, followed by Ramsey, Dakota, and Anoka counties. Nearly 75 percent (72-74%) of all complaints were filed in these four counties.
- In 2015, there were 109 hate crimes reported in the state of Minnesota, or 5.95 hate crimes per 100,000 residents—slightly more than the national average of 5.29. About half of hate crimes reported were committed on the basis of race, ethnicity, or ancestry.
- A thorough review of state-level statute regulations and programs related to fair housing (appearing in Appendix A) concluded that that state has a multi-faceted regulatory framework in place that does not appear to create barriers to housing choice. Modest improvements could be made to strengthen state laws.
- The Twin Cities AI Addendum included a comprehensive review of local barriers in the Metro region. The review found that some communities have regulations and practices that could create barriers to housing choice through restrictive definitions of family and housing types, exclusionary zoning practices, and design and construction barriers.

### **Fair Housing Issues and Contributing Factors**

The following fair housing issues were identified through the quantitative analysis in Sections I through V.

**Primary fair housing issues.** This section presents the fair housing issues identified by stakeholders, residents, and through the analysis of demographic and housing data.

The top issues, according to **stakeholders** who participated in the study, are summarized below. When asked which resident groups these issues mostly affect, stakeholders said: low income families, persons with disabilities, and immigrants/refugees. Many of the fair housing issues are prevalent statewide. Issues that are specific to only some geographic areas are noted as such.

## Housing issues

- **Poor condition of housing.** This is a top barrier identified throughout Minnesota, especially in areas with growing employment and housing shortages. Stakeholders in the CDBG non-entitlement cities identified poor condition of affordable housing as the most significant barrier affecting their constituencies.
- **Lack of larger rental units for families.** This issue is perceived as disproportionately affecting large and often immigrant families. This is one of the top ranked barriers by stakeholders in addition to units in poor condition. A related concern is that new developments created through incentive programs fail to increase the stock of family units in the Twin Cities (the perception is that these new developments are mostly studio and 1-bedroom units). Another related concern is that onerous parking restrictions that do not permit visitors and/or do not allow street parking, create challenges for larger families.
- **High barriers to entry for homeownership (downpayment assistance, credit requirements) for lower income and non-white and Hispanic residents.** General lack of knowledge of how to achieve homeownership and manage ownership in poor economic environments (e.g., foreclosure counseling). For some cultural groups, lack of culturally competent lending products. Statewide issues that disproportionately affect households with credit histories and Black/African American, Hispanic, and Native American households, who are more likely to be denied mortgage loan credit.
- **Tenant screening can include onerous “look back” periods for criminal charges or evictions of rental applicants.** Considered to be prevalent statewide. ). Expungement of eviction difficult to achieve (state barrier).
- **Landlords requiring incomes that are three times the required rent payment and charging high security deposits and first and last months’ rent.** Strict standards for rental applicants in tight markets. Lack of landlords that will accept Section 8. This is most prevalent in areas with very low rental vacancy rates, high growth, and strong employment (Twin Cities and high-growth markets in Southern Minnesota).
- **Redevelopment of naturally occurring affordable housing (NOAH),** is most likely to affect residents who are disproportionately likely to have criminal histories, including Black/African American residents and, to a lesser extent, Native Americans.
- **Perception that affordable housing is located in high poverty, low opportunity areas and that there are concentrations of units that accept Section 8.** Lack of landlords that accept Section 8 in high opportunity communities. This concern is identified mostly for the Twin Cities.
- **Not in my back yard - NIMBYism/neighborhood opposition to housing development in general.**

## Housing barriers specific to persons with disabilities

- **Shortage of accessible and available housing options.** For people with disabilities, simply acquiring housing and remaining housed are significant challenges. Wait lists for affordable, accessible housing are “years long” in many rural areas.

- **Shortage of resources to make accessibility improvements.** If a Housing Choice Voucher holder requires a reasonable accommodation, they will often look to the local PHA to help with those improvements. Most local PHAs do not have the resources to assist with the accommodation. There are also not resources to assist non voucher holders in accessibility improvements more broadly.
- **Shortage of workers to help transition into independent living and lack of case managers and home care aids to support independent living, particularly in very rural areas and areas with strong employment growth and housing pressures.** In-person intake for services at County departments can be intimidating to persons with intellectual disabilities or severe mental illness, resulting in otherwise qualified individuals not receiving services. Processes to apply for home health care and other supports are complex and stakeholders believe there are insufficient resources to assist residents with applications. Stakeholders note that there has been progress in adopting processes that respect a person’s preferences, but there are insufficient resources to accommodate preferences.

Conversations with a **diverse set of residents** living throughout the state (Worthington, Marshall, Willmar and Bemidji with Anuak, Eritrean, Hispanic, Karen, Oromo, Vietnamese, and Somali residents, residents with disabilities and members of the Red Lake, Leech Lake and White Earth bands of Chippewa Indians) identified the following top concerns. These concerns are particular to areas outside of the Twin Cities, where the engagement occurred.

- **Poor housing condition**, particularly homes that are owned by outside investors and rented to vulnerable populations (undocumented, new immigrants). This was also raised as a top issue in the Twin Cities in the AI Addendum.
- **Limited knowledge and/or access to resources to help communities quickly respond to housing shortages and needs** (e.g., rapid employment growth, limited housing for special needs populations who may be moving from institutional settings, face a critical housing need). This was primarily identified as an issue for growing areas outside of the Twin Cities.
- **Lack of understanding by local officials about how land use and zoning decisions can create barriers to housing choice;** prevalence of a “charity” model of delivering housing and services. Primarily an issue for areas outside of the Twin Cities, including exurbs of the Twin Cities.
- **General ignorance of fair housing laws in rural and semirural areas and the need to increase understanding of such laws and capacity for education and outreach.** This is mostly identified as an issue in rural areas and small town in the state.

The **quantitative analyses** conducted for the AI—which examined segregation and integration, areas of concentrated poverty, equal access to quality educational environments, employment opportunities, transportation, and healthy communities—found the following fair housing concerns:

- **Lack of economic opportunity in high poverty areas that are also racially and ethnicity diverse areas.** The vast majority of these areas are in the Twin Cities region; others are on Native American reservations. Residents living in these areas face challenges in accessing

economic opportunity because of many factors including isolation (very rural areas), drug and alcohol addiction (particularly in the Headwaters Region) and language barriers (both in spoken and written languages). Adult illiteracy among the refugee population in greater Minnesota poses a significant barrier to accessing opportunity, from being unable to pass a driver's license exam to promotional opportunities in the workplace.

- **High and moderate segregation, as measured by the Dissimilarity Index (DI).** The DI is moderate to high in Cass (high), Becker, Beltrami, Hennepin, Kandiyohi, Nobles, Ramsey, and Todd Counties (moderate). Becker, Kandiyohi, and Nobles County are also areas with the largest rates of denials for minority loan applicants seeking home loans, which may exacerbate segregation.
- **Large differences in homeownership among White residents and households of color or Hispanic Ethnicity.** The Twin Cities, in particular, has one of the largest gaps in the country.
- **Gap in mortgage loan applications and approvals for minority applicants** and challenges with lending on Tribal land due to lack of fee (v. trust) land. Statewide, non-white, Hispanic applicants face denial disparities when compared to white applicants: 17 percentage points (African Americans), 16 percentage points (American Indian), and 7 percentage points (Hispanic) and these gaps persist even after adjusting for income. The gap is largest for home improvement loans and refinances, suggesting that minority borrowers have less equity (and, consequently, less wealth building potential) in their homes and/or carry higher debt. This makes them more vulnerable to the economic effects of market downturns. Geographically, the largest differences in denials between minority and White, non-Hispanic applicants exist in Becker, Carlton, Kandiyohi, Nobles, and Polk Counties. Carlton and Nobles Counties have some of the highest denial rates in the state overall, for both minority and non-minority applicants.

## Goals and Action Steps

This AI does not exist in a vacuum. The State of Minnesota AI intersects the AI plans developed by other participating jurisdictions in the State, including the Twin Cities Regional AI and recently adopted Addendum. The AI also intersects with many other state and local initiatives related to housing and equity. At the time of writing this plan, work on the Governor's Housing Task Force has only recently begun and results and recommendations are expected in later 2018. Minnesota's Olmstead Plan has work plan items to increase housing opportunities of choice for persons with disabilities. The Heading Home Minnesota Plan to Prevent and End Homelessness includes several elements that also intersect with this fair housing plan. In addition, the State of Minnesota has several councils pertaining to racial and ethnic groups, including the Council on Asian Pacific Minnesotans, the Council for Minnesotans of African Heritage, Minnesota Council on Latino Affairs, and the Minnesota Indian Affairs Council. The goals and action items proposed in this plan are considered in the context of these other initiatives and a primary overarching goal is to commit to a joint effort with these initiatives to address opportunity gaps.

The fair housing goals described in the Section VI are designed to overcome one or more contributing factors and related fair housing issues from the perspective of the state of Minnesota, in particular for Minnesota Housing, DEED, and DHS. The fair housing issues are grouped within five goal areas:

**Goal 1.** Address disproportionate housing needs.

**Goal 2.** Address housing segregation and improve opportunities for mobility.

**Goal 3.** Expand access to housing for persons with disabilities.

**Goal 4.** Address limited knowledge of fair housing laws through education, outreach, and developing tools and resources.

**Goal 5.** Decrease the loss of housing through displacement and eviction.

Specific action items identified to address fair housing challenges are in Section VI, beginning page 8.

# **SECTION I.**

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## **Demographic Summary**

# SECTION I.

## Demographic Summary

The Demographic Summary is the starting point for the fair housing analysis. It provides information on the drivers of housing choice and need—income, household characteristics, age, and disability status.

The section also reviews demographic indicators, which may be linked to fair housing issues. For example, segregation patterns may suggest that certain residents face housing discrimination and/or cannot find affordable, accessible housing in a neighborhood or community. These demographic indicators are more fully examined in the context of housing supply and affordability in Section II.

The segregation analysis in this section is conducted for:

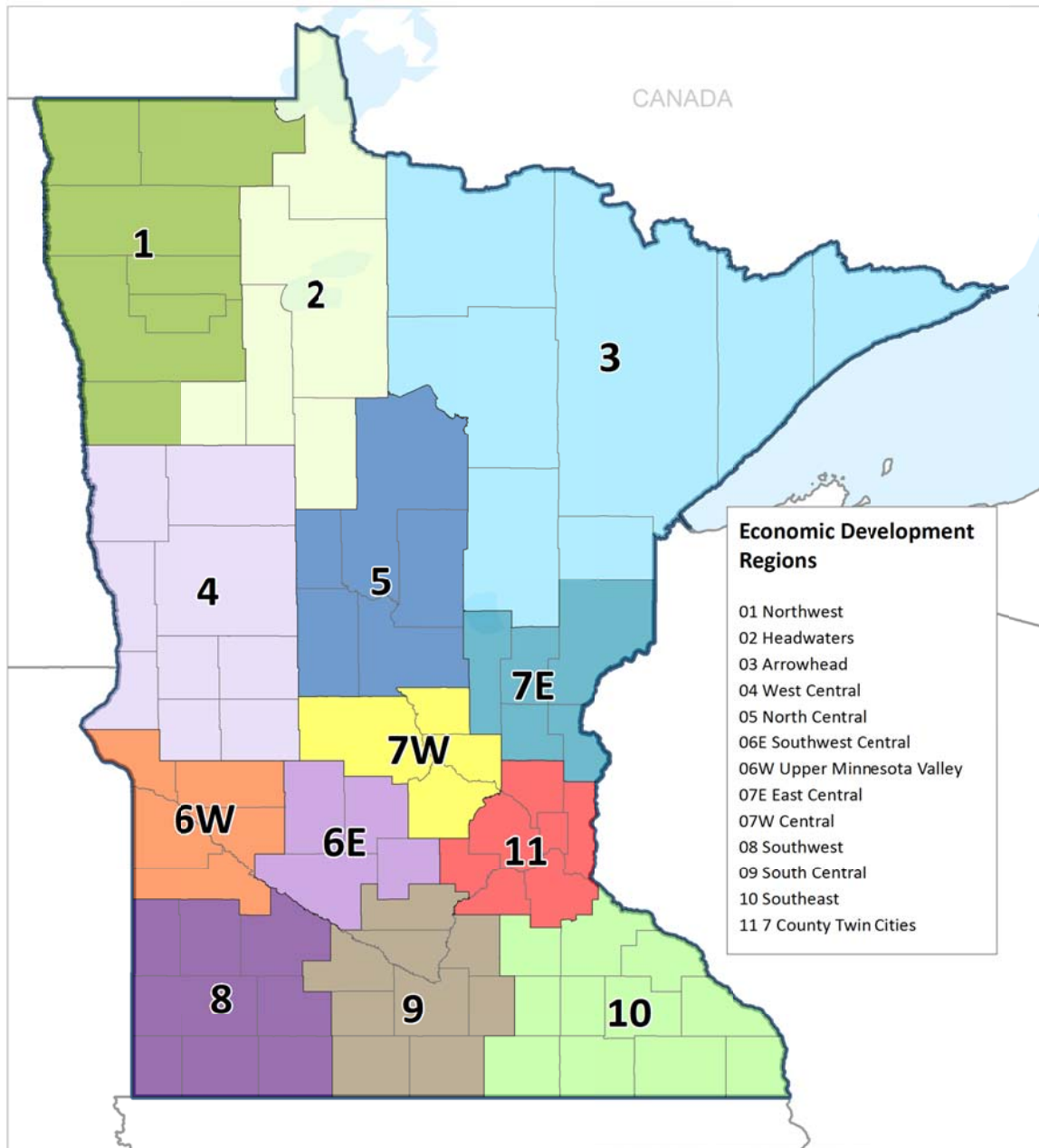
- Race and ethnicity (Hispanic/Latino) of residents,
- National origin of residents,
- Limited English Proficiency (LEP) of residents,
- Families with children, and
- Persons with disabilities.

This section discusses demographic trends for all counties in Minnesota, a total of 87 counties. For reference, a map of the state's counties is shown on the following page.





**Figure I-2.**  
**Minnesota Economic Development Regions**



Source: State of Minnesota Department of Employment and Economic Development, ESRI, USGS.

## Summary Findings

- Minnesota’s racial and ethnic diversity has increased since 2000, due to strong growth in Black/African American, Asian, Hispanic, and multi-race residents. Yet these groups still comprise a very small portion of the State’s residents: About 80 percent of residents report their race and ethnicity as white, non-Hispanic.
- Except for Native Americans, the state’s racial and ethnic diversity is concentrated in the Twin Cities. Nearly two-thirds of the state’s Black/African American residents live in Hennepin and Ramsey Counties.
- The state’s non-white residents—especially Black/African American and Native American residents—are more likely to experience poverty than white, non-Hispanic residents. The gap is most pronounced for children: More than four in 10 Black/African American and Native American children in Minnesota lived in poverty in 2014, as well as three in 10 Hispanic children. This compares to just 7 percent of white, non-Hispanic children.
- Areas of concentrated poverty are most common in the Twin Cities and on Native American reservations. Residents of these neighborhoods are employed (very few receive public assistance as their primary source of income), yet they earn low wages and cannot afford the costs of housing: 75 percent of residents in areas of concentrated poverty are cost burdened.
- Segregation by race and ethnicity is not exclusively an urban problem. In fact, segregation in the Twin Cities is declining with migration of Black/African American residents into the suburbs, overall growth in Hispanic residents, and white households occupying more inner-city neighborhoods. The highest levels of segregation in the state, as measured by the Dissimilarity Index (DI), are found in Becker, Beltrami, Cass, Hennepin, Kandiyohi, Nobles, Ramsey, and Todd Counties.

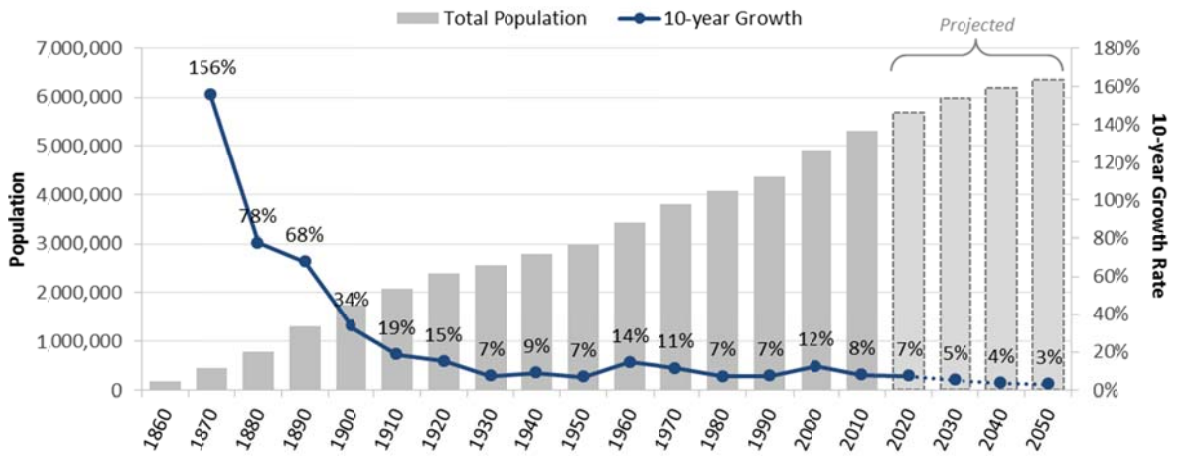
## Demographic Summary

The Minnesota State Demographer reports the state’s population at 5,485,238 as of April 1, 2015. By 2025, Minnesota’s population is projected to be more than 5.8 million—a growth of about 300,000 people between 2017 and 2025.

Figure I-3 shows historical and projected population growth. The state grew rapidly through the 1920s, after which growth began slowing. Since 1930, the state’s growth rate *per decade* has averaged 8 percent. During the past 100 years, the strongest decades for growth include 1900-10 (19%), 1910-20 (15%), 1950-60 (14%), and 1990-2000 (12%).

The state’s growth rate is projected to slow considerably in the future, declining to 3 percent per decade by 2050.

**Figure I-3.**  
**Population and Growth Rate per Decade, State of Minnesota, 1860–2050**



Source: Minnesota State Demographic Center and IPUMS.

The vast majority of the state’s growth during the past has 25 years been concentrated in the Twin Cities region, followed by Central Minnesota. Figure I-4 shows, by county and economic development region, total population, numerical and percent growth, and each county’s and region’s share of the state’s population growth.

**Figure I-4.  
Population Change and Share of State Growth, by County and Region, 1990 to 2015**

| County            | 1990      | 2015      | Numerical Change | Percent Change | Percent of Total State Population Growth |
|-------------------|-----------|-----------|------------------|----------------|--|
| Aitkin            | 12,425    | 15,715    | 3,290            | 26%            | 0%                                       |
| Anoka             | 243,641   | 344,838   | 101,197          | 42%            | 9%                                       |
| Becker            | 27,881    | 33,567    | 5,686            | 20%            | 1%                                       |
| Beltrami          | 34,384    | 45,873    | 11,489           | 33%            | 1%                                       |
| Benton            | 30,185    | 39,739    | 9,554            | 32%            | 1%                                       |
| Big Stone         | 6,285     | 5,054     | -1,231           | -20%           | 0%                                       |
| Blue Earth        | 54,044    | 66,179    | 12,135           | 22%            | 1%                                       |
| Brown             | 26,984    | 25,434    | -1,550           | -6%            | 0%                                       |
| Carlton           | 29,259    | 35,635    | 6,376            | 22%            | 1%                                       |
| Carver            | 47,915    | 98,798    | 50,883           | 106%           | 5%                                       |
| Cass              | 21,791    | 28,718    | 6,927            | 32%            | 1%                                       |
| Chippewa          | 13,228    | 12,117    | -1,111           | -8%            | 0%                                       |
| Chisago           | 30,521    | 54,332    | 23,811           | 78%            | 2%                                       |
| Clay              | 50,422    | 62,181    | 11,759           | 23%            | 1%                                       |
| Clearwater        | 8,309     | 8,802     | 493              | 6%             | 0%                                       |
| Cook              | 3,868     | 5,219     | 1,351            | 35%            | 0%                                       |
| Cottonwood        | 12,694    | 11,575    | -1,119           | -9%            | 0%                                       |
| Crow Wing         | 44,249    | 63,481    | 19,232           | 43%            | 2%                                       |
| Dakota            | 275,227   | 414,490   | 139,263          | 51%            | 13%                                      |
| Dodge             | 15,731    | 20,378    | 4,647            | 30%            | 0%                                       |
| Douglas           | 28,674    | 37,103    | 8,429            | 29%            | 1%                                       |
| Faribault         | 16,937    | 13,945    | -2,992           | -18%           | 0%                                       |
| Fillmore          | 20,777    | 20,826    | 49               | 0%             | 0%                                       |
| Freeborn          | 33,060    | 30,642    | -2,418           | -7%            | 0%                                       |
| Goodhue           | 40,690    | 46,611    | 5,921            | 15%            | 1%                                       |
| Grant             | 6,246     | 5,872     | -374             | -6%            | 0%                                       |
| Hennepin          | 1,032,431 | 1,221,703 | 189,272          | 18%            | 17%                                      |
| Houston           | 18,497    | 18,788    | 291              | 2%             | 0%                                       |
| Hubbard           | 14,939    | 20,679    | 5,740            | 38%            | 1%                                       |
| Isanti            | 25,921    | 38,521    | 12,600           | 49%            | 1%                                       |
| Itasca            | 40,863    | 45,658    | 4,795            | 12%            | 0%                                       |
| Jackson           | 11,677    | 10,113    | -1,564           | -13%           | 0%                                       |
| Kanabec           | 12,802    | 15,908    | 3,106            | 24%            | 0%                                       |
| Kandiyohi         | 38,761    | 42,510    | 3,749            | 10%            | 0%                                       |
| Kittson           | 5,767     | 4,422     | -1,345           | -23%           | 0%                                       |
| Koochiching       | 16,299    | 12,889    | -3,410           | -21%           | 0%                                       |
| Lac qui Parle     | 8,924     | 6,866     | -2,058           | -23%           | 0%                                       |
| Lake              | 10,415    | 10,634    | 219              | 2%             | 0%                                       |
| Lake of the Woods | 4,076     | 3,925     | -151             | -4%            | 0%                                       |
| Le Sueur          | 23,239    | 27,704    | 4,465            | 19%            | 0%                                       |
| Lincoln           | 6,890     | 5,770     | -1,120           | -16%           | 0%                                       |
| Lyon              | 24,789    | 25,776    | 987              | 4%             | 0%                                       |
| McLeod            | 32,030    | 35,930    | 3,900            | 12%            | 0%                                       |
| Mahnomen          | 5,044     | 5,456     | 412              | 8%             | 0%                                       |
| Marshall          | 10,993    | 9,417     | -1,576           | -14%           | 0%                                       |
| Martin            | 22,914    | 20,122    | -2,792           | -12%           | 0%                                       |
| Meeker            | 20,846    | 23,110    | 2,264            | 11%            | 0%                                       |

**Figure I-4, Continued.**  
**Population Change and Share of State Growth, by County and Region, 1990 to 2015**

| County          | 1990    | 2015    | Numerical Change | Percent Change | Percent of Total State Population Growth |
|-----------------|---------|---------|------------------|----------------|--|
| Mille Lacs      | 18,670  | 25,788  | 7,118            | 38%            | 1%                                       |
| Morrison        | 29,604  | 32,786  | 3,182            | 11%            | 0%                                       |
| Mower           | 37,385  | 39,181  | 1,796            | 5%             | 0%                                       |
| Murray          | 9,660   | 8,418   | -1,242           | -13%           | 0%                                       |
| Nicollet        | 28,076  | 33,432  | 5,356            | 19%            | 0%                                       |
| Nobles          | 20,098  | 21,743  | 1,645            | 8%             | 0%                                       |
| Norman          | 7,975   | 6,666   | -1,309           | -16%           | 0%                                       |
| Olmsted         | 106,470 | 151,388 | 44,918           | 42%            | 4%                                       |
| Otter Tail      | 50,714  | 57,679  | 6,965            | 14%            | 1%                                       |
| Pennington      | 13,306  | 14,206  | 900              | 7%             | 0%                                       |
| Pine            | 21,264  | 29,107  | 7,843            | 37%            | 1%                                       |
| Pipestone       | 10,491  | 9,281   | -1,210           | -12%           | 0%                                       |
| Polk            | 32,498  | 31,529  | -969             | -3%            | 0%                                       |
| Pope            | 10,745  | 11,016  | 271              | 3%             | 0%                                       |
| Ramsey          | 485,765 | 533,677 | 47,912           | 10%            | 4%                                       |
| Red Lake        | 4,525   | 4,039   | -486             | -11%           | 0%                                       |
| Redwood         | 17,254  | 15,486  | -1,768           | -10%           | 0%                                       |
| Renville        | 17,673  | 14,965  | -2,708           | -15%           | 0%                                       |
| Rice            | 49,183  | 65,420  | 16,237           | 33%            | 1%                                       |
| Rock            | 9,806   | 9,601   | -205             | -2%            | 0%                                       |
| Roseau          | 15,026  | 15,771  | 745              | 5%             | 0%                                       |
| St. Louis       | 198,213 | 200,381 | 2,168            | 1%             | 0%                                       |
| Scott           | 57,846  | 140,898 | 83,052           | 144%           | 7%                                       |
| Sherburne       | 41,945  | 91,895  | 49,950           | 119%           | 5%                                       |
| Sibley          | 14,366  | 14,884  | 518              | 4%             | 0%                                       |
| Stearns         | 118,791 | 154,446 | 35,655           | 30%            | 3%                                       |
| Steele          | 30,729  | 36,708  | 5,979            | 19%            | 1%                                       |
| Stevens         | 10,634  | 9,804   | -830             | -8%            | 0%                                       |
| Swift           | 10,724  | 9,361   | -1,363           | -13%           | 0%                                       |
| Todd            | 23,363  | 24,255  | 892              | 4%             | 0%                                       |
| Traverse        | 4,463   | 3,405   | -1,058           | -24%           | 0%                                       |
| Wabasha         | 19,744  | 21,265  | 1,521            | 8%             | 0%                                       |
| Wadena          | 13,154  | 13,879  | 725              | 6%             | 0%                                       |
| Waseca          | 18,079  | 18,988  | 909              | 5%             | 0%                                       |
| Washington      | 145,896 | 251,015 | 105,119          | 72%            | 9%                                       |
| Watonwan        | 11,682  | 10,995  | -687             | -6%            | 0%                                       |
| Wilkin          | 7,516   | 6,421   | -1,095           | -15%           | 0%                                       |
| Winona          | 47,828  | 51,128  | 3,300            | 7%             | 0%                                       |
| Wright          | 68,710  | 131,361 | 62,651           | 91%            | 6%                                       |
| Yellow Medicine | 11,684  | 9,945   | -1,739           | -15%           | 0%                                       |

**Figure I-4, Continued.**  
**Population Change and Share of State Growth, by County and Region, 1990 to 2015**

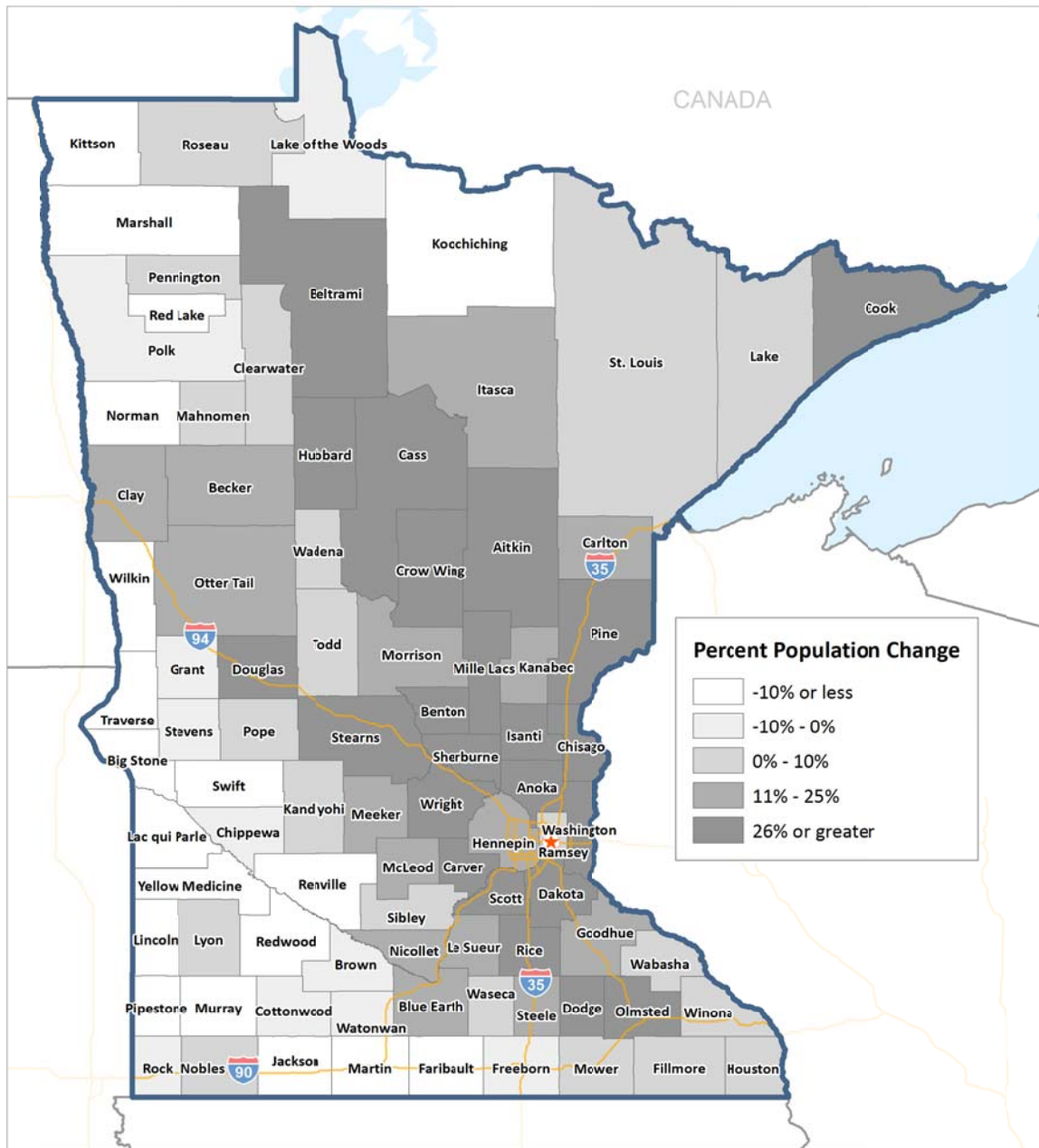
| Region                      | 1990             | 2015             | Numerical Change | Percent Change | Percent of Total State Population Growth |
|-----------------------------|------------------|------------------|------------------|----------------|--|
| 01 Northwest                | 90,181           | 86,050           | -4,131           | -5%            | 0%                                       |
| 02 Headwaters               | 66,752           | 84,735           | 17,983           | 27%            | 2%                                       |
| 03 Arrowhead                | 311,342          | 326,131          | 14,789           | 5%             | 1%                                       |
| 04 West Central             | 197,295          | 227,048          | 29,753           | 15%            | 3%                                       |
| 05 North Central            | 132,161          | 163,119          | 30,958           | 23%            | 3%                                       |
| 06E Southwest Central       | 109,310          | 116,515          | 7,205            | 7%             | 1%                                       |
| 06W Upper MN Valley         | 50,845           | 43,343           | -7,502           | -15%           | -1%                                      |
| 07E East Central            | 109,178          | 163,656          | 54,478           | 50%            | 5%                                       |
| 07W Central                 | 260,164          | 417,441          | 157,277          | 60%            | 14%                                      |
| 08 Southwest                | 123,359          | 117,763          | -5,596           | -5%            | -1%                                      |
| 09 South Central            | 216,321          | 231,683          | 15,362           | 7%             | 1%                                       |
| 10 Southeast                | 420,094          | 502,335          | 82,241           | 20%            | 7%                                       |
| 11 Seven County Twin Cities | 2,288,663        | 3,005,419        | 716,756          | 31%            | 65%                                      |
| <b>State of Minnesota</b>   | <b>4,375,665</b> | <b>5,485,238</b> | <b>1,109,573</b> | <b>25%</b>     |  |

Source: MN State Demographic Center, Metropolitan Council, and U.S. Census Bureau. Released July 2016.

The Twin Cities region made up 65 percent of the state's total growth between 1990 and 2015. The Central region comprised another 14 percent. By county, the largest growth areas included: Hennepin (17% of total state growth), Dakota (12.5%), Washington (9.5%), Anoka (9%) and Scott (7.5%). Growth in these five counties made up *more than 50 percent* of the state's total growth.

The map in Figure I-5 provides a visual of the geographic patterns of population change. It shows percent growth by county between 1990 and 2015.

**Figure I-5.  
Population Growth and Decline, by County, 1990 to 2015**



Source: MN State Demographic Center, Metropolitan Council, and U.S. Census Bureau. Released July 2016.

As demonstrated above, the fastest growing counties are located around Hennepin and Ramsey Counties and in southeast and north central Minnesota.



**Race and ethnicity.** According to the Minnesota State Demographic Center, people of color—those who identify as a race other than white and/or are of Hispanic descent—make up 19 percent of the state’s population overall.

**Changes in racial and ethnic diversity.** Between 2000 and 2015, the growth of people of color was more than four times greater than that of non-Hispanic white residents. This growth was largely due to an increase in Black/African American and Hispanic residents and mostly occurred in the state’s metro areas.<sup>1</sup>

Minnesota’s change in racial and ethnic diversity is shown in Figure I-6. Although the percentage growth of non-white and/or Hispanic residents has far outpaced the growth of white non-Hispanic residents, the overall proportions changed modestly. For example, the state gained 140,000 Black/African American residents, yet their share of the population increased by just 2 percentage points (4% to 6%). This is because white non-Hispanic residents continue to make up the vast majority of residents overall (81%).

**Figure I-6.  
Race and Ethnicity, State of Minnesota, 2000, 2005, 2010, and 2015**

| Population by Race/Ethnicity     | 2000      | 2005      | 2010      | 2015      | 2000-2015 Numerical Change | 2000-2015 Percent Change |
|----------------------------------|-----------|-----------|-----------|-----------|----------------------------|--------------------------|
| American Indian/Alaska Native    | 52,531    | 54,057    | 55,755    | 58,603    | 6,072                      | 12%                      |
| Asian                            | 146,237   | 180,398   | 217,008   | 264,609   | 118,372                    | 81%                      |
| Black/African American           | 176,223   | 224,384   | 272,570   | 317,130   | 140,907                    | 80%                      |
| Native Hawaiian/Pacific Islander | 1,790     | 1,943     | 2,001     | 2,433     | 643                        | 36%                      |
| Hispanic                         | 145,301   | 201,462   | 251,817   | 284,214   | 138,913                    | 96%                      |
| Two or More Races                | 58,183    | 76,635    | 99,950    | 116,070   | 57,887                     | 99%                      |
| White                            | 4,353,427 | 4,380,719 | 4,411,802 | 4,446,535 | 93,108                     | 2%                       |

| Share of Total Population        | 2000  | 2005  | 2010  | 2015  | 2000-2015 Percent Change |
|----------------------------------|-------|-------|-------|-------|--------------------------|
| American Indian/Alaska Native    | 1%    | 1%    | 1%    | 1%    | 0%                       |
| Asian                            | 3%    | 4%    | 4%    | 5%    | 2%                       |
| Black/African American           | 4%    | 4%    | 5%    | 6%    | 2%                       |
| Native Hawaiian/Pacific Islander | 0.04% | 0.04% | 0.04% | 0.04% | 0%                       |
| Hispanic                         | 3%    | 4%    | 5%    | 5%    | 2%                       |
| Two or More Races                | 1%    | 1%    | 2%    | 2%    | 1%                       |
| White                            | 88%   | 86%   | 83%   | 81%   | -7%                      |

Note: Residents in the American Indian/Alaska Native grouping are most likely to identify as American Indian. And a slight majority of residents of Hispanic descent are of Mexican descent.

Source: MN State Demographic Center.

<sup>1</sup> For the purposes of this report, Black/African American refers to the racial category that residents select when completing the Census form. This category includes, but is not exclusively, immigrants or refugees from African countries.

The following maps show the proportions of residents by racial and ethnic identification for each county in Minnesota. The data are based on the 2011-2015 American Community Survey and, as such, represent racial and ethnic compositions of residents during this five year period.

The most striking patterns in the racial and ethnic distribution of Minnesotans include:

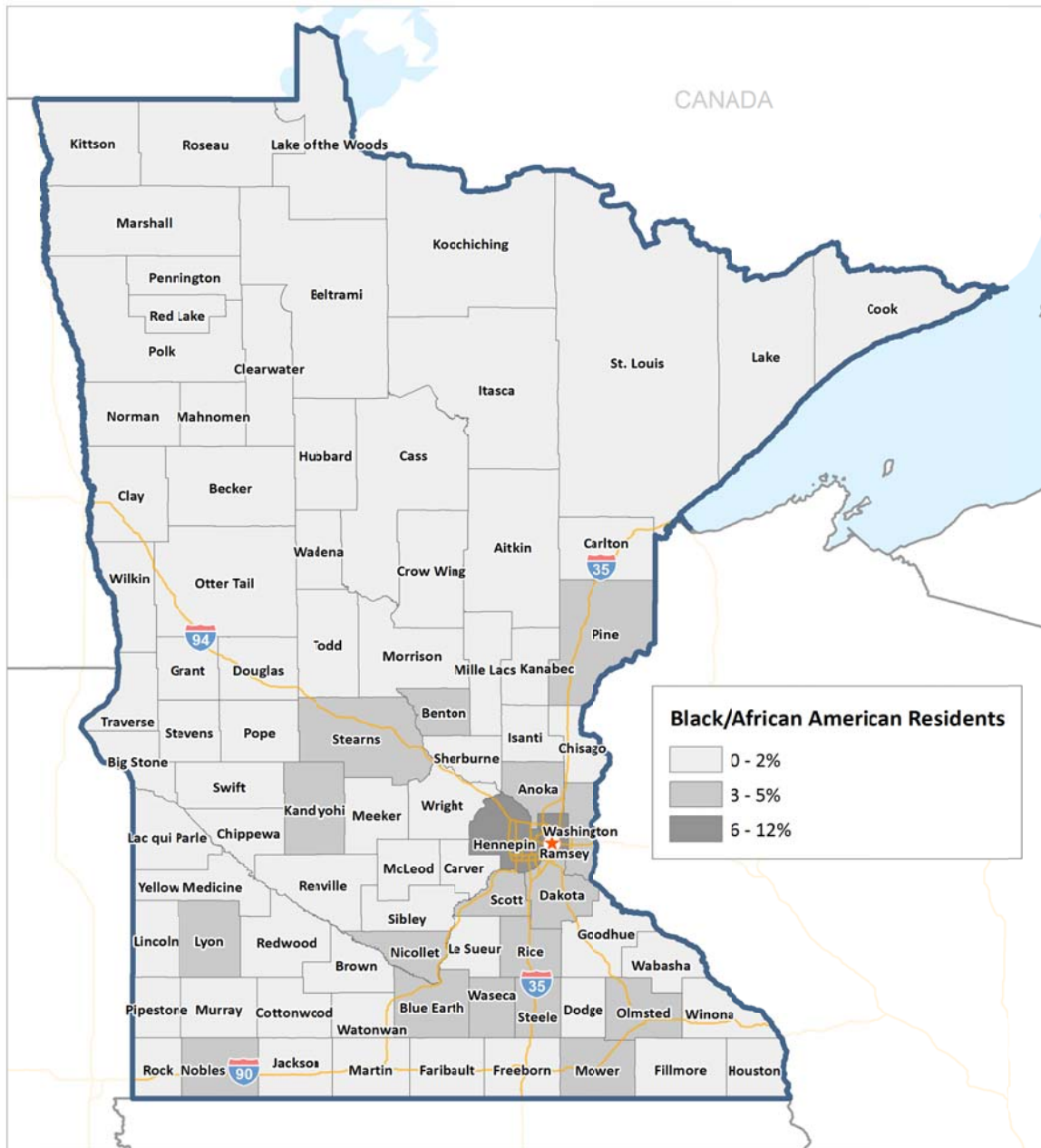
- Black/African American residents are more likely to live in the Twin Cities than other parts of the state: nearly two-thirds of the state's Black/African American residents live in Hennepin and Ramsey Counties. Black/African American residents in the Twin Cities also represented two-thirds of the state's overall growth in this racial group since 1990.
- Residents of Hispanic descent are also likely to be living in the Twin Cities—but also cluster in southwestern Minnesota, where agricultural employment has been expanding. Asian residents are less likely than other non-white and/or Hispanic residents to cluster in one county, other than in Ramsey County.

Over time, changes in the residency patterns of people of color have been most pronounced in the Twin Cities. A recent analysis of resident migration by race and ethnicity of the Twin Cities found that 60 percent of people of color lived in suburban or rural areas outside of Minneapolis and St. Paul. This is a dramatic shift since 1990, when that proportion was 36 percent. The same study also found that the number of people of color doubled in every suburban county in the Twin Cities between 1990 and 2014.<sup>2</sup> Despite this growth, people of color remain under-represented compared to the overall population—yet the gap is narrowing. Suburban and rural areas include 77 percent of the region's population and 60 percent of the region's people of color.

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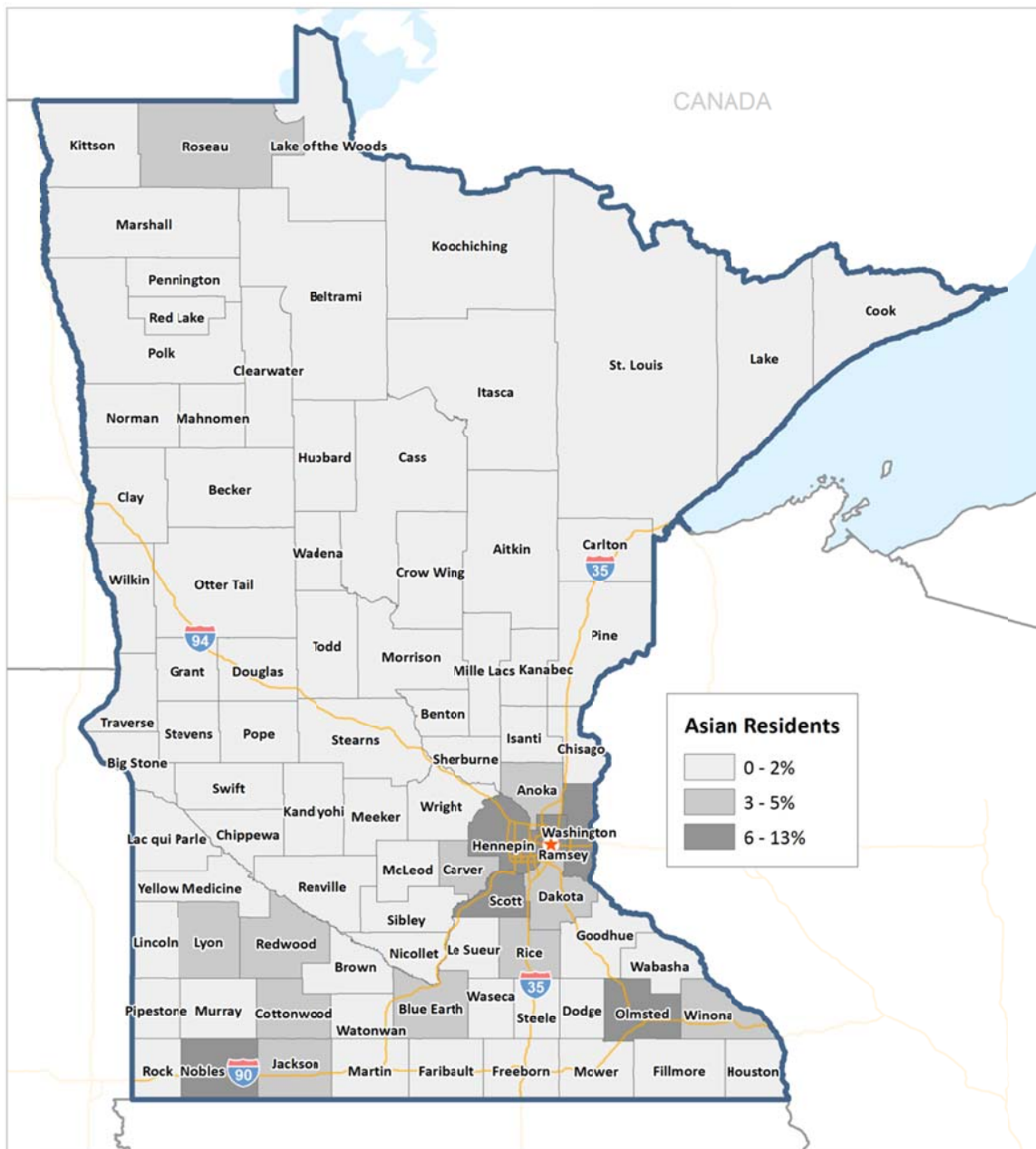
<sup>2</sup> Addendum to the 2014 Regional AI, First Draft, Fair Housing Implementation Council and Mosaic Consulting, February 2017.

**Figure I-7.**  
**Proportion of Black/African American Residents, by County, 2011-2015**



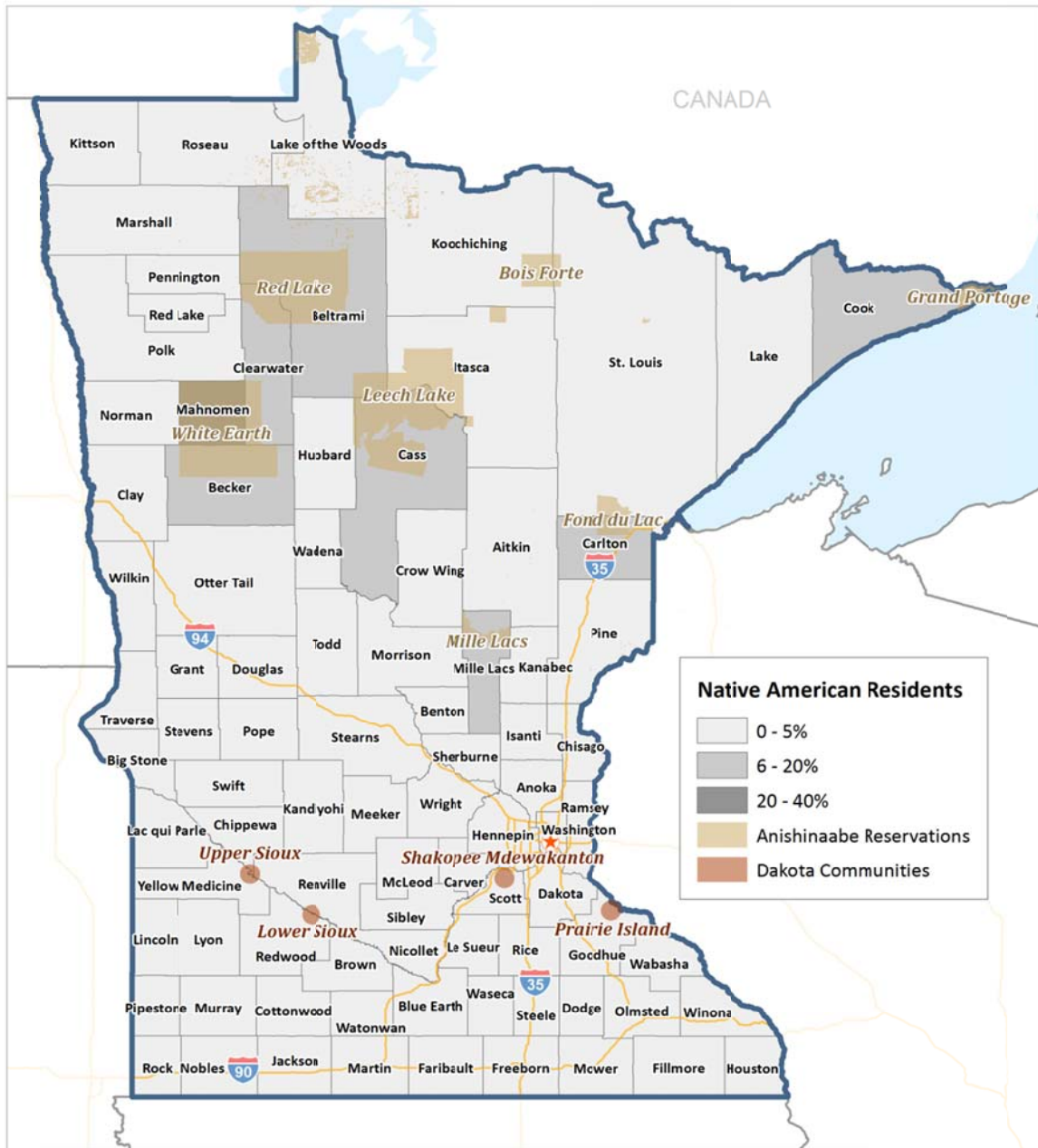
Source: 2011-2015 ACS 5-year estimates.

**Figure I-8.**  
**Proportion of Asian Residents, by County, 2011-2015**



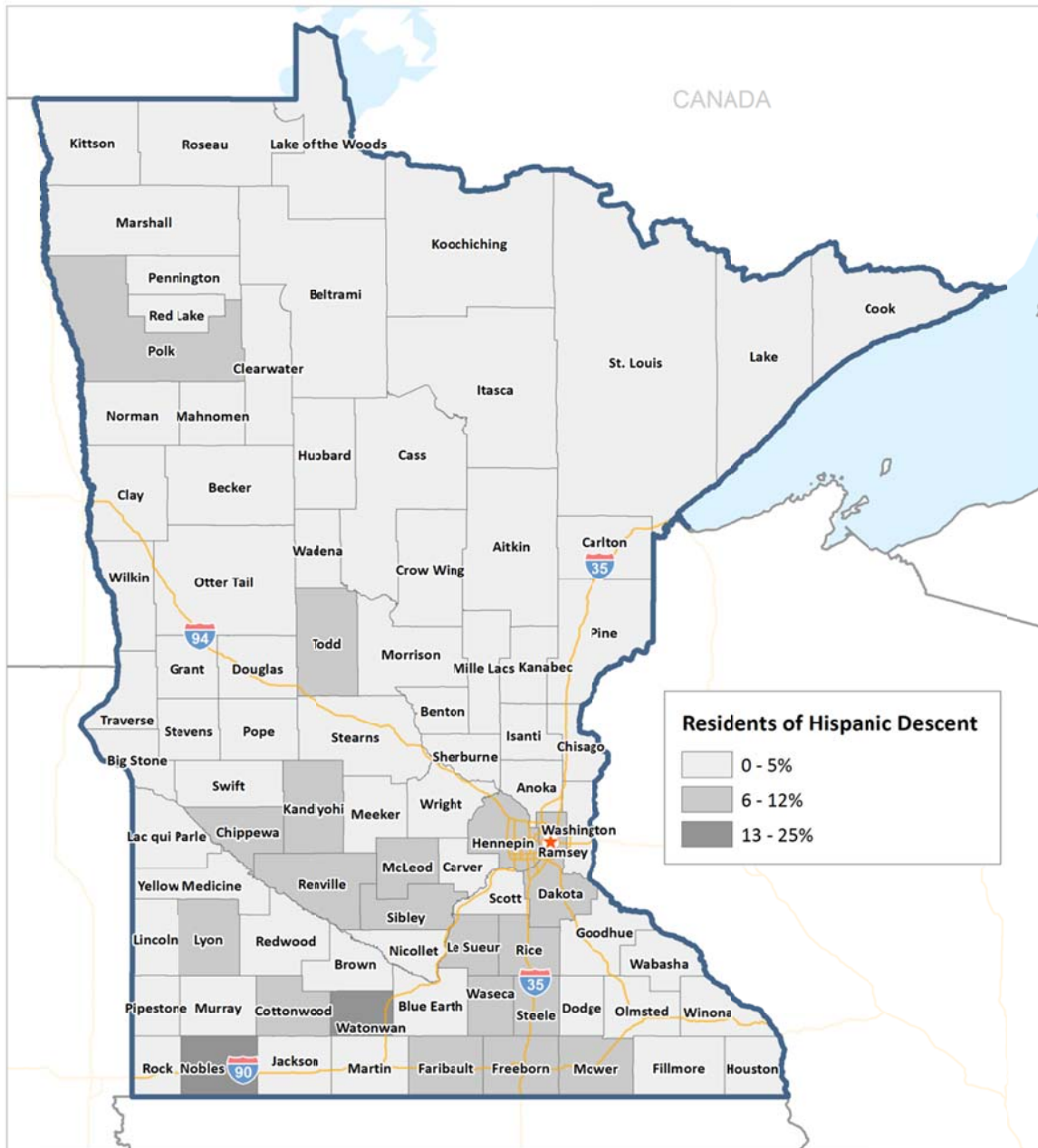
Source: 2011-2015 ACS 5-year estimates.

**Figure I-9.**  
**Proportion of Native American Residents, by County, 2011-2015**



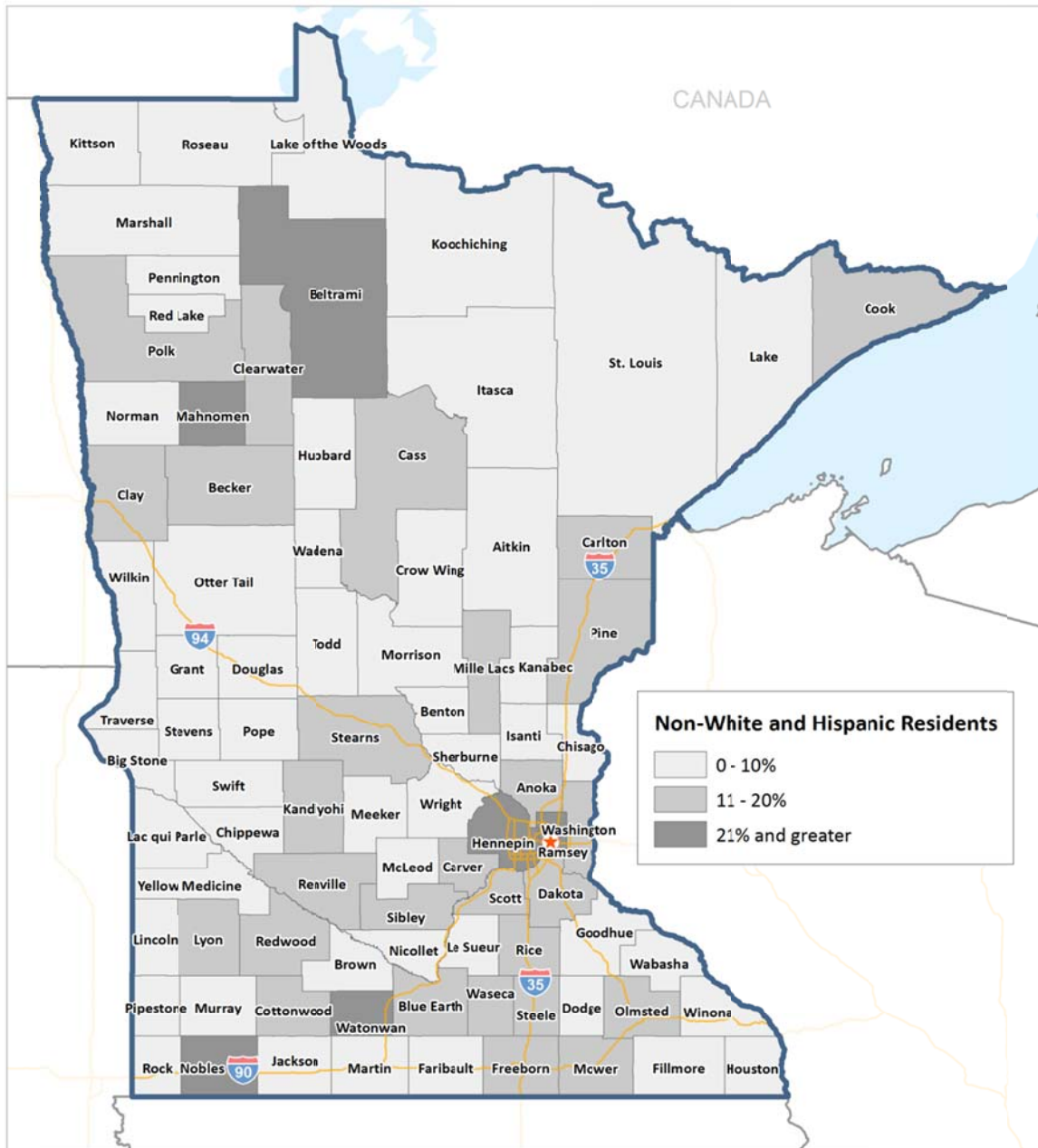
Source: 2011-2015 ACS 5-year estimates, 2016 U.S. Census TIGER/Line American Indian Area Geography.

**Figure I-10.**  
**Proportion of Residents of Hispanic Descent, by County, 2011-2015**



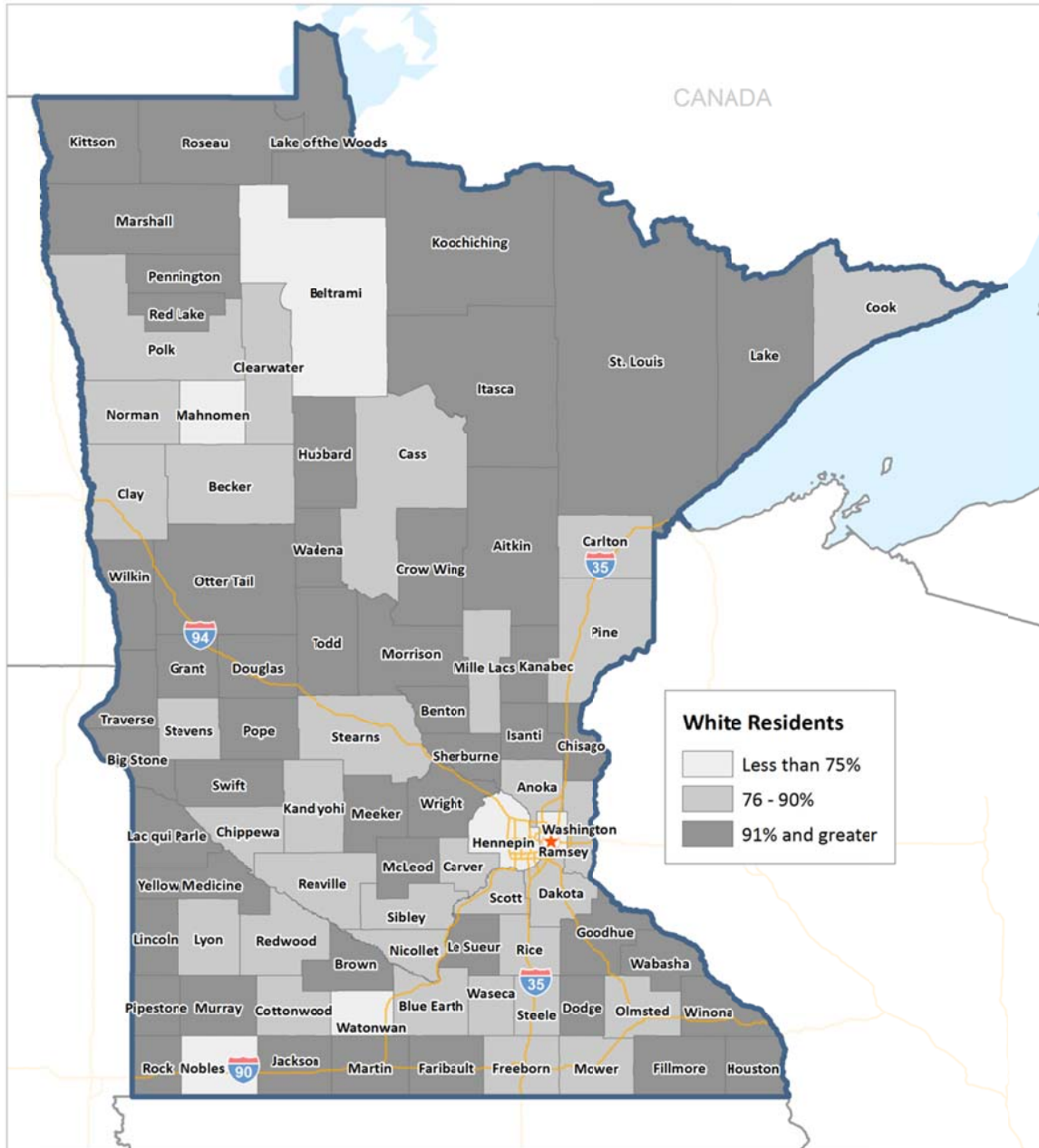
Source: 2011-2015 ACS 5-year estimates.

**Figure I-11.**  
**Proportion of Non-White and Hispanic Residents, by County, 2011-2015**



Source: 2011-2015 ACS 5-year estimates.

**Figure I-12.**  
**Proportion of White Residents, by County, 2011-2015**



Source: 2011-2015 ACS 5-year estimates.

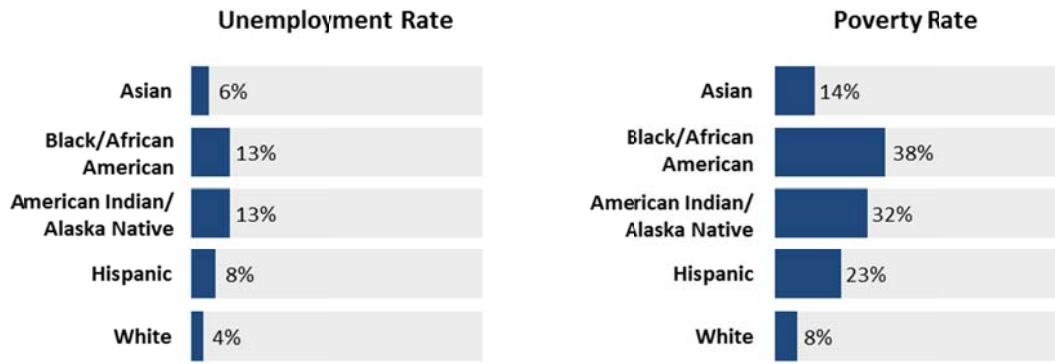
As shown in Figures I-11 and I-12 (an inverse of I-11), the most racially and ethnically diverse counties include Mahnomen, Nobles, Ramsey, Hennepin, Beltrami, and Watonwan—all with non-white and/or Hispanic populations exceeding 25 percent.

**Employment and poverty.** Significant gaps exist in the employment and poverty status of residents depending on race and ethnicity. Although Asian, Hispanic, and white residents have some of the lowest unemployment rates, only whites have a poverty rate that is lower than the state’s 11 percent. This suggests that these residents (Hispanic residents, in particular, given



their relatively high poverty rate) are not having trouble becoming employed—but the jobs they are working pay low wages. Black/African American and American Indian residents have both high rates of unemployment and poverty.

**Figure I-13.**  
**Unemployment and Poverty Rates by Race/Ethnicity, 2015**



Note: The poverty threshold is adjusted for family size. The poverty rate for a family of four is approximately \$25,000/year.

Source: 2015 ACS 1-year estimates and Minnesota State Demographic Center.

**Population projections.** The State Demographer’s office projects that the state’s non-white and/or Hispanic population will grow to represent 25 percent of residents by 2035. This is due to a doubling of Black/African American, Asian, and Hispanic residents, and stagnant growth of white residents. The Demographer projects that all regions of the state will become more racially and ethnically diverse than they are now—although the patterns of increasing diversity will be different depending on the region.

By race and ethnicity, in 2035:

- The white population is projected to show little overall growth because residents are older, on average, than non-white residents; are less likely to migrate into Minnesota; and have a relatively low fertility rate. The state’s white population is expected to decline to 75 percent of residents.
- The Hispanic population, in contrast, is projected to grow rapidly. All areas of the state will show an increase in Hispanic residents, yet about two-thirds of residents are projected to live in the seven-county Twin Cities area by 2035.
- The Black/African American population will also grow rapidly but, as in the past, this growth is expected to be more concentrated in the Twin Cities region. The Twin Cities is projected to account for 83 percent of the state’s total Black/African American population in 2035.
- Similarly, Asian resident growth will be more concentrated in the Twin Cities region and the Twin Cities will be home to about 82 percent of the state’s Asian residents in 2035.
- Much slower growth is projected for the Native American population. The state’s projections show declining Native American populations in Hennepin and Ramsey Counties.

- By 2035, 48 percent of Ramsey County residents and 44 percent of Hennepin County residents are projected to be non-white or Hispanic ethnicity. In suburban counties, the proportion of residents who are minorities is expected to double during that same period.

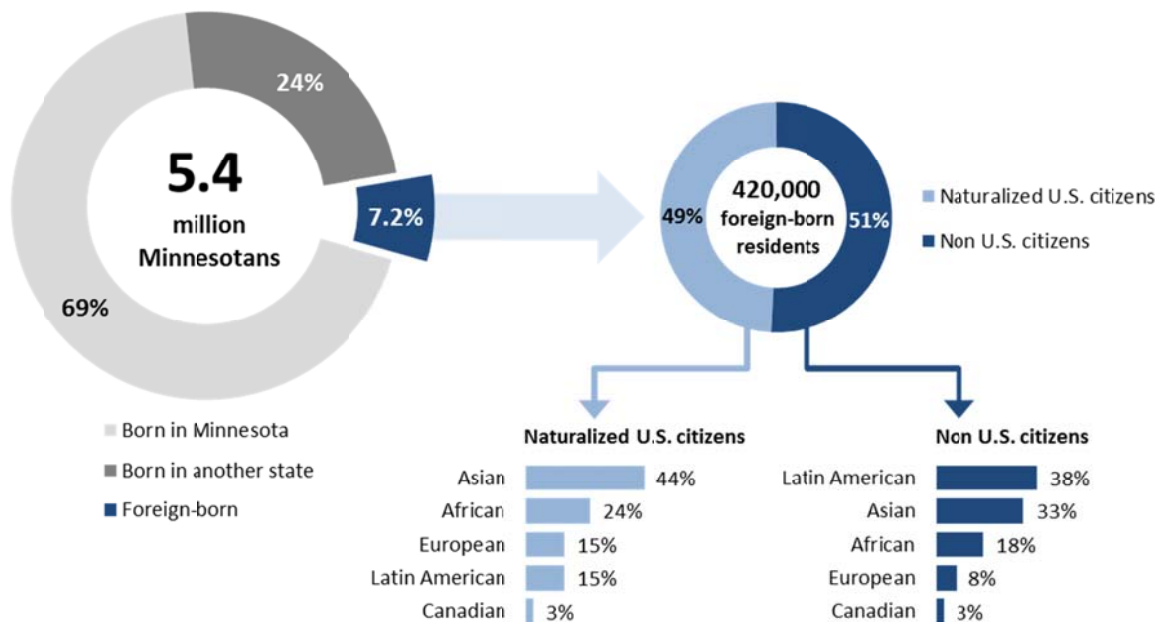
**National origin.** National origin, a protected class in Federal Fair Housing Law, can be based either on the country of an individual’s birth or where his or her ancestors originated. Census data available to analyze segregation by national origin are more limited in definition, however—they represent the foreign-born population, not ancestry.

Minnesota has several unique aspects of resident ancestry and origin. The state has the second largest population of Hmong residents in the U.S.: Of the state’s 260,000 Asian residents, more than 70,000 are Hmong. Minnesota also has a relatively large Native American population, especially relative to neighboring and other Midwestern states and many residents of African and Mexican origin, in addition to its trademark Scandinavian ancestry. About half of foreign-born residents are naturalized U.S. citizens.

100 years ago, foreign-born residents made up a much larger share than today. The State Demographer reports that, in 1920, about one in five Minnesotans was foreign-born. This compares to a much lower one in 14 residents in 2014 (7.2% of all residents, or about 428,000 people).

Figure I-14 shows the country of birth and citizenship status of Minnesotans today.

**Figure I-14.**  
**Birth and Citizen Status of Minnesotans, 2015**



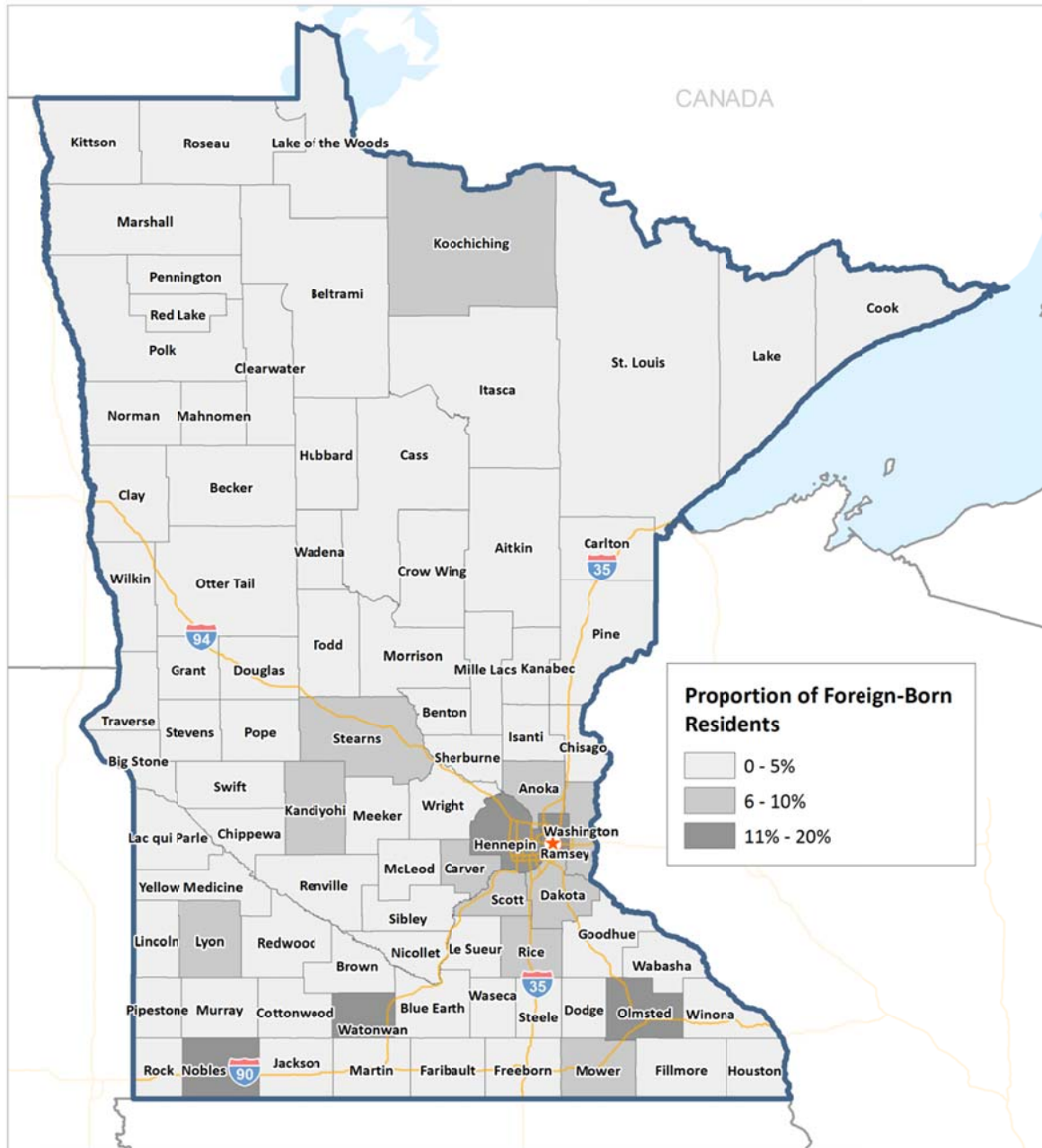
Source: 2015 1-year ACS estimates.

Foreign-born residents are most likely to live in Hennepin County. Of the approximately 420,000 foreign-born residents in the state, 38 percent live in Hennepin County. Ramsey County has the next highest portion, albeit at a much lower 19 percent. Dakota County follows at 9 percent.

Nobles, Olmsted and Watonwan Counties all have relatively high proportions of foreign-born residents—but few in numbers relative to Hennepin and Ramsey Counties. In these three counties, foreign-born residents simply make up more of the county’s overall population than other counties. Most counties in the state have fewer than 1,000 foreign-born residents.

Figure I-15 shows the proportion of foreign-born residents by county.

**Figure I-15.**  
**Foreign-born Population, by County, 2015**



Source: 2015 ACS 5-year estimates.

**Education, employment, and poverty of foreign born residents.** The education and employment status of Minnesota residents differs considerably by national origin—as well as foreign-born status. A recent analysis in the *State of Asian Pacific Minnesotans* completed by the State Demographer found that foreign-born Asian Pacific Minnesotans were more likely than Minnesotans overall to have less than a high school education—and also more likely to have a college, graduate or professional degree. Native-born Asian and Pacific Minnesotans are more likely to have a high school diploma or some college, but not a college degree. These data suggest a cultural gap in educational attainment preferences between native-born and foreign-born residents and “importing” of highly educated Asian Pacific Minnesotans. Educational attainment also varies considerably by ancestry, with Laotian, Cambodian, Hmong, and Vietnamese Minnesotans less likely to have a college degree and experiencing higher unemployment rates.

These factors all contribute to higher poverty rates for residents of certain ancestries: Nearly one-third of Minnesota’s Hmong residents live in poverty, 28 percent of Laotians, and 15 percent of Cambodians—compared to just 3.4 percent for Asian Indians. Child poverty is even more pronounced, with 39 percent of Hmong children and 37 percent of Laotian children living in poverty.<sup>3</sup>

The Twin Cities AI Addendum, completed in May 2017 as part of a settlement between fair housing advocates and jurisdictions in the Twin Cities, discusses the economic challenges and housing preferences of recent immigrants from Eastern African countries, predominantly Somalis. The Addendum reports that Somali refugees, many of whom relocated to the Twin Cities as part as refugees from a civil war in the 1990s, have been challenged with racial and religious discrimination, and face high unemployment rates. According to the Addendum, first generation Somalis have had an easier time establishing small businesses and moving into communities of their choosing; newer immigrants have faced more challenges accessing employment and housing. Schools with English as a Second Language (ESL) programs, access to their native cultural and food, and living among people who speak their language is highly valued. As such, many East African immigrants first look to neighborhoods in the urban core, where other Somalis reside, for residency.

**Tribal lands.** Minnesota has seven Anishinaabe (also known as Chippewa and Ojibwe) reservations and four Dakota (Sioux) communities. These areas have been retained by Tribal Nations of Native Americans, or American Indians, who are descendants of the original inhabitants of this area and are part of larger, original territory. Treaties with the U.S. government in the late 1800s and early 1900s established the boundaries of these lands that are commonly called “reservations.”<sup>4</sup>

Minnesota’s Chippewa Nation(s) are the second largest sovereign tribes of American Indians in the country, originating in 800 A.D. from the area today known as western New York, migrating along the Great Lakes to the places where food grows on water (wild rice), namely Canada, Wisconsin, Michigan and Minnesota. The first recorded interaction with French hunters and

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<sup>3</sup> Poverty rate is adjusted for family size. The poverty rate for a family of four is approximately \$25,000/year.

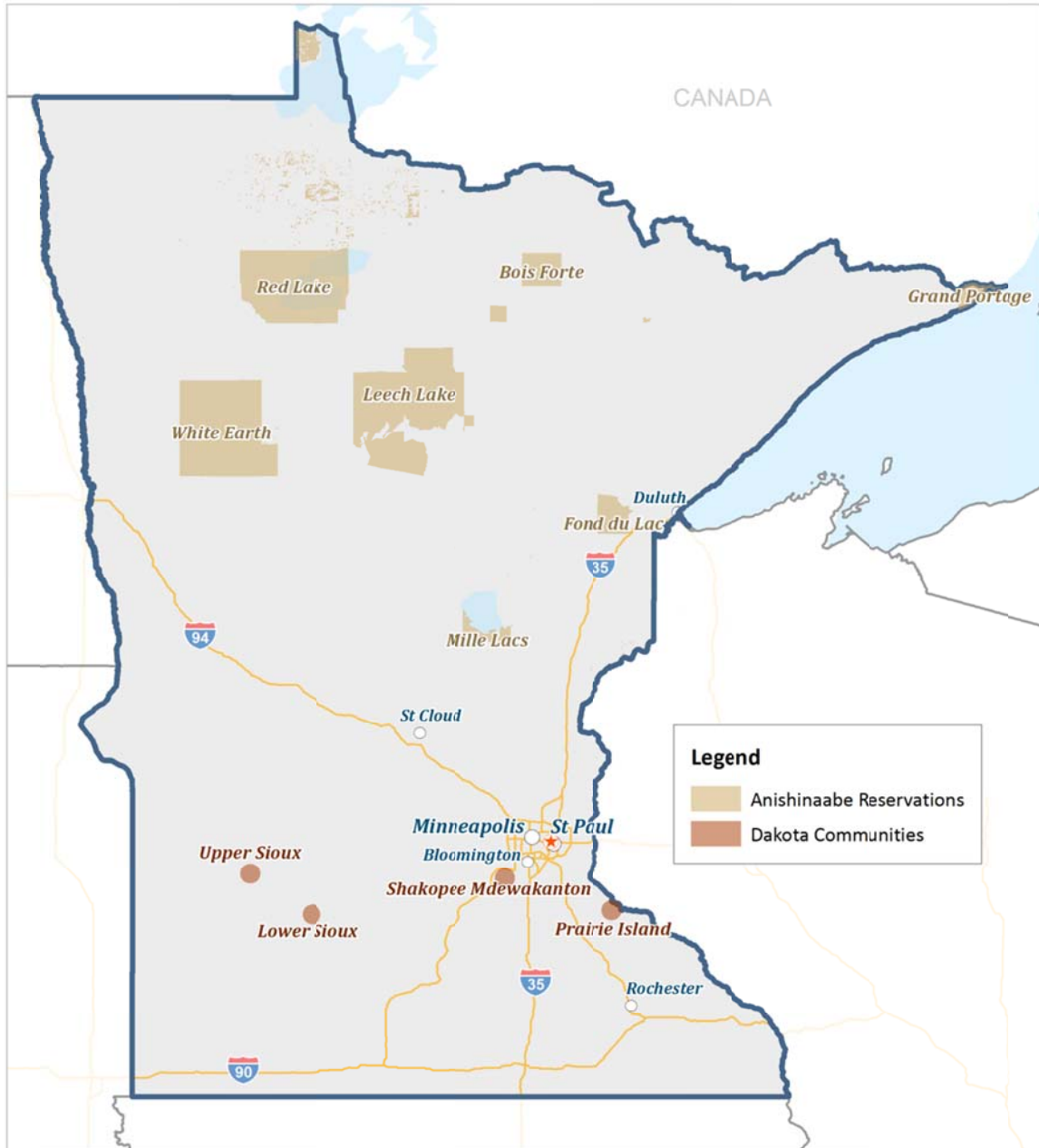
<sup>4</sup> The source of this section is the Indian Affairs Council of Minnesota.

traders occurred in the early 1600s—and many lakes, rivers, towns and cities are Chippewa named.

The U.S. government's involvement in tribal land acquisition, trading and natural resources, and federal programs to “culturally assimilate” the state's Native Americans strongly influenced settlement patterns, economic opportunity, and the cultural identity of American Indians now residing in Minnesota. The government's efforts in the 1900s consisted largely of land acquisition and dominance, including efforts to eliminate native culture among children. The federal Indian Reorganization Act of 1934 was intended to shift federal policy toward cultural appreciation and independence. This was followed by subsequent policies and acts that affirmed Native American sovereignty and rights to self- governance. These federal initiatives were perceived as a forced structure upon the Indian's system of governance—yet necessary for a relationship with the U.S. Government.

In Minnesota, these federal changes led to reorganization of some tribal communities—e.g., Minnesota's Chippewa tribe formed from six Chippewa bands—as well as formation of tribal governance structures and economic development strategies.

**Figure I-16.**  
**Tribal Nations, Minnesota, 2016**



Source: 2016 TIGER/Line Shapefile, American Indian Area Geography, prepared by the U.S. Census.

**Limited English Proficiency residents.** Statewide, more than 200,000 Minnesotans speak languages other than English. Most of these residents are also proficient in English. About 50,000, or 2.4 percent of residents, have limited English proficiency, or LEP.<sup>5</sup> LEP residents are defined as individuals living in households where no one over the age of 14 speaks English “very well,” as self-reported in Census surveys.

<sup>5</sup> Oregon’s LEP population, for comparison, is 2.9 percent.

Figure I-17 shows the most common languages spoken by Minnesotans, along with the number and percent of those speakers who are LEP.

**Figure I-17.**  
**Limited English Proficiency (LEP) Residents, 2015**

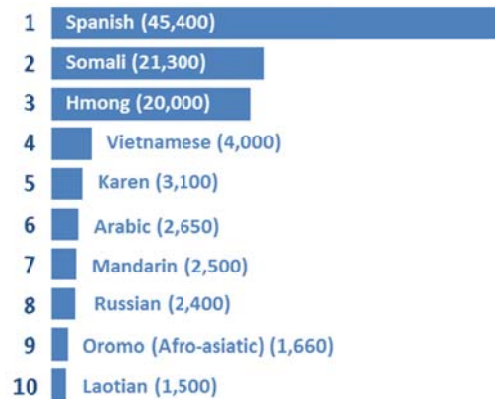
Source:  
 2015 5-Year ACS estimates.



Figure I-18 shows languages other than English most commonly spoken by Minnesota's schoolchildren based on 2015-2016 school enrollment data.

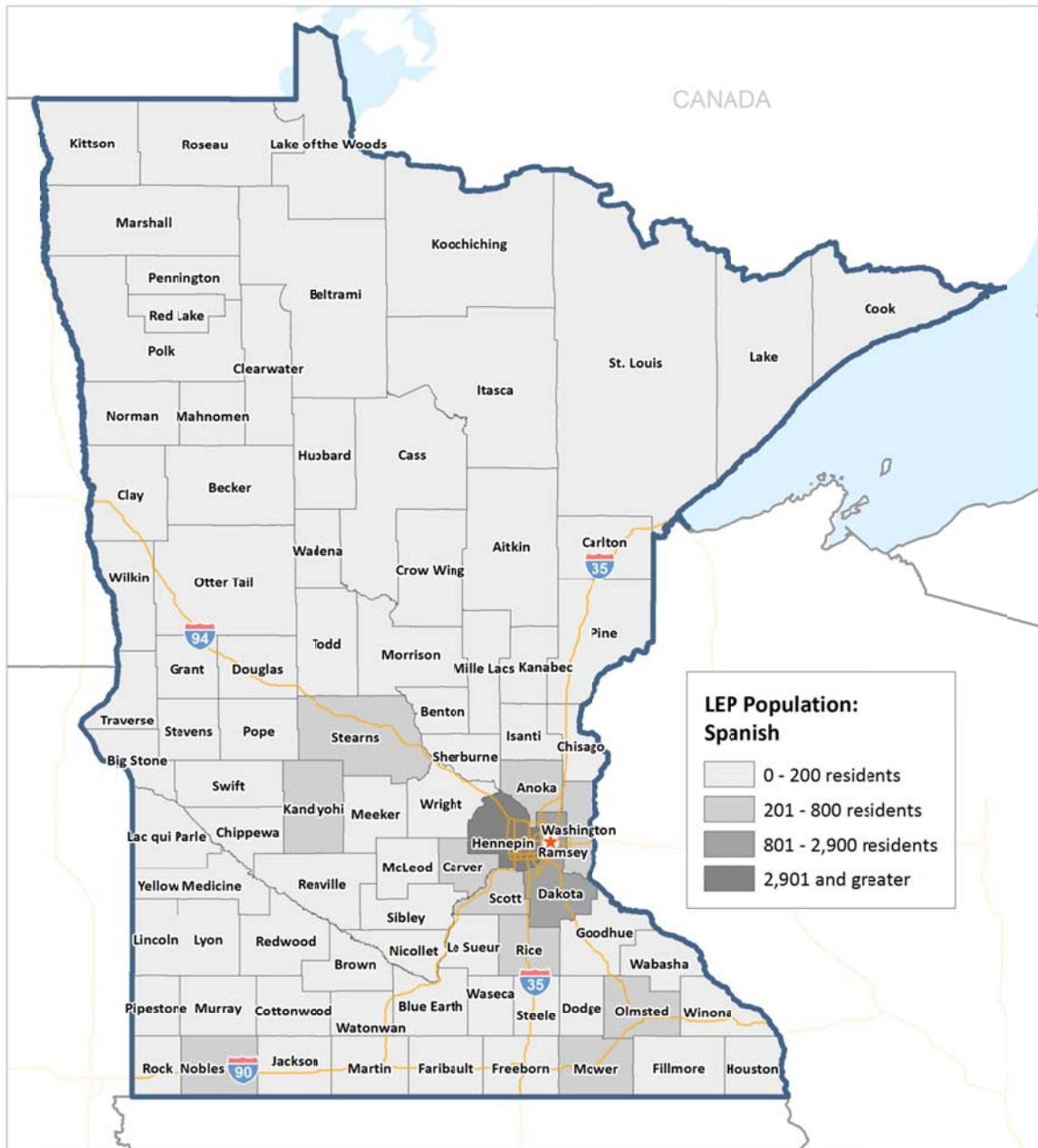
**Figure I-18.**  
**Ten Most Common Languages other than English Spoken by Minnesota School Children, 2015-2016 School Year**

Source:  
 Minnesota State Demographer.



The following maps show the location of LEP residents by language spoken for the three most common languages other than English spoken by Minnesotans: Spanish, Indo-European languages, and Asian languages.

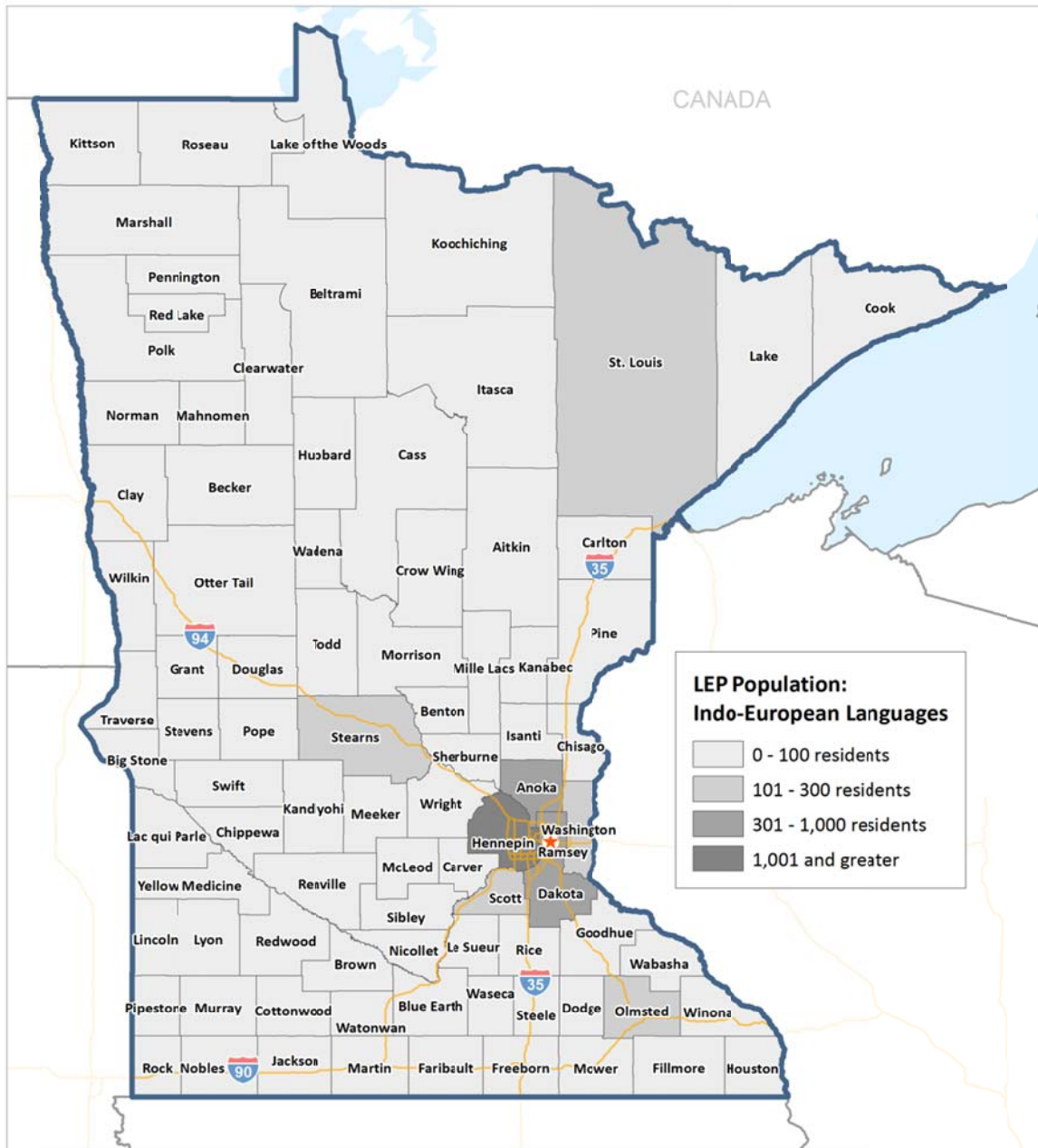
**Figure I-19.**  
**LEP Residents that Speak Spanish, by County, 2015**



Source: 2015 5-Year ACS estimates.

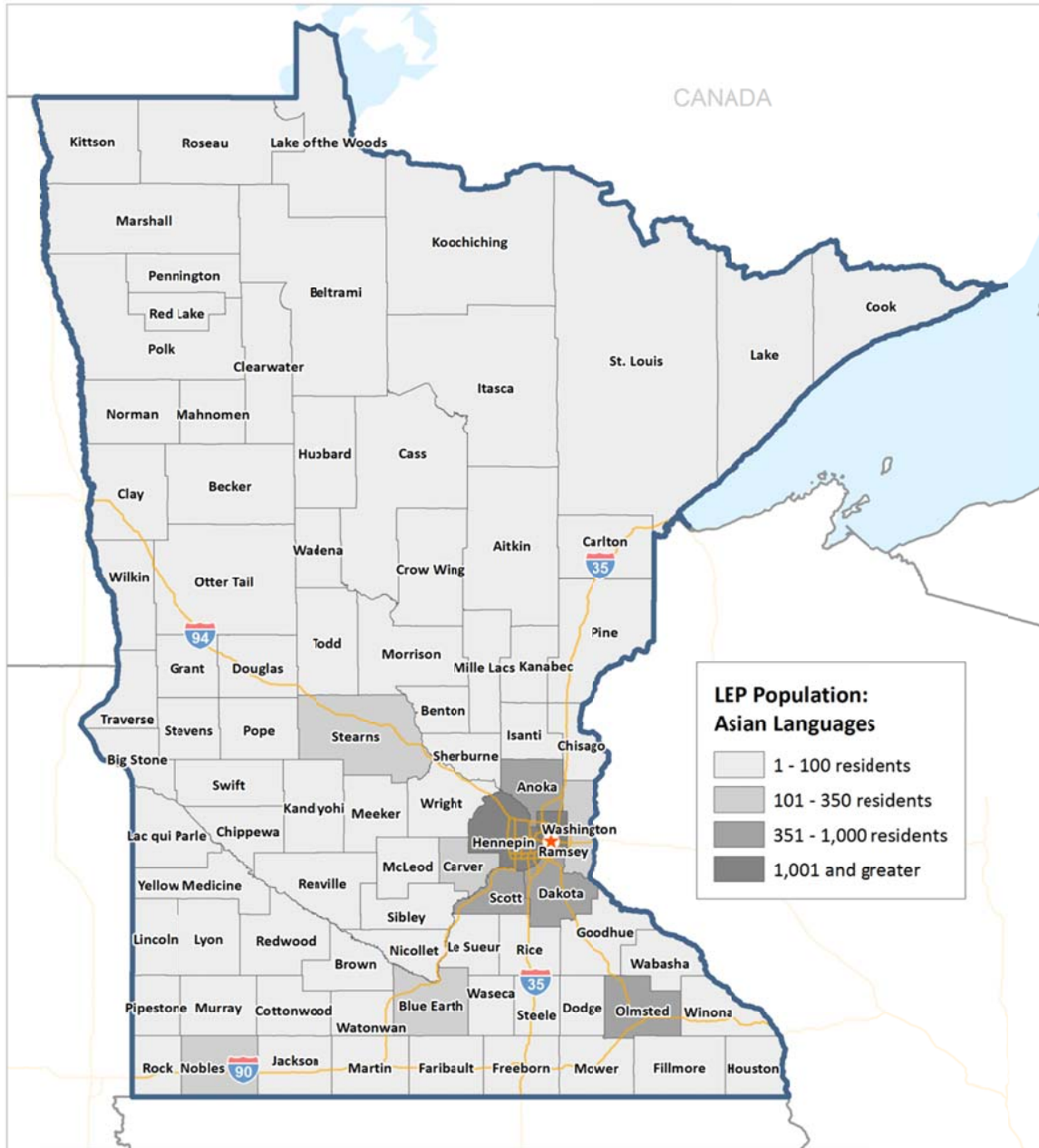


**Figure I-20.**  
**LEP Residents that Speak Indo-European Languages, by County, 2015**



Source: 2015 5-Year ACS estimates.

**Figure I-21.**  
**LEP Residents that Speak Asian Languages, by County, 2015**



Source: 2015 5-Year ACS estimates.

**Single parents and large families.** Federal familial status protections apply to families with children, a person who is pregnant, and anyone in the process of securing legal custody of any individual who has not attained the age of 18 years. Although all families with children are protected under federal law, this section focuses on the two family types that typically face the greatest housing challenges: single parent households and large families.

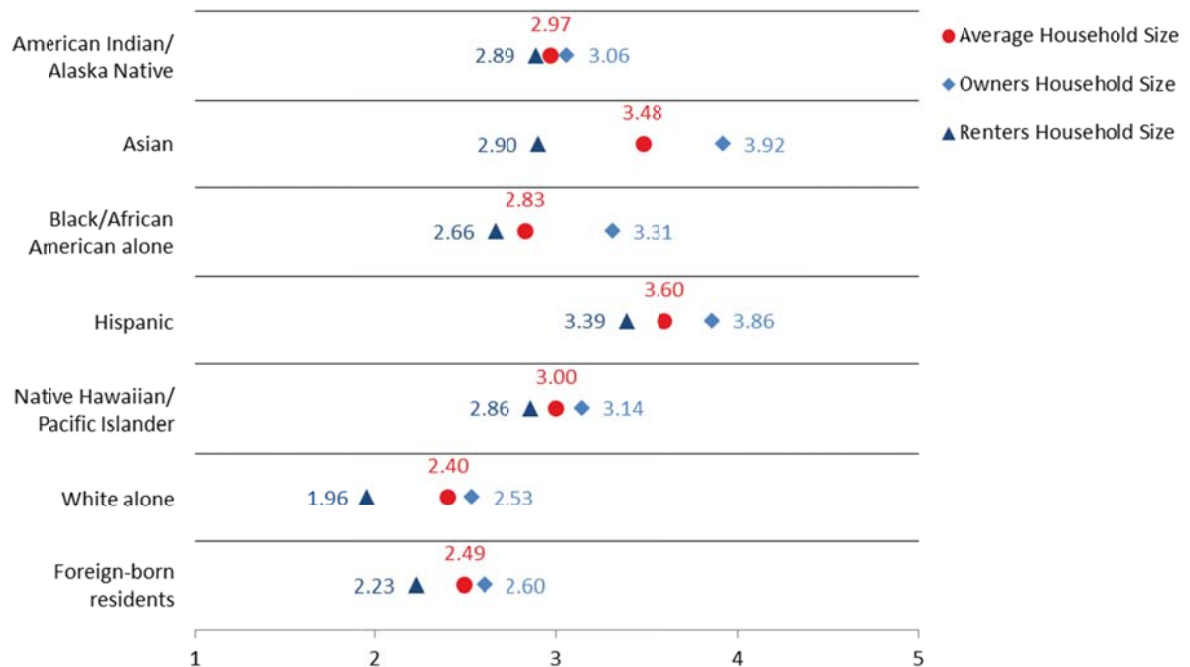
Single parent households—especially those with single mothers—have some of the highest rates of poverty in most communities. As such, they generally have greater needs for social services

(child care, transportation, etc.). Single parent households often have fewer choices in the housing market—and a higher need for affordable housing—because of their lower income levels and need for family-friendly housing (larger units, proximity to schools, near parks/playgrounds).

Single parent households with children are most likely to be headed by mothers: in Minnesota, 72 percent of all single parent households are female-headed.

Large households (5 or more household members) also have difficulty finding homes, especially rentals that meet their affordability and size needs. Some residents are more likely to have larger families and experience challenges finding housing of appropriate size. Figure I-22 shows the average household size of Minnesota residents by race, ethnicity, and for residents born outside of the U.S. In Minnesota, Asian and Hispanic residents have the largest average households. It is important to note that large households don't always include families with many children; it is common in many cultures and a growing trend in all communities to live with extended family (e.g., mothers residing with grown children after they are widowed).

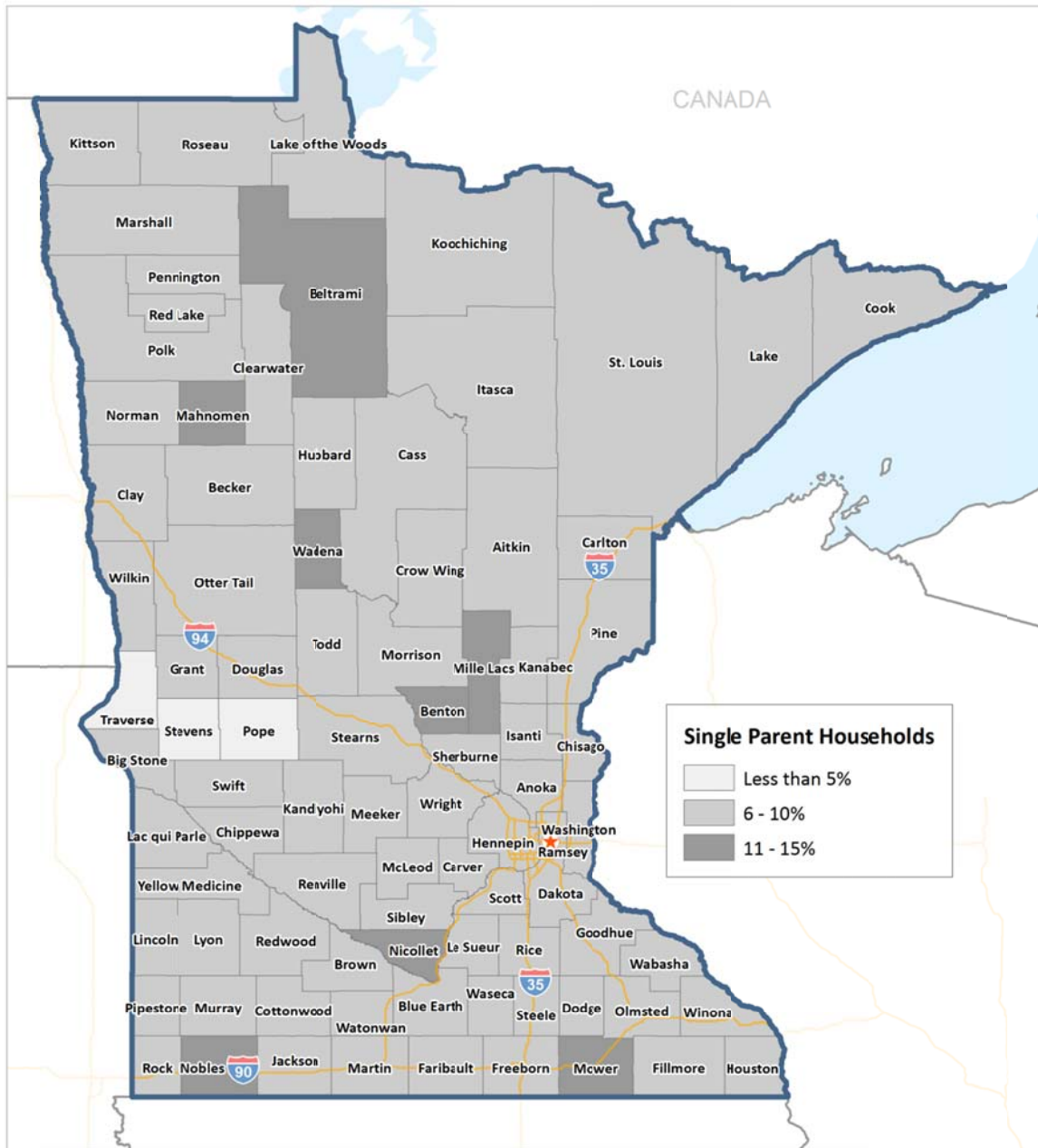
**Figure I-22.**  
**Average Household Size by Race and Ethnicity, State of Minnesota, 2010**



Source: 2010 Census and 2015 ACS 5-year (foreign-born only).

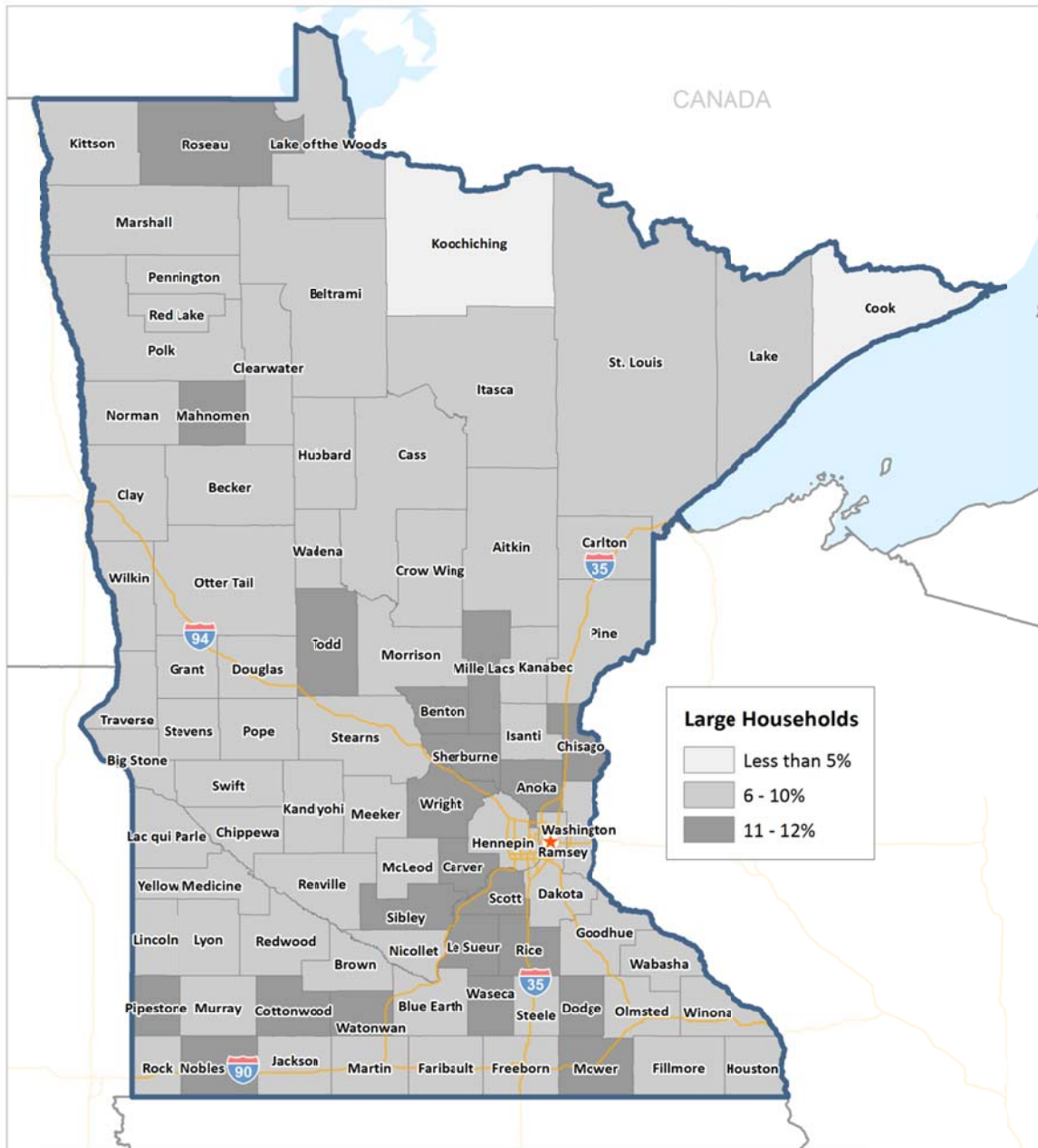
Figures I-23 and I-24 show the proportions of single and large households by county. Overall in Minnesota, 8 percent of households are made up of single parents and 7.6 percent are large.

**Figure I-23.**  
**Proportion of Single Parent Households, State of Minnesota, 2015**



Source: 2015 5-Year ACS estimates.

**Figure I-24.**  
**Proportion of Large Households, State of Minnesota, 2015**



Source: 2015 5-Year ACS estimates.

**Disability.** Persons with disabilities are typically more vulnerable to housing discrimination due to housing providers’ lack of knowledge about reasonable accommodation provisions in fair housing laws. Persons with disabilities also face challenges finding housing that is affordable, accessible, and located near transit and supportive services.

Approximately 600,000 Minnesotans have a disability. The incidence of disability is about the same for males and females in the state, but varies by race, ethnicity, and age. Native Americans have the highest incidence of disability; Asians have the lowest.

As shown in the figure below, the incidence of disability increases dramatically for residents age 75 and older. Yet the relationship between age and disability varies by disability: vision and cognitive disabilities are the most similar across age groups; ambulatory difficulty varies the most.

**Figure I-25.**  
**Incidence of Disability by Age, State of Minnesota, 2015**

| Type of disability            | Under 5 years |         | 5-17 years  |         | 18-34 years |         |
|-------------------------------|---------------|---------|-------------|---------|-------------|---------|
|                               | Number        | Percent | Number      | Percent | Number      | Percent |
| Hearing difficulty            | 1,550         | 0.04%   | 4,501       | 0.50%   | 10,488      | 0.80%   |
| Vision difficulty             | 1,244         | 0.04%   | 4,899       | 0.50%   | 7,629       | 0.60%   |
| Cognitive difficulty          | 36,982        | 4.00%   | 45,065      | 3.60%   | 45,065      | 3.60%   |
| Ambulatory difficulty         | N/A           | N/A     | N/A         | N/A     | 120,809     | 3.60%   |
| Self care difficulty          | N/A           | N/A     | N/A         | N/A     | 9,632       | 0.80%   |
| Independent living difficulty | N/A           | N/A     | N/A         | N/A     | 28,004      | 2.30%   |
| Type of disability            | 35-64 years   |         | 65-74 years |         | 75 years+   |         |
|                               | Number        | Percent | Number      | Percent | Number      | Percent |
| Hearing difficulty            | 57,014        | 2.70%   | 45,042      | 10.10%  | 74,783      | 22.90%  |
| Vision difficulty             | 33,970        | 1.60%   | 12,977      | 2.90%   | 23,411      | 7.20%   |
| Cognitive difficulty          | 91,757        | 4.30%   | 19,204      | 4.30%   | 34,241      | 10.50%  |
| Ambulatory difficulty         | 108,162       | 5.10%   | 52,348      | 11.70%  | 88,981      | 27.30%  |
| Self care difficulty          | 36,839        | 1.70%   | 15,352      | 3.40%   | 34,924      | 10.70%  |
| Independent living difficulty | 74,147        | 3.50%   | 23,841      | 5.30%   | 66,705      | 20.40%  |

Source: 2015 ACS 5-Year estimates.

**Poverty.** Minnesota has a higher median household income than the nation as a whole—as well as a lower poverty rate. The State Demographer reported the state’s poverty rate at 11.5 percent in 2014; this compares to 14.8 percent for the U.S. overall. Minnesota typically falls within the top 10 to 15 states for highest household median income when annual Census data are released.

Approximately 600,000 Minnesotans live in poverty, according to the State Demographer. Of these residents, 189,000 are children and 56,000 are seniors. More than four in 10 Black/African American and Native American children in Minnesota lived in poverty in 2014, as well as three in 10 Hispanic children.

Within the Twin Cities, poverty rates are the highest in Minneapolis (23%) and St. Paul (also 23%) and lowest in Woodbury (3.5%). According to the 2017 AI Addendum for the Twin Cities region, in some areas of the region poverty is generally low for all racial and ethnic groups (Woodbury, Minnetonka, Blaine). But in some low-poverty cities (Edina, Maple Grove, St. Louis Park), the poverty rates of some minority groups exceed the cities’ overall rate. This could be related to the cities’ level of affordability and diversity of housing stock, and displacement of minority groups from the central cities due to rising housing costs.

The following map shows the poverty rate for every Census tract, or neighborhood, in the state. Areas outlined in blue have poverty rates that exceed 40 percent. National research has identified neighborhoods with poverty levels exceeding 40 percent as the most challenged

economically; these are often areas that could benefit the most from concerted efforts to increase employment and educational opportunities. Due to lack of investment, high poverty environments are also much more likely to lack healthy food and recreational opportunities, leading to food insecurity among children and long term health challenges and costs.<sup>6</sup>

This identification is not meant to label these areas as problematic or lacking in community or culture—but, rather, to show which neighborhoods in the state are the most in need of economic support.

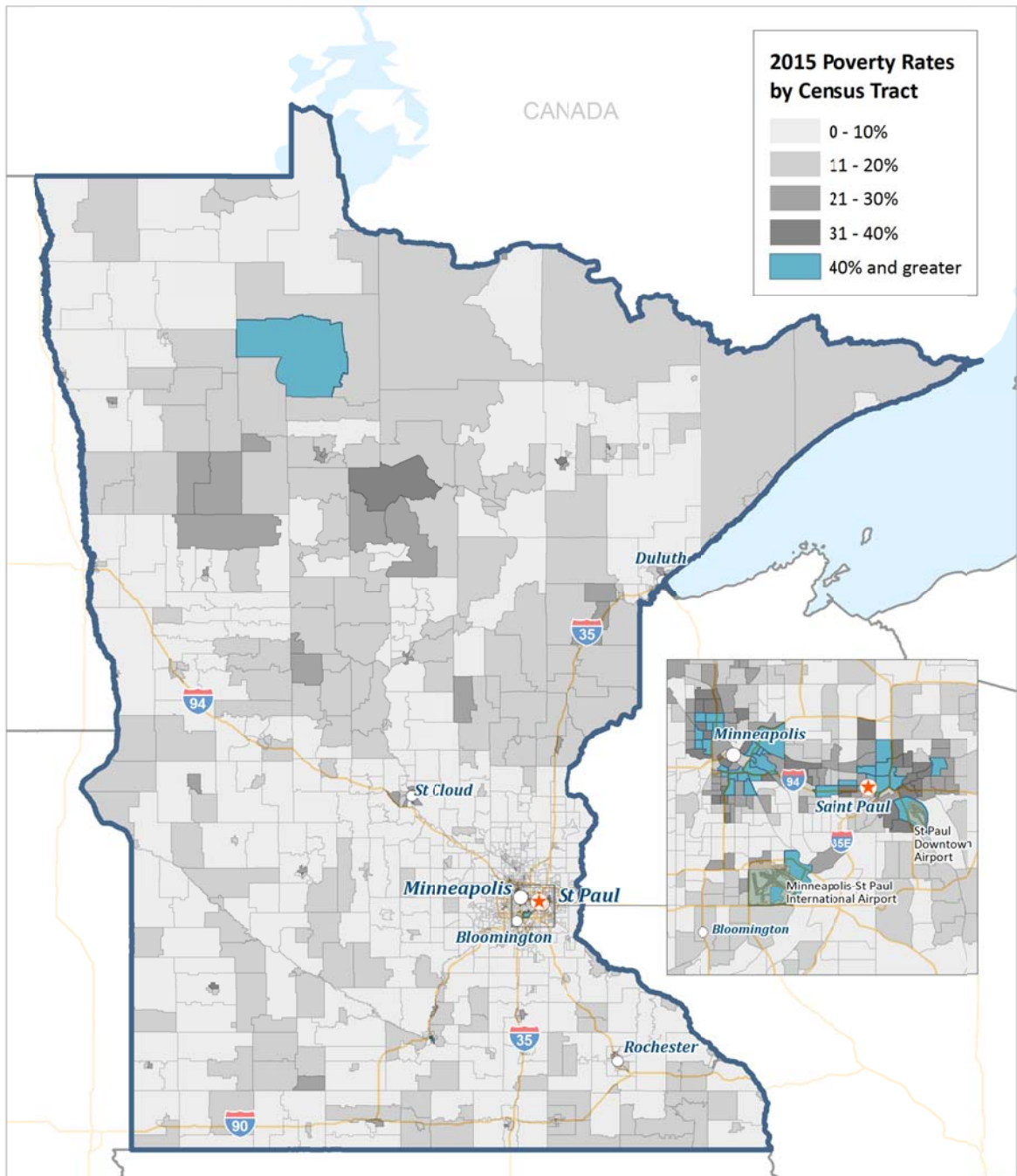
Of the 1,337 Census tracts in the state, 46 have poverty rates exceeding 40 percent. Another five Census tracts have poverty rates of 39 percent. These represent fewer than 4 percent of all Census tracts in the state. Approximately 140,000 Minnesotans live in these neighborhoods and 70,000 earn incomes below the poverty threshold.

Of the 46 high-poverty Census tracts, about half (21) are located in Hennepin County. Another 12 are located in Ramsey County. The balance is distributed among other counties, mostly in the Duluth area and/or on or near Native American reservations (most notably the large blue tract in the northern portion of the state): Seven are located in St. Louis County, two are located in Blue Earth County, two in Stearns County, one in Beltrami County, and one in Winona County.

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<sup>6</sup> Understanding the Link between Poverty and Food Insecurity among Children: Does the Definition of Poverty Matter? Vanessa Wright, et. al., *Journal of Children and Poverty*, 1-20. 2014.

**Figure I-26.**  
**Poverty Concentrations, State of Minnesota, 2015**



Note: The poverty threshold is adjusted for family size. The poverty rate for a family of four is approximately \$25,000/year. Areas with high proportions of college students will show as high poverty areas when students report residency in the state.

Source: 2015 ACS 5-Year Estimates.



To support entitlement area fair housing analyses, HUD's AFFH tool maps were examined at the regional level for poverty, race, and ethnicity overlaps.<sup>7</sup> These maps are appended to this AI. In general, the maps indicate that, in the state's entitlement areas, high-poverty neighborhoods have slightly more residents who are non-white and/or Hispanic than in low-poverty neighborhoods.

## Segregation/Integration Analysis

This section discusses racial and ethnic segregation/integration in Minnesota. According to HUD, "segregation" occurs when concentrations of protected classes are concentrated as a result of fair housing barriers. HUD defines "integrated" geographic areas as those which do not contain high concentrations of protected classes when compared to the representation in a jurisdiction as a whole: "Integration" is a "condition...in which there is not a high concentration."<sup>8</sup>

**Metrics.** This analysis uses several measures to identify segregation:

**Geospatial analysis**, or examining patterns in maps, is the first step in identifying concentrations of residents by protected class (race, ethnicity, national origin, familial status, and disability). Geospatial analysis is conducted by Census tract for every Census tract in the state. The data represent the 2011-2015 5-year period and is the latest data available for all counties in Minnesota.

The geospatial analysis at the state level uses two definitions of "concentrations:"

- Census tracts in which residents are more than 50 percent non-white and/or Hispanic. This definition is consistent with HUD's definition of a "majority minority" area. HUD recommends identifying these areas as a starting point for segregation analyses and recognizes that this definition is most appropriate for metropolitan and micropolitan areas.
- For non-metropolitan or micropolitan areas, Census tracts that are more than 20 percent non-white and/or Hispanic.

The **Dissimilarity Index (DI)** measures the evenness of minority resident distribution compared to non-Hispanic white residents across Census tracts in a county.

A new component of fair housing studies is an analysis of "**racially or ethnically concentrated areas of poverty**," or R/CAPs and E/CAPs. A Racially Concentrated Area of Poverty or an Ethnically Concentrated Area of Poverty is a neighborhood with a poverty rate of 40 percent and a racial and ethnic concentration.

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<sup>7</sup> Such maps were not available at the state level when this report was produced.

<sup>8</sup> Affirmatively Furthering Fair Housing Rule Guidebook, Version 1, December 31, 2015, U.S. Department of Housing and Urban Development.

HUD's definition of a Racially/Ethnically Concentrated Area of Poverty is:

- A census tract that has a non-white population of 50 percent or more (majority-minority) or, for non-urban areas, 20 percent, AND a poverty rate of 40 percent or more; OR
- A census tract that has a non-white population of 50 percent or more (majority-minority) AND the poverty rate is three times the average tract poverty rate for the county, whichever is lower.

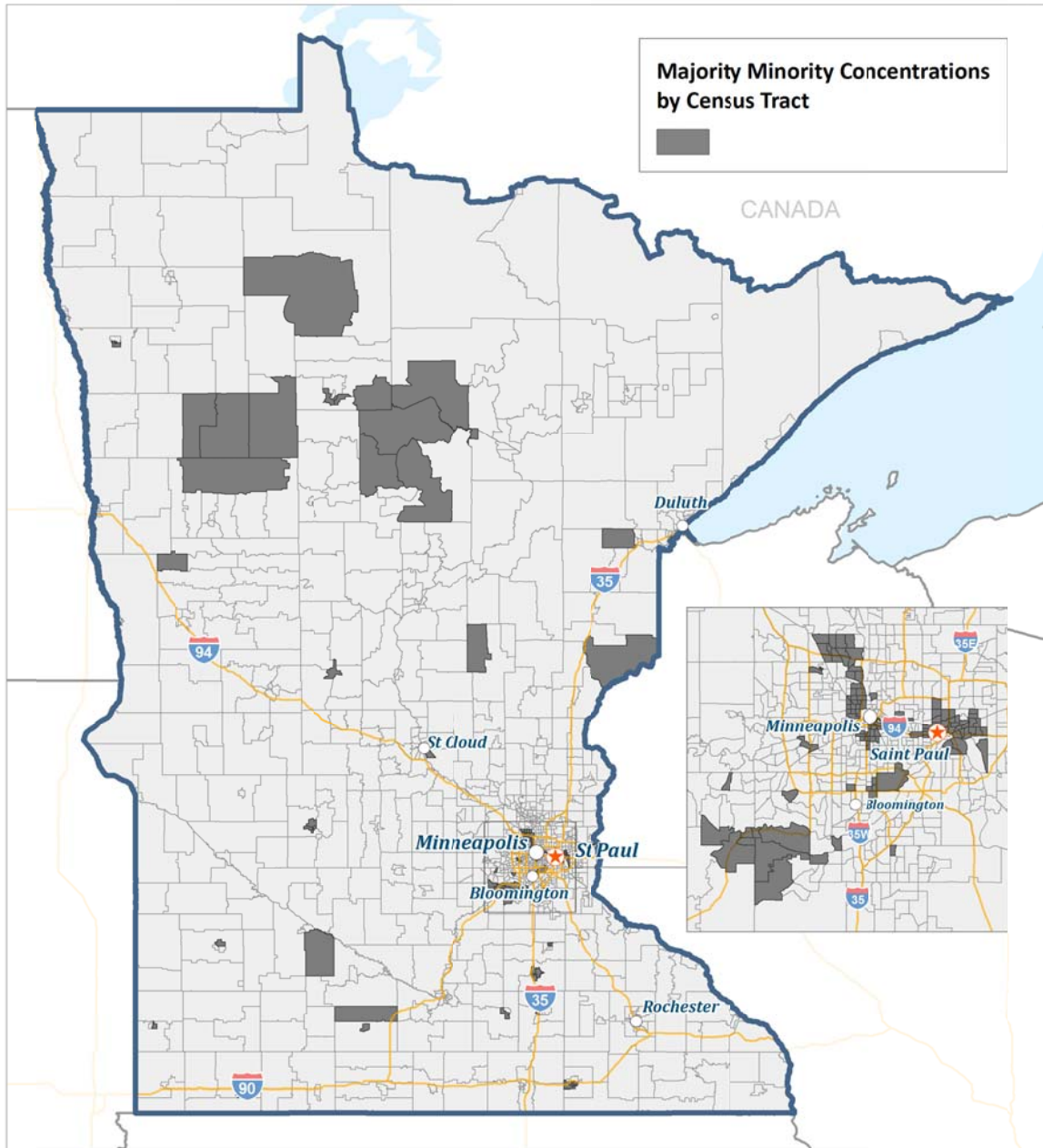
It is very important to note that R/ECAPs are not areas of focus because of racial and ethnic concentrations; rather, they are of interest due to their characteristic of high poverty, which can limit economic opportunity for the residents in these neighborhoods. We recognize the value of racial and ethnic enclaves and acknowledge that they are a part of fair housing choice if they occur in a non-discriminatory market. This analysis should not be interpreted to suggest that moving residents away from R/ECAPs is a desired outcome. Instead, investing in R/ECAPs where needed and expanding housing opportunities in neighborhoods where they do not exist—a “balanced approach”—is the most equitable outcome. To that end, this analysis of R/ECAPs is meant to identify areas where residents may have historically faced discrimination and continue to be challenged by limited economic opportunity.

**Racial/ethnic concentrations.** Figure I-27 shows where majority minority areas occur in Minnesota. It applies the 50 percent threshold for metropolitan areas and micropolitan areas with populations of more than 100,000 and the 20 percent threshold for all other counties.<sup>9</sup>

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<sup>9</sup> The 50 percent threshold, metropolitan definition, is applied to Anoka, Dakota, Hennepin, Olmsted, Ramsey, Stearns, St. Louis, and Washington Counties.

**Figure I-27.**  
**Majority Minority Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year Estimates.

The following maps show concentrations for individual racial and ethnic categories at the Census tract level. For these maps, a concentration exists if the proportion of the racial or ethnic group in a Census tract is 20 percentage points more than that of the county overall. This provides a measure of diversity relative to an individual county's racial and ethnic makeup rather than to a pre-defined measure that may not reflect each county's unique demographics.<sup>10</sup>

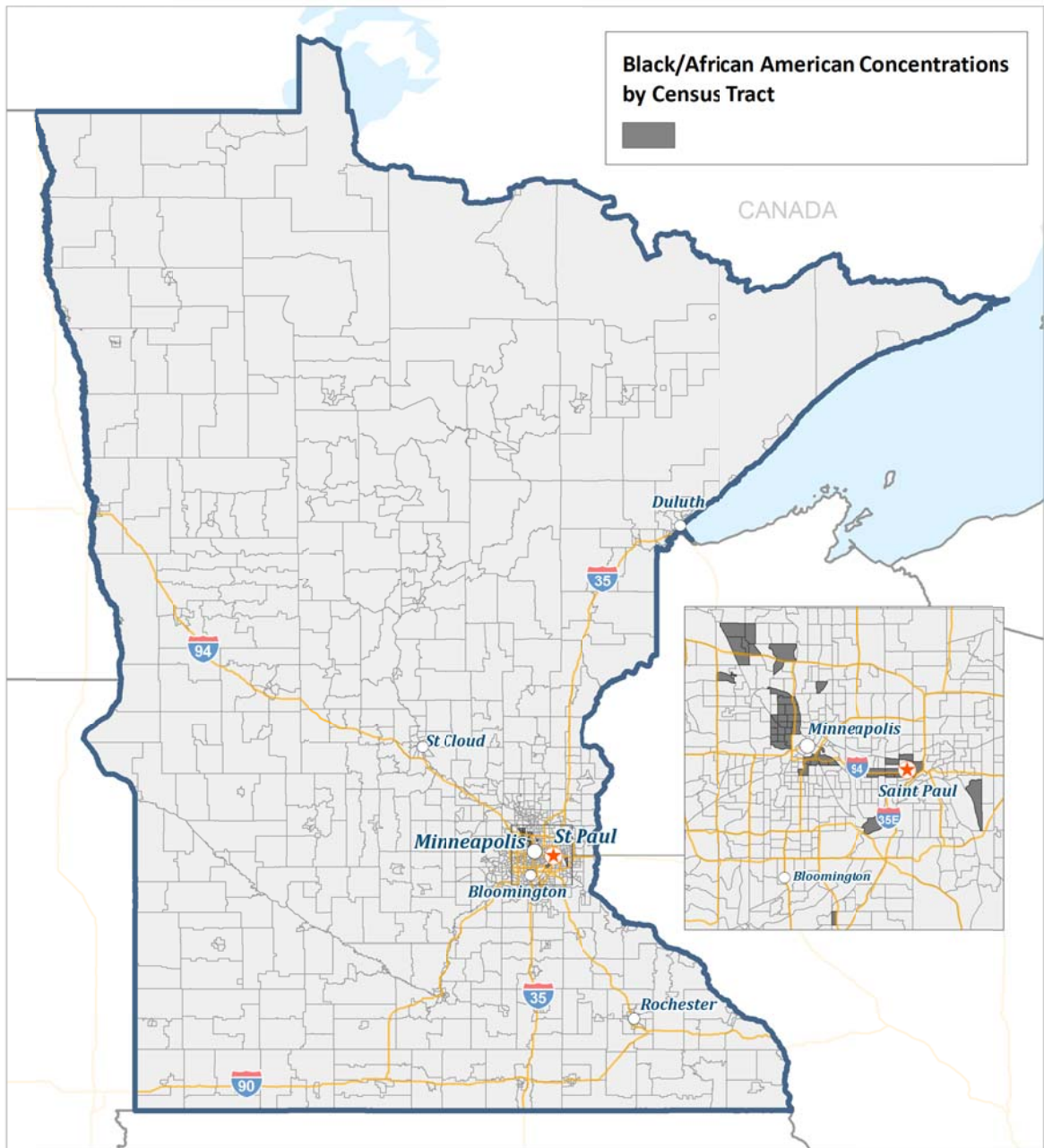
Overall, in Minnesota, there are:

- 161 Census tracts where the non-white and/or Hispanic population exceeds 50 percent;
- 49 Census tracts with Black/African American concentrations;
- 15 Census tracts with Asian concentrations;
- 24 Census tracts with Hispanic concentrations;
- 6 Census tracts with Native American concentrations; and
- 78 Census tracts with white concentrations.

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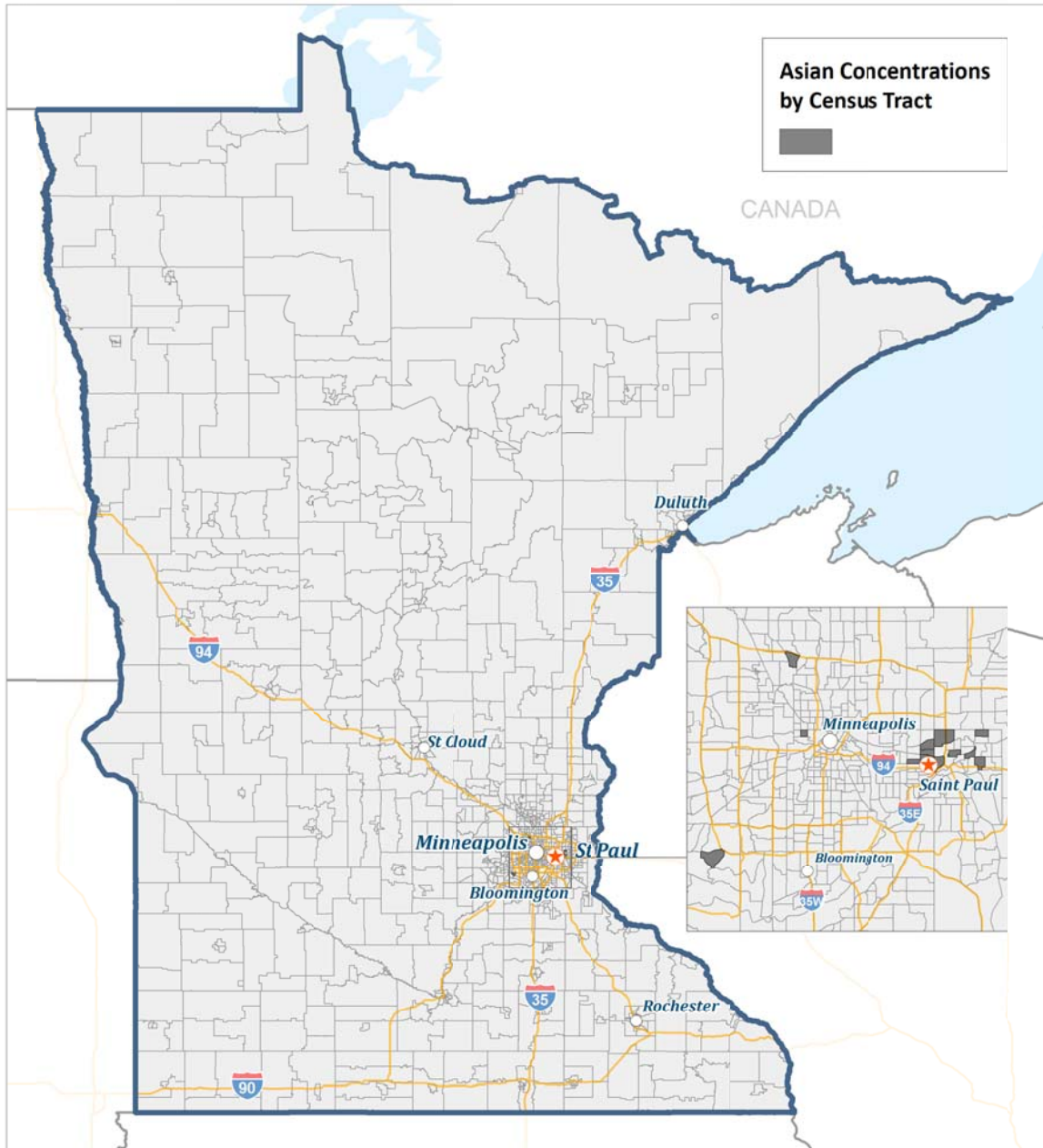
<sup>10</sup> There were no concentrated neighborhoods for Native Hawaiian and Pacific Islanders or Other Race categories.

**Figure I-28.**  
**Black/African American Concentrations, State of Minnesota, 2015**



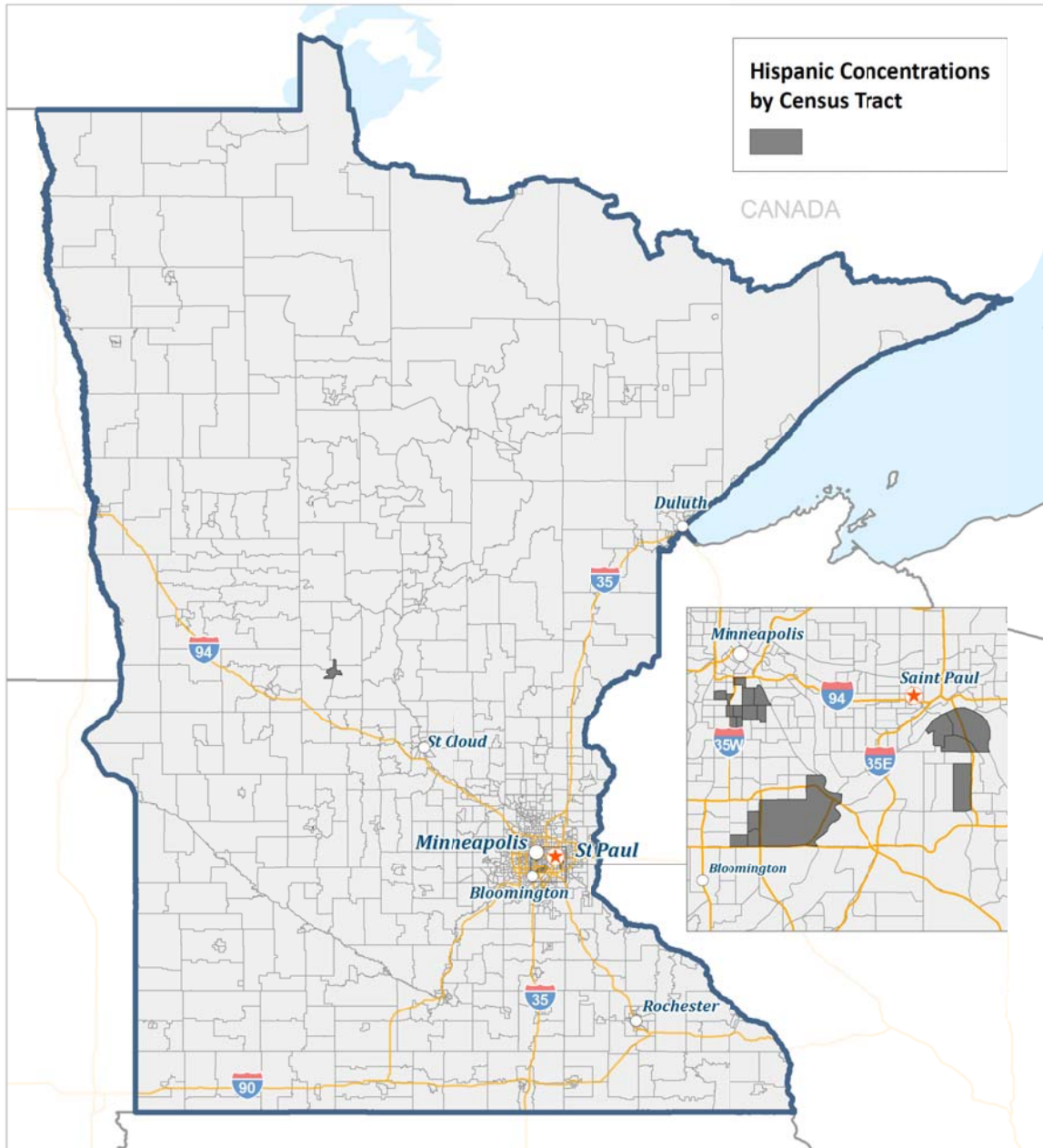
Source: 2015 ACS 5-Year Estimates.

**Figure I-29.**  
**Asian Concentrations, State of Minnesota, 2015**



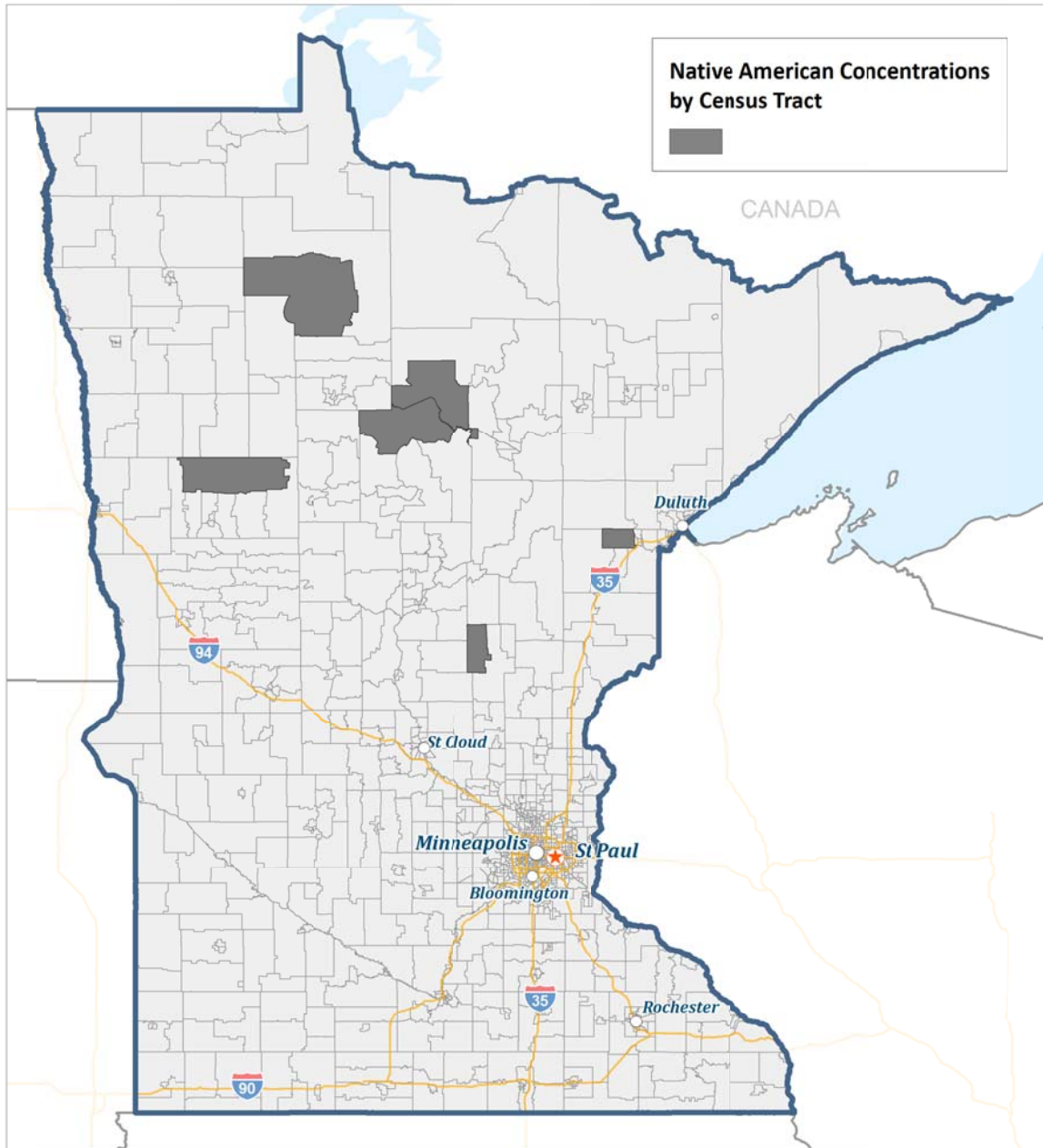
Source: 2015 ACS 5-Year Estimates.

**Figure I-30.**  
**Hispanic Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year Estimates.

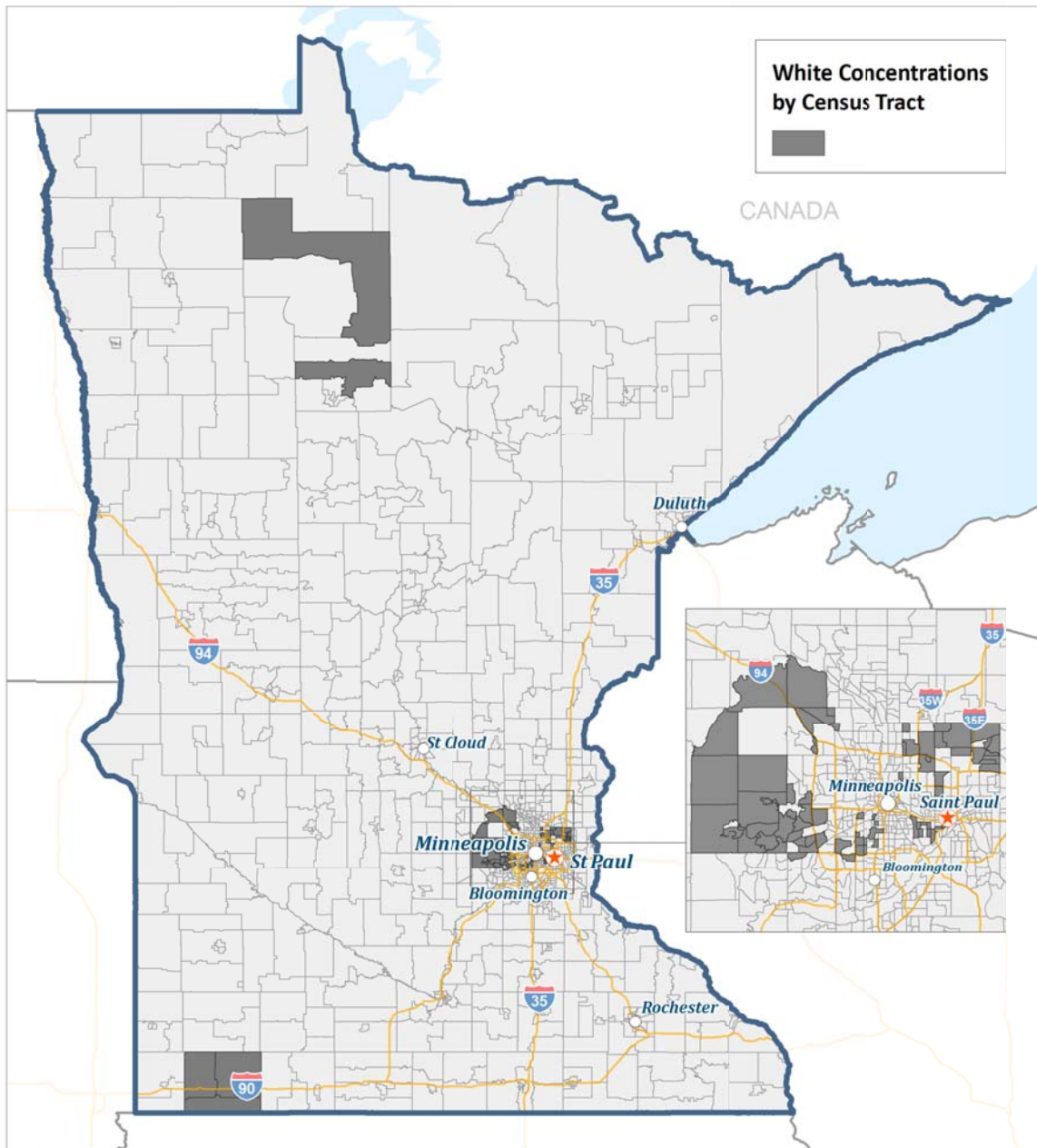
**Figure I-31.**  
**Native American Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year Estimates.



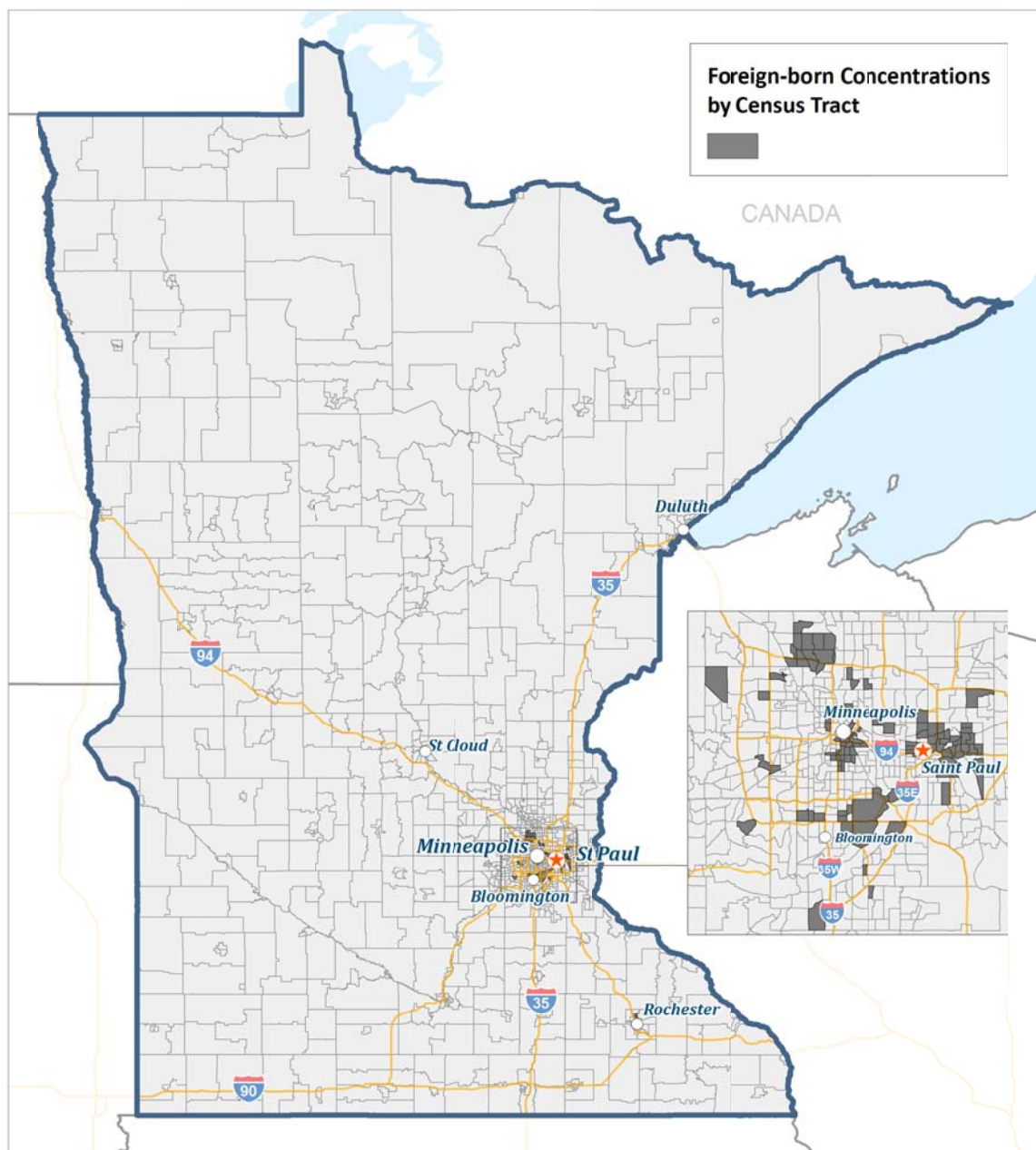
**Figure I-32.**  
**White Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year Estimates.

**Foreign-born concentrations.** Figure I-33 shows where concentrations of persons born in foreign countries occur (a proxy for national origin), using the 20 percent threshold definition. No Census tracts in the state have more than 50 percent of residents with a disability—although some Census tracts were close (ranging between 40 and 48 percent) and all located in Hennepin and Ramsey Counties.

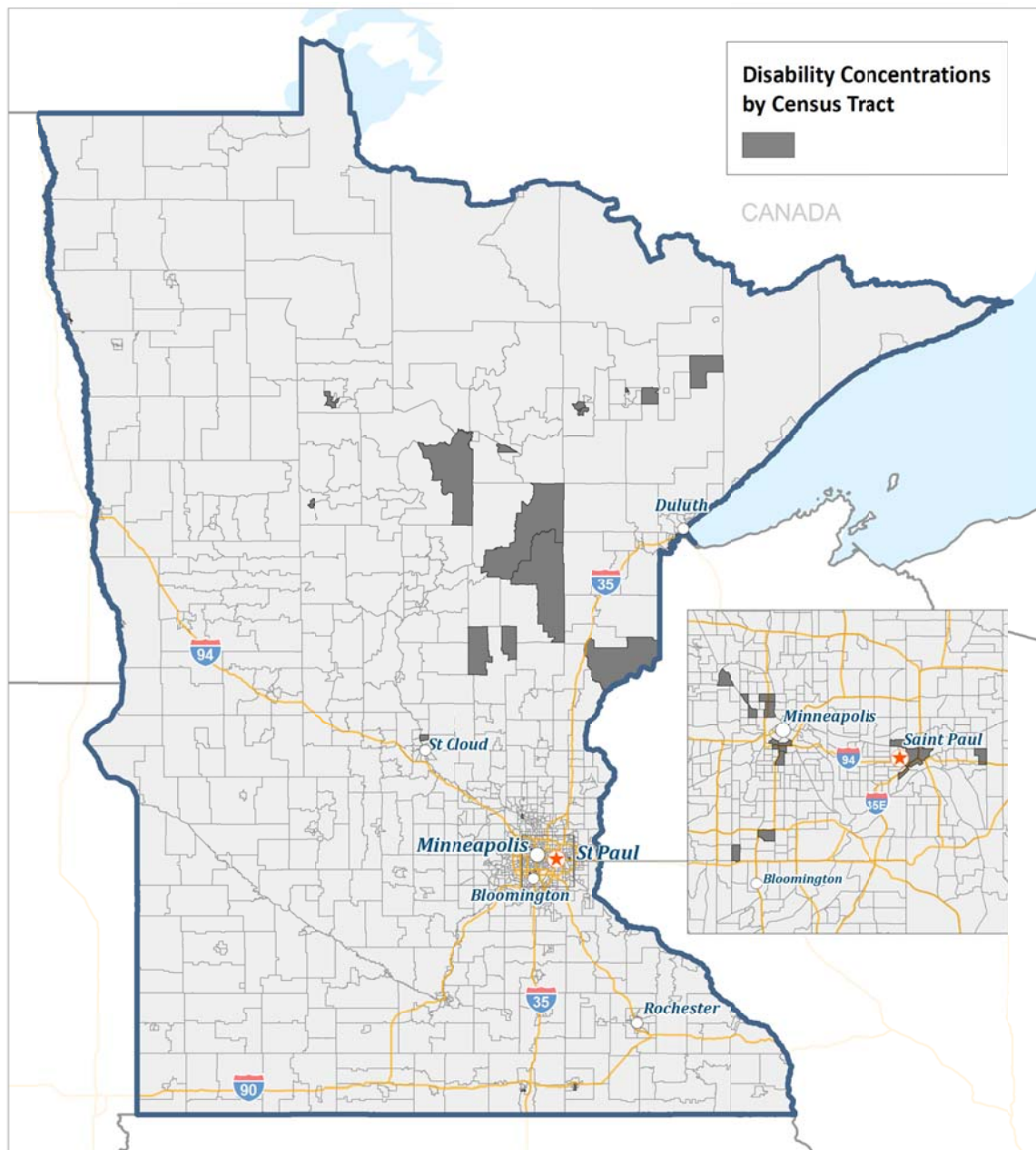
**Figure I-33.**  
**Foreign-Born Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year estimates.

**Disability concentrations.** Figure I-34 shows where concentrations of persons with disabilities occur, using the 20 percent threshold definition. No Census tracts in the state have more than 50 percent of residents with a disability.

**Figure I-34.**  
**Disability Concentrations, State of Minnesota, 2015**



Source: 2015 ACS 5-Year estimates.

**Dissimilarity index.** The dissimilarity index is a metric used by researchers to measure racial and ethnic integration. The index is measured between 0 and 1. An index of 0 indicates perfect distribution of racial and ethnic groups across all Census tracts in a region; conversely, an index of 1 indicates complete segregation of racial groups across the region. HUD’s ratings of dissimilarity are determined by the following score ranges: “Low Dissimilarity”—below 0.40; “Moderate”—between 0.40 and 0.54; and “High”—above 0.54. The U.S. cities found to be the most segregated using the dissimilarity index (Milwaukee, New York, and Chicago) have indices approaching 0.8.

Figure I-35 on the following page presents the dissimilarity index for Minnesota’s counties.

The index for non-white and/or Hispanic (“minority”) populations is high only in Cass County and moderate in Becker, Beltrami, Hennepin, Kandiyohi, Nobles, Ramsey, and Todd Counties.

There is significantly more variation in the index when racial and ethnic groups are examined in isolation:<sup>11</sup>

- The DI for Hispanic/non-Hispanic white difference is high in Brown, Lake of the Woods, and Todd Counties.
- The DI for Black/African American/non-Hispanic white difference is high in Clearwater, Freeborn, Kandiyohi, Lake, Le Sueur, Lyon, Morrison, Pipestone, St. Louis, Sherburne, Stearns, and Watonwan Counties.
- The DI for Asian/non-Hispanic white difference is high in Big Stone, Carlton, Chippewa, Murray, Otter Tail, Pipestone, Redwood, Roseau, and Watonwan Counties.
- The DI for Native American/non-Hispanic white difference is high in Becker, Beltrami, Blue Earth, Carlton, Carver, Cass, Chippewa, Chisago, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Itasca, Jackson, Kandiyohi, Lac qui Parle, Lake of the Woods, Lyon, McLeod, Marin, Meeker, Mille Lacs, Mower, Murray, Nicollet, Nobles, Olmstead, Ramsey, Rice, Steele, Swift, Waseca, Washington, and Yellow Medicine Counties.

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<sup>11</sup> This is because grouping the non-white and/or Hispanic categories together diffuses the distribution patterns of individual races and ethnicities.

**Figure I-35.**  
**Dissimilarity Index by County, State of Minnesota, 2015**

| County            | Minority/NHW        |          | Hispanic/NHW        |          | Black/African American/NHW |          | Asian/NHW           |          | Native American/NHW |          | Multirace/NHW       |          |
|-------------------|---------------------|----------|---------------------|----------|----------------------------|----------|---------------------|----------|---------------------|----------|---------------------|----------|
|                   | Dissimilarity Index |          | Dissimilarity Index |          | Dissimilarity Index        |          | Dissimilarity Index |          | Dissimilarity Index |          | Dissimilarity Index |          |
|                   | Index               | Rating   | Index               | Rating   | Index                      | Rating   | Index               | Rating   | Index               | Rating   | Index               | Rating   |
| Aitkin County     | 0.26                | Low      | 0.40                | Low      | 0.19                       | Low      | 0.24                | Low      | 0.40                | Moderate | 0.26                | Low      |
| Anoka County      | 0.30                | Low      | 0.40                | Low      | 0.46                       | N/A      | 0.35                | Low      | 0.53                | Moderate | 0.28                | Low      |
| Becker County     | 0.42                | Moderate | 0.28                | Low      | 0.48                       | Moderate | 0.36                | Low      | 0.56                | High     | 0.29                | Low      |
| Beltrami County   | 0.52                | Moderate | 0.41                | Moderate | 0.28                       | Low      | 0.40                | Low      | 0.63                | High     | 0.23                | Low      |
| Benton County     | 0.24                | Low      | 0.14                | Low      | 0.52                       | Moderate | 0.35                | Low      | 0.49                | Moderate | 0.27                | Low      |
| Big Stone County  | 0.26                | Low      | 0.27                | Low      | 0.40                       | Moderate | 0.68                | High     | 0.41                | Moderate | 0.37                | Low      |
| Blue Earth County | 0.23                | Low      | 0.21                | Low      | 0.35                       | Low      | 0.39                | Low      | 0.65                | High     | 0.32                | Low      |
| Brown County      | 0.40                | Low      | 0.55                | High     | 0.41                       | Moderate | 0.50                | Moderate | 0.39                | Low      | 0.22                | Low      |
| Carlton County    | 0.33                | Low      | 0.10                | Low      | 0.33                       | Low      | 0.56                | High     | 0.57                | High     | 0.27                | Low      |
| Carver County     | 0.29                | Low      | 0.43                | Moderate | 0.46                       | Moderate | 0.35                | Low      | 0.54                | High     | 0.28                | Low      |
| Cass County       | 0.57                | High     | 0.42                | Moderate | 0.45                       | Moderate | 0.52                | Moderate | 0.71                | High     | 0.43                | Moderate |
| Chippewa County   | 0.14                | Low      | 0.26                | Low      | 0.35                       | Low      | 0.67                | High     | 0.69                | High     | 0.40                | Low      |
| Chisago County    | 0.19                | Low      | 0.17                | Low      | 0.61                       | N/A      | 0.40                | N/A      | 0.59                | High     | 0.27                | Low      |
| Clay County       | 0.29                | Low      | 0.36                | Low      | 0.37                       | Low      | 0.50                | Moderate | 0.41                | Moderate | 0.17                | Low      |
| Clearwater County | 0.29                | Low      | 0.16                | Low      | 0.67                       | High     | 0.20                | Low      | 0.37                | Low      | 0.24                | Low      |
| Cook County       | 0.31                | Low      | 0.29                | Low      | 0.38                       | Low      | 0.38                | Low      | 0.33                | Low      | 0.15                | Low      |
| Cottonwood County | 0.21                | Low      | 0.19                | Low      | 0.33                       | N/A      | 0.45                | N/A      | 0.25                | N/A      | 0.32                | Low      |
| Crow Wing County  | 0.24                | Low      | 0.29                | Low      | 0.45                       | Moderate | 0.52                | Moderate | 0.36                | Low      | 0.28                | Low      |
| Dakota County     | 0.27                | Low      | 0.37                | Low      | 0.44                       | N/A      | 0.30                | Low      | 0.65                | N/A      | 0.27                | Low      |
| Dodge County      | 0.28                | Low      | 0.36                | Low      | 0.48                       | Moderate | 0.32                | Low      | 0.51                | Moderate | 0.10                | Low      |
| Douglas County    | 0.18                | Low      | 0.27                | Low      | 0.36                       | Low      | 0.44                | Moderate | 0.29                | Low      | 0.25                | Low      |
| Faribault County  | 0.24                | Low      | 0.27                | Low      | 0.53                       | Moderate | 0.24                | Low      | 0.66                | High     | 0.27                | Low      |
| Fillmore County   | 0.12                | Low      | 0.29                | Low      | 0.29                       | Low      | 0.53                | Moderate | 0.57                | High     | 0.19                | Low      |
| Freeborn County   | 0.37                | Low      | 0.37                | Low      | 0.62                       | High     | 0.48                | Moderate | 0.67                | High     | 0.33                | Low      |
| Goodhue County    | 0.23                | Low      | 0.34                | Low      | 0.29                       | Low      | 0.34                | Low      | 0.61                | High     | 0.30                | Low      |
| Grant County      | 0.15                | Low      | 0.22                | Low      | 0.00                       | N/A      | 0.53                | Moderate | 0.23                | Low      | 0.09                | Low      |
| Hennepin County   | 0.41                | Moderate | 0.49                | Moderate | 0.53                       | Moderate | 0.43                | Moderate | 0.57                | High     | 0.30                | Low      |
| Houston County    | 0.12                | Low      | 0.18                | Low      | 0.41                       | Moderate | 0.44                | Moderate | 0.65                | High     | 0.21                | Low      |
| Hubbard County    | 0.15                | Low      | 0.19                | Low      | 0.41                       | Moderate | 0.50                | Moderate | 0.40                | Low      | 0.22                | Low      |
| Isanti County     | 0.14                | Low      | 0.17                | Low      | 0.35                       | Low      | 0.28                | Low      | 0.19                | Low      | 0.26                | Low      |
| Itasca County     | 0.27                | Low      | 0.34                | Low      | 0.29                       | Low      | 0.32                | Low      | 0.56                | High     | 0.25                | Low      |
| Jackson County    | 0.24                | Low      | 0.38                | Low      | 0.48                       | Moderate | 0.41                | Moderate | 0.58                | High     | 0.34                | Low      |

**Figure I-35, Continued.**  
**Dissimilarity Index by County, State of Minnesota, 2015**

| County                   | Minority/NHW        |          | Hispanic/NHW        |          | Black/African American/NHW |          | Asian/NHW           |          | Native American/NHW |          | Multirace/NHW       |          |
|--------------------------|---------------------|----------|---------------------|----------|----------------------------|----------|---------------------|----------|---------------------|----------|---------------------|----------|
|                          | Dissimilarity Index |          | Dissimilarity Index |          | Dissimilarity Index        |          | Dissimilarity Index |          | Dissimilarity Index |          | Dissimilarity Index |          |
|                          | Index               | Rating   | Index               | Rating   | Index                      | Rating   | Index               | Rating   | Index               | Rating   | Index               | Rating   |
| Kanabec County           | 0.09                | Low      | 0.10                | Low      | 0.35                       | Low      | 0.44                | Moderate | 0.26                | Low      | 0.25                | Low      |
| Kandiyohi County         | 0.47                | Moderate | 0.48                | Moderate | 0.69                       | High     | 0.37                | Low      | 0.61                | High     | 0.39                | Low      |
| Kittson County           | 0.08                | Low      | 0.05                | Low      | 0.16                       | Low      | 0.33                | Low      | 0.17                | Low      | 0.00                | Low      |
| Koochiching County       | 0.10                | Low      | 0.41                | Moderate | 0.43                       | N/A      | 0.24                | N/A      | 0.19                | Low      | 0.23                | Low      |
| Lac qui Parle County     | 0.23                | Low      | 0.29                | Low      | 0.49                       | Moderate | 0.42                | Moderate | 0.56                | High     | 0.24                | Low      |
| Lake County              | 0.07                | Low      | 0.09                | Low      | 0.64                       | High     | 0.00                | N/A      | 0.37                | Low      | 0.14                | Low      |
| Lake of the Woods County | 0.26                | Low      | 0.60                | High     | 0.10                       | Low      | 0.10                | Low      | 0.60                | High     | 0.21                | Low      |
| Le Sueur County          | 0.33                | Low      | 0.47                | Moderate | 0.55                       | High     | 0.47                | Moderate | 0.48                | Moderate | 0.27                | Low      |
| Lincoln County           | 0.08                | Low      | 0.07                | Low      | 0.24                       | Low      | 0.18                | Low      | 0.48                | Moderate | 0.40                | Low      |
| Lyon County              | 0.32                | Low      | 0.38                | Low      | 0.54                       | High     | 0.44                | Moderate | 0.73                | High     | 0.24                | Low      |
| McLeod County            | 0.24                | Low      | 0.34                | Low      | 0.30                       | Low      | 0.35                | Low      | 0.56                | High     | 0.26                | Low      |
| Mahnomen County          | 0.11                | Low      | 0.01                | Low      | 0.39                       | Low      | 0.10                | Low      | 0.18                | Low      | 0.08                | Low      |
| Marshall County          | 0.24                | Low      | 0.35                | Low      | 0.41                       | Moderate | 0.50                | Moderate | 0.35                | Low      | 0.07                | Low      |
| Martin County            | 0.34                | Low      | 0.48                | Moderate | 0.29                       | Low      | 0.46                | Moderate | 0.56                | High     | 0.37                | Low      |
| Meeker County            | 0.29                | Low      | 0.43                | Moderate | 0.45                       | Moderate | 0.29                | Low      | 0.66                | High     | 0.49                | Moderate |
| Mille Lacs County        | 0.38                | Low      | 0.18                | Low      | 0.45                       | Moderate | 0.37                | Low      | 0.68                | High     | 0.21                | Low      |
| Morrison County          | 0.17                | Low      | 0.18                | Low      | 0.75                       | High     | 0.43                | Moderate | 0.23                | Low      | 0.28                | Low      |
| Mower County             | 0.35                | Low      | 0.40                | Moderate | 0.41                       | Moderate | 0.50                | Moderate | 0.74                | High     | 0.42                | Moderate |
| Murray County            | 0.25                | Low      | 0.28                | Low      | 0.14                       | Low      | 0.63                | High     | 0.72                | High     | 0.50                | Moderate |
| Nicollet County          | 0.25                | Low      | 0.20                | Low      | 0.37                       | Low      | 0.40                | Low      | 0.71                | High     | 0.38                | Low      |
| Nobles County            | 0.52                | Moderate | 0.53                | Moderate | 0.53                       | Moderate | 0.53                | Moderate | 0.69                | High     | 0.38                | Low      |
| Norman County            | 0.13                | Low      | 0.24                | Low      | 0.21                       | Low      | 0.15                | Low      | 0.22                | Low      | 0.23                | Low      |
| Olmsted County           | 0.28                | Low      | 0.33                | Low      | 0.46                       | Moderate | 0.34                | Low      | 0.67                | High     | 0.26                | Low      |
| Otter Tail County        | 0.37                | Low      | 0.52                | Moderate | 0.49                       | Moderate | 0.58                | High     | 0.42                | Moderate | 0.29                | Low      |
| Pennington County        | 0.19                | Low      | 0.48                | Moderate | 0.45                       | Moderate | 0.52                | Moderate | 0.37                | Low      | 0.27                | Low      |
| Pine County              | 0.33                | Low      | 0.41                | Moderate | 0.51                       | Moderate | 0.26                | Low      | 0.41                | Moderate | 0.31                | Low      |
| Pipestone County         | 0.37                | Low      | 0.34                | Low      | 0.64                       | High     | 0.82                | High     | 0.44                | Moderate | 0.26                | Low      |
| Polk County              | 0.25                | Low      | 0.32                | Low      | 0.43                       | Moderate | 0.47                | Moderate | 0.34                | Low      | 0.19                | Low      |
| Pope County              | 0.15                | Low      | 0.33                | Low      | 0.26                       | Low      | 0.34                | Low      | 0.46                | Moderate | 0.14                | Low      |
| Ramsey County            | 0.43                | Moderate | 0.44                | Moderate | 0.51                       | Moderate | 0.51                | Moderate | 0.59                | High     | 0.35                | Low      |
| Red Lake County          | 0.08                | Low      | 0.02                | Low      | 0.15                       | Low      | 0.52                | Moderate | 0.07                | Low      | 0.30                | Low      |
| Redwood County           | 0.26                | Low      | 0.45                | Moderate | 0.45                       | Moderate | 0.64                | High     | 0.53                | Moderate | 0.32                | Low      |

**Figure I-35, Continued.**  
**Dissimilarity Index by County, State of Minnesota, 2015**

| County                             | Minority/NHW        |          | Hispanic/NHW        |          | Black/African American/NHW |           | Asian/NHW           |          | Native American/NHW |           | Multirace/NHW       |          |
|------------------------------------|---------------------|----------|---------------------|----------|----------------------------|-----------|---------------------|----------|---------------------|-----------|---------------------|----------|
|                                    | Dissimilarity Index |          | Dissimilarity Index |          | Dissimilarity Index        |           | Dissimilarity Index |          | Dissimilarity Index |           | Dissimilarity Index |          |
|                                    | Index               | Rating   | Index               | Rating   | Index                      | Rating    | Index               | Rating   | Index               | Rating    | Index               | Rating   |
| Renville County                    | 0.15                | Low      | 0.18                | Low      | 0.49                       | Moderate  | 0.40                | Moderate | 0.38                | Low       | 0.17                | Low      |
| Rice County                        | 0.34                | Low      | 0.38                | Low      | 0.46                       | Moderate  | 0.44                | Moderate | 0.63                | High      | 0.26                | Low      |
| Rock County                        | 0.38                | Low      | 0.45                | Moderate | 0.39                       | Low       | 0.37                | Low      | 0.51                | Moderate  | 0.39                | Low      |
| Roseau County                      | 0.37                | Low      | 0.17                | Low      | 0.34                       | Low       | 0.63                | High     | 0.49                | Moderate  | 0.27                | Low      |
| St. Louis County                   | 0.33                | Low      | 0.38                | Low      | 0.58                       | High      | 0.52                | Moderate | 0.48                | Moderate  | 0.29                | Low      |
| Scott County                       | 0.33                | Low      | 0.41                | Moderate | 0.33                       | Low       | 0.41                | Moderate | 0.50                | Moderate  | 0.29                | Low      |
| Sherburne County                   | 0.29                | Low      | 0.40                | Low      | 0.56                       | High      | 0.41                | Moderate | 0.40                | Moderate  | 0.15                | Low      |
| Sibley County                      | 0.17                | Low      | 0.20                | Low      | 0.16                       | Low       | 0.32                | Low      | 0.46                | Moderate  | 0.19                | Low      |
| Stearns County                     | 0.36                | Low      | 0.37                | Low      | 0.60                       | High      | 0.43                | Moderate | 0.48                | Moderate  | 0.37                | Low      |
| Steele County                      | 0.28                | Low      | 0.26                | Low      | 0.53                       | Moderate  | 0.34                | Low      | 0.69                | High      | 0.36                | Low      |
| Stevens County                     | 0.18                | Low      | 0.33                | Low      | 0.36                       | Low       | 0.21                | Low      | 0.10                | Low       | 0.30                | Low      |
| Swift County                       | 0.13                | Low      | 0.16                | Low      | 0.43                       | Moderate  | 0.48                | Moderate | 0.76                | High      | 0.41                | Moderate |
| Todd County                        | 0.48                | Moderate | 0.76                | High     | 0.19                       | Low       | 0.32                | Low      | 0.42                | Moderate  | 0.17                | Low      |
| Traverse County                    | 0.11                | Low      | 0.29                | Low      | 0.38                       | Low       | 0.00                | N/A      | 0.37                | Low       | 0.15                | Low      |
| Wabasha County                     | 0.09                | Low      | 0.20                | Low      | 0.50                       | Moderate  | 0.48                | Moderate | 0.46                | Moderate  | 0.26                | Low      |
| Wadena County                      | 0.05                | Low      | 0.09                | Low      | 0.29                       | Low       | 0.35                | Low      | 0.40                | Moderate  | 0.13                | Low      |
| Waseca County                      | 0.31                | Low      | 0.46                | Moderate | 0.40                       | Low       | 0.26                | Low      | 0.80                | High      | 0.20                | Low      |
| Washington County                  | 0.31                | Low      | 0.26                | Low      | 0.48                       | Moderate  | 0.38                | Low      | 0.63                | High      | 0.30                | Low      |
| Watsonwan County                   | 0.27                | Low      | 0.33                | Low      | 0.54                       | High      | 0.70                | High     | 0.24                | Low       | 0.25                | Low      |
| Wilkin County                      | 0.18                | Low      | 0.18                | Low      | 0.22                       | Low       | 0.51                | Moderate | 0.30                | Low       | 0.04                | Low      |
| Winona County                      | 0.20                | Low      | 0.40                | Moderate | 0.34                       | Low       | 0.39                | Low      | 0.38                | Low       | 0.22                | Low      |
| Wright County                      | 0.15                | Low      | 0.35                | Low      | 0.43                       | Moderate  | 0.37                | Low      | 0.45                | Moderate  | 0.30                | Low      |
| Yellow Medicine County             | 0.37                | Low      | 0.33                | Low      | 0.52                       | Moderate  | 0.26                | Low      | 0.61                | High      | 0.49                | Moderate |
| <b>Total Counties with High DI</b> |                     | <b>1</b> |                     | <b>3</b> |                            | <b>12</b> |                     | <b>9</b> |                     | <b>36</b> |                     | <b>0</b> |

Note: NHW is non-Hispanic white.

Source: 2015 ACS 5-Year Estimates; BBC Research & Consulting.

A 2017 analysis of segregation patterns in the Twin Cities region provides a closer analysis of settlement patterns and their effect on the DI in the cities and counties that comprise the region. Analysis of changes in the DI between 1990 and 2014 at this geographic level show a decline in segregation (as measured by the DI) for Black/African American and Native American residents, an increase for persons of Hispanic descent, and no change for Asians. Overall, the DI declined from 0.46 to 0.38 for all people of color.<sup>12</sup>

The authors of that study attributed the changes in segregation to migration of Black/African American residents into the suburbs, white households occupying more inner-city neighborhoods, softening of resident bias toward segregated housing conditions, and growth of Hispanic residents who settle in previously established ethnic enclaves.

**Racially and ethnically concentrated areas of poverty.** Figure I-36 shows locations of Minnesota's 59 Racially/Ethnically Concentrated Areas of Poverty (R/ECAP).

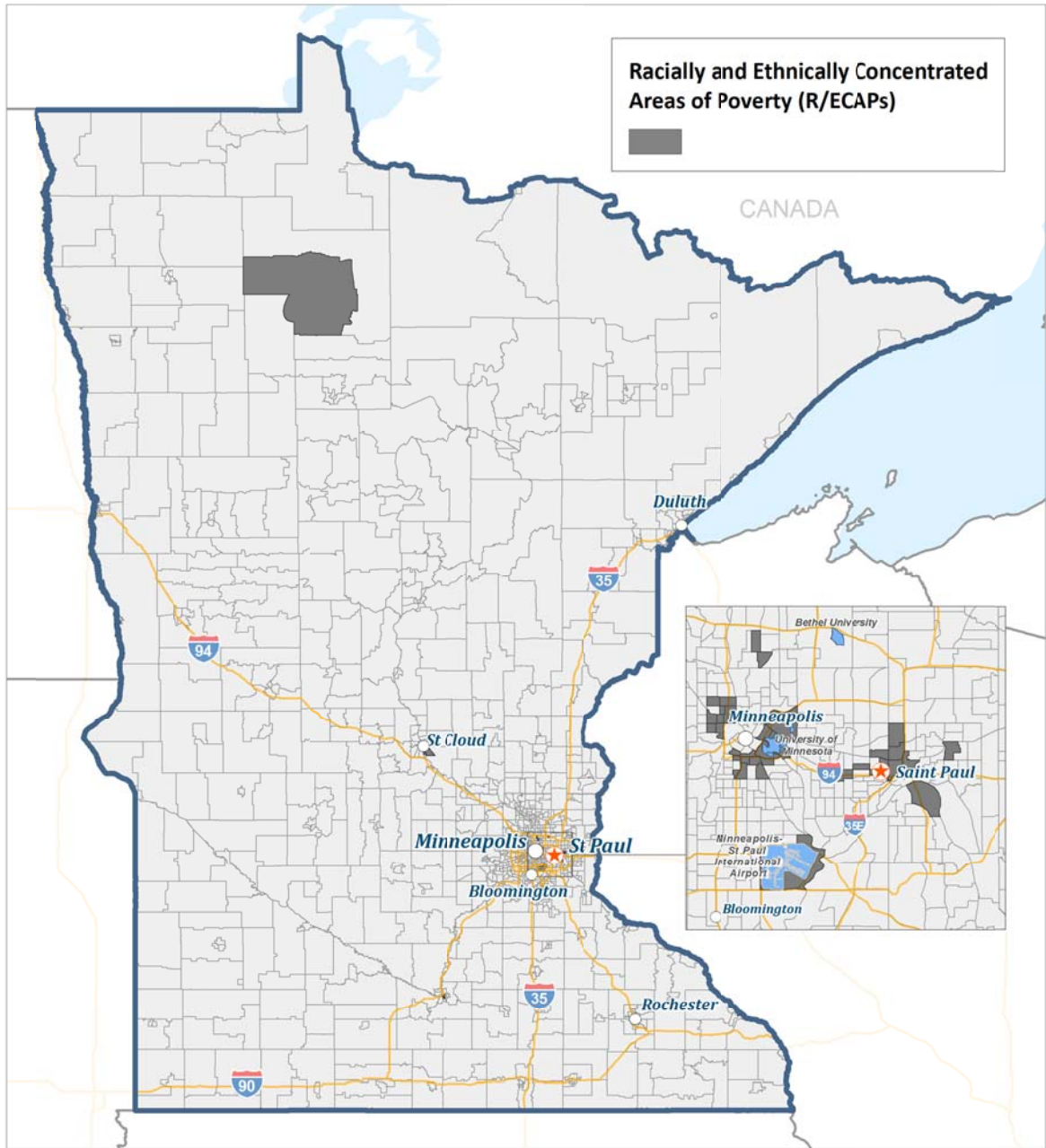
Households within R/ECAP tracts frequently represent the most disadvantaged households within a community and often face a multitude of housing challenges. By definition, a significant number of R/ECAP households are financially burdened, which severely limits housing choice and mobility. The added possibility of racial or ethnic discrimination creates a situation where R/ECAP households are likely more susceptible to discriminatory practices in the housing market. Additionally, due to financial constraints and/or lack of knowledge (i.e. limited non-English information and materials); R/ECAP households encountering discrimination may believe they have little or no recourse, further exacerbating the situation.

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<sup>12</sup>Addendum to the 2014 Regional AI, First Draft, February 2017, Fair Housing Implementation Council and Mosaic Community Planning.



**Figure I-36.**  
**Racially/Ethnically Concentrated Areas of Poverty (R/ECAP)**



Note: The inset map shows portions of R/ECAPs that are occupied by university campuses and the Minneapolis-St. Paul International airport. These areas are shown in blue to differentiate them from the residential areas of the R/ECAPs.

Source: 2015 ACS 5-Year estimates.

**Characteristics of residents living in concentrated poverty.** As demonstrated in the map above, most R/ECAPs are located in the Twin Cities region. A recent publication by the Met Council—*Metrostats: The Twin Cities Region’s Areas of Concentrated Poverty Endure*—examined a broader definition of poverty using “Areas of Concentrated Poverty” or ACPs. ACPs are defined as Census tracts where 40 percent of residents live with incomes below 185 percent of the

federal poverty level, or about \$44,875 for a family of four in 2015 (v. about \$25,000 for R/ECAPs).

The study identifies a growing presence of poverty in suburban and rural areas. Between 2000 and 2011-2015, the number of residents in poverty in the region's suburban and rural areas increased 93 percent—compared to 26 percent in Minneapolis and St. Paul. In addition to suburban and rural areas, new ACPs occurred in urban areas that were close to existing ACPs. This growth, affected by the Great Recession, was a reversal from trends in the 1990s, when the number of ACPs declined due to a strong economy.

An examination of the characteristics of residents in ACPs found that residents with incomes of less than 185 percent of the poverty level represent a range of racial and ethnic groups and household types. Most are employed—yet do not earn enough to afford housing. Specifically,

- About half are white and not Hispanic,;
- 10 percent are seniors,
- 15 percent have a disability,
- The vast majority have a high school diploma and 15 percent have a college degree,
- Sixty-five to 75 percent are employed. Very few receive public assistance as their source of income,
- Between 25 and 35 percent do not speak English at home,
- The majority rent. Seventy-five percent are housing cost burdened.

The Met Council also examined characteristics of ACPs where 50 percent or more of the residents are people of color (ACP50). In all, nearly one-tenth of the Twin Cities region's population lives in an ACP50—yet the characteristics of ACP50 residents do not reflect those of the region: Fewer than 4 percent of white residents live in ACP50s, compared to about 27 percent of people of color.

According to the Twin Cities Analysis of Impediments to Fair Housing Choice Addendum (AI Addendum), which reviewed the Met Council study, Saint Paul has the greatest share of residents living in an ACP50, for white residents and people of color: 25 percent of white residents and 67 percent of people of color reside in ACP50s. In Minneapolis, 13 percent of white residents and 52 percent of people of color live in ACP50s.

Foreign born residents are also more likely to live in an ACP than those born within the U.S., with almost 20 percent of the region's foreign born residents living in an ACP. According to the AI, this difference is more pronounced in Anoka and Dakota Counties, and the cities of Bloomington and Coon Rapids, where foreign born residents are more than twice as likely to live in high poverty areas as U.S. born residents.

The AI describes the historical settlement patterns of today's ACPs as places where residents of color and new immigrants first located—and the places that residents left when their economic situation afforded that opportunity.

Between 1940 and 1960, losses of manufacturing jobs, development of concentrated public housing, and building of federal highways led to concentrated poverty and unemployment, and cut off residents of these neighborhoods to areas of higher economic opportunity. Many residents in these neighborhoods were also denied the opportunity to purchase homes (and build wealth) and send their children to high quality schools.

The built environment and access to economic opportunity in these neighborhoods has changed—yet they remain some of the most diverse and culturally rich areas in the region and state.

## **SECTION II.**

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### **Housing Choice Analysis**

## SECTION II.

# Housing Choice Analysis

This section of the Minnesota AI examines barriers to housing choice and the effects on protected classes. Similar to Section I. Demographic Summary, it is partially modeled after the structure of the proposed Assessment of Fair Housing for States and Insular Areas (AFH). The section meets the Disproportionate Housing Needs and Publicly Supported Housing Analysis requirements of the AFH template.

### Summary Findings

- Housing needs in the state have grown significantly in the past 15 years, particularly for renters, due to rising rental costs, very low vacancy rates, and stagnant incomes. Large families, immigrant families, and many racial and ethnic minorities are disproportionately affected by these market changes.
- Between 2010 and 2015, the total number of mortgage loan applications declined by 19 percent, following trends identified in the past fair housing study: Between 2004 and 2009, applications declined 34 percent.
- The proportion of mortgage loans that were denied has changed little over time and gaps in approvals among different races and ethnicities persist. Denials remain consistently highest for American Indian/Alaskan Native, Black/African American, and Hispanic applicants, and lowest for White and Asian applicants. The highest percentage point difference in denials in 2015 is a 12 percentage point disparity for American Indian/Alaskan Native and White borrowers.
- Since 2008, there has been a divide in urban and rural mortgage loan applicants' approval rates. The gap is more significant in Minnesota than in the U.S. overall. Research by the Minneapolis Federal Reserve bank attributes the gap to a larger share of applicants in rural areas, suggesting an unmet demand for residential capital in rural Minnesota. A recent study by the NBER suggests that lack of access to capital (due to physical proximity or the digital divide) is another factor explaining lending differences.
- Several counties in Minnesota stand out for their large gaps in residential mortgage loan denials between minority and non-minority applicants. These counties are all located in rural areas; most have moderate levels of segregation; and some are home to Indian Reservations.
- To respond to these needs, Minnesota Housing has established strategic priorities that focus on closing the homeownership gap for minority residents; supporting renters through creation of new units and preserving existing affordable housing; prioritizing creation of family rental units; while offering flexibility to respond to individual communities' needs.

## Housing Investment Priorities

Minnesota Housing adopted an Affordable Housing Plan (AHP) in September 2017. The AHP, which will be implemented in 2018, is guided by the strategic priorities of:

- Preserving housing with federal project-based rental assistance,
- Preventing and ending homelessness,
- Financing housing that is responsive to Minnesota’s changing demographics,
- Addressing specific and critical local housing needs, and
- Reducing Minnesota’s gap in homeownership among racial and ethnic groups.

The state will follow these principles for allocating funding:

- Use scarce resources to best meet strategic priorities, as shaped by the needs of local communities,
  - Use resources in ways that meet multiple policy goals and leverage other resources, and
  - Be flexible in the state’s approach so decisions reflect current market conditions and community needs.
- In addition, DEED will continue to make rental rehabilitation a priority.

During the period in which this AI was developed, federal funding to support housing programs was uncertain. Tax and budget reform proposals have all called for reductions or eliminations in the Community Development Block Grant (CDBG) and tax exempt private activity bonds. The value of the Low Income Housing Tax Credit (LIHTC) was negatively affected by expectations for tax reform, which would provide less incentive for investors to participate in the program.

The extent to which the state can achieve its assistance goals in 2018 and future years (discussed below) will depend in a large part on federal and funding and housing priorities.

## Disproportionate Housing Needs

The 2018 AHP identifies the following housing needs in Minnesota:

- Between 2000 and 2016, the number of Minnesota households that are “cost burdened”—paying more than 30 percent of their monthly income in housing costs—increased 58 percent, from 350,000 households to 554,000 households.
- Renters are most affected by cost burden, with nearly half paying more than 30 percent of their income on housing. Because most racial and ethnic minorities are more likely than White non-Hispanic households to rent (see the homeownership discussion later in this section), they are disproportionately affected by rising rent costs.
- During 2016, nearly 40 percent of voucher holders looking for units that accept Section 8 in the Metro area were unable to find rental units where they could use their voucher. This compares to 12 percent in 2008.

- Large families and immigrant families face much higher rates of cost burden and overcrowding than other types of renters (54% and 72%, respectively). This is related, in part, to the shortage of affordable, larger rental units. Persons of color also more likely to experience homelessness. For example, while African Americans account for just 6 percent of Minnesota’s overall population, they account for 40 percent of people experiencing homelessness.
- A recent study by the Federal Reserve found that, nationally, persons of color are more likely than White non-Hispanic households to move from a rental unit because of actual or the threat of eviction. Because landlords use rental histories to screen potential tenants, frequent moves and/or a record of eviction can make it even more challenging for persons of color to find affordable rental units.

Data from HUD’s Comprehensive Housing Affordability Strategy (CHAS) database was used to further examine housing problems by race and ethnicity. Overall, CHAS data from 2010-2014 show that the renters with incomes of less than 30 percent AMI (known as “extremely” low income) have the highest levels of housing problems. CHAS data from 2009-2013, which contain a subset of residents by race and ethnicity, show higher rates of housing problems, especially in renting, for Hispanic residents, Asian residents, and African Americans (the exception being higher income renters).

| <b>Rate of Cost Burden by Race and Ethnicity, State of Minnesota</b> |                                  |   |                                  |   |                                    |                        |
|--|----------------------------------|---|----------------------------------|---|------------------------------------|------------------------|
| <b>Income</b>  | <b>White alone, non-Hispanic</b> | <b>Black/African American alone, non-Hispanic</b> | <b>Asian alone, non-Hispanic</b> | <b>American Indian/Alaskan Native alone, non-Hispanic</b> | <b>All Other Racial Categories</b> | <b>Hispanic Origin</b> |
| <b>Owners</b>  |                                  |   |                                  |   |                                    |                        |
| <b>&lt;=30%AMI</b>   | 84%                              | 90%   | 84%                              | 80%   | 91%                                | 90%                    |
| <b>&gt;30%&lt;=50%AMI</b>  | 54%                              | 80%   | 76%                              | 56%   | 62%                                | 70%                    |
| <b>&gt;50%&lt;=80%AMI</b>  | 40%                              | 67%   | 58%                              | 33%   | 51%                                | 51%                    |
| <b>&gt;80%&lt;=100%AMI</b>   | 26%                              | 33%   | 34%                              | 26%   | 26%                                | 27%                    |
| <b>Renters</b>   |                                  |   |                                  |   |                                    |                        |
| <b>&lt;=30%AMI</b>   | 80%                              | 85%   | 83%                              | 79%   | 84%                                | 92%                    |
| <b>&gt;30%&lt;=50%AMI</b>  | 70%                              | 73%   | 80%                              | 58%   | 77%                                | 75%                    |
| <b>&gt;50%&lt;=80%AMI</b>  | 34%                              | 34%   | 38%                              | 28%   | 38%                                | 39%                    |
| <b>&gt;80%&lt;=100%AMI</b>   | 13%                              | 7%  | 21%                              | 11%   | 11%                                | 21%                    |

**Stakeholder perspectives on needs.** Stakeholders participating in the 2017 Minnesota Fair Housing Survey rated the seriousness of fair housing issues or factors that may contribute to fair housing issues in the communities they serve. The survey also asked about disproportionate impacts on protected classes.

Stakeholders rated the degree of seriousness of 74 potential contributing factors to fair housing issues in Minnesota. Figure II-1 presents the top 10. Several of these top needs identify certain groups, including large families, residents with supportive service needs, voucher holders, and residents with criminal histories. “Limited housing for immigrants/refugees” was close to the top 10, with a rating of 6.2.

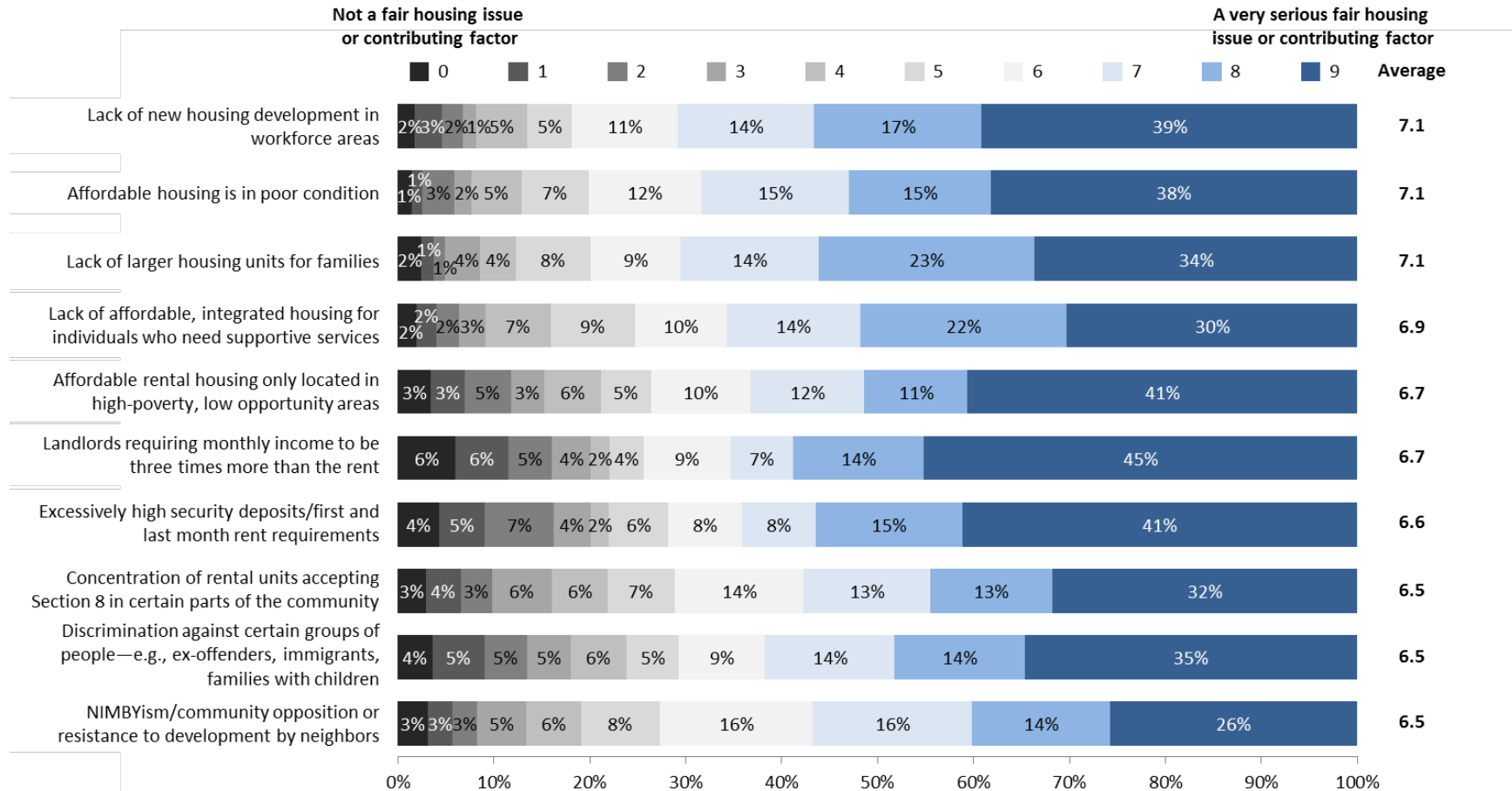
Limited housing stock and housing condition was the top concern for stakeholders across all regions. Nearly two in five stakeholders rate the poor condition of affordable housing as a very serious fair housing issue or a contributing factor to fair housing issues (rating of 9 on a 0-9 scale).

In addition, nearly 1 in 2 stakeholders cited “landlords requiring monthly income to be three times more than rent” as a very serious concern.



**Figure II-1.**  
**Stakeholder Perspective: Most Serious Contributing Factors to Fair Housing Issues**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 194 to 288 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

The fair housing issues or contributing factors most consistently being identified as having a “serious” effect include:

- Landlords requiring that monthly income be three times monthly rent;
- Affordable rental housing only located in high-poverty, low opportunity areas;
- Excessively high security deposits and/or first and last month rent requirements;
- Lack of new development in workforce areas; and
- Affordable housing in poor condition.

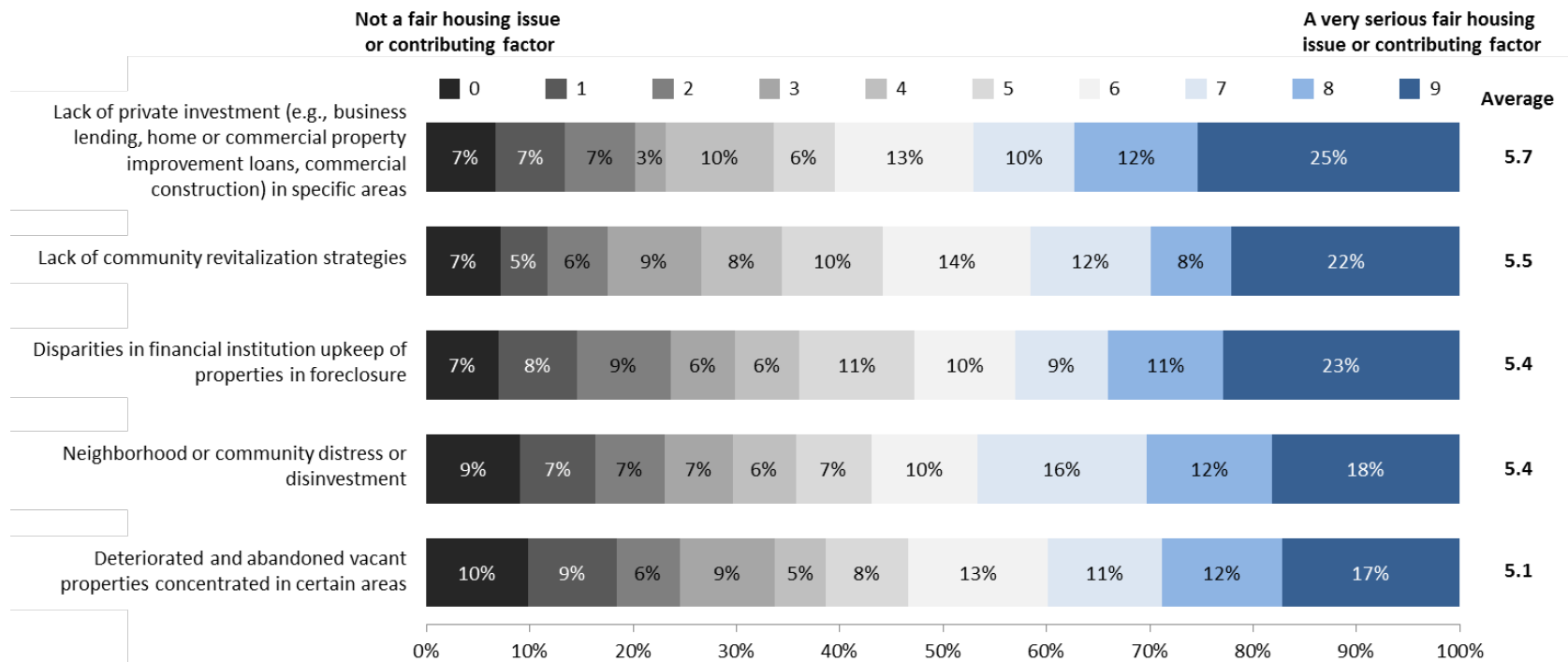
It is important to note that, unlike housing condition (which was universally rated as a top need), there was some variation in stakeholder and resident perceptions about the need for units to accommodate large families. Community conversations in southwest Minnesota with residents with large families did not reveal lack of larger units as a barrier. In many communities, the rental stock is comprised of single family homes which may be larger than the typical apartment. Furthermore, many of the families who participated in community conversations prefer living with extended family, and do not consider themselves overcrowded.

Figures II-2 and II-3 below represent the same list and analysis of the 74 potential contributing factors to fair housing, but look at through the lenses of investment priorities (II-2) and private sector priorities and practices (II-3).

Stakeholders also considered potential fair housing issues that may arise from private or public sector investment priorities. As shown in Figure II-2, stakeholders are more likely to consider disinvestment to be a serious fair housing issue than not, although these factors are not fair housing issues in the communities served by about one-quarter of respondents. Nearly half of stakeholders rate the “lack of private investment” as a serious fair housing issue in the communities they serve, and this factor had the highest average rating of the private sector investment factors evaluated.

**Figure II-2.  
Stakeholder Perspective: Investment Priorities**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



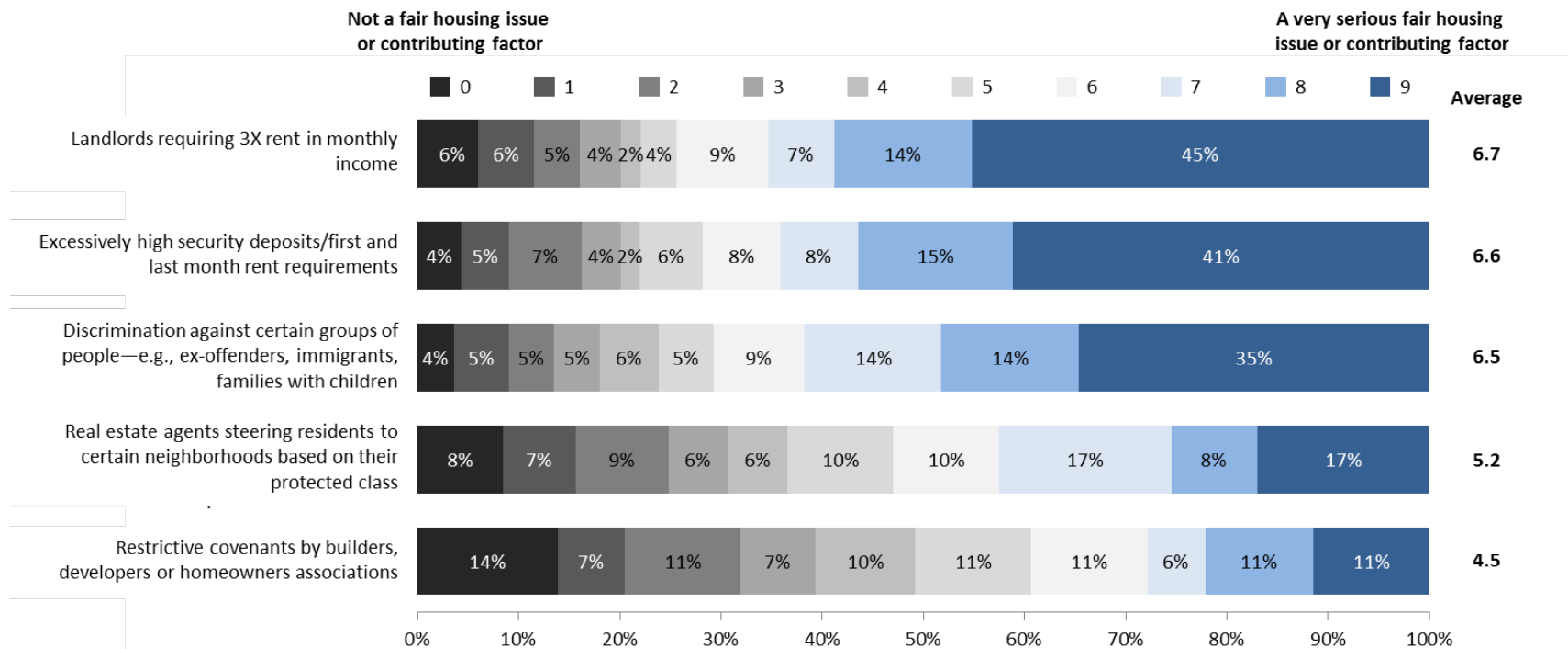
Note: n ranges from 134 to 165 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

In addition to private sector investment decisions, stakeholders evaluated several measures of private policies and practices that contribute to fair housing issues. Two landlord practices—“excessively high security deposits/first and last month rent requirements” and “requiring three times the rent in monthly income”—are considered a very serious contributing factors to fair housing issues by at least two in five stakeholders. “Discrimination against certain groups of people— e.g., ex-offenders, immigrants, families with children” is seen as a serious fair housing issue (rating of 7 to 9) by 62 percent of stakeholders—the same proportion that consider the landlord deposit and income requirements as serious issues. Steering by real estate agents and restrictive covenants are not seen as serious contributing factors by most stakeholders.

**Figure II-3.**  
**Stakeholder Perspective: Private Sector Policies and Practices**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 167 to 229 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Beneficiaries of housing programs.** This section examines the demographic characteristics of beneficiaries of Minnesota Housing and DEED programs to reveal market areas where protected classes have limited options in the private market and/or opportunities for the state to improve provision of programs to protected classes. This analysis uses data directly provided by Minnesota Housing and DEED.

Programs included are:

- The Community Development Block Grant (CDBG);
- The Home Improvement Fix Up Fund;
- The Home Improvement Rehab Loan Program;
- State Impact Fund, which supports acquisition, rehabilitation, and new construction to support homeownership;
- Home purchase assistance ; and
- Continuum of Care programs to assist persons experiencing and at risk of homelessness.

Figures II-4 and II-5 show the available household characteristics of beneficiaries of Minnesota Housing and DEED programs. For housing programs, households with disabilities<sup>1</sup> are under-represented as beneficiaries. The Impact Fund and CDBG best assist persons of color and, for CDBG, recent funding allocations have done a better job of helping the lowest income households.

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<sup>1</sup> This field is voluntary in Minnesota Housing program and as such, may be underreported.

**Figure II-4.**  
**Outcomes of Minnesota Housing Assistance, 2015 and 2016**

| Resources <sup>1</sup>  | Families with Children                | Seniors | With a Disabled Occupant* | Long-term Homeless |
|---|---------------------------------------|---------|---------------------------|--------------------|
| Homebuyer and Home Refinance (unduplicated count)   | 43.7%                                 | 3.8%    | 1.1%                      | N/A                |
| Home Mortgage Loans <sup>3</sup>  | 42.8%                                 | 1.3%    | 1.1%                      | N/A                |
| Mortgage Credit Certificates <sup>4</sup>   | 23.6%                                 | 0.3%    | 0.7%                      | N/A                |
| Targeted Mortgage Opportunity Program   | 70.8%                                 | 0.0%    | 6.2%                      | N/A                |
| Deferred Payment Loans  | 45.3%                                 | 1.7%    | 1.7%                      | N/A                |
| HOME Homeowner Entry Loan Program   | 73.1%                                 | 0.0%    | 0.0%                      | N/A                |
| Monthly Payment Loans   | 44.7%                                 | 0.9%    | 0.5%                      | N/A                |
| Habitat for Humanity Initiatives  | 100.0%                                | 2.1%    | 7.3%                      | N/A                |
| Homeownership Education, Counseling, and Training (HECAT) <sup>5</sup>                    | N/A                                   | 5.3%    | NA                        | N/A                |
| Enhanced Homeownership Capacity Initiative  | N/A                                   | 2.6%    | NA                        | N/A                |
| Home Improvement  | 35.0%                                 | 16.4%   | 10.7%                     | N/A                |
| Home Improvement Loan Program   | 38.4%                                 | 12.2%   | 2.8%                      | N/A                |
| Rehabilitation Loan Program   | 23.9%                                 | 29.9%   | 36.2%                     | N/A                |
| Rental Production - New Construction and Rehabilitation (unduplicated household count)    | 32.6%                                 | 16.0%   | 17.0%                     | 6.9%               |
| Amortizing Loan Program   | 49.4%                                 | 12.6%   | 0.0%                      | 2.1%               |
| Flexible Financing for Capital Costs  | See Amortizing Tenant Characteristics |         |                           |                    |
| Low-Income Housing Tax Credits (LIHTC)  | 46.7%                                 | 17.8%   | 0.1%                      | 2.9%               |
| Economic Development and Housing/Challenge Fund (EDHC), multifamily                       | 46.8%                                 | 11.6%   | 2.0%                      | 2.8%               |
| Economic Development and Housing/Challenge Fund (EDHC), HIB                               | 74.0%                                 | 8.2%    | 2.7%                      | 1.4%               |
| Affordable Rental Preservation-PARIF  | 36.9%                                 | 26.5%   | 11.0%                     | 5.0%               |
| Affordable Rental Preservation-HOME   | 32.2%                                 | 16.4%   | 0.2%                      | 1.5%               |
| Housing Trust Fund, Capital (HTF)   | 16.5%                                 | 13.7%   | 12.9%                     | 16.9%              |
| Publicly Owned Housing Program  | 8.0%                                  | 33.1%   | 26.5%                     | 6.2%               |
| Rental Rehabilitation Deferred Loan Pilot Program   | 42.8%                                 | 22.5%   | 9.4%                      | 5.3%               |
| Rental Assistance Contract Administration (Section 8 PBCA and TCA)                        | 25.5%                                 | 46.0%   | 32.4%                     | N/A                |
| Non-Capital Resources to Prevent and End Homelessness                                     | 51.4%                                 | 5.8%    | N/A                       | 33.8%              |
| Housing Trust Fund, Rental Assistance (HTFRA) <sup>7</sup>                                | 59.5%                                 | 2.7%    | N/A                       | 72.2%              |
| HTF Operating Subsidy   | 17.6%                                 | 11.1%   | 22.7%                     | 39.2%              |
| Bridges <sup>7</sup>  | 30.0%                                 | 3.4%    | 100.0%                    | 15.5%              |
| Family Homeless Prevention and Assistance Program (FHPAP) <sup>8</sup>                    | 56.7%                                 | 2.9%    | 35.0%                     | 14.1%              |
| EDHC, Community Homeownership Impact Fund <sup>10</sup> (duplicated)                      | 55.7%                                 | 14.0%   | N/A                       | N/A                |
| EDHC, Twin Cities Community Land Bank (TCCLB) and Family Housing Fund (FHF) <sup>12</sup> | 41.0%                                 | N/A     | N/A                       | N/A                |
| Other   |                                       |         |                           |                    |
| Quickstart Disaster Recovery  | 36.4%                                 | 3.0%    | 0.0%                      | N/A                |

Source: Minnesota Housing.

**Figure II-5.  
Household Characteristics of CDBG Beneficiaries, 2006-2012 Program Years**

|  | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|------|------|------|------|------|------|------|
| White                                    | 90%  | 96%  | 94%  | 93%  | 93%  | 92%  | 87%  |
| African American                         | 2%   | 1%   | 0%   | 1%   | 3%   | 1%   | 9%   |
| Hispanic                                 | 10%  | 50%  | 75%  | 52%  | 96%  | 42%  | 100% |
| Other races                              | 8%   | 3%   | 6%   | 6%   | 4%   | 7%   | 4%   |
| Extremely low income                     | 1%   | 10%  | 20%  | 12%  | 12%  | 21%  | 29%  |
| Low income                               | 7%   | 13%  | 31%  | 25%  | 38%  | 30%  | 35%  |
| Moderate income                          | 86%  | 69%  | 43%  | 51%  | 44%  | 41%  | 35%  |
| % of funds dedicated to housing programs | 45%  | 47%  | 51%  | 54%  | 63%  | 49%  | 54%  |

Source: DEED and BBC Research & Consulting.

An analysis of the household characteristics of tenants assisted through Minnesota Housing's multifamily programs found similar trends:<sup>2</sup>

- Nearly half are households of color (49%);
- One-quarter are single parent households;
- 8 percent are large households; and
- 5 percent have a member of the household with a disability.

Households receiving assistance through Continuum of Care funding that assists persons experiencing or at risk of homelessness were:

- 42 percent households of color;
- 49 percent earning less than \$15,000 per year;
- 76 percent earning less than \$25,000 per year.

For multifamily and Continuum of Care programming, beneficiaries reflect the resident groups with disproportionate housing needs, except for persons with disabilities.

## Publicly Supported Housing Practices

As part of the AI, PHAs in the state were surveyed about disparities in access to opportunity for their clients; the demographics of PHA clients and how they compare with demographics of service area; if clients are more likely than other types of residents to live in R/ECAPs; if clients with disabilities live in integrated settings; their policies and practices affecting housing choice (affirmative marketing, admissions preferences, voucher mobility and portability); and if the

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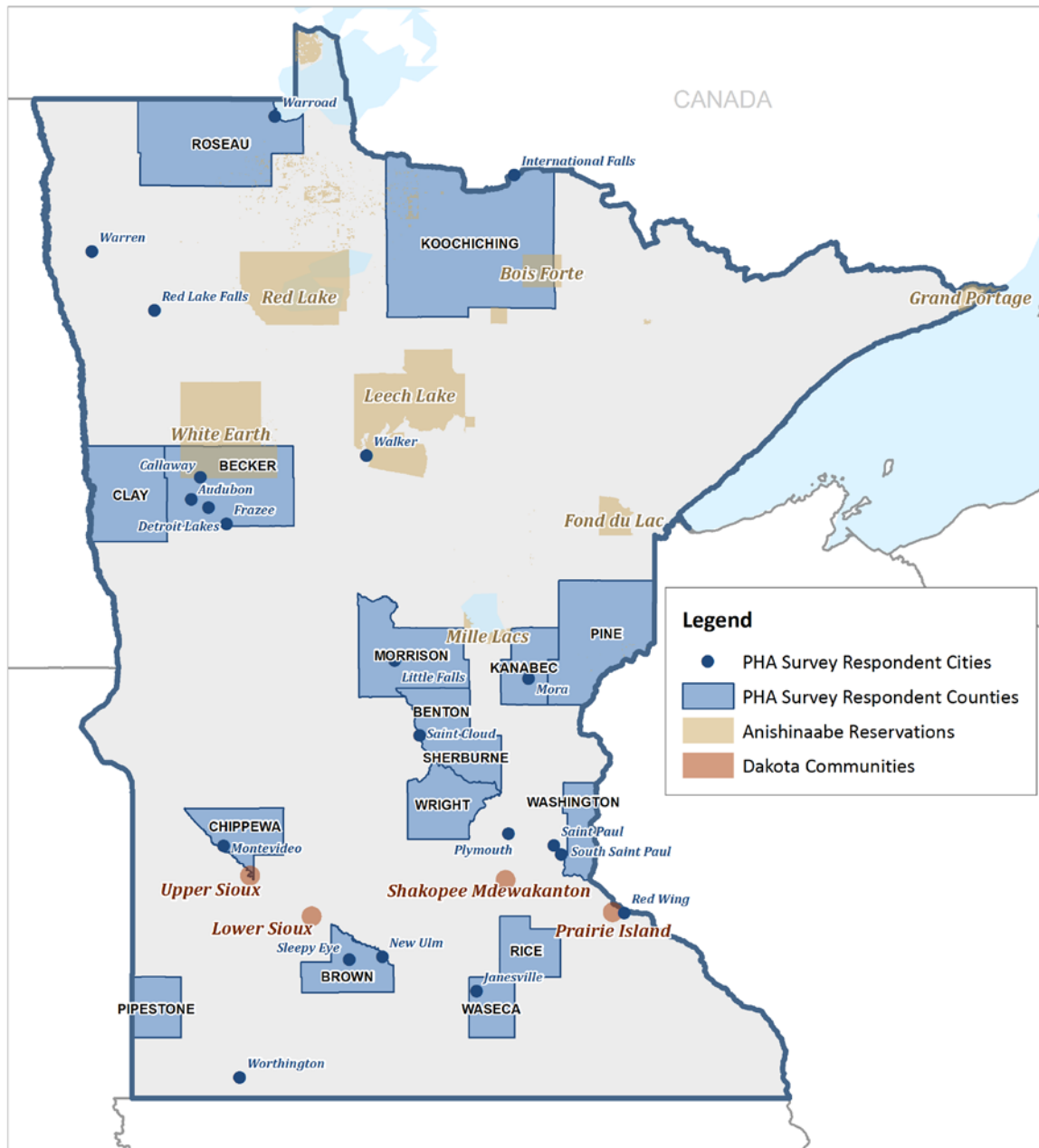
<sup>2</sup> Data on multifamily programs includes: amortizing loans, LIHTC, state resources (Economic Development and Housing Challenge Fund, Housing Infrastructure Bonds, and Affordable Rental Preservation, Publicly Owned Housing Program, Rental Rehabilitation Deferred Loan Pilot Program, state Housing Trust Fund), HOME, Section 8 programs.



PHA has been charged with a violation of civil rights laws. This section reports the results from that survey effort.

**Location of respondent PHAs.** Twenty-seven PHAs responded, representing the following areas.

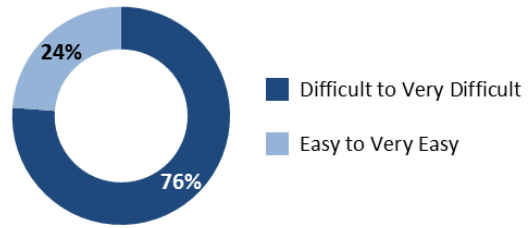
**Figure II-6.**  
**PHA Survey Respondent Locations**



Source: BBC Research & Consulting from 2017 Minnesota PHA Survey.

**Challenges with voucher use and landlords.** When asked about the level of difficulty PHA residents encountered in finding rental units to accept vouchers, the overwhelming majority said “Difficult” or “Very Difficult,” as shown below.

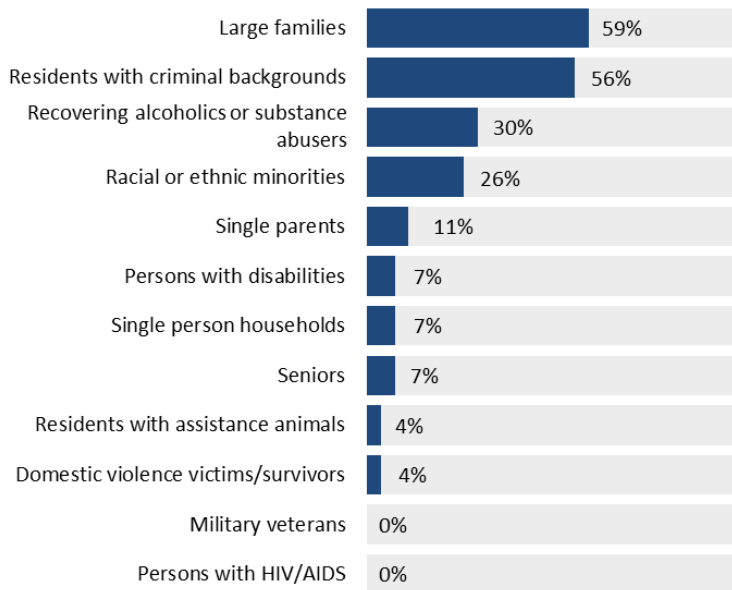
**Figure II-7.**  
**In the current rental market, how easy is it for the average voucher holder to find a landlord that accepts housing choice vouchers?**



Note:  
 Questions with multiple response options will total more than 100%.  
 Source:  
 BBC Research & Consulting from 2017 Minnesota PHA Survey.

Large families and persons with criminal histories were most commonly identified by PHAs as disproportionately affected by difficulty finding landlords who accept Section 8.

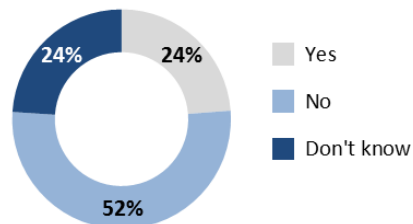
**Figure II-8.**  
**If difficult or very difficult, does this affect certain groups of voucher holders more than others?**



Note:  
 Questions with multiple response options will total more than 100%.  
 Source:  
 BBC Research & Consulting from 2017 Minnesota PHA Survey.

When asked if it is difficult to find landlords to participate in the Section 8 program due to housing quality standards, most PHAs said “no.” Those who said yes were asked for suggestions about programs to increase landlord participation. In response, PHAs said they would like to see more outreach and education for landlords, incentives for participation (insurance against damages to a unit), and more rental units in general.

**Figure II-9.**  
**Do you find it difficult to find landlords who will participate in the Section 8 voucher program because of Housing Quality Standards (HQS)?**



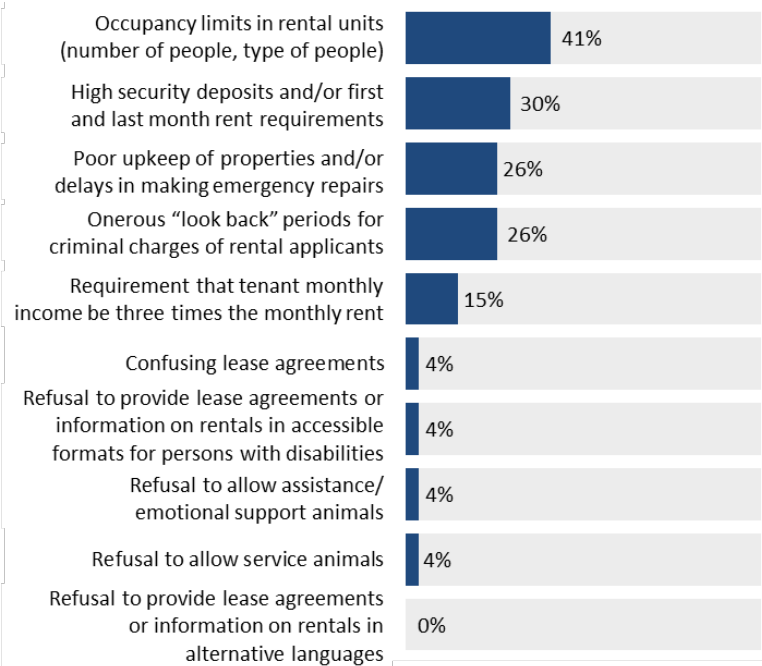
Note:  
 Questions with multiple response options will total more than 100%.  
 Source:  
 BBC Research & Consulting from 2017 Minnesota PHA Survey.

The PHAs were asked to consider potential barriers to housing choice related to landlord policies and practices. As shown below, the top barrier identified was occupancy limits affecting certain resident groups, followed by high security deposits, and onerous look back periods for criminal history and poor upkeep of properties (equally identified).

**Figure II-10.**  
**Do the following practices or policies of landlords create barriers to housing choice in your community?**

Note:  
 Questions with multiple response options will total more than 100%.

Source:  
 BBC Research & Consulting from 2017 Minnesota PHA Survey.



The open ended comments revealed additional challenges. These include:

- High demand for supportive housing and very few units available. This pushes the population needing supportive housing into units that do not accommodate their needs.
- Elderly residents often request not to live with younger adults.
- Conflicts between tenants with and without disabilities (harassment).

**Concentrations of units and voucher holders.** PHAs were asked about concentrations within their developments and in the neighborhoods in which their developments are located and voucher holders reside. According to the PHAs:

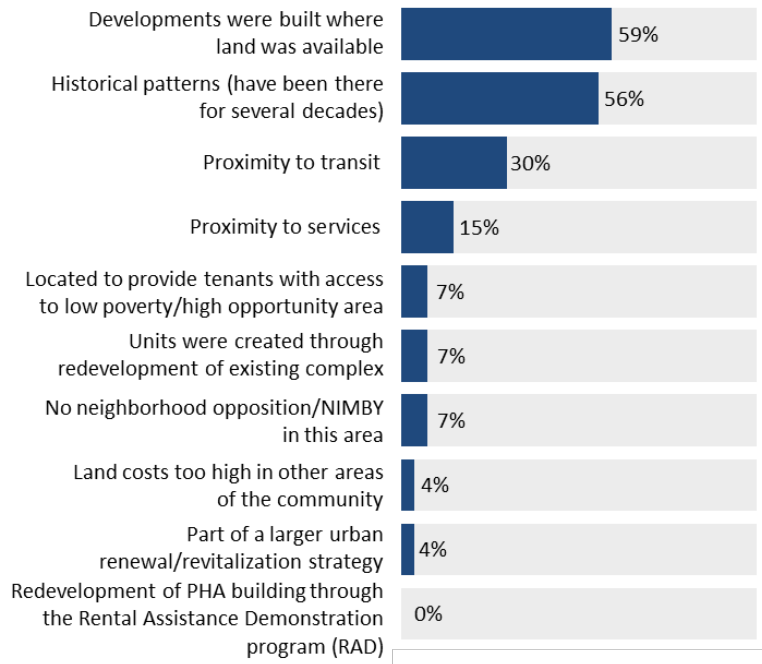
- The vast majority said that there are no discernable differences among the neighborhoods. When asked about the characteristics of the neighborhoods in which their clients live, they described them as mixed-income, older neighborhoods. Some said they have good access to employment and are racially and ethnically mixed.
- About half identified clustering of residents within PHA developments due to the presence of senior clients (who occupy smaller and accessible units) and cultural preferences/residents wanting to live near friends and family members.

The majority of PHAs attributed the location of their developments to land availability and historical development patterns, followed by intentional proximity to transit. Few indicated intentional location in high opportunity areas.

**Figure II-11.**  
**What are the primary reasons your developments are located where they are?**

Note:  
 Questions with multiple response options will total more than 100%.

Source:  
 BBC Research & Consulting from 2017 Minnesota PHA Survey.



The majority of PHAs give preferences for certain resident groups. The most common preferences include elderly, persons with disabilities, persons experiencing homelessness, large families, veterans, and, in more urban areas, displacement and residency. A handful of PHAs give preferences for victims of crime.

**Characteristics of residents.** Figure II-12a shows the demographics of current clients and households on the wait list. The non-urban PHAs who completed this question on the survey had on their waitlists:

- 758 households hoping for public housing (v. 1,100 households currently served);
- 1,455 households hoping for Section 8 vouchers (v. 1,497 currently served); and
- 352 households awaiting other types of affordable rentals (v. 368 currently served).

Figure II-12b shows similar information from the AI Addendum. In these urban areas counties, White residents are less represented in publicly-assisted housing than they are in rural areas. African Americans continue to be significantly over-represented relative to their income-adjusted population.

**Figure II-12a.**  
**Demographics of PHA Clients (excludes Twin Cities Metro PHAs)**

|                                       | Current Clients |                                |                          | Households on Wait List |                                |                          |
|---------------------------------------|-----------------|--------------------------------|--------------------------|-------------------------|--------------------------------|--------------------------|
|                                       | Public Housing  | Housing Choice Voucher Program | Other Affordable Rentals | Public Housing          | Housing Choice Voucher Program | Other Affordable Rentals |
| White residents                       | 79%             | 58%                            | 73%                      | 91%                     | 80%                            | 73%                      |
| African American residents            | 11%             | 39%                            | 18%                      | 8%                      | 19%                            | 21%                      |
| Hispanic residents                    | 6%              | 2%                             | 5%                       | 1%                      | 1%                             | 3%                       |
| Residents of other races/ethnicities  | 3%              | 1%                             | 4%                       | 0%                      | 0%                             | 3%                       |
| Residents with disabilities           | 26%             | 48%                            | 54%                      | 24%                     | 19%                            | 37%                      |
| Households with children under age 18 | 0%              | 14%                            | 0%                       | 4%                      | 3%                             | 6%                       |

Note: Questions with multiple response options will total more than 100%.

Source: BBC Research & Consulting from 2017 Minnesota PHA Survey.

**Figure II-12b.**  
**Demographics of Twin Cities Metro Counties (from AI Addendum)**

Note:

Questions with multiple response options will total more than 100%.

Source:

BBC Research & Consulting from 2017 Minnesota PHA Survey.

|                                | Anoka County | Carver County | Dakota County | Hennepin County | Ramsey County | Scott County | Washington County |
|--------------------------------|--------------|---------------|---------------|-----------------|---------------|--------------|-------------------|
| <b>Public Housing Units</b>    |              |               |               |                 |               |              |                   |
| White residents                | N/A          | 58%           | 65%           | 19%             | 28%           | 80%          | 66%               |
| African American residents     | N/A          | 33%           | 24%           | 72%             | 36%           | 5%           | 32%               |
| Hispanic residents             | N/A          | 2%            | 6%            | 2%              | 4%            | 5%           | 1%                |
| All People of Color            | N/A          | 42%           | 35%           | 81%             | 72%           | 20%          | 34%               |
| <b>Housing Choice Vouchers</b> |              |               |               |                 |               |              |                   |
| White residents                | 51%          | 49%           | 52%           | 23%             | 29%           | 40%          | 50%               |
| African American residents     | 44%          | 51%           | 40%           | 72%             | 60%           | 54%          | 44%               |
| Hispanic residents             | 2%           | 1%            | 5%            | 2%              | 4%            | 2%           | 2%                |
| All People of Color            | 49%          | 47%           | 48%           | 77%             | 71%           | 60%          | 50%               |

Compared to statewide demographics, in most of the programs provided by the state's public housing authorities, African Americans are over-represented, persons with disabilities are over-represented in the use of vouchers and other affordable rentals, and families are significantly under-represented.

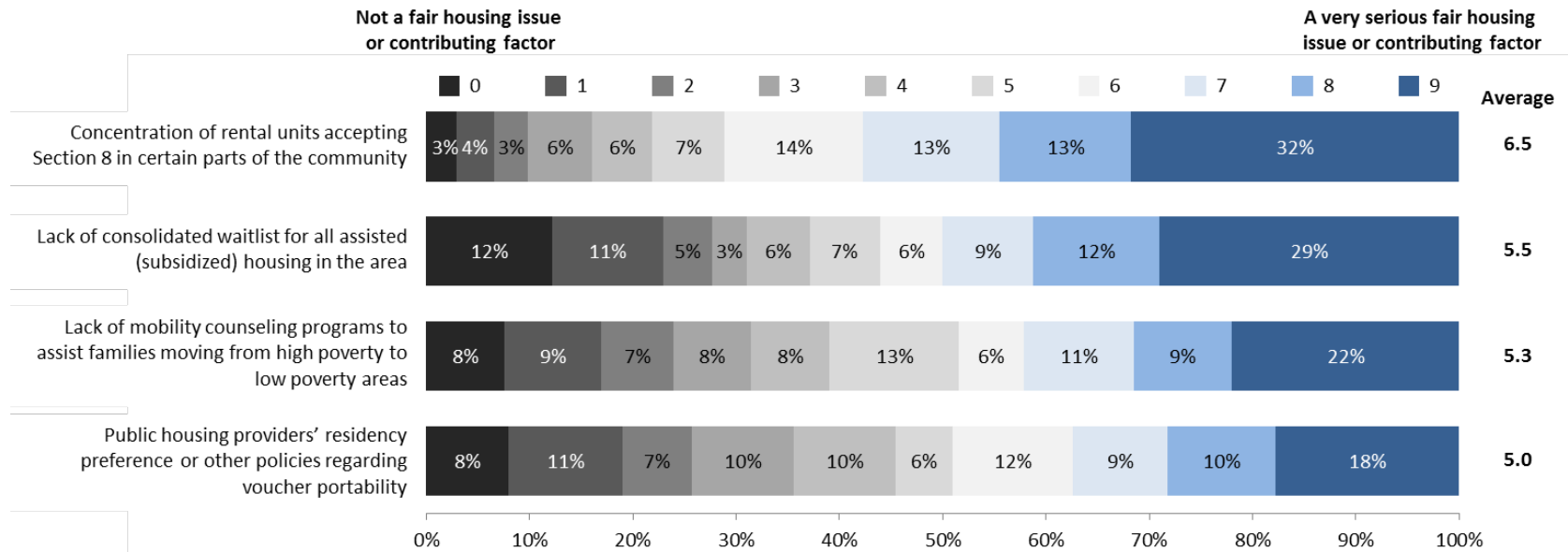
**Stakeholder input on PHA practices.** PHA stakeholders also contributed their perspectives on the policies and practices of publicly-supported housing providers.

Stakeholders emphasized that the public housing application process is extremely challenging for LEP populations who move frequently. Requirements to list all places where residents have lived, including the contact information for the landlord, can be difficult for non-English speakers to remember. Also, the landlords are often indifferent to requests for references; as such over-reliance on reference checks (a condition for PHAs as well as private landlords) can lead to denials for residents who have had challenging landlord relationships in the past.

More than half of stakeholders rate the "concentration of rental units accepting Section 8 in certain parts of the community" a serious fair housing issue. Nearly half believe a "lack of consolidated waitlist for all assisted (subsidized) housing in the area" is a contributing factor to fair housing issues, as shown in Figure II-13. Stakeholders have a more mixed response to the extent that a lack of mobility counseling programs or residency requirements create barriers to fair housing choice in greater Minnesota.

**Figure II-13.**  
**Stakeholder Perspectives on PHA Policies and Practices**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 163 to 274 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**NIMBYism.** The PHAs were asked a separate question about community resistance to affordable housing. Most answered that community resistance is not a problem, yet a handful mentioned some opposition and the need to increase efforts to communicate with residents about developments and the benefits of affordable housing.

**Fair housing capacity.** PHAs were asked if there was adequate training information, resources and training on fair housing laws in their community. All but three PHAs said yes; five said they were unsure. The PHAs requesting additional resources were located in Warren and Chippewa, Kanabec, Pine, and Washington Counties.

**State solutions.** When asked about state program and policy barriers to affordable housing creation, PHA survey respondents focused on two areas: 1) Preference points for transit can make rural applicants less competitive and/or place units in undesirable areas; and 2) General lack of competitiveness for LIHTC due to high costs of development and difficulty meeting the numerous criteria in applications.

## **Achieving Homeownership**

Homeownership is valuable for many reasons, the most significant being its role in promoting “economic inclusion” among households. Gaps in homeownership rates among some minority groups compared to whites are common. These gaps may relate to factors such as historic housing discrimination leading to segregation of minorities in neighborhoods with low home values and disproportionately lower incomes and employment instability among some minority groups.

Figure II-14 depicts the homeownership rates by race and ethnicity in 2000, 2010, and 2016. White households consistently have the highest rate of homeownership (76%), followed by Asian and Native Hawaiian/Pacific Islander households. In comparison, ownership rates have been consistently lower for other minority groups: In 2016, 49 percent of American Indian or Alaska Native, 45 percent of Hispanic, and 23 percent of Black/African American residents were homeowners.

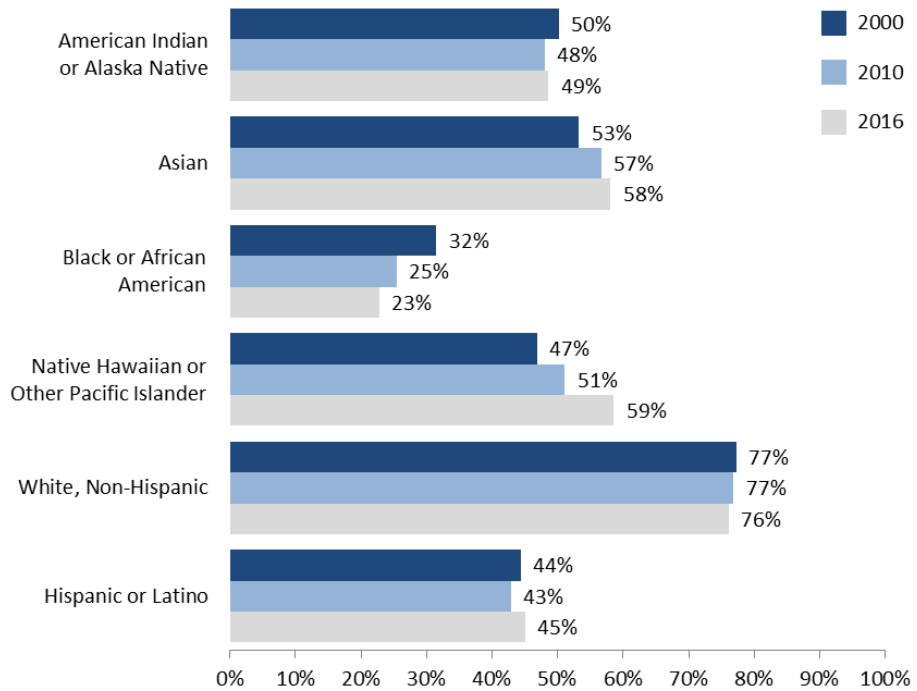
In 2016, the gap between Black/African American and White homeownership was greater in Minnesota than the gap nationwide (i.e. Black/African American Minnesotans had a homeownership rate 53 percentage points lower than White owners, compared to 30 percentage point gap nationwide). The American Indian/White gap was also greater in Minnesota compared to the gap nationwide. Hispanic/White and Asian/White gaps in Minnesota were similar to national trends and the Native Hawaiian or Pacific Islander /White gap was considerably lower in Minnesota than nationwide.

Homeownership rates over the past decade were relatively stable in Minnesota, except for Black or African American and Native Hawaiian or Pacific Islander households. Native Hawaiian or Pacific Islander residents in Minnesota experienced an increase in homeownership, from 47 percent in 2000 to 59 percent in 2016. In contrast, the rate for Black or African American homeowners declined from 32 percent in 2000 to 23 percent in 2016.



**Figure II-14.  
Homeownership  
Rates by Race and  
Ethnicity, State of  
Minnesota, 2000,  
2010 and 2016**

Source:  
2000 and 2010 U.S. Census,  
2015 American Community  
Survey, and BBC Research  
& Consulting.



When compared to a peer state such as Oregon, Native Hawaiian/Pacific Islander, White, and Hispanic Minnesotans had higher homeownership rates, while Black/African American residents in Minnesota had a much lower homeownership rate than Black/African American residents in Oregon, 23 percent versus 33 percent, respectively. American Indian/Alaskan Native and Asian Minnesotans had a similar homeownership rate to their Oregon counterpart.

The following section discusses how disparities in access to capital explain some of the gaps in homeownership.

### Access to Residential Capital

This section uses an analysis of Home Mortgage Disclosure Act data (HMDA) to identify areas of residential disinvestment in Minnesota—and the households most affected by lack of capital. It is supplemented by stakeholder perspectives on the most common private sector barriers to housing choice. Note that HMDA data do not include tribal lending programs; they do include loans guaranteed through the USDA Rural Development program accessed through a private lender.

The Home Mortgage Disclosure Act requires financial institutions to maintain and disclose data on loan applications for home purchases, home improvements and mortgage refinances. In general, HMDA applies to lending institutions above an annually adjusted asset threshold that have offices in metropolitan areas. HMDA was originally enacted in 1975 in response to the practice of “redlining”—the systematic exclusion of neighborhoods with high concentrations of minorities in home mortgage lending.

HMDA data are widely used to detect evidence of discrimination in mortgage lending. The variables contained in the HMDA dataset have expanded over time, allowing for more

comprehensive analyses and better results. However, despite expansions in the data reported, HMDA analyses remain limited because of the information that is *not* reported.

As such, studies of lending disparities that use HMDA data carry a similar caveat: HMDA data can be used to determine disparities in loan originations and interest rates among borrowers of different races, ethnicities and genders, as well as the location of the property they hope to own. The data can also be used to explain many of the reasons for any lending disparities (e.g., poor credit history). Yet HMDA data do not contain all of the factors that are evaluated by lending institutions when they decide to make a loan to a borrower. Basically, the data provide *a lot* of information about the lending decision—but *not all* of the information. Still, HMDA data remain the best and most comprehensive source of mortgage lending transactions available for fair lending analysis.

**Types of loans in HMDA data.** HMDA data report several types of loans: home purchase, home improvement, and refinancing.

The HMDA data are separated into two primary loan categories: conventional loans and government-guaranteed loans. Government-guaranteed loans are those insured by the Federal Housing Administration (FHA) and Veterans Administration (VA).

For the purposes of HMDA reporting, lenders are required to disclose the interest rate on loans when the annual percentage rate (APR) on the loan exceeds the yield on Treasury securities of comparable maturity by 3 percentage points for first liens and 5 percentage points for junior liens. These higher cost loans are sometimes called “subprime” loans.

During 2010, 2,374 subprime loans were made to Minnesota residents. This compares with 3,854 in 2015, the vast majority of which were made to White, non-Hispanic borrowers.

Federal regulations require separate racial and ethnic designations for Census purposes. Race includes the designations of White, Black/African American, Asian, American Indian/Alaska Native, and Native Hawaiian/Pacific Islander, while ethnicity includes the designation Hispanic and non-Hispanic. Therefore, an individual may be White Hispanic, White non-Hispanic, Black/African American-Hispanic, etc.

The remainder of this section uses the analysis of HMDA data to determine:

- How often Minnesota residents were denied mortgage loans, home improvement loans and loans to refinance existing mortgage debt;
- The geographic areas in Minnesota where loan application denials and high-cost lending are concentrated; and
- Disparities in high-cost lending and mortgage loan denials across different racial and ethnic groups.

**Loan approval and denials.** The 2015 HMDA dataset for the State of Minnesota contains records for 192,906 mortgage loan applications. These include loan applications to purchase homes, refinance loans, and make home improvements.

As shown in Figure II-15, this volume of applications is much lower than in prior years, with the exception of 2014. Loan applications dropped by 19 percent between 2010 and 2015. However, the origination rate—70 percent of applications were approved—was similar across years.

**Figure II-15.**  
**Historical Trends: Loan Applications and Originations, Minnesota, 2010, 2012, 2014, and 2015**

Note:

Does not include loans for multifamily properties or non-owner occupants.

Source:

FFIEC HMDA Raw Data, 2010, 2012, 2014 and 2015 and BBC Research & Consulting.

|                              | 2010    | 2012    | 2014    | 2015        |
|------------------------------|---------|---------|---------|-------------|
| Loan Applications            | 238,263 | 276,416 | 146,630 | 192,906     |
| % Change Yr / Yr             | -       | 16%     | -47%    | 32%         |
| Loans Originated             | 155,626 | 195,258 | 100,659 | 135,112     |
| % Loans Originated           | 65%     | 71%     | 69%     | 70%         |
| <b>% Change 2010 to 2015</b> |         |         |         | <b>-19%</b> |

Of these applications, the majority (74 percent) was for conventional loans; 18 percent were for FHA loans; 7 percent, VA-guaranteed loans; and the remainder, for other government guaranteed loans.

Figure II-16 shows the result of loan applications by loan type. Home improvement and refinance loans have much lower approval rates than do home purchase loans, with two thirds of these loans originated, compared to 81 percent for home mortgage loans. This is not unusual: home improvement and refinance loans add to existing debt, which puts many applicants above the loan-to-debt thresholds allowed by financial institutions.

**Figure II-16.**  
**Result of Loan Application by Loan Purpose, Minnesota, 2015**

|   | Home Purchase |             | Home Improvement |             | Refinancing   |             |
|---|---------------|-------------|------------------|-------------|---------------|-------------|
|   | Number        | Percent     | Number           | Percent     | Number        | Percent     |
| Loan originated                             | 71,290        | 81%         | 3,732            | 65%         | 60,090        | 60%         |
| Application denied by financial institution | 6,066         | 7%          | 995              | 17%         | 18,882        | 19%         |
| Application approved but not accepted       | 2,153         | 2%          | 175              | 3%          | 3,361         | 3%          |
| Application withdrawn by applicant          | 7,169         | 8%          | 628              | 11%         | 12,716        | 13%         |
| File closed for incompleteness              | 835           | 1%          | 198              | 3%          | 4,616         | 5%          |
| <b>Total</b>                                | <b>87,513</b> | <b>100%</b> | <b>5,728</b>     | <b>100%</b> | <b>99,665</b> | <b>100%</b> |

Note: Does not include loans for multifamily properties or non-owner occupants.

Source: FFIEC HMDA Raw Data, 2015 and BBC Research & Consulting.

**Denials by race and ethnicity.** In 2015, 84 percent of applicants for residential mortgage, home improvement, or refinance loans classified their race as White. Four percent were Asian, 2 percent were Black/African American and less than 1 percent was American Indian/Alaska Native or Native Hawaiian/Pacific Islander. Nine percent did not provide race information.

Figure II-17 shows all loan application outcomes by race and ethnicity. Differences in the proportion of loans that are approved but not accepted, withdrawn and incomplete are minor, with the largest differences in the percent withdrawn for Black/African American, Asian, and American Indian/Alaska Native applicants. These actions can explain some differences in denials among applicants—e.g., certain groups may be more likely to not accept loans due to concerns

about owing a large amount of debt. This does not seem to be a factor affecting mortgage loan origination rates in Minnesota.

There are many similarities in the outcomes of mortgage loan applications between Minnesota and its peer state, Oregon. The largest differences can be seen in loans that were either originated or denied. The gap between the percent of loans originated for Black/African American and White applicants and for American Indian/Alaskan Native and White applicants is larger in Minnesota. Along similar lines, the difference in percent denied between American Indian/Alaskan Native and White applicants is also greater in Minnesota (i.e. the American Indian/Alaskan Native and White difference in percent denied is 12% in Minnesota compared to 8% in Oregon).

**Figure II-17.**  
**Outcome of Mortgage Loan Applications by Race/Ethnicity, Minnesota, 2015**

| Race/Ethnicity                           | Percent Originated | Percent Approved but Not Accepted by Applicant | Percent Denied | Percent Withdrawn | Percent Incomplete |
|--|--------------------|--|----------------|-------------------|--------------------|
| <b>Race</b>                              |                    |  |                |                   |                    |
| American Indian or Alaska Native         | 56%                | 3%   | 24%            | 13%               | 4%                 |
| Asian                                    | 58%                | 4%   | 14%            | 13%               | 3%                 |
| Black or African American                | 58%                | 3%   | 21%            | 14%               | 5%                 |
| Native Hawaiian or Pacific Islander      | 64%                | 4%   | 17%            | 10%               | 5%                 |
| White                                    | 72%                | 3%   | 12%            | 10%               | 3%                 |
| <b>Ethnicity</b>                         |                    |  |                |                   |                    |
| Hispanic                                 | 64%                | 3%   | 18%            | 11%               | 3%                 |
| Non-Hispanic                             | 71%                | 3%   | 13%            | 10%               | 3%                 |
| <b>African American/White Difference</b> | <b>-14%</b>        | <b>0%</b>                                      | <b>9%</b>      | <b>4%</b>         | <b>2%</b>          |
| <b>American Indian/White Difference</b>  | <b>-16%</b>        | <b>0%</b>                                      | <b>12%</b>     | <b>3%</b>         | <b>1%</b>          |
| <b>Hispanic/Non-Hispanic Difference</b>  | <b>-7%</b>         | <b>0%</b>                                      | <b>6%</b>      | <b>1%</b>         | <b>0%</b>          |

Note: Does not include loans for multifamily properties or non-owner occupants.  
Differences between racial and ethnic groups may be impacted by rounding.  
Denial rate calculated with all loans as denominator.

Source: FFIEC HMDA Raw Data, 2015 and BBC Research & Consulting.

As displayed in Figure II-18, these disparities in denial rates persist across all incomes, even at the higher income levels. Among applicants earning 100% of the Median Family Income (MFI) or above, the denial rate among Black/African American applicants was 12 percentage points higher than White applicants and the denial rate for American Indian/Alaska Native applicants was 11 percentage points higher than White applicants.

Similarly, among Hispanics earning 100% of the MFI or above, the denial rate was 6 percentage points higher than that of non-Hispanic applicants. Black/African American applicants earning less than 50% of the MFI experienced the highest denial rate (29%).

**Figure II-18.  
Mortgage Loan Application Denials by Race/Ethnicity and Income, Minnesota, 2015**

| Race/Ethnicity                           | Overall Percent Denied | Percent Denied by Income Category |            |             |            |
|--|------------------------|-----------------------------------|------------|-------------|------------|
|  |                        | Less than 50% MFI                 | 50-80% MFI | 80-100% MFI | 100% MFI + |
| <b>Overall</b>                           | <b>13%</b>             | <b>22%</b>                        | <b>15%</b> | <b>10%</b>  | <b>11%</b> |
| <b>Race</b>                              |                        |                                   |            |             |            |
| American Indian or Alaska Native         | 24%                    | 53%                               | 29%        | 25%         | 23%        |
| Asian                                    | 14%                    | 22%                               | 18%        | 14%         | 12%        |
| Black or African American                | 21%                    | 32%                               | 24%        | 22%         | 23%        |
| Native Hawaiian or Pacific Islander      | 17%                    | 42%                               | 25%        | 15%         | 7%         |
| White                                    | 12%                    | 24%                               | 15%        | 14%         | 11%        |
| <b>Ethnicity</b>                         |                        |                                   |            |             |            |
| Hispanic                                 | 18%                    | 28%                               | 21%        | 18%         | 17%        |
| Non-Hispanic                             | 13%                    | 24%                               | 16%        | 14%         | 12%        |
| <i>African American/White Difference</i> | 9%                     | 9%                                | 9%         | 8%          | 12%        |
| <i>American Indian/White Difference</i>  | 12%                    | 29%                               | 14%        | 11%         | 11%        |
| <i>Hispanic/Non-Hispanic Difference</i>  | 6%                     | 4%                                | 5%         | 4%          | 6%         |

Note: Does not include loans for multifamily properties or non-owner occupants.  
Differences between racial and ethnic groups may be impacted by rounding.

Source: FFIEC HMDA Raw Data 2015 and BBC Research & Consulting.

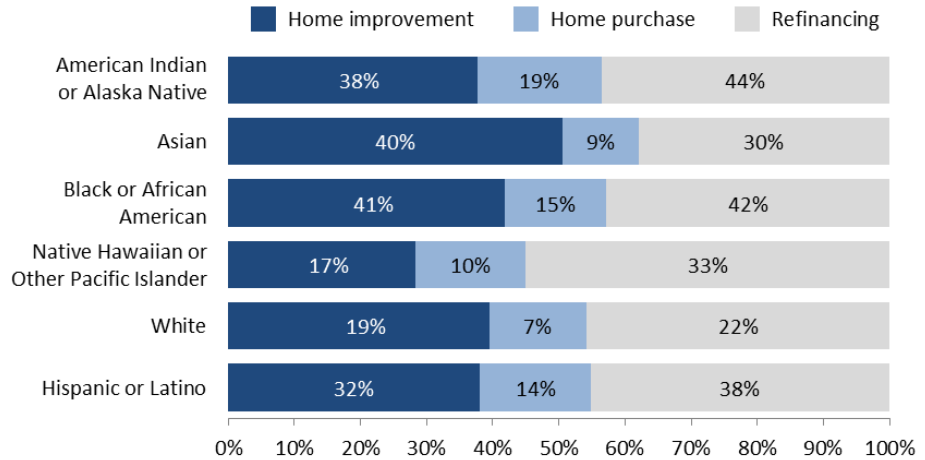
Across all income levels, Minnesota has a lower percent of loan applicants denied compared to Oregon. In Oregon, 16 percent of all loan applications were denied and 36 percent of loans were denied for applicants in the lowest income category (i.e. less than 50% AMI). The gap between American Indian/Alaskan Native and White applicants in all income levels was far greater in Minnesota than in Oregon (e.g. the difference in percent denied for American Indian/Alaskan Native and White applicants in the lowest income category was 29% in Minnesota compared to 6% Oregon).

Figure II-19 shows denials by race and ethnicity and loan purpose, to determine if differences in denial rates are associated with the types of loans applicants sought. Except for Asian applicants, the largest proportion of denials is loans to refinance existing properties.

**Figure II-19.  
Mortgage Loan  
Application  
Denials by  
Race/Ethnicity and  
Loan Purpose,  
Minnesota, 2015**

Note:  
Does not include loans for  
multifamily properties or  
non-owner occupants.

Source:  
FFIEC HMDA Raw Data, 2015  
and BBC Research &  
Consulting.



The percent of loans denied, shown in the above figures, is calculated by dividing the number of denials by the total number of loan applications. Although it is important to examine the outcomes of all loans, determining the actual denial rate can provide a better insight into lending trends. The denial rate is calculated by dividing the number of denials by the number of denials + originations (excluding applications that are withdrawn by applicant, approved but not accepted by applicant, or closed for incompleteness).

Figure II-20 shows denials by race and ethnicity in 2010 and 2015. Overall, the denial rate changed only slightly between 2010 and 2015. Across all races and ethnicities, percent denied dropped by about 2 percentage points.

**Figure II-20.  
Mortgage Loan Application  
Denials by Race/Ethnicity,  
Minnesota, 2010 and 2015**

Note:  
Does not include loans for multifamily  
properties or non-owner occupants.

Source:  
FFIEC HMDA Raw Data, 2010 and 2015 and BBC  
Research & Consulting.

| Race/Ethnicity                            | 2010 | 2015 | Percent Change |
|---|------|------|----------------|
| American Indian or Alaska Native          | 26%  | 24%  | -2%            |
| Asian                                     | 16%  | 14%  | -2%            |
| Black or African American                 | 23%  | 21%  | -2%            |
| Native Hawaiian or other Pacific Islander | 19%  | 17%  | -2%            |
| White                                     | 14%  | 12%  | -2%            |
| Hispanic or Latino                        | 21%  | 18%  | -3%            |

Denials are consistently highest for American Indian/Alaskan Native and Hispanic applicants and lowest for White and Asian applicants. The highest percentage point difference in denials is 12 percentage points (24% denial rate for American Indian/Alaskan Native versus 12% for White in 2015).<sup>3</sup>

While the denial rate decreased among all races and ethnicities in the past five years in both Minnesota and Oregon, the percent change in Minnesota was more stable. Oregon experienced

<sup>3</sup> It is important to note that the number of American Indian/Alaska Native and Native Hawaiian/Pacific Islander applicants that applied for loans is low compared to other races and ethnicities; as such, the decline in denials is less significant than it would be if a larger number of loans were available for comparison.

more variation by race and ethnicity – e.g. Hispanic applicants saw an 8 percent decrease in denial rates compared to 5 percent for White applicants.

**Reasons for denials.** HMDA data contain some information on why loans were denied, which can help to explain differences in denials among racial and ethnic groups. Figure II-21 shows the reasons for denials in Minnesota. As the table demonstrates, racial and ethnic minorities, with the exception of Asian applicants, are more likely to be denied a loan based on credit history than White, non-Hispanic applicants.

**Figure II-21.**  
**Reasons for Denials of Loan Applications by Race/Ethnicity of Applicant, Minnesota, 2015**

| Race/Ethnicity                           | Debt-to-Income Ratio | Credit History | Collateral | Credit Application Incomplete | Insufficient Cash | Employment History | Unverifiable Information | Other |
|--|----------------------|----------------|------------|-------------------------------|-------------------|--------------------|--------------------------|-------|
| <b>Race</b>                              |                      |                |            |                               |                   |                    |                          |       |
| American Indian or Alaska Native         | 21%                  | 39%            | 18%        | 10%                           | 2%                | 0%                 | 5%                       | 4%    |
| Asian                                    | 27%                  | 22%            | 18%        | 11%                           | 3%                | 2%                 | 7%                       | 9%    |
| Black or African American                | 23%                  | 32%            | 15%        | 12%                           | 3%                | 2%                 | 6%                       | 7%    |
| Native Hawaiian or Pacific Islander      | 25%                  | 25%            | 18%        | 21%                           | 0%                | 0%                 | 7%                       | 4%    |
| White                                    | 21%                  | 24%            | 25%        | 13%                           | 3%                | 2%                 | 5%                       | 7%    |
| <b>Ethnicity</b>                         |                      |                |            |                               |                   |                    |                          |       |
| Hispanic                                 | 22%                  | 26%            | 16%        | 13%                           | 3%                | 3%                 | 7%                       | 10%   |
| Non-Hispanic                             | 21%                  | 24%            | 24%        | 13%                           | 3%                | 2%                 | 5%                       | 7%    |
| <i>African American/White Difference</i> | 2%                   | 8%             | -10%       | -1%                           | 1%                | 0%                 | 1%                       | -1%   |
| <i>American Indian/White Difference</i>  | 0%                   | 16%            | -7%        | -4%                           | 0%                | -2%                | 0%                       | -3%   |
| <i>Hispanic/Non-Hispanic Difference</i>  | 1%                   | 2%             | -9%        | 0%                            | 0%                | 1%                 | 1%                       | 2%    |

Note: Does not include loans for multifamily properties or non-owner occupants.

Source: FFIEC HMDA Raw Data 2015 and BBC Research & Consulting.

**Rural/Urban lending gap.** The Federal Reserve Bank of Minneapolis, which covers the Ninth District of the Federal Reserve System (States of Minnesota, Montana, North and South Dakota, and 26 counties in northwestern Wisconsin and the Upper Peninsula of Michigan), recently examined changes in denial rates among rural and urban loan applicants during and after the Great Recession. The research found that Minnesota (and other Ninth District states) experienced one of the largest recessionary rural-urban denial rate gaps.

Specifically, during the years approaching the housing market crises, urban and rural denial rates were similar (see the figure below). This began to change in 2007, when urban applicants' denial rates quickly fell. Rural areas also experienced a decline in denial rates, yet it was much more modest. Since 2008, denial rates in the Ninth District have been much higher for applicants living in rural areas.

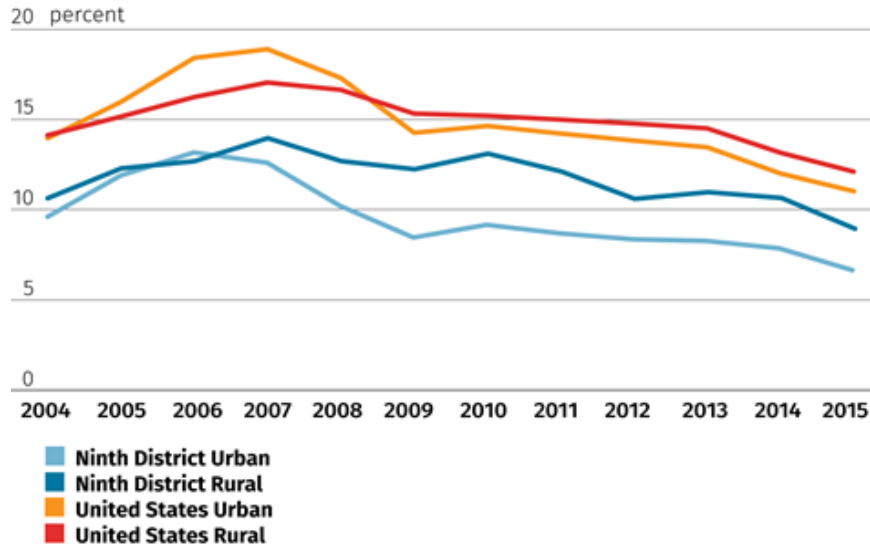
As Figure II-22 shows, this gap exists for the U.S. overall, but the difference is much smaller than for the Ninth District.



**Figure II-22.  
Mortgage Denial Rate  
by Rural and Urban  
Status, U.S. and Ninth  
District, 2004-2015**

Note:  
Data includes first-lien, owner-occupied, single-family purchase applications only.

Source:  
FFIEC HMDA Raw Data, 2004-2015 and the Federal Reserve Bank of Minneapolis.



Although some may attribute the large denial rate gap between rural and urban areas in the Ninth District to a high level of denial rates in rural areas, the Federal Reserve Bank of Minneapolis has shown the rural share of mortgage applications to be a stronger indicator. In the Ninth District, the large gap between rural and urban denial rates is correlated to the high rural share of mortgage applications. That is, applicants in rural areas are generating more demand—and have a greater need for—residential capital.<sup>4</sup>

Figure II-23 examines these gaps by county. The far left data column in the figure shows the overall denial rate for each county. The far right column shows the difference in denial rates for all minority loan applicants and White, non-Hispanic applicants. High negative percentages indicate that the denial rates for minority applicants were much larger than those for White, non-Hispanic applicants. The figure only includes counties with more than 20 total loan applications by minority residents.

The largest differences in denials between minority and White, non-Hispanic applicants exist in Becker, Carlton, Kandiyohi, Nobles, and Polk Counties. Carlton and Nobles Counties have some of the highest denial rates in the state overall, for both minority and non-minority applicants.

There are demographic similarities among these counties, except for Polk. Becker and Carlton Counties include reservation land. Becker, Kandiyohi, and Nobles Counties all have moderate dissimilarity indices (an indicator of segregation). Nobles County stands out for its relatively high proportion of foreign-born residents.

<sup>4</sup> <https://www.minneapolisfed.org/publications/community-dividend/a-new-lending-gap>

**Figure II-23. Denial Rates and Disparities in Denials by Race/Ethnicity and County, 2015**

| County            | Denial Rate by County (All Races and Ethnicities) |                     |     | Difference |
|-------------------|---|---------------------|-----|------------|
|                   | All Minorities                                    | White, Non-Hispanic |     |            |
| Anoka County      | 14%   | 21%                 | 14% | -7%        |
| Becker County     | 16%   | 35%                 | 15% | -20%       |
| Beltrami County   | 18%   | 13%                 | 19% | 6%         |
| Benton County     | 16%   | 16%                 | 16% | 0%         |
| Blue Earth County | 14%   | 20%                 | 13% | -7%        |
| Carlton County    | 22%   | 49%                 | 21% | -28%       |
| Carver County     | 13%   | 10%                 | 13% | 3%         |
| Chisago County    | 17%   | 22%                 | 17% | -5%        |
| Clay County       | 11%   | 15%                 | 11% | -4%        |
| Crow Wing County  | 21%   | 29%                 | 21% | -8%        |
| Dakota County     | 13%   | 18%                 | 12% | -6%        |
| Freeborn County   | 23%   | 14%                 | 24% | 10%        |
| Goodhue County    | 18%   | 25%                 | 18% | -7%        |
| Hennepin County   | 14%   | 21%                 | 12% | -9%        |
| Isanti County     | 18%   | 26%                 | 18% | -8%        |
| Itasca County     | 19%   | 32%                 | 19% | -13%       |
| Kandiyohi County  | 18%   | 45%                 | 16% | -29%       |
| Le Sueur County   | 15%   | 25%                 | 14% | -11%       |
| McLeod County     | 17%   | 32%                 | 16% | -16%       |
| Mower County      | 18%   | 17%                 | 18% | 1%         |
| Nobles County     | 29%   | 45%                 | 23% | -22%       |
| Olmsted County    | 11%   | 20%                 | 10% | -10%       |
| Polk County       | 15%   | 48%                 | 14% | -34%       |
| Ramsey County     | 15%   | 21%                 | 13% | -8%        |
| Rice County       | 15%   | 19%                 | 15% | -4%        |
| Scott County      | 12%   | 17%                 | 11% | -6%        |
| Sherburne County  | 14%   | 24%                 | 14% | -10%       |
| St. Louis County  | 20%   | 26%                 | 20% | -6%        |
| Stearns County    | 13%   | 20%                 | 13% | -7%        |
| Steele County     | 17%   | 28%                 | 17% | -11%       |
| Washington County | 14%   | 17%                 | 14% | -3%        |
| Watonwan County   | 20%   | 30%                 | 18% | -12%       |
| Winona County     | 14%   | 13%                 | 14% | 1%         |
| Wright County     | 14%   | 24%                 | 14% | -10%       |

Note: Figure only includes counties that have more than 20 total loan applications by minority residents. For counties with less than 20 minority loan applicants, disparities in denial rates are not as conclusive because the data size is too small. Does not include loans for multifamily properties or non-owner occupants.

Source: FFIEC HMDA Raw Data 2015 and BBC Research & Consulting.

**Rural lending not included in HMDA data.** Two lending streams missing from HMDA data provide capital lending resources to rural communities. For example, USDA Rural Development’s direct lending program provides resources to rural communities, including 15 to Noble County in 2015, with 10 to households of color or Hispanic Ethnicity. In addition, there are revolving lending programs in some tribal communities.

**Stakeholder perspectives on investment gaps.** In the survey conducted for this AI, stakeholders were asked the extent to which lack of private investment (e.g., business lending, home or commercial property improvement loans, commercial construction) creates barriers to housing choice. Stakeholders rated the barrier on a scale from 0 to 9, where 0 constitutes no barrier and 9 indicates a very serious barrier.

The responses were analyzed by DEED region. The average rating of the barrier for all regions except for the Twin Cities or West Central Minnesota ranged from 5.7 to 5.9—a little higher than moderate rating. Stakeholders in West Central Minnesota provided a lower rating (5.5), while stakeholders in the Twin Cities rated the barrier much higher (6.5). In the Twin Cities, nearly 40 percent of stakeholders rated lack of private investment a very serious barrier.

Twin Cities stakeholders did not provide comments about barriers created by private investment. The difference in Twin Cities stakeholders' perceptions and the HMDA analysis (where Twin Cities counties do not show high differences in denials) may be related to the broad nature of the stakeholder question, which asked about all types of private investment, including business and commercial capital. This could also reflect perceived differences in the quality of the built environment.

**Supplemental research into capital disparities.** Two recent studies examining the reasons behind persistent gaps provide additional context for the above findings.

**Differences in access to lenders.** A working paper by the National Bureau of Economic Research (NBER) found that differences in high interest mortgage loans by applicant race and ethnicity is explained by the type of lender to which applicants have access. Applicants with fewer choices—those living in high poverty areas, those without access to competitive lenders, and mainly applicants of color—received high-rate loans much more often. The study concludes that access to capital plays a significant role in explaining lending disparities.

Applied to the HMDA findings for Minnesota, this study suggest that lack of access to financial institutions—either due to physical barriers or the digital divide—can limit capital acquisition and wealth building for Minnesota households.

**Lack of access to capital and “unbanked” residents.** When residents are reluctant to seek capital or bank accounts with traditional financial institutions and need banking services they patronize other, non-traditional sources. The Federal Deposit Insurance Corporation (FDIC) has consistently surveyed such residents, whom they term “unbanked and underbanked” households. Unbanked households are those that lack any kind of deposit account at an insured depository institution. Underbanked households hold a bank account, but also rely on alternative financial providers such as payday lenders or pawn shops.

The latest survey (2015) found that 80 percent of Minnesota households are “fully banked.” Fourteen percent are underbanked and 3.4 percent are unbanked. This compares to 20 percent underbanked and 7 percent unbanked households in the U.S. overall. As in 2012, Minnesota (along with New Hampshire, Wisconsin, and Oregon) has some of the lowest proportions of unbanked or underbanked households in the nation.

Lower income households in Minnesota are more likely to be under- and unbanked: 25 percent of households earning between \$30,000 and \$50,000 are under- or unbanked, compared to 9.5 percent of households earning \$75,000 and more. Households residing in metropolitan areas have slightly higher under- and unbanked rates (16%) than those living in rural areas (13%).

**Legal cases associated with fair lending practices.** As part of the HMDA analysis, fair lending legal cases were reviewed to assess recent trends in private sector lending practices in Minnesota.

**HUD FHEO v. Associated Bank.** In May 2015, HUD reached an historic agreement with Wisconsin-based Associated Bank to resolve a disparate treatment redlining case. In one of the largest redlining complaints brought by the federal government against a mortgage lender, Associated Bank agreed to pay \$200 million in mortgage loans to borrowers in majority-minority neighborhoods, including neighborhoods in Minnesota. The complaint alleged that from 2008 to 2010, the bank engaged in discriminatory lending practices by denying mortgage loans to qualified Black/African American and Hispanic applicants. When compared to other mortgage lenders, Associated Bank's lending practices showed that few loans were made in majority-minority neighborhoods regardless of qualifications. While in nearby majority White neighborhoods, Associated Bank was lending at a much higher rate. Under the Fair Housing Act, it is unlawful to discriminate against mortgage applicants because of their race or national origin and after HUD's analysis, the disparities in the bank's lending practices for majority-minority census tracts compared to other neighborhoods was statistically significant. As part of the settlement, Associated will provide lower interest rate home mortgages and down payment/closing cost assistance to qualified borrowers in majority minority census tracts in Illinois, Minnesota, and Wisconsin.<sup>5</sup>

**National Fair Housing Alliance v. U.S. Bank.** Minneapolis-based U.S. Bank was accused of racial discrimination by the National Fair Housing Alliance (NFHA) in 2012 for the upkeep of foreclosed properties. While U.S. Bank rejected the allegations, the NFHA surveyed properties in the Twin Cities and reported that foreclosed homes in predominately Black/African American and Hispanic neighborhoods were more likely to be neglected. After surveying these properties, NFHA claimed there was a consistent pattern of failing to upkeep homes (i.e. trash or debris in yards, broken doors or windows, and overgrown yards). In addition to U.S. Bank, NFHA has also filed claims against Wells Fargo and Bank of America for racial discrimination in the upkeep of foreclosed properties. While Wells Fargo settled with NFHA, they did not acknowledge any discrimination and there was no restitution for homeowners. Banks criticize the allegations because NFHA is not distinguishing between their role as trustees of mortgage-backed securities and mortgage servicers. Banks that are directly responsible for a property are mortgage servicers, whereas trustees of mortgage-backed securities simply serve an administrative role and, as the banks claim, are not responsible for the upkeep. Under the Fair Housing Act, NFHA argued that trustees are legally liable for all properties controlled by the trust, even if they are part of a pool of mortgages. Properties in neighborhoods with high poverty rates can be difficult

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<sup>5</sup> <https://archives.hud.gov/news/2015/pr15-064b.cfm>; <https://archives.hud.gov/news/2015/pr15-064b-ExecAssBankConAgrmnt.pdf>

to sell, may already be in disrepair, and are cheaper to write off as a loss than spend money to fix. Therefore, banks have little incentive to maintain foreclosed properties in these communities because lower-valued properties are not worth their time and effort. The allegations against U.S. Bank were dismissed by HUD in 2016, stating there was not enough evidence to show discrimination.<sup>6</sup>

**HUD v. U.S. Bank.** In 2013, U.S. Bank settled a disability discrimination claim with HUD over allegations that the bank required a Minnesotan mortgage applicant to provide unnecessary documentation for his disability. The claim states that before U.S. Bank would approve his loan, they required the man to show that he would continue receiving disability income for three years. Under the Fair Housing Act, it is unlawful to discriminate against a mortgage applicant's disability by imposing different loan application criteria. By holding this applicant to a different standard based on his disability-related income was discriminatory and illegal. As part of the settlement, U.S. Bank paid the man \$12,000 and made changes to their Social Security payment policy (i.e. accepting SSI award letters as future income and refraining from requiring applicants receiving disability income to provide additional documentation about their disability).<sup>7</sup>

## Criminal History in Tenant Screening

HUD's April 4, 2016 guidance on criminal history screening and the Fair Housing Act states that the use of criminal records in the application process by housing providers could have a disparate impact on the basis of race and ethnicity.<sup>8</sup> Although criminal records are not protected under the Fair Housing Act, restrictions to housing opportunities based on criminal history violate the Act if the burden falls more often on individuals of one race over another. Given that the rate at which African Americans and Hispanics are arrested, convicted, and incarcerated is disproportionate to their share of the general population, HUD has grounds for investigating complaints challenging the use of criminal history policies and practices. HUD outlines an assessment of discriminatory effects liability and disparate treatment liability to help determine whether or not such practices violate the Fair Housing Act. Unjustified discriminatory effect is assessed through:

- National and state level statistics
- Evidence from housing provider for reasons behind policy or practice
- Evaluation of less discriminatory alternative

HUD emphasizes that the analysis of whether or not a housing provider's criminal history policy has a disparate impact is ultimately fact-specific and case-specific. However, HUD finds that if criminal history is shown to have a disparate impact, three types of policies violate the Fair Housing Act without the need for a fact-specific or case-specific analysis:

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<sup>6</sup> <http://www.startribune.com/fair-housing-group-challenges-u-s-bank-over-upkeep-of-foreclosed-mpls-properties/278573061/>

<sup>7</sup> <https://archives.hud.gov/news/2013/pr13-008.cfm>

<sup>8</sup> [https://portal.hud.gov/hudportal/documents/huddoc?id=HUD\\_OGCGuidAppFHASandCR.pdf](https://portal.hud.gov/hudportal/documents/huddoc?id=HUD_OGCGuidAppFHASandCR.pdf)

- Policies that exclude tenants on the basis of prior arrests—arrests are not a reliable basis to assess potential risk to safety or property;
- Blanket conviction prohibitions imposed by housing providers—policies must take the individual’s particular circumstances into account (e.g., years since conviction, type of crime, what the individual has been doing since release, etc.); and
- Blanket policies excluding drug possession convictions—drug-related criminal history must involve manufacturing or distribution to be applied, as these crimes are specifically excluded from the Fair Housing Act.

Intentional discrimination on the basis of protected class status by using criminal history is also prohibited under the Fair Housing Act. If an applicant is treated differently because of race, national origin, or another protected characteristic, it is pretext for unlawful discrimination.

The HUD guidance on criminal history documents the following national statistics as grounds to investigate complaints challenging criminal screening practices:

- Arrest rates for African Americans (24%) were more than double their proportion of the general population (12%);
- African Americans comprise 41 percent of the total prison population, but only 12 percent of the total U.S. population;
- Hispanic individuals comprise 18 percent of the prison population, but only 12 percent of the total U.S. population;
- In contrast, non-Hispanic whites comprise 62 percent of the total U.S. population, but only 39 percent of the prison population;
- Across all age groups, African American males are imprisoned nearly six times the amount of white males; and
- Across all age groups, Hispanic males are imprisoned over twice the amount of white males.

BBC replicated HUD’s assessment by analyzing arrest and prison data for Minnesota. The table below shows the racial and ethnic breakdown of arrests and prison population in Minnesota.

**Figure II-24.**  
**Analysis of Arrests and Prison Population by Race and Ethnicity, Minnesota**

| Criminal History                                 | Arrests/Prisoners |             | Total Population Percent<br>(2014) |
|--|-------------------|-------------|------------------------------------|
|  | Number            | Percent     |                                    |
| <b>Arrests, 2014</b>                             |                   |             |                                    |
| American Indian or Alaska Native                 | 7,898             | 5%          | 1%                                 |
| Asian  | 4,188             | 3%          | 4%                                 |
| Black or African American                        | 38,838            | 26%         | 5%                                 |
| Native Hawaiian or Pacific Islander              | --                | --          | 0%                                 |
| Other  | --                | --          | 4%                                 |
| White  | 101,256           | 67%         | 85%                                |
| <b>Total</b>                                     | <b>152,180</b>    | <b>100%</b> | <b>100%</b>                        |
| <b>Prison Population, 2013</b>                   |                   |             |                                    |
| Hispanic   | 712               | 7%          | 5%                                 |
| Non-Hispanic American Indian or Alaska Native    | 942               | 9%          | 1%                                 |
| Non-Hispanic Asian                               | 276               | 3%          | 4%                                 |
| Non-Hispanic Black or African American           | 3,573             | 35%         | 5%                                 |
| Non-Hispanic Native Hawaiian or Pacific Islander | 0                 | 0%          | 0%                                 |
| Other  | 5                 | 0%          | 2%                                 |
| Non-Hispanic White                               | 4,781             | 46%         | 82%                                |
| <b>Total</b>                                     | <b>10,289</b>     | <b>100%</b> | <b>100%</b>                        |

Note: Minnesota's ethnicity data is not reported for arrests; within arrest data, Hispanic ethnicity is included in various non-specified racial categories. Prison population data includes Hispanics within racial breakdown; assumed to reflect mutually exclusive categories.

Source: FBI Uniform Crime Report, Bureau of Justice Statistics, 2014 American Community Survey, and BBC Research & Consulting.

Minnesota arrest and prison data has some important limitations that need to be noted, including, but not limited to, not recording Hispanic ethnicity in arrest data and not reporting two or more races. It should also be noted that race/ethnicity for arrest data is typically recorded by the arresting officer and does not necessarily reflect how the individual may identify.

Racial and ethnic disparities in arrest and prison population data in Minnesota are similar to those of the U.S. as a whole. Arrests and convictions of Native Americans and African Americans in Minnesota were disproportionate to their percentage of the general population. The largest disparity is seen in African American prisoners, who are overrepresented by 30 percentage points relative to their representation in the state's population overall.

**PHA screening practices.** As part of the PHA survey, housing authorities were asked about their criminal history screening patterns. Only half of the PHAs said they planned to make changes to their screening policies as a result of the HUD guidance. Many PHAs said they are in compliance with HUD guidelines and some offered examples of their practices (e.g., look back period of 3 years). A handful said they evaluate tenants on a case-by-case basis.

## **SECTION III.**

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**Access to Opportunity and Community  
Engagement**



## SECTION III.

# Access to Opportunity and Community Engagement

This section examines how relevant State of Minnesota policies and practices support access to economic opportunity.

Access to economic opportunity is measured through:

- For children, ability to receive a quality education;
- For children and adults, ability to live in low poverty neighborhoods;
- For workers, both employed and unemployed, access to jobs;
- For all residents, especially those with mobility limitations, transportation to employment and needed services; and
- For all residents, ability to live in environmentally healthy neighborhoods.

These indicators were chosen not only because of data available to measure access, but also because of their effect on improving short- and long-term economic outcomes of cities and towns. However, this does not encompass all of the types of opportunity as perceived by community members or reasons why an individual or household might desire to live in one community over another such as family connections, social supports, and civic institutions.

In reading this analysis, it is important to note that many of the policies and practices examined are not those of Minnesota Housing or the State of Minnesota. Although Minnesota Housing and the State may have relationships with and an ability to influence some of the governing agencies that make decisions influencing access to opportunity, they do not have authority to directly change all of the identified policies and practices that may create barriers to economic opportunity for some residents.

The analysis of access to opportunity in Minnesota is presented in two parts:

- The first considers access to opportunity through an overview of pertinent State of Minnesota strategies and policies and a geodemographic analysis of access to opportunity using HUD-provided data<sup>1</sup>.
- The second explores access to opportunity from the perspective of residents and stakeholders who participated in the community engagement process.

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<sup>1</sup> HUD Affirmatively Furthering Fair Housing Data and Mapping Tool (AFFH-T). <https://egis.hud.gov/affht/>.

## Summary Findings

This section explored a range of measures of access to economic opportunity for members of protected classes in Minnesota.

The primary challenges to access to opportunity for all Minnesotans include:

- Disparities in access to proficient schools, particularly in the Twin Cities.
- Lack of capacity for in-person language interpretation at schools, especially in communities that have seen high growth in immigrants and refugees from non-Spanish-speaking countries.
- Resources for local provision of adult basic education, especially English as a Second Language and adult literacy.
- From community conversations, it's clear that residents, and many landlords, are not aware of their rights and responsibilities under the Fair Housing Act. Education and outreach is needed.

## State of Minnesota Policy Overview and Findings from HUD Data

This section explores access to opportunity in five issue areas: education, employment, transportation, low poverty neighborhoods and environmentally healthy neighborhoods.

**Education.** Access to proficient schools is a key indicator of access to opportunity in a community. Disparities in access to proficient schools experienced by members of protected classes indicate fair housing issues that should be explored. State education policy sets the tone for educational opportunity.

**Minnesota Department of Education—Pre-K through grade 12.** Minnesota Department of Education's guiding policy document is Governor Dayton's 7-Point Plan for Better Schools for a Better Minnesota.<sup>2</sup> The Plan's seven points focus on:

- 1) Funding for the future
- 2) Better early childhood education
- 3) Raise the Bar—Close the Gap
- 4) Reading well by 3<sup>rd</sup> grade
- 5) Support teaching for better schools
- 6) Better testing for better results
- 7) A Department that provides educational leadership and support.

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<sup>2</sup> <http://education.state.mn.us/MDE/about/cmsh/bsbmn/>

Examples of accomplishments in the Plan’s implementation include launching a statewide literacy campaign, a successful Race To the Top Early Learning Challenge application, set accountability targets to close achievement gaps, passed principal and teacher evaluation bills, and restructured the agency to create the offices of Early Learning, Student Support and Educator Excellence.

**Minnesota Office of Higher Education (OHE)—postsecondary education.** The Minnesota Office of Higher Education is a cabinet-level state agency charged with supporting access to postsecondary education, including administering the Minnesota State Grant Program, a financial aid program awarding up to \$180 million in grants to residents attending Minnesota higher education institutions. In 2015 the Minnesota Legislature set a state postsecondary goal: that by 2025, 70 percent of Minnesota residents ages 25 to 44 will have attained a certificate or degree. In *Educating for the Future Policy Guide 2017* OHE reports that in 2014, 60 percent of Minnesota’s residents had attained a postsecondary certificate or higher. When examined by race and ethnicity, significant gaps are found. While nearly two-thirds of white and Asian residents had completed a postsecondary certificate or higher, significantly smaller proportions of Native American (23%), Hispanic (27%) and Black (35%) residents had had the opportunity to complete postsecondary education.

To close these opportunity gaps and to achieve the state goal of 70 percent of adults with postsecondary credentials, the OHE is pursuing policies to:

- Increase the number of students who enroll in postsecondary education;
- Import educated workers into the state;
- Increase completion rates of students who dropped out of college; and
- Increase completion rates of undergraduates currently enrolled within the state’s postsecondary institutions.

OHE’s 2016 *Educational Disparities: Minnesota Gaps in Educational Disparities by Race and Ethnicity from High School through College* identified significant gaps in educational attainment by race and ethnicity. The key finding? “MN needs to increase access to degrees that open doors. Key indicators confirm that Minnesota has an educational gap across racial and ethnic groups. The gap is not isolated to the higher education system; students of color do not succeed at the same rates as their white peers throughout all levels of the Minnesota education system. Minnesota’s challenge moving forward is to successfully prepare and support underserved populations to certificate or degree completion while meeting future workforce demands in a period of changing demographics.” Examples of disparities in educational attainment and proficiency include:

- While 64 percent of white 10<sup>th</sup> graders are proficient in reading, proficiency rates are much lower for Black (29%), Hispanic (33%), Native American (36%) and Asian (50%) students. Only 5 percent of English language learners and 18 percent of students in special education services are proficient in 10<sup>th</sup> grade reading.

- Among Minnesota's 2014 public high school graduates there are differences in college enrollment by race and ethnicity. Nearly three in four (72%) of white graduates enrolled in college, compared to 44 percent of Native American graduates, 51 percent of Hispanic graduates, 60 percent of Black graduates and 70 percent of Asian graduates.

Progress to address these disparities is occurring. As noted in *Minnesota Measures: A 2017 Report on Higher Education Performance*, since 2011 high school graduation rates have:

- Increased 8 percentage points for Native American students;
- Increased 16 percentage points for Black students; and
- Increased 18 percentage points for Hispanic students.

The number of students of color enrolled in Minnesota colleges and universities is growing, from 37,838 in 2006 to 62,745 in 2015.

**Access to proficient schools.** To understand the extent to which members of protected classes have access to proficient local schools, HUD developed a neighborhood-level School Proficiency Index based on 4<sup>th</sup> grade math and reading scores on state assessments. The higher the Index value, the higher the quality of the school system in a neighborhood. For state studies, HUD provides the School Proficiency Index on two levels of aggregation—a comparison of entitlement and nonentitlement areas and the county level. Figure III-1, presents School Proficiency Index data by race and ethnicity for entitlement and nonentitlement areas. The top half of the table shows School Proficiency Index scores for all residents and the bottom half is restricted to residents with income below the federal poverty line. A higher index represents greater access to proficient schools.

Based on the School Proficiency Index, there are disparities in access to proficient schools based on race/ethnicity and the disparity persists even after controlling for income.

- In entitlement communities, white, non-Hispanic residents are nearly twice as likely as black residents to have access to proficient schools. Among residents with income below the poverty line, white residents are still more likely than black, Hispanic, Asian and Native American residents to have access to proficient schools, suggesting that not all the disparity in access can be explained by income differences. In entitlement communities, very low income Asian, black and Hispanic residents are the least likely to have access to proficient schools, and access is still low for Native Americans.
- In nonentitlement communities, Asian and white residents have nearly the same access to proficient schools, and Hispanics and black residents are only slightly less likely to have access to proficient schools. Access to proficient schools among nonentitlement residents with income below the poverty line is not substantially different from those of all residents. This is likely due to the greater degree of income integration that is the natural result of a smaller number of schools serving nonentitlement communities. If a community has one elementary school, most of the community's children are likely to attend, as more rural schools have much larger student catchment areas.

Regardless of income, Native Americans in nonentitlement areas are least likely to have access to proficient schools.

**Figure III-1.  
School Proficiency Index,  
Minnesota Entitlement  
and Nonentitlement Areas  
by Race and Ethnicity**

Note:

Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

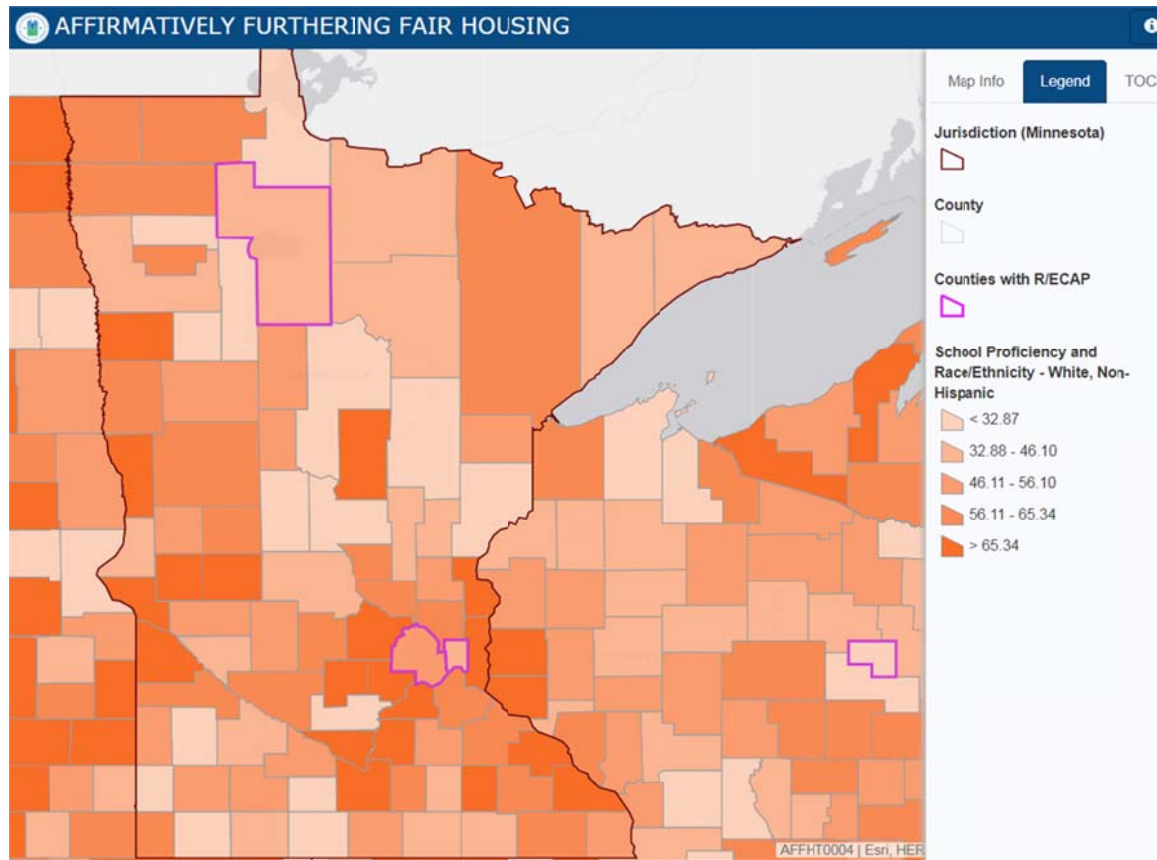
Source:

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 53.79             | 56.26                 |
| Black, Non-Hispanic                          | 29.21             | 49.74                 |
| Hispanic                                     | 33.53             | 47.22                 |
| Asian or Pacific Islander, Non-Hispanic      | 40.02             | 57.41                 |
| Native American, Non-Hispanic                | 36.23             | 34.81                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 43.88             | 52.89                 |
| Black, Non-Hispanic                          | 23.95             | 49.87                 |
| Hispanic                                     | 25.17             | 42.76                 |
| Asian or Pacific Islander, Non-Hispanic      | 21.85             | 49.26                 |
| Native American, Non-Hispanic                | 31.62             | 33.41                 |

The following maps, Figures III-2 to III-6 examine access to proficient schools at the county level by race and ethnicity. The School Proficiency Index is a function of the percent of 4<sup>th</sup> grade students proficient in reading and math on state tests.

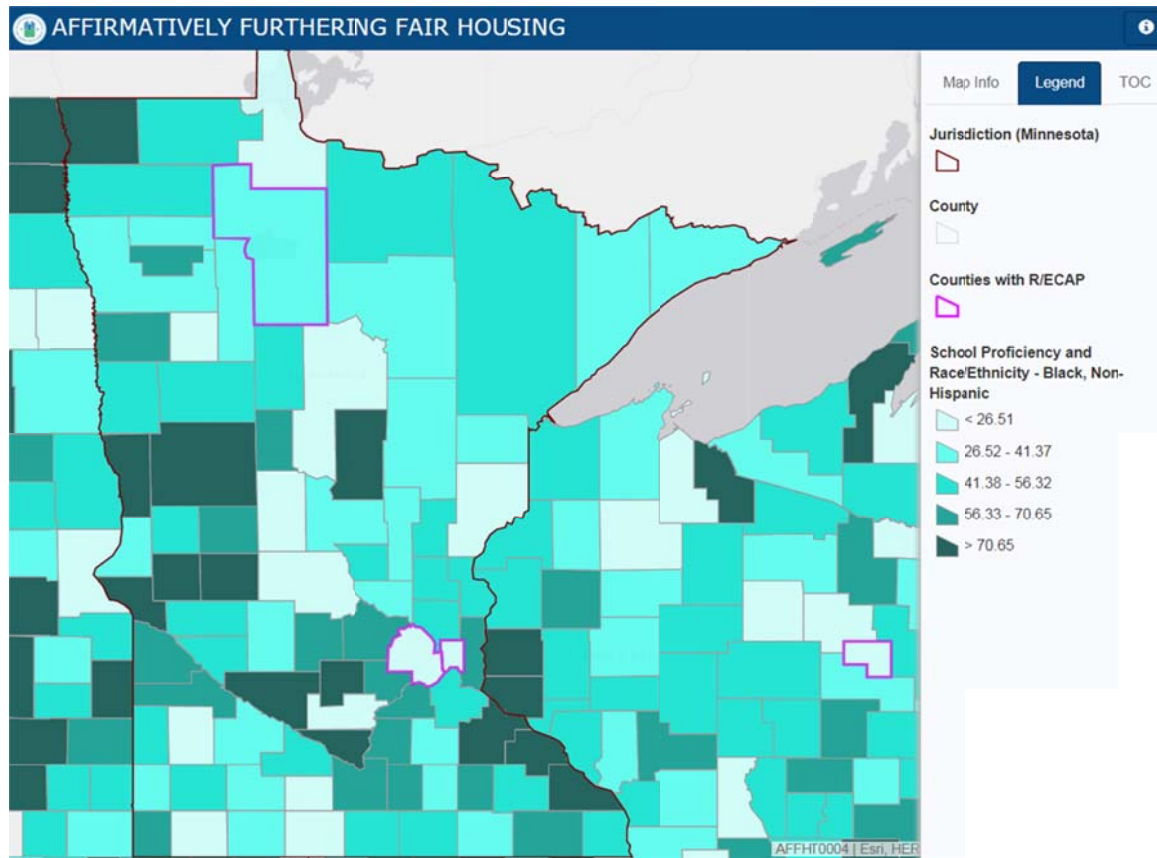
**Figure III-2.**  
**School Proficiency Index, White Non-Hispanic Residents**



Note: Higher Index scores and darker shading indicate higher quality local schools.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

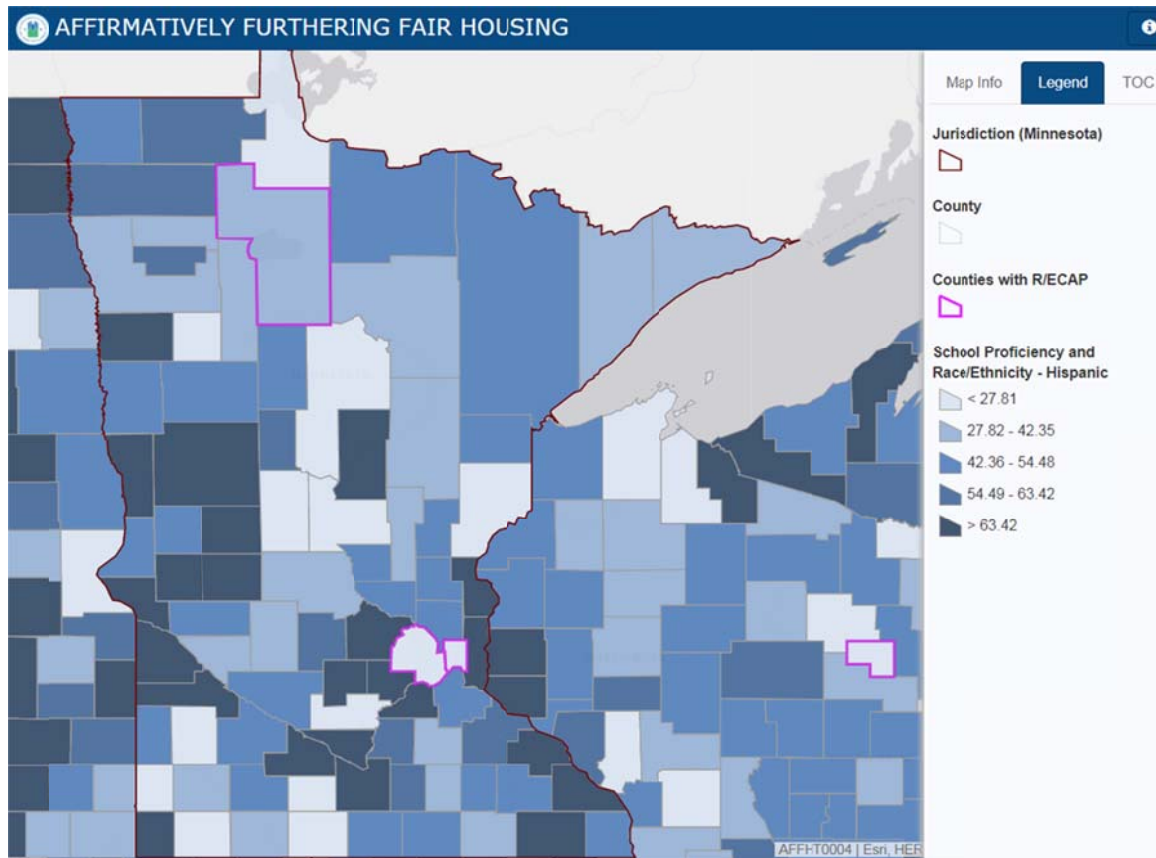
**Figure III-3.**  
**School Proficiency Index, Black Residents**



Note: Higher Index scores and darker shading indicate higher quality local schools.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-4.**  
**School Proficiency Index, Hispanic Residents**

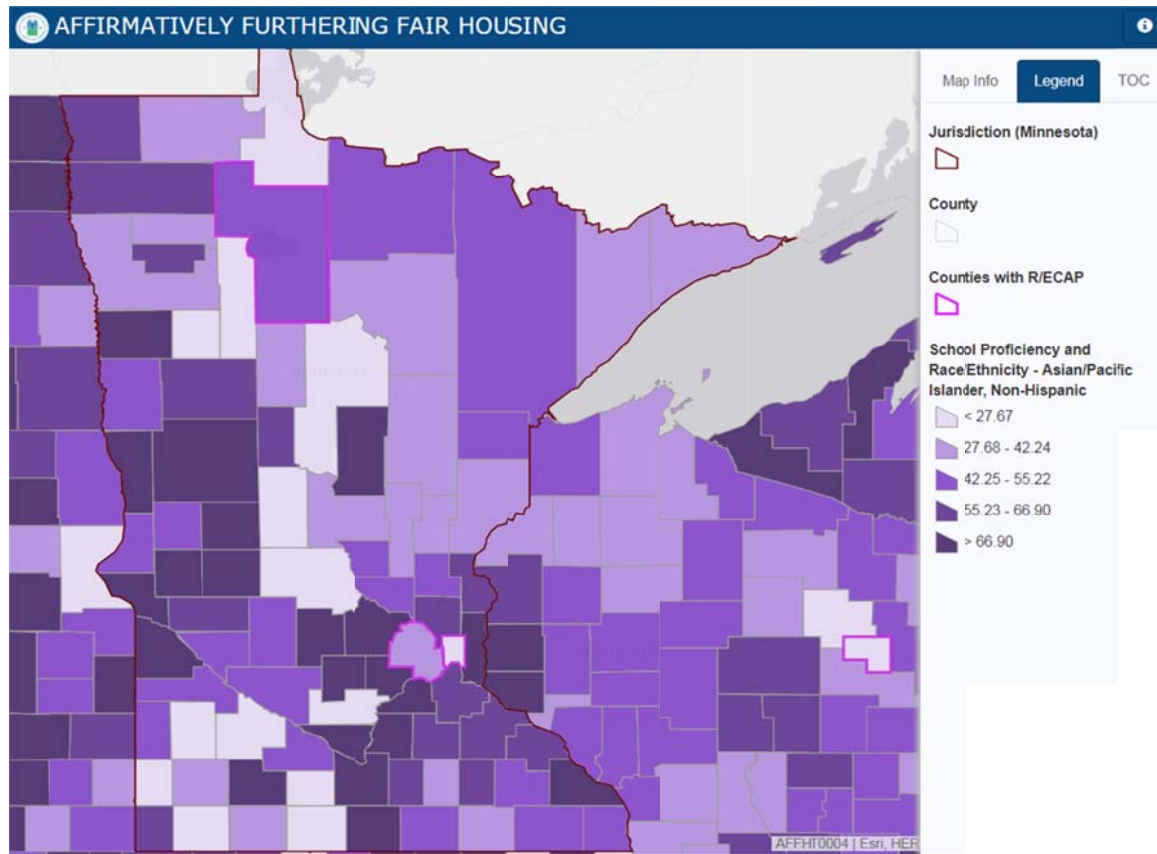


Note: Higher Index scores and darker shading indicate higher quality local schools.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.



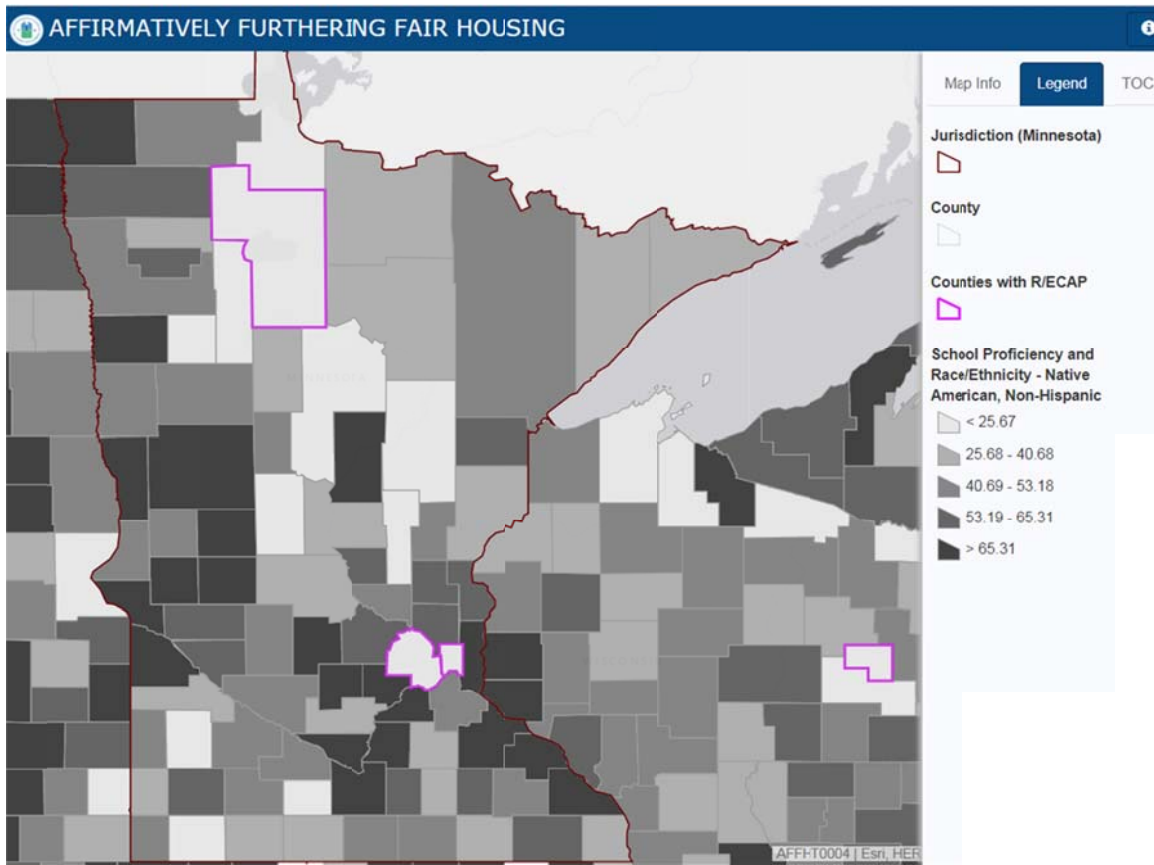
**Figure III-5.**  
**School Proficiency Index, Asian Residents**



Note: Higher Index scores and darker shading indicate higher quality local schools.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-6.**  
**School Proficiency Index, Native American Residents**



Note: Higher Index scores and darker shading indicate higher quality local schools.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Employment.** Access to employment is a function of access to job locations, an individual’s current skill set and the availability of opportunities to learn skills that align with employment opportunities. HUD developed two indices to examine both sides of the employment equation—the Job Proximity Index and the Labor Market Engagement Index.

- The **Job Proximity Index** models the accessibility of a neighborhood to all job locations within a Core Based Statistical Area(CBSA)<sup>3</sup>, with larger employment centers receiving heavier weight. The higher the value, the better the access to employment opportunities.
- The **Labor Market Engagement Index** is a function of neighborhood employment, labor force participation and educational attainment (bachelor’s degree or higher). The higher the score, the higher the labor force participation and human capital in the neighborhood.

As the Job Proximity Index is based on local access to employment opportunities, index values are not available at the summary level.

Figure III-7 presents the Labor Market Engagement Index values for Minnesota’s entitlement and nonentitlement areas. Higher indices reflect higher labor market engagement. As shown, the intensity of labor force participation and educational attainment varies by race and ethnicity as well as between urban and more rural areas. There are modest disparities in labor market engagement between white, non-Hispanics and communities of color; these disparities are most prominent for Native American populations in non-entitlement areas.

**Figure III-7.  
Labor Market Engagement  
Index, Minnesota  
Entitlement and  
Nonentitlement Areas by  
Race and Ethnicity**

Note:

Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

Source:

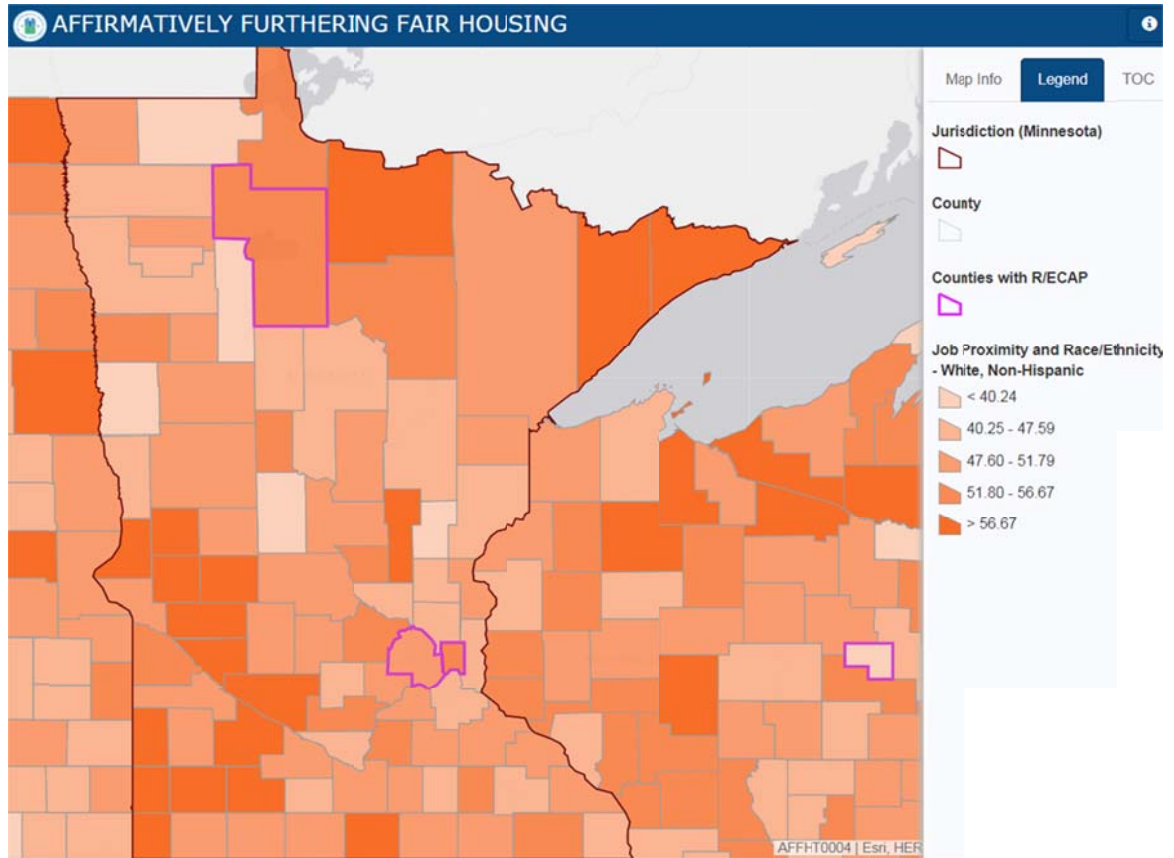
HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 76.15             | 65.76                 |
| Black, Non-Hispanic                          | 57.34             | 60.35                 |
| Hispanic                                     | 63.12             | 61.10                 |
| Asian or Pacific Islander, Non-Hispanic      | 65.42             | 71.89                 |
| Native American, Non-Hispanic                | 56.82             | 36.93                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 65.75             | 59.83                 |
| Black, Non-Hispanic                          | 49.99             | 59.92                 |
| Hispanic                                     | 55.39             | 55.65                 |
| Asian or Pacific Islander, Non-Hispanic      | 41.51             | 62.34                 |
| Native American, Non-Hispanic                | 48.39             | 34.25                 |

The following maps present the county-level Job Proximity Index scores by race and ethnicity. Not surprisingly, the Job Proximity Index varies both regionally and county by county in keeping with the regional nature of the state’s industries. This geographic variation in access to jobs does not differ meaningfully by race or ethnicity at the county level.

<sup>3</sup> The CBSA captures an economic center of at least 10,000 people plus the adjacent counties that are tied to the center through commuting.

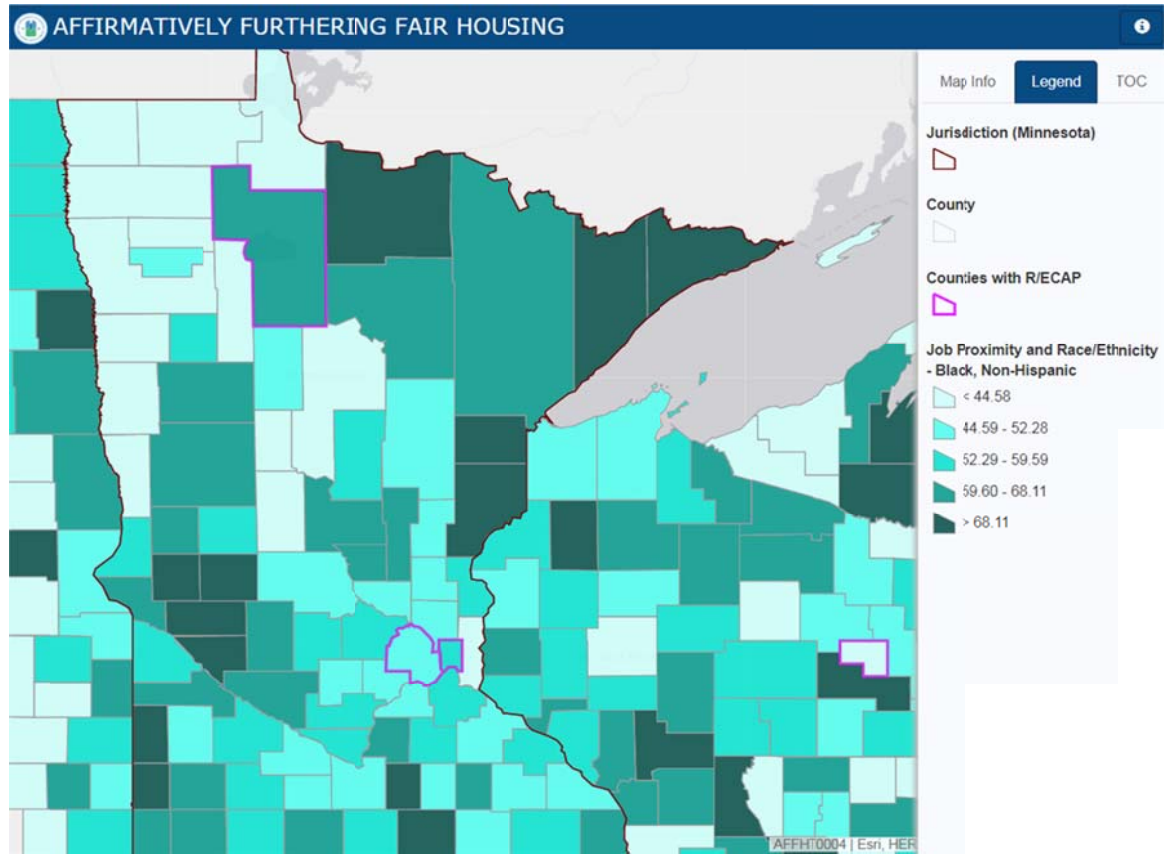
**Figure III-8.**  
**Job Proximity Index, White Residents**



Note: Higher Index scores and darker shading indicate better access to employment opportunities.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

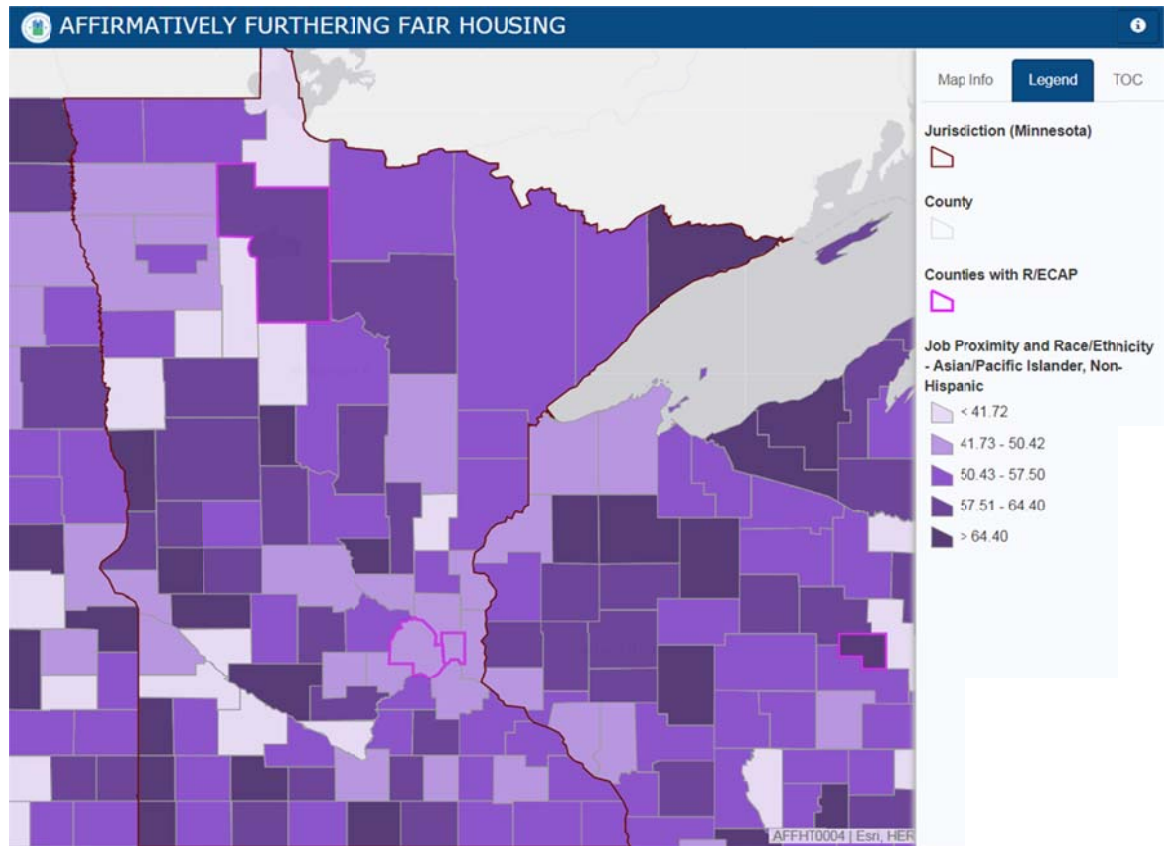
**Figure III-9.**  
**Job Proximity Index, Black Residents**



Note: Higher Index scores and darker shading indicate better access to employment opportunities.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

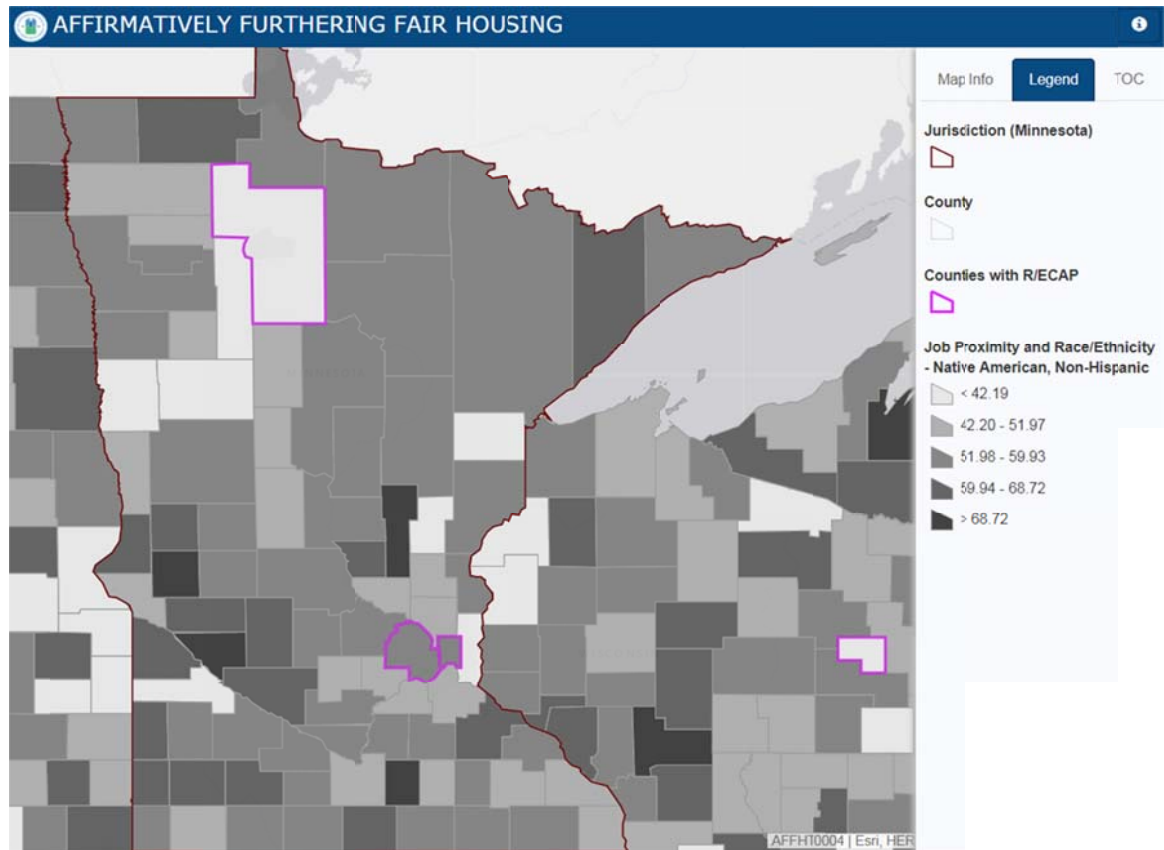
**Figure III-10.**  
**Job Proximity Index, Asian Residents**



Note: Higher Index scores and darker shading indicate better access to employment opportunities.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-11.**  
**Job Proximity Index, Native American Residents**



Note: Higher Index scores and darker shading indicate better access to employment opportunities.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Transportation.** Access to transportation influences the choices we make about where to live, work, go to school, worship, shop, receive health care services and more. At the state level, Minnesota’s transportation policy and infrastructure is the domain of the Department of Transportation.

**Transportation costs.** HUD’s Low Transportation Cost Index is a function of the cost of transportation for a three-person family with a single parent with income at 50 percent of the area median income. As shown, entitlement areas have higher Low Transportation Cost indices, indicating better access to lower cost transportation. Disparities by race or ethnicity are modest. In nonentitlement areas, white residents have less access to lower cost transportation than do other groups.

**Figure III-12.  
Low Transportation Cost  
Index, Minnesota  
Entitlement and  
Nonentitlement Areas by  
Race and Ethnicity**

**Note:**

The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

**Source:**

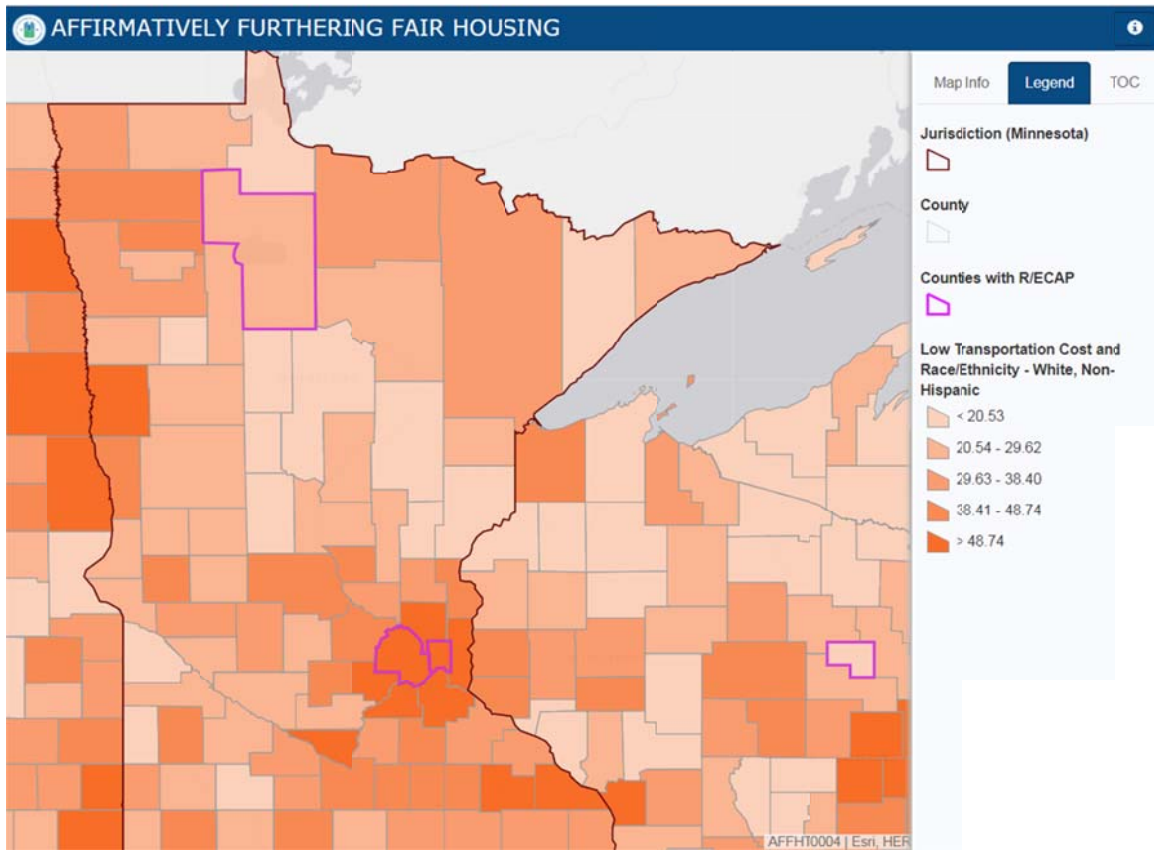
HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 70.35             | 36.53                 |
| Black, Non-Hispanic                          | 81.94             | 49.92                 |
| Hispanic                                     | 80.00             | 43.37                 |
| Asian or Pacific Islander, Non-Hispanic      | 77.73             | 50.64                 |
| Native American, Non-Hispanic                | 73.35             | 24.55                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 73.85             | 34.79                 |
| Black, Non-Hispanic                          | 84.21             | 49.67                 |
| Hispanic                                     | 83.11             | 43.37                 |
| Asian or Pacific Islander, Non-Hispanic      | 83.38             | 46.48                 |
| Native American, Non-Hispanic                | 76.44             | 22.62                 |

The following maps present the Low Cost Transportation Index by race and ethnicity. Note that at the time of this analysis, data for the Low Transportation Cost Index for African American residents was not available at the county level.



**Figure III-13.**  
**Low Transportation Cost Index, White Residents**

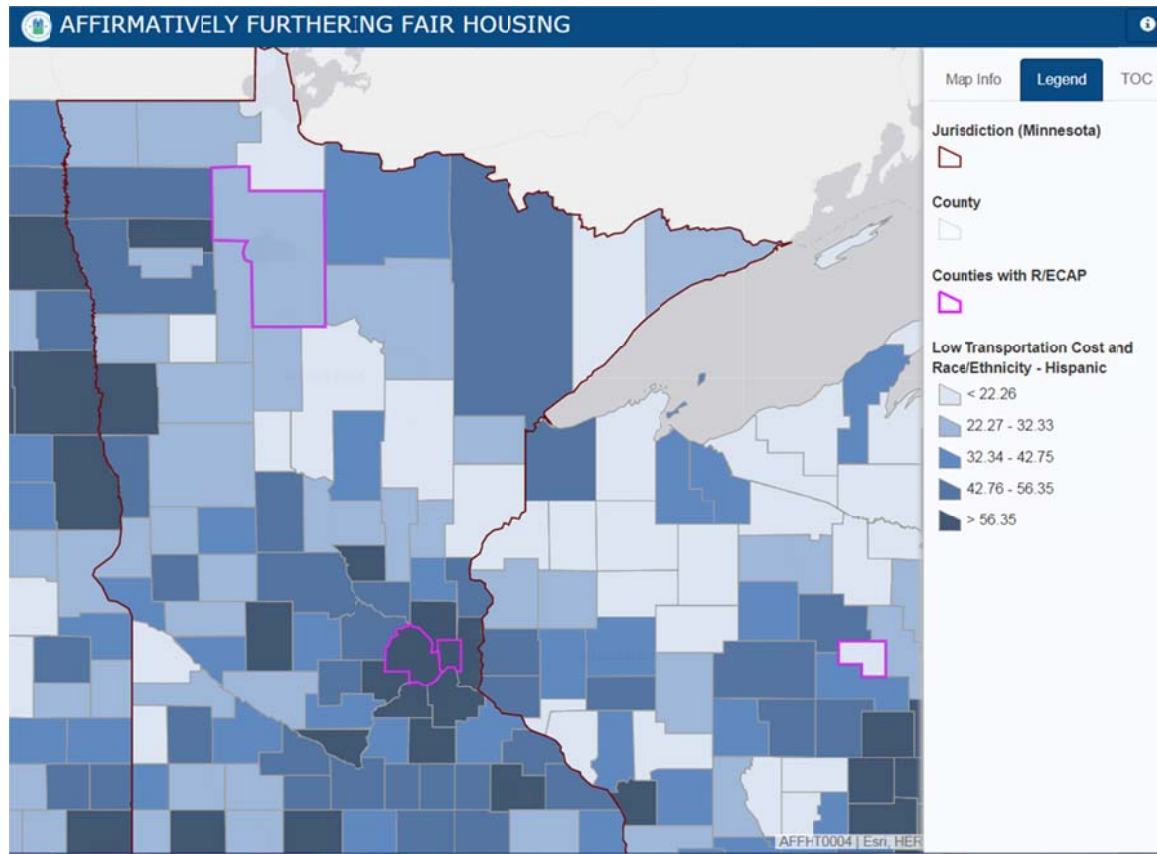


Note: The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Higher Index scores and darker shading indicate lower transportation costs.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-14.**  
**Low Transportation Cost Index, Hispanic Residents**

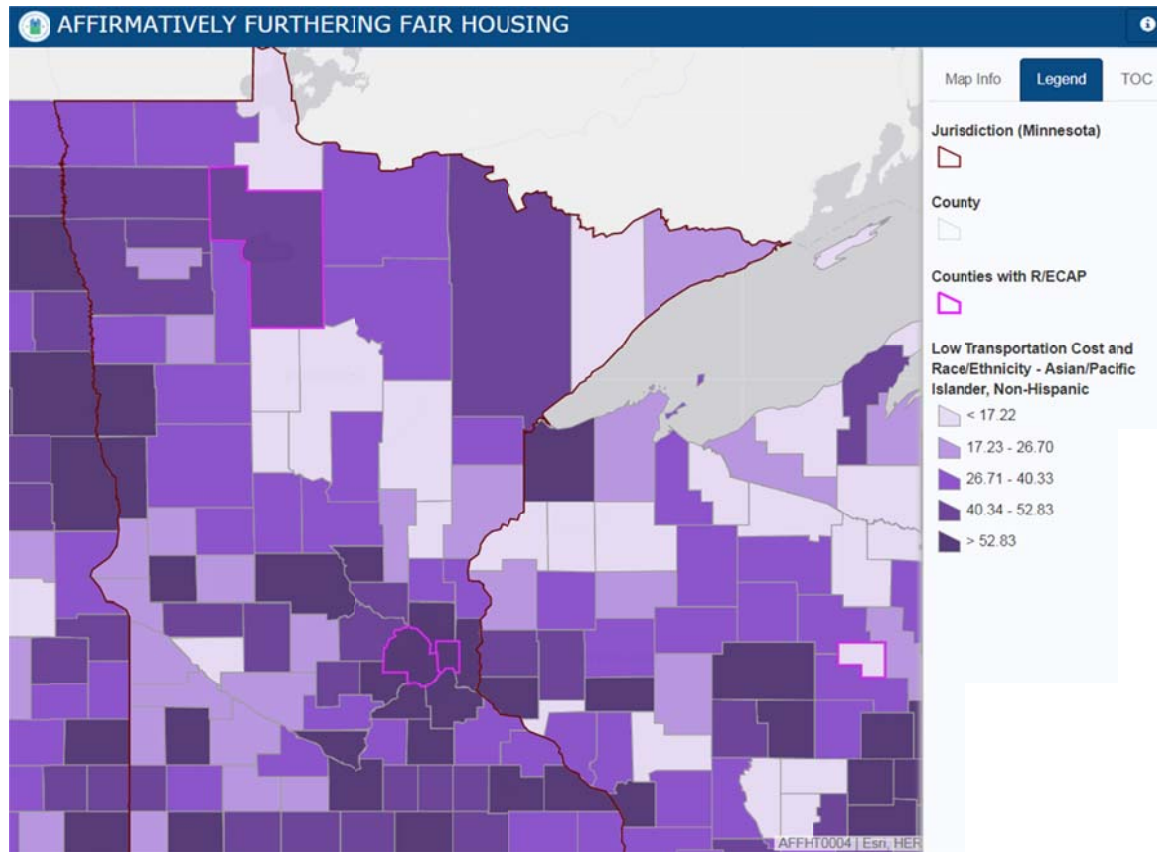


Note: The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Higher Index scores and darker shading indicate lower transportation costs.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-15.**  
**Low Transportation Cost Index, Asian Residents**

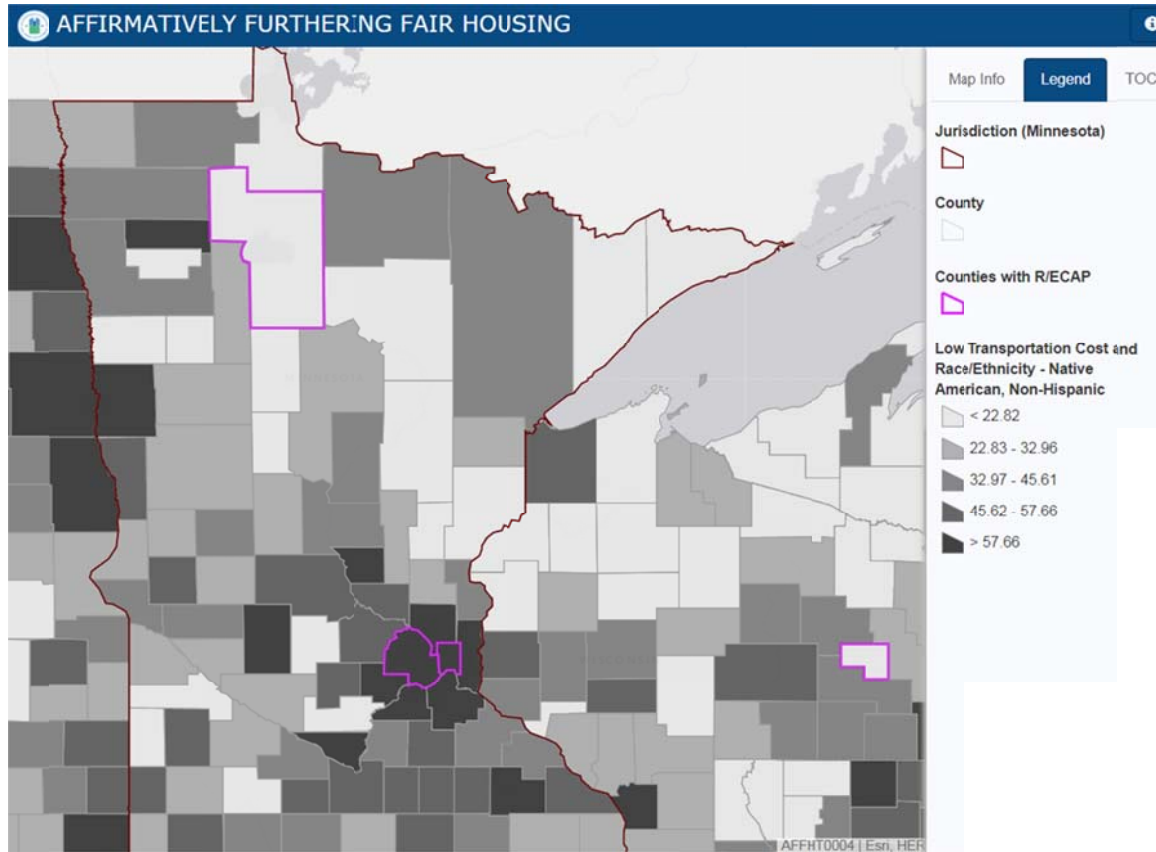


Note: The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Higher Index scores and darker shading indicate lower transportation costs.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Figure III-16.**  
**Low Transportation Cost Index, Native American Residents**



Note: The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Higher Index scores and darker shading indicate lower transportation costs.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Public transportation in Minnesota.** In 2010, the Minnesota Legislature charged MnDOT with determining the funding that would be required to meet 80 percent of public transit needs in greater Minnesota by 2015 and 90 percent by 2025. In 2017, MnDOT released the *Greater Minnesota Transit Investment Plan* (GMTIP) for public comment. The GMTIP is an investment and strategic plan identifying the investments needed to reach the state’s 2025 public transit goal and includes objectives to improve mobility for all residents but especially seniors, youth, low income residents, residents experiencing homelessness, residents with disabilities, veterans, immigrants and refugees and commuters.

In the Twin Cities, the Metropolitan Council directs transit funding, while in greater Minnesota MnDOT’s Office of Transit guides transit funding and performance of 44 public transit systems and two tribe systems operating in greater Minnesota. As part of the community engagement process for developing the GMTIP, five key themes related to public transit needs arose:

- Longer weekday service hours;
- Expanded Saturday service and providing Sunday service;

- Improved transit marketing and education;
- Improved reliability; and
- Regional service expansion.

To meet the need for public transit and achieve the state’s goal of 90 percent service would result in ridership growth of 4.8 million rides by 2025 (to 17 million from 13.3 million in 2014). From 2011 to 2014 rural transit ridership increased by nearly 13 percent and rural service hours increased by 18 percent.

**Access to public transportation.** HUD’s Transit Trips Index indicates the likelihood that residents of a neighborhood use public transit. Not surprisingly, residents of entitlement communities are more likely to have access to public transit. In nonentitlement areas, white residents and Native American residents are least likely to have access to public transit.

**Figure III-17.  
Transit Trips Index,  
Minnesota Entitlement and  
Nonentitlement Areas by  
Race and Ethnicity**

**Note:**

The Transit Trips Index is based on estimated transit trips taken by a 3-person single-parent family with income at 50 percent of the median income for renters in the CBSA.

Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

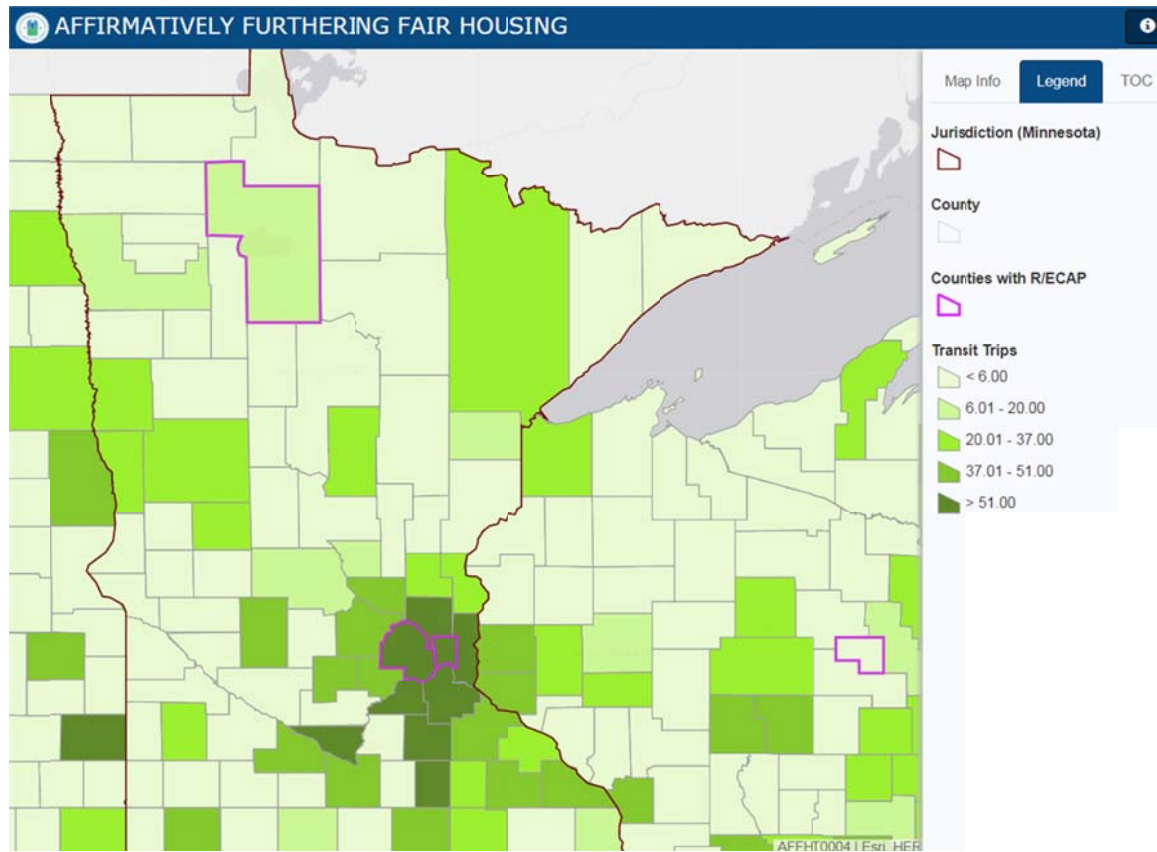
**Source:**

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 58.93             | 23.68                 |
| Black, Non-Hispanic                          | 69.69             | 43.23                 |
| Hispanic                                     | 68.22             | 37.15                 |
| Asian or Pacific Islander, Non-Hispanic      | 66.30             | 42.55                 |
| Native American, Non-Hispanic                | 62.04             | 12.92                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 61.96             | 22.68                 |
| Black, Non-Hispanic                          | 72.03             | 50.08                 |
| Hispanic                                     | 70.78             | 39.21                 |
| Asian or Pacific Islander, Non-Hispanic      | 72.34             | 36.01                 |
| Native American, Non-Hispanic                | 66.06             | 9.45                  |

In nonentitlement areas, few disparities in the Transit Trips Index are found by race or ethnicity at the county level. As such, Figure III-18 presents the Transit Trip Index values at the county level for all residents.

**Figure III-18.**  
**Transit Trip Index, All Residents**



Note: The Index is a function of transportation costs for a 3-person single parent family with income at 50 percent of the median income for renters in the CBSA.

Higher Index scores and darker shading indicate lower transportation costs.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

**Low poverty neighborhoods.** Section I detailed the prevalence of poverty in Minnesota’s counties and the location of concentrated areas of high poverty. HUD’s low poverty index measures the neighborhood-level exposure to poverty experienced by Minnesota residents and is calculated by race and ethnicity for the state’s entitlement and nonentitlement areas. Higher scores indicate lower exposure to poverty. HUD considers access to low poverty neighborhoods to be an indicator of access to opportunity because lower poverty neighborhoods are less likely to experience the negative social externalities associated with high poverty concentrations. Access to low poverty areas, especially after controlling for income, is a measure of housing choice in a community and signals the presence of mixed income neighborhoods. If there are disparities in access to low poverty neighborhoods by race or ethnicity, particularly after controlling for income, this may suggest the presence of barriers to housing choice in a community. With the exception of Native Americans, access to low poverty neighborhoods in Minnesota is higher in nonentitlement communities for all groups, even after controlling for income.

**Figure III-19.  
Low Poverty Index,  
Minnesota Entitlement and  
Nonentitlement Areas by  
Race and Ethnicity**

Note:

The higher the score, the less exposure to poverty in a neighborhood.

Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

Source:

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 67.87             | 62.56                 |
| Black, Non-Hispanic                          | 41.86             | 55.17                 |
| Hispanic                                     | 47.69             | 51.79                 |
| Asian or Pacific Islander, Non-Hispanic      | 54.23             | 66.17                 |
| Native American, Non-Hispanic                | 44.39             | 32.34                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 52.15             | 54.25                 |
| Black, Non-Hispanic                          | 30.66             | 45.25                 |
| Hispanic                                     | 34.33             | 41.67                 |
| Asian or Pacific Islander, Non-Hispanic      | 28.85             | 54.50                 |
| Native American, Non-Hispanic                | 31.59             | 27.10                 |

**Environmentally healthy neighborhoods.** HUD developed an Environmental Health Index to examine whether members of protected classes experience disparities in access to environmentally health neighborhoods. HUD’s Index is based on air quality measurements, which are one of many indicators of environmental health in a neighborhood. Access to environmentally healthy neighborhoods, as measured by HUD’s Environmental Health Index, is striking between Minnesota’s entitlement and nonentitlement areas.

**Figure III-20.  
Environmental Health  
Index, Minnesota  
Entitlement and  
Nonentitlement Areas by  
Race and Ethnicity**

Note:

The higher the score, the better the environmental quality of the neighborhood.

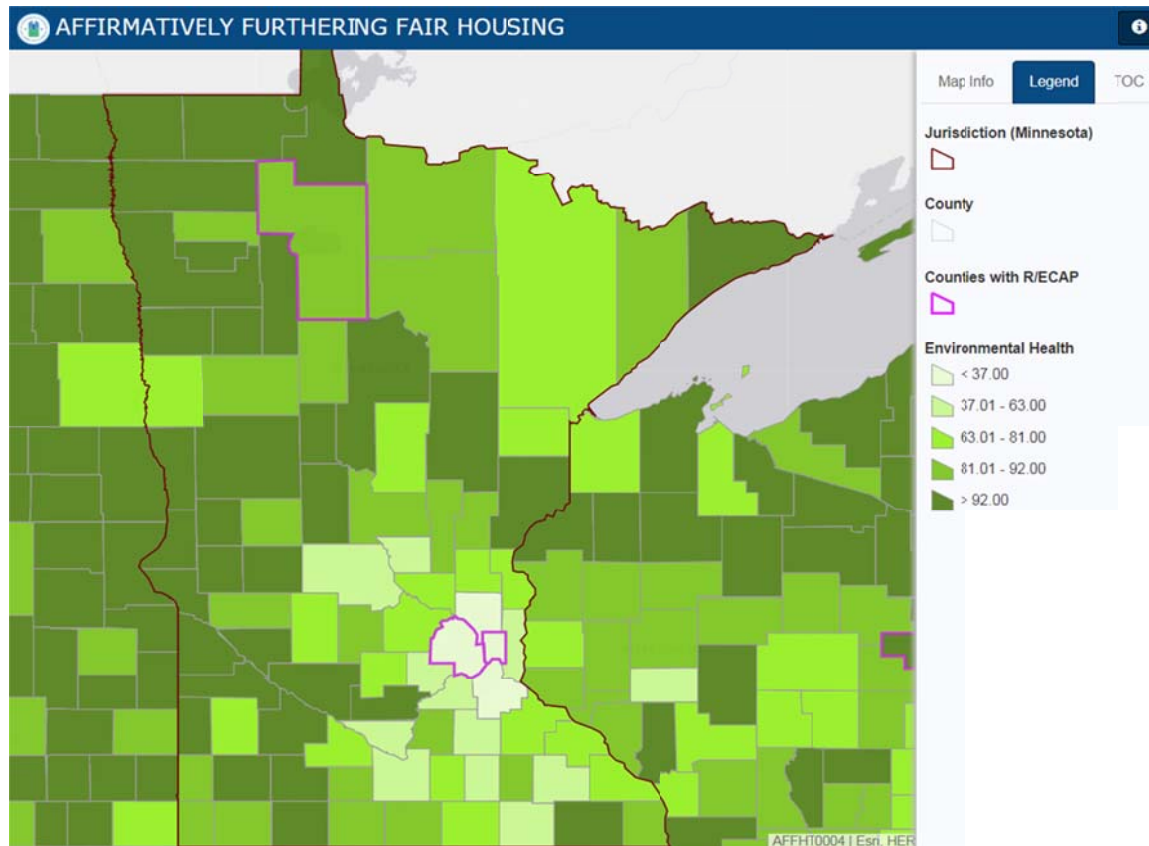
Minnesota entitlement communities are the cities of Bloomington, Coon Rapids, Duluth, Eden Prairie, Mankato, North Mankato, Minneapolis, Minnetonka, Moorhead, Plymouth, Rochester, St. Cloud, St. Paul and Woodbury, and Anoka, Dakota, Hennepin, Ramsey, St. Louis, and Washington counties.

Source:

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool, Table 12-2. <https://egis.hud.gov/affht/>.

|  | Entitlement Areas | Non-Entitlement Areas |
|--|-------------------|-----------------------|
| <b>Total Population</b>                      |                   |                       |
| White, Non-Hispanic                          | 29.86             | 80.55                 |
| Black, Non-Hispanic                          | 12.50             | 65.52                 |
| Hispanic                                     | 16.00             | 73.10                 |
| Asian or Pacific Islander, Non-Hispanic      | 18.13             | 66.15                 |
| Native American, Non-Hispanic                | 26.76             | 88.83                 |
| <b>Population Below Federal Poverty Line</b> |                   |                       |
| White, Non-Hispanic                          | 26.77             | 80.34                 |
| Black, Non-Hispanic                          | 10.35             | 63.72                 |
| Hispanic                                     | 12.23             | 72.16                 |
| Asian or Pacific Islander, Non-Hispanic      | 10.39             | 71.41                 |
| Native American, Non-Hispanic                | 24.86             | 89.94                 |

**Figure III-21.  
Environmental Health Index, All Residents**



Note: Higher Index scores and darker shading indicate better neighborhood environmental quality.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.



## Access to Broadband Internet

Although it is not explicitly addressed in the fair housing guides, access to high speed Internet creates employment and education opportunities that otherwise would not be possible. This is especially true in communities that do not have access to postsecondary education and in communities that seek to grow or strengthen their economic base. The Federal Communications Commission defines broadband as download speeds of at least 25 mbps and upload speeds of 3 mbps. Minnesota is the 27<sup>th</sup> “most connected state” in the US for broadband access.

Figure III-22 presents the proportion of county residents with wired broadband Internet access. In the counties shown with the darkest shading, at least 90 percent of households have access to broadband. Fewer than one in 20 (4%) of Kittson County’s residents have broadband access. One in four Yellow Medicine County and one in three Aitkin County residents have access to broadband Internet. Overall, residents of southwestern and southern Minnesota and the northernmost west counties are least likely to have access to broadband Internet.

**Figure III-22.  
Broadband  
Coverage by  
County, 2017**

Note:

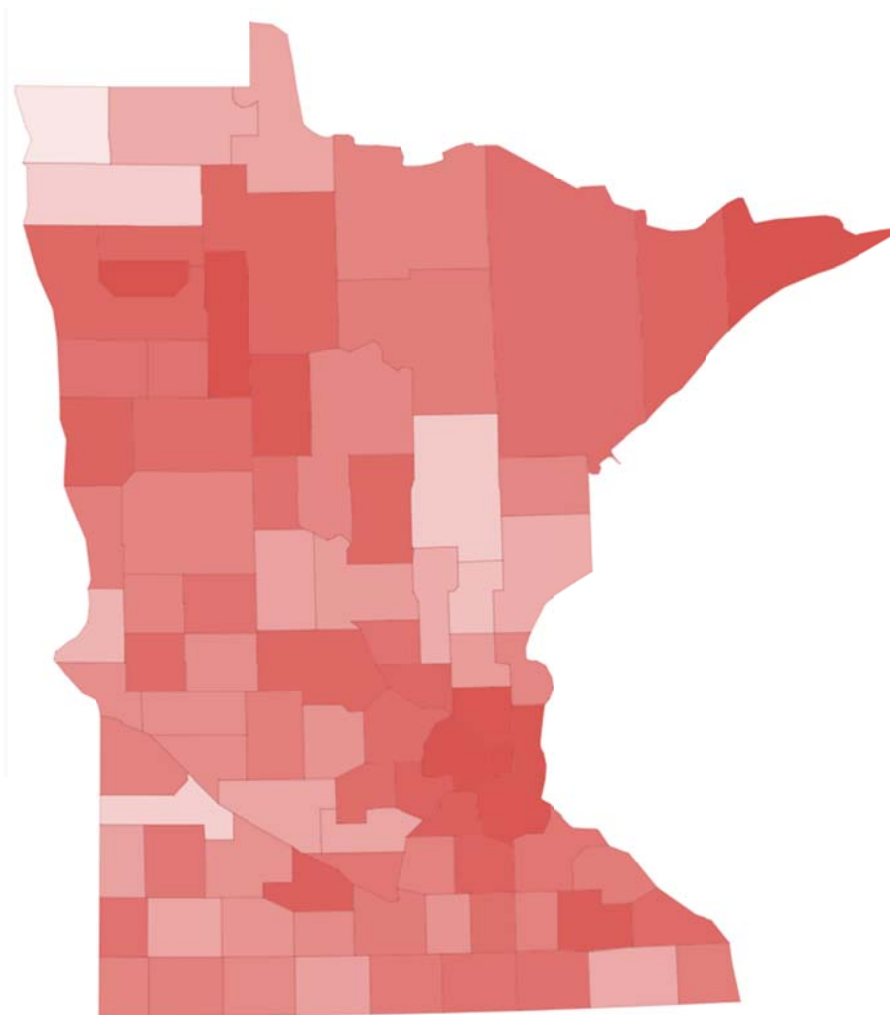
The darker the shading the greater proportion of households with access to broadband Internet.

Source:

<https://broadbandnow.com/Minnesota>

and

<http://broadbandnow.com/data>.



## Perspectives from Residents and Stakeholders

This section presents findings from the resident and stakeholder community engagement processes related to access to opportunity. Education, employment, transportation, low poverty, and environmentally healthy neighborhoods—HUD’s opportunity indicator topics—are discussed in turn and are supplemented by a discussion of other opportunity indicators raised by residents. Where possible, findings from the Twin Cities AI Addendum community engagement are included.

**Education and access to proficient schools—resident perspectives.** In community conversations with residents, access to proficient schools, language access in schools—including interpretation services for parents; adult literacy and English language proficiency, were common themes. In the Southwest, Southwest Central and Headwaters regions, residents viewed their local schools positively and as providing their children with quality educations.

- *“The schools are great, but they’re getting overcrowded.”(Vietnamese resident, Southwest Region)*
- *“Kids can tuition-in from smaller areas to the Worthington High School. They’re guaranteed a spot and their home school district gets some of the money and Worthington schools get some of the money.” (white resident, Southwest Region)*
- **Perspective from the Twin Cities AI Addendum community engagement.** School quality is seen as higher in predominantly white neighborhoods or suburban communities.

**Language access in schools.** Particularly in the Southwest Region, which continues to see significant growth in immigrant and refugee populations moving to the area for employment in the food processing industries, schools’ language access capacity is strained. Many rely on the Language Line<sup>4</sup>, but shared that the lack of ability to gauge visual cues and body language is an impediment for school personnel and parents.

- *“The entire school district has three fulltime Spanish interpreters and one part-time Karen interpreter. To interact with many families, the only option is the Language Line, which is really important, but not sufficient to really serve the needs of students and parents. Being in the same room is important; need to read the body language, pick up on nonverbal cues. Relying on the language line is tough.” (African American resident, Southwest Region)*
- *“The School District has Adult Education and Head Start for the children, but the school district needs more money, more resources. Parents need education too. If they do not speak English, how can they understand the teacher? How can they help their children? Parents need help to learn the language.” (Oromo resident, Southwest Region)*

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<sup>4</sup> Through a contract with Language Line, a service used by many school districts and state agencies in Minnesota, school personnel can offer voice interpretation services by phone in most world languages. The interpretation services at this time are audio-only.

- *“At the school district, the Karen interpreter is only part time.” (Karen resident, Southwest Region)*

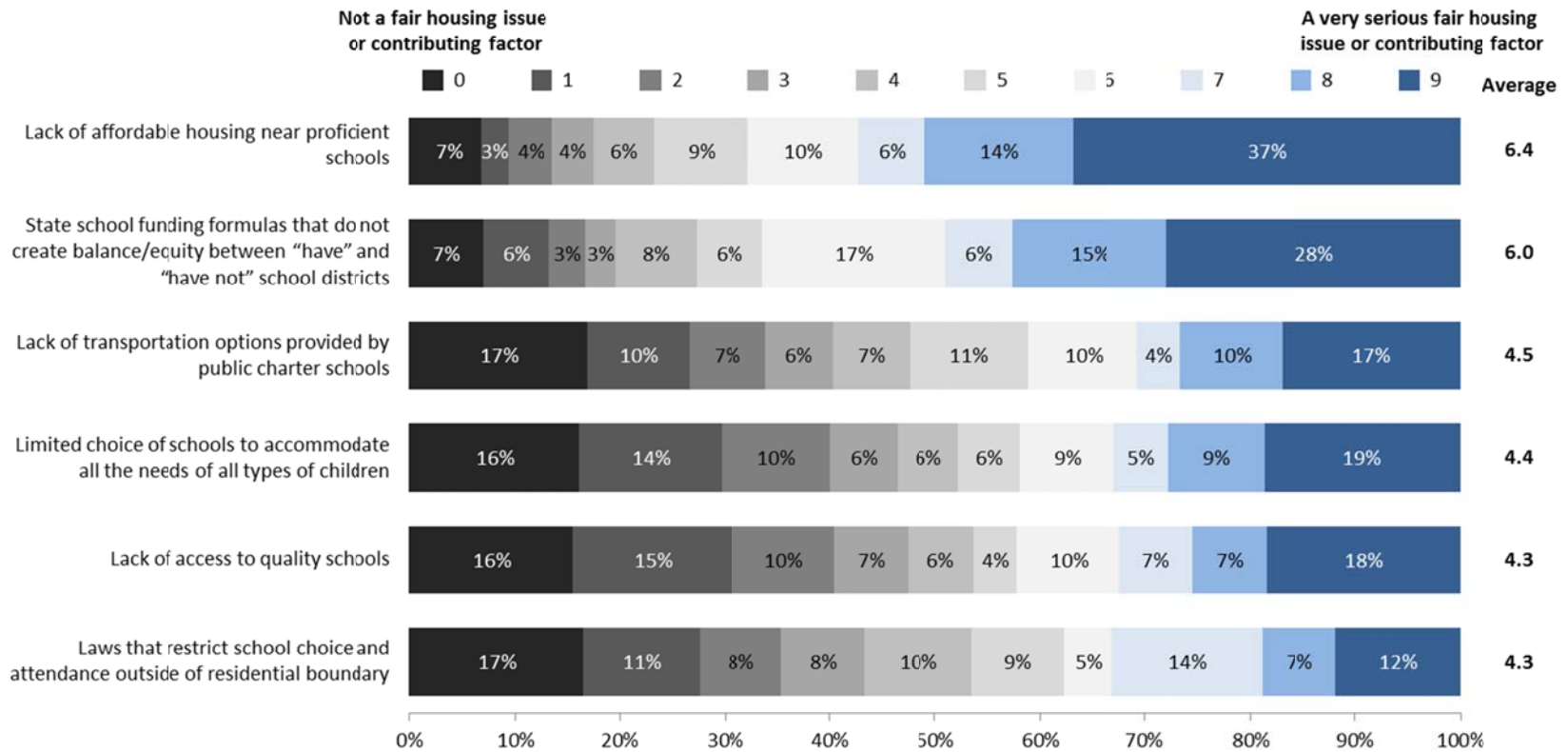
**Adult literacy and English proficiency.** Communities with significant immigrant and refugee populations have a pressing need for adult basic education and English as a Second Language. Adult illiteracy is high in these populations, and many small communities do not have the capacity to meet the demand for services.

- *“You can get an education; the technical college is good. But, many Oromo, the adults, they come, and they cannot read. For people over age 20, they cannot read, so they cannot better themselves. They do not speak English and they do not read. They are too old for the schools.” (Oromo resident, Southwest Region)*

**Education and access to proficient schools—stakeholder perspectives.** Stakeholders evaluated six factors associated with access to proficient schools: availability of affordable housing near proficient schools; transportation to public charter schools; availability of choice of schools for all types of children; access to quality schools; laws restricting school choice and attendance outside of residential boundary and state school funding formulas. Among these, lack of affordable housing near proficient schools and state school funding formulas are considered serious contributing factors to fair housing issues by half of stakeholders.

**Figure III-23.**  
**Factors Associated with Access to Proficient Schools—Stakeholder Perspectives**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 124 to 279 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Access to jobs and training—resident perspectives.** In Southwest, South Central and the Headwaters regions, residents described strong job markets.

**Access to training.** Local entrepreneurs in the retail and service sectors discussed a desire for practical business courses that would help them better manage and grow their businesses. Desired topics include recruiting and retaining employees, general business administration, negotiating with vendors, finding new vendors and other everyday operational concerns. Several immigrant entrepreneurs shared that their lack of a GED prevented them from registering for courses that would benefit their business but also expressed no desire to spend the time to obtain a GED.

- *“The Chamber of Commerce was very helpful to me in starting my business. They brought in senior people, senior executives, to give me advice. They taught me about my taxes and what I needed to know to start. The Southwest Foundation Initiative had a Quickbooks class that was very helpful.” (Hispanic resident, Southwest Region)*
- *“I want to take classes, online classes, to improve my business. But all of the classes require a GED. I don’t want to get a GED, I just want to learn how to handle people better, to keep people working for you and to learn more about suppliers, the vendors Online is best; I can take classes any time.” (Hispanic resident, Southwest Region)*

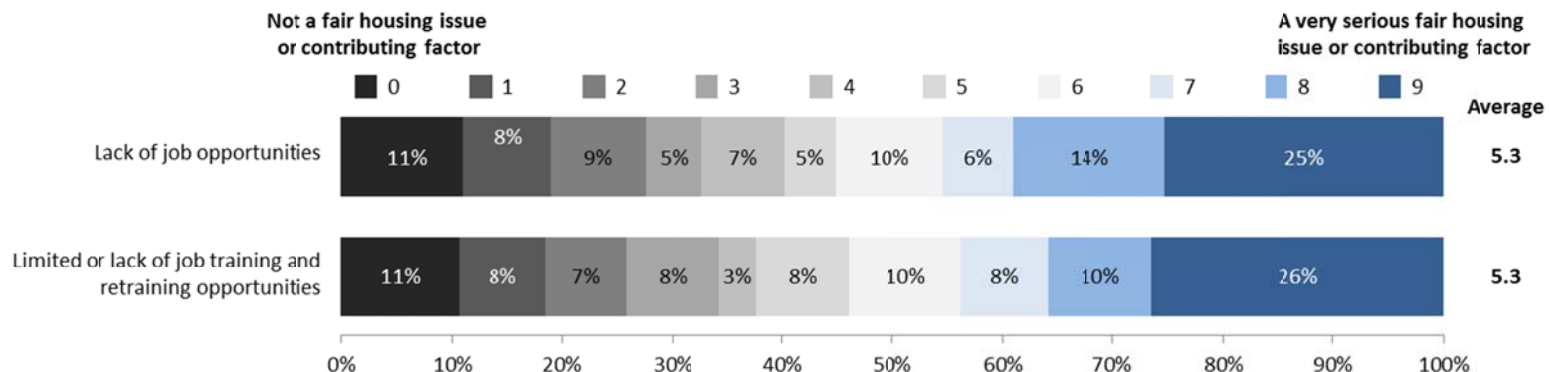
**Access to jobs.** Many greater Minnesota communities’ fortunes are tied to a single employer or industry. These employers often recruit employees from the Twin Cities or other states. Families move for the job opportunities offered and settle into their new communities. However, many of these new residents are recent immigrants or refugees and lack skills to transfer to a different industry if their job at the local plant is no longer available.

- *“Many Oromo could buy a home, but they rent. They rent because they worry, what would happen if I lose my job with JBS? There is no place else you can work if you do not speak English if you do not read. So, they do not buy a house.” (Oromo resident, Southwest Region)*

**Access to jobs and training—stakeholder perspectives.** As shown in Figure III-24, stakeholders have nearly identical perceptions of the extent to which a lack of job opportunities and limited or lack of job training and retraining opportunities contribute to fair housing issues in Minnesota. About 44 percent of stakeholders consider these serious contributing factors while slightly more than one-quarter do not consider these to be contributing factors.

**Figure III-24.**  
**Access to Jobs—Stakeholder Perspective**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n=174 and 178 stakeholders.

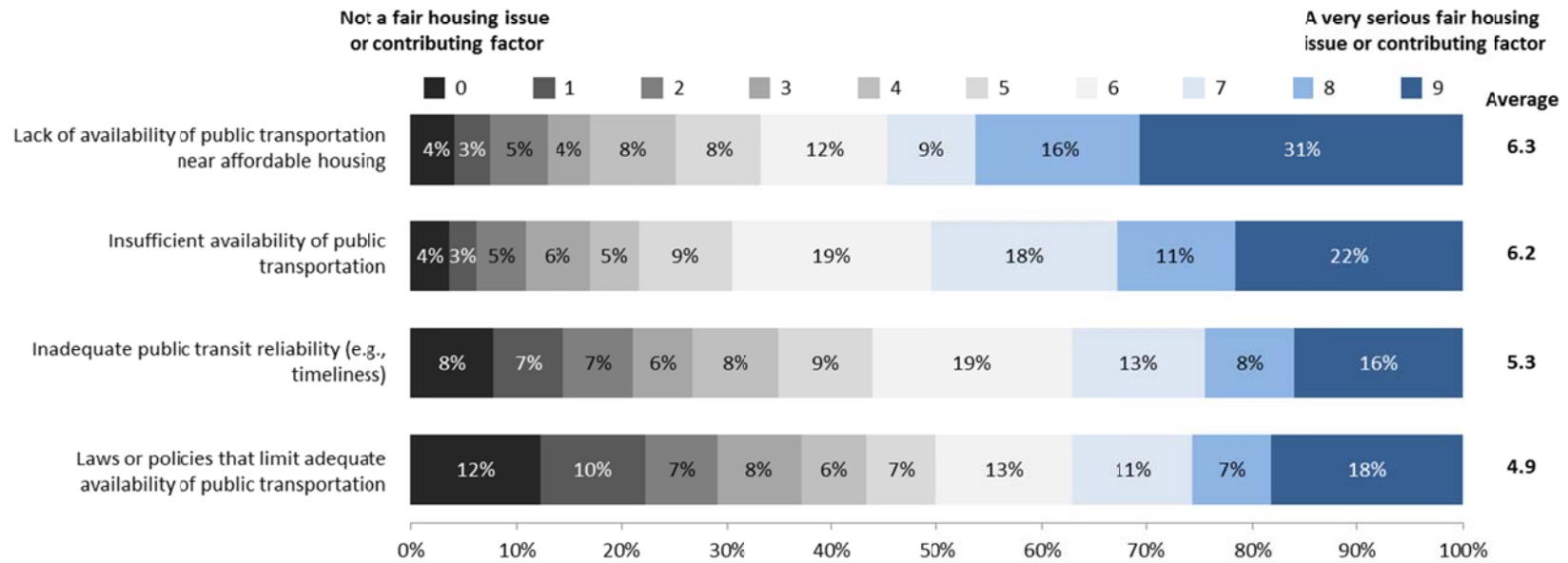
Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Access to transportation—resident perspectives.** Most residents of greater Minnesota drive or share rides with friends or neighbors when a personal vehicle is not available. In a community discussion on policing in Worthington, Hispanic and Asian residents with limited English proficiency shared with police their confusion that passports did not qualify as driver’s licenses. Others expressed that they need to drive to get to work, regardless of having a license. Language barriers, often compounded by illiteracy, may contribute to confusion among new residents of the driver licensing rules in Minnesota.

**Access to public transportation—stakeholder perspectives.** Figure III-25 presents stakeholder perspectives on access to public transportation and transit reliability as contributing factors to fair housing issues. As shown, nearly one-third of stakeholders consider a “lack of availability of public transportation near affordable housing” to be a very serious fair housing issue (rating of 9) and one in five rate “insufficient availability of public transportation” very serious. Laws or policies pertinent to public transportation availability were not considered a contributing factor to fair housing issues. Transit reliability is a concern for about one-third of stakeholders.

**Figure III-25.**  
**Access to Public Transportation—Stakeholder Perspectives**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 148 to 294 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.



**Access to low poverty neighborhoods—resident perspectives.** Residents who participated in community conversations in Southwest, Southwest Central and the Headwaters Region love their communities. They are safe, quiet and good places to raise a family.

*“Life is sometimes harder here. The work is hard but it is good work; the winters are hard. But life here is good. I may retire here; I may retire in Eritrea. It depends on what the government does. Here, I am free.” (Eritrean resident, Southwest Region)*

**Housing choice.** From the perspective of renters in the Southwest and Southwest Central regions, landlords treat tenants well. Housing they rent is in good condition. People find out about places to rent, including rooms, by word of mouth.

- *“It was not hard to find a place to live. The whole family lives together [Grandma, sister, brother-in-law, wife, school-age children]. We rent. Landlord is fair, good man.” (Karen resident, Southwest Region)*
- *“It is easy to find a place to live if you have job.” (Karen resident, Southwest Region)*
- *“It was easy to find a place to live. If you have a job, you can find a place to live. No problems with landlord.” (Hispanic resident, Southwest Region)*
- *“Sometimes the landlord will tell say you can’t rent his place because you have too many people. My girlfriend and I went to rent a studio, but because she has her daughter the landlord said we were too many, that everybody needs a room.” (Hispanic resident, Southwest Central Region)*
- *“It was not hard to find a place to live. First, we lived with my cousin, then we heard about a house to rent.” (Anuak resident, Southwestern Region)*
- *“It is hard to find a place of your own, not living with family. You really have to know someone. That’s how you find a place to rent, you know someone who has a place or they hear that you’re looking.” (Vietnamese resident, Southwestern Region)*
- *“Landlords here are very good and very fair; Worthington is so small, the people wouldn’t tolerate bad behavior (by landlords). They wouldn’t let landlords take advantage of the people who don’t speak English.” (Vietnamese resident, Southwest Region)*
- *“Housing prices are going up. A small house now rents for \$800.” (Vietnamese resident, Southwest Central Region)*

**Publicly-supported housing.** In community conversations in Southwest and Southwest Central regions, discussions of the availability of publicly-supported housing revealed that sufficient naturally occurring affordable housing in local markets is more appealing than pursuing subsidized housing.

- *“There are the places for low income, but you have to do an application. Most people don’t want the hassle; if you can’t afford a house, you just rent a room until you can.” (Hispanic resident, Southwest Region)*

- *“People don’t understand how a place will cost different amounts based on how much you make. We come from a culture of being told the price, agreeing to the price and then you rent.” (Hispanic resident, Southwest Region)*
- *“It’s too much of a hassle to do an application, background check; you just rent from someone else.” (Hispanic resident, Southwest Region)*
- *“Housing is scarce, especially affordable housing to rent. Some rents are too high, and few qualify for the income-based housing.” (African American resident, Southwest Region)*

In a focus group with Native American residents of a MHFA-funded LIHTC development in the Headwaters region, a different perspective on publicly-supported housing emerged. For these families, the LIHTC property was both the highest quality housing available to them and the sole option for them to live independently in the community. Most of the participants were young stay-home mothers whose partner worked. All are on the waiting list to receive a home of their own through the tribal housing authority (Red Lake or Leech Lake). As described by stakeholders serving young Native American families, local landlords’ tenant screening standards often serve to exclude this population from securing market rate housing (detailed further in the discussion of stakeholder perspectives below).

- *“More housing opportunities, more places like this (Conifer Estates) are needed.” (Native American resident, Headwaters region)*

**Homeownership.** Homeownership is attainable in greater Minnesota, even among refugees and immigrants who typically do not begin their new lives with significant retained wealth or assets. Most pursue mortgage lending from local banks.

- *“Most of the Eritreans in Worthington are Tigrinya. I came here for a job with JBS in 2008. There are people from 80 countries working at JBS. I am already a homeowner, can you believe that? I got my loan from 1<sup>st</sup> National State bank over there. I had no problem getting a loan.” (Eritrean resident, Southwest Region)*
- *“When I came here 25 years ago, it was very easy to find a place to live and I bought a house on the lake for \$45,000. Now, it is very expensive to buy a home. You can’t find one for less than \$450,000. There are very few places to buy.” (Vietnamese resident, Southwest Region)*
- *“I’ve heard that the interest rates for the first time homebuyer loans are very high interest loans. Not worth it.” (Vietnamese resident, Southwest Region)*

Advocates for Minnesota Somali residents consider a lack of Islamic lending products in the Minnesota financial marketplace a significant barrier to homeownership for this mostly Muslim population.

- *“People are ready to buy and want to become homeowners. They can afford to buy, but because most Somali are Islamic they need Islamic products. Guidance Residential helps the buyer create an LLC where Guidance buys the home and as the buyer pays, the lenders*

*ownership declines. But, Guidance is small and can cherry pick who they serve.” (Stakeholder, Southwest Central and Twin Cities regions)*

- *“The biggest issue is not having an available mortgage that is Islamic. Not having a downpayment is also an issue.” (Stakeholder, Southwest Central and Twin Cities regions)*

**Community culture.** In greater Minnesota, residents who participated in community conversations described their town as safe, quiet and a good place to raise a family.

- *“Worthington is home now. It is quiet; it is safe.” (Karen resident, Southwest Region)*
- *“Worthington is home. It feels like home. Everyone is OK. Good, good people here.” (Eritrean resident, Southwest Region)*
- *“On student government last year we created a culture fair, where we could all learn about each others cultures.” (Hispanic resident, 6<sup>th</sup> grader, Southwest Region)*
- *“Bemidji is great. I love living here.” (Native American resident, Headwaters Region)*

**Relationship with law enforcement.** When the project team was holding conversations in greater Minnesota a video surfaced showing an aggressive arrest of an Asian immigrant by the Worthington Police. In response the community held meetings including “People and Police: Making Our Community Safe” at a local park. At this event, Hispanic and Asian residents, with the assistance of interpreters learned what to expect in a traffic stop and how to respond to law enforcement requests. Members of the Worthington Police Department modeled a typical traffic stop. Resident questions ranged from where to put their hands when pulled over to the state’s driver licensing requirements.

- *“At closing time at the bar with the salsa dancing, there are always three to four police waiting to pull you over. They’re at all the bars at when they close, not just the Mexican ones. They’re not racist about the DUI, but it seems like they are for everything else. Sometimes they’re aggressive.” (Hispanic resident, Southwest Region)*
- *“Here in Worthington, it’s pretty calm. There aren’t criminals or killings here.” (Hispanic resident, Southwest Region)*
- *“If you have Res plates, you’ll get pulled over. There is definitely profiling.” (Native American resident, Headwaters Region)*

**Perspectives from the Twin Cities AI Addendum community engagement.** Inequitable public services and amenities in minority-majority neighborhoods was a common theme across focus groups. Examples include poor street lighting, lack of or less well-maintained parks; lower priority snow removal (wealthier neighborhoods are prioritized) higher crime and lack of personal security and the experience that law enforcement is less present or responsive in their neighborhoods. School quality is seen as higher in other neighborhoods or suburban communities.

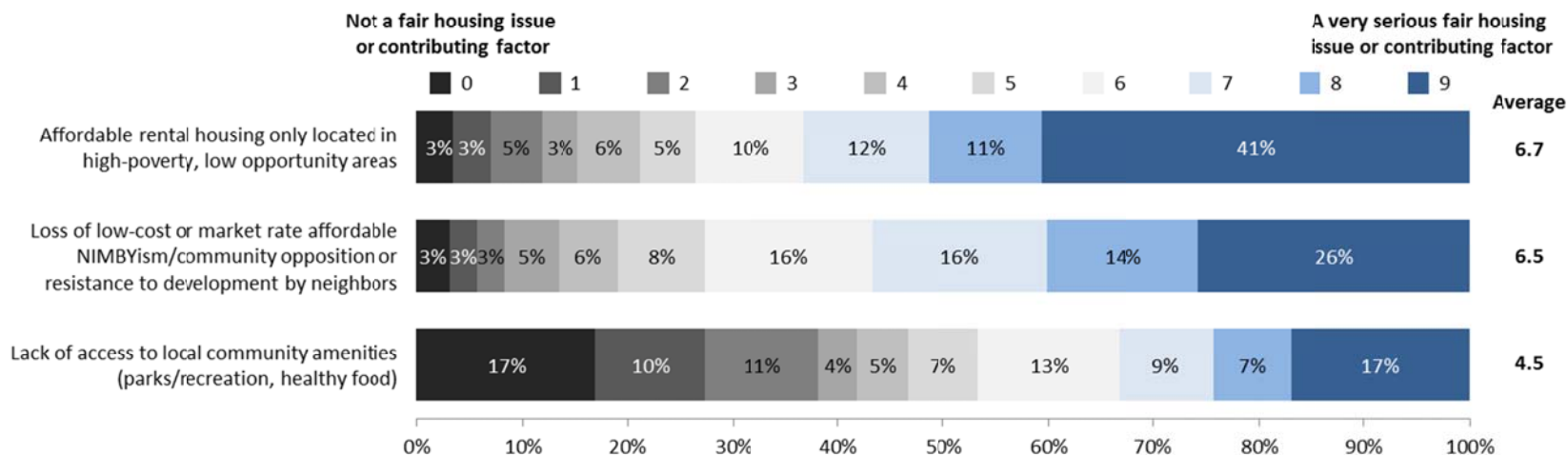
- **Familial status discrimination.** Housing discrimination on the basis of familial status was raised in focus groups with Latino participants. Examples include landlords refusing to rent because a household included children or being denied due to family size. One group mentioned that apartments by the Mall of America do not allow children. A lack of housing suitable for large families was raised by Latino, Somali and Karen participants.
  
- **Discrimination on the basis of ethnicity and/or national origin.** Participants in Latino focus groups described landlords (often referred to as “slumlords”) charging higher rents for Latino families than whites; landlords taking advantage of undocumented tenants; and landlords accepting application fees with no intention of renting to the family. Black American residents of Oakdale described experiencing discrimination by neighbors and local businesses.
  
- **Disproportionate housing needs.** Focus group participants described substandard housing—units in disrepair with infestations, mold, other unsafe conditions—as the only housing option available to them due to lack of affordability, credit or criminal history or lack of documentation. These households believe they have no alternative and fear lodging complaints, requesting repairs or reporting their landlord will result in eviction or other retaliation.
  
- **Segregation.** In general, living near people like them who share language and culture is highly valued, whether among Black Americans in northeast Minneapolis or Latino immigrants in a suburban mobile home park. These participants described communities of choice and shared values. Focus groups with Somali residents of Woodbury and Eden Prairie suggest that because so few landlords or management companies accept Section 8 vouchers Somali have concentrated in a small number of apartment complexes/townhomes in these communities, not by choice but by default. As landlords leave the Section 8 program, these residents are forced to leave the community entirely (e.g., move to Shakopee).
  
- **Barriers to housing choice.** A lack of affordable housing and a lack of public transportation are the primary barriers to moving to higher opportunity areas. When describing the types of places they would prefer to live, participants emphasized safety, good schools, affordable housing in good condition, and quality public amenities and services. The communities or neighborhoods that have these qualities are out of reach due to a lack of affordable housing but also a lack of public transportation or insufficient public transportation (e.g., hours or frequency of service).

Limited English proficiency and adult illiteracy create additional barriers to accessing available housing resources and programs without one-on-one assistance from a community organization or advocate who can explain terminology and processes.

**Access to low poverty neighborhoods—stakeholder perspectives.** Numerous factors influence access to low poverty environments. Stakeholders evaluated three such factors—the concentration of affordable housing in high poverty, low opportunity areas; community opposition and resistance to development; and lack of access to community amenities such as parks and recreation and healthy food. Among these, nearly two-thirds of stakeholders identified concentrations of affordable housing in high poverty areas as a serious contributing factor to fair housing issues in Minnesota and more than half rate NIMBYism as a serious factor. Lack of access to community amenities was not seen as a contributing factor by most stakeholders.

**Figure III-26.**  
**Access to Low Poverty Neighborhoods—Stakeholder Perspectives**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 165 to 288 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

Stakeholders providing housing and social service supports to Native American residents in the Bemidji area report that their clients who seek rental housing have a different experience than that reported by other residents. Landlords have strict standards for potential tenants, including requiring a credit score of 600 or higher, a criminal background check free of felony or assault convictions. From the experience of stakeholders, these standards are designed to exclude members of the Red Lake and Leech Lake tribes. As a result, the few landlords in the area who are willing to rent to tenants with less-than-perfect credit or records tend to have housing units in the poorest condition in higher crime areas.

- *“Sometimes there is culture shock, when you want to rent in Bemidji. The credit score or requiring a cosigner with a credit score eliminates nearly all the Native applicants.” (Stakeholder, Headwaters Region)*
- *“Private landlords are tough. They’re used to receiving damage on their units, whether from college kids or Native youth. They won’t rent to them because they’ve lost income in the past.” (Stakeholder, Headwaters Region)*
- *“Supportive housing is what makes many of these families successful. It minimizes turnover, lease violations and damages. Without good service staff and supports, you fail.” (Stakeholder, Headwaters Region)*
- *“There are places with lower rents, but there are big condition issues. People who can’t qualify for a good landlord because of credit or criminal history just have to take what’s available, and takes the place as it comes.” (Stakeholder, Headwaters Region)*

**Resident perspectives on environmentally healthy neighborhoods.** Broadly, residents of greater Minnesota live in communities they consider to be environmentally healthy. Lakes and natural areas abound and are used by many.

- *“The playground in the Bigelow Park needs to be fixed. The swings are broken. The fence has bad words on it. I will fix that when I have the time. It’s safe, I can ride my bike anywhere.” (Hispanic resident, age 12, Southwest Region)*

# **SECTION IV.**

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## **Disability and Access Analysis**

## **SECTION IV.**

# **Disability and Access Analysis**

This section examines the housing experience and access to opportunity for Minnesota residents with disabilities. In addition to analyses of publicly available data and findings from the community engagement process, this section includes information from relevant needs assessments and other studies.

Following the population profile, this section is organized around the following areas that affect persons with disabilities:

- Availability of affordable and accessible housing;
- Programs and policies to ensure integration of housing in a variety of settings; and,
- Access to economic opportunity.

### **Summary Findings**

This section examines housing choice and access to opportunity of Minnesota's residents with disabilities. Primary findings include:

- A lack of affordable, integrated housing for individuals who need supportive services is a significant barrier to fair housing choice for residents with disabilities statewide and was identified as a serious issue in each region of the state.
- Similarly, a lack of housing available for persons with disabilities transitioning out of institutions and nursing homes was the 12<sup>th</sup> most serious contributing factor to fair housing issues statewide and is a more pressing issue outside of the Twin Cities.
- Lack of public transportation limits housing choice and access to opportunity for residents with disabilities living in communities with no, infrequent or solely regional transportation services.
- Affordable and accessible housing for residents with disabilities should have greater visibility within Minnesota Housing.
- Requiring residents with disabilities to begin the application process for the Developmental Disability Waiver and other services onsite at county offices places a significant burden on residents with disabilities, particularly those living in greater Minnesota. There may be a need for county staff who administer programs benefitting residents with disabilities to receive training on best practices for successful interactions with residents with intellectual disabilities and mental illness.



## Population Profile

Overall, 602,014 Minnesota residents (11%) have a disability of some type, slightly lower than the national rate (12%). As shown in Figure IV-1, one in 20 Minnesotans has an ambulatory difficulty.

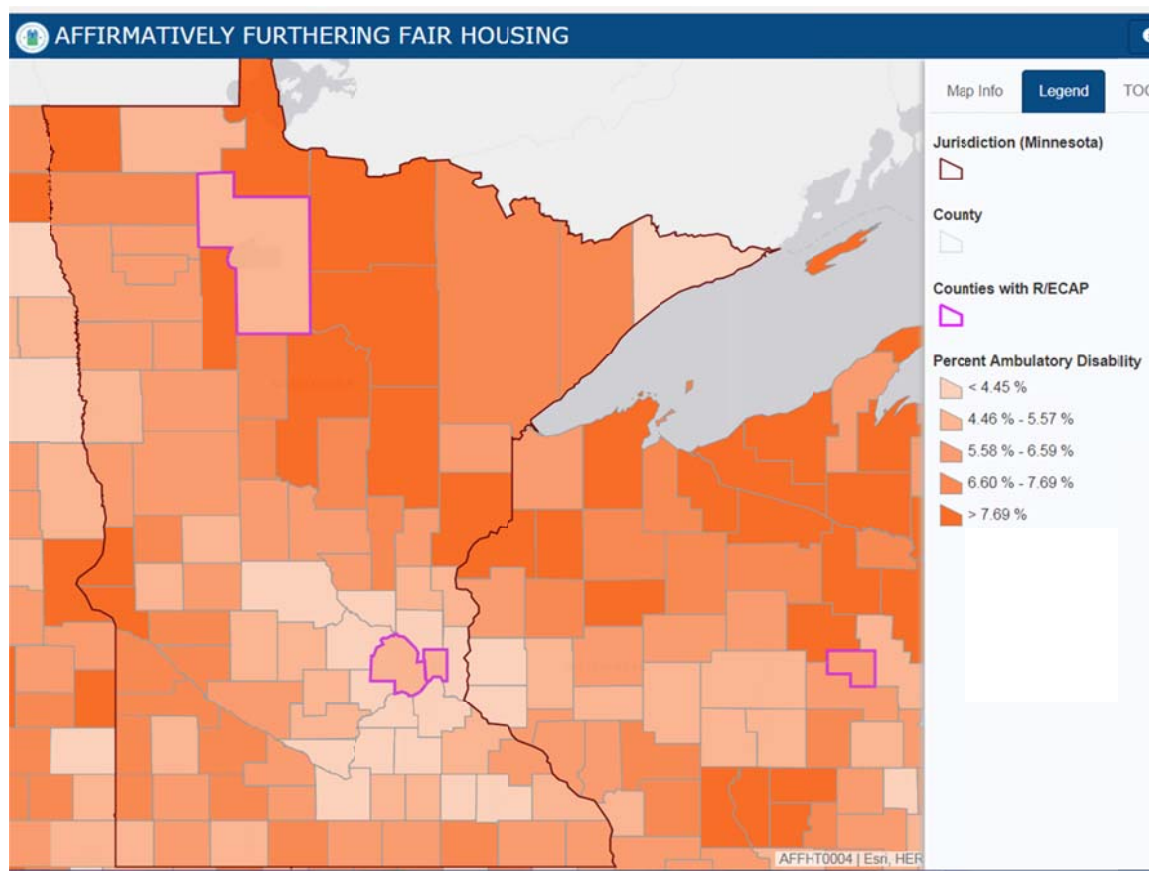
**Figure IV-1.**  
**Disability by Type, Minnesota, 2016**

Source:  
ACS 2016.

|                                | Population     | % of Population |
|--------------------------------|----------------|-----------------|
| Total Population               | 5,462,438      | 100%            |
| <b>Total with a Disability</b> | <b>602,014</b> | <b>11%</b>      |
| Ambulatory Difficulty          | 266,438        | 5%              |
| Cognitive Difficulty           | 230,294        | 4%              |
| Independent Living Difficulty  | 208,275        | 4%              |
| Hearing Difficulty             | 191,382        | 4%              |
| Self-care Difficulty           | 112,300        | 2%              |
| Vision Difficulty              | 86,049         | 2%              |

Previous sections examined the extent to which residents with disabilities live in concentrated settings (Section I) and access to housing affordability in general (Section II). The following maps, Figures IV-2 through IV-7, present where residents with disabilities live, by type of disability. Residents with ambulatory disabilities comprise more than 7 percent of the population in the counties of the Headwaters Region and the western counties of the Arrowhead region (north central Minnesota), as indicated by the dark orange shading in Figure VI-2. Within the Twin Cities region, residents with ambulatory disabilities are more likely to reside in Hennepin or Ramsey counties than surrounding counties.

**Figure IV-2.**  
**Residents with an Ambulatory Disability as a Percentage of County Population**

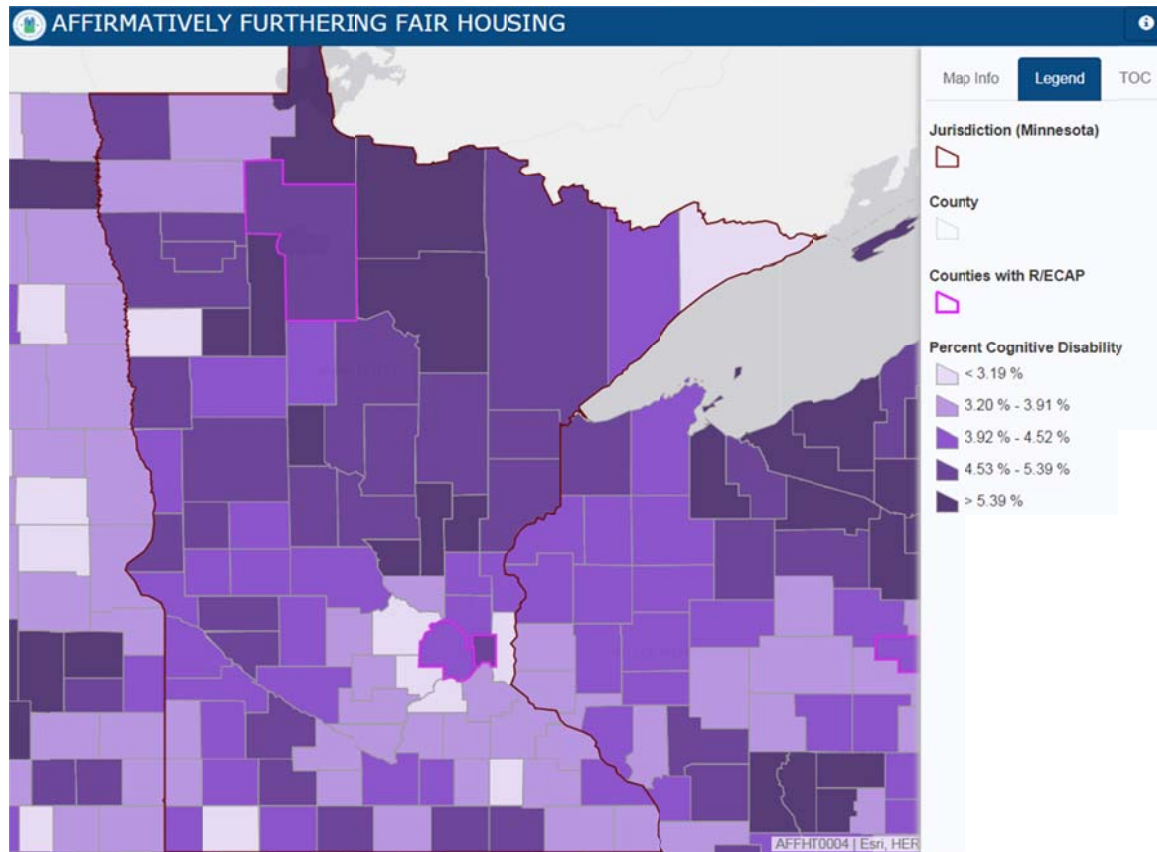


Note: Darker shading indicates greater proportion of county residents with ambulatory disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

Compared to the rest of the state, residents with cognitive disabilities are a smaller proportion of the population in the South Central and Southeast regions.

**Figure IV-3.**  
**Residents with a Cognitive Disability as a Percentage of County Population**

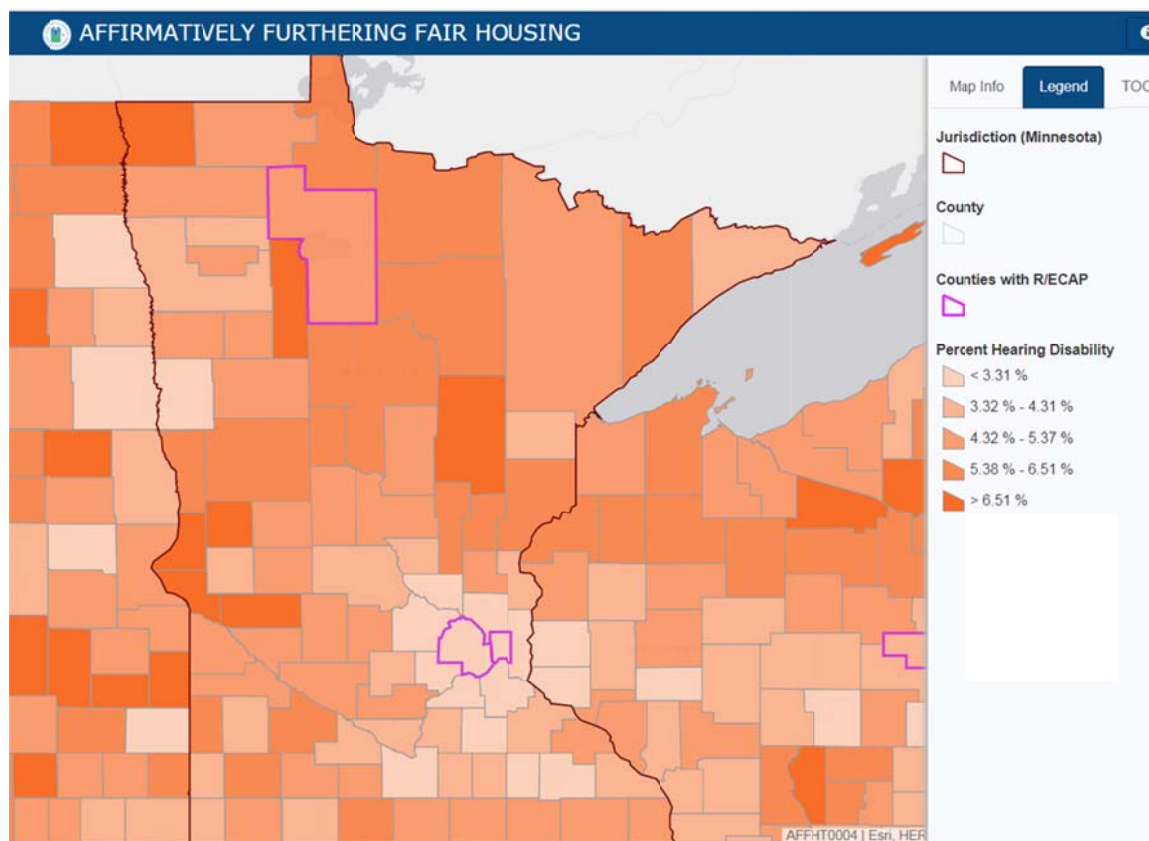


Note: Darker shading indicates greater proportion of county residents with a cognitive disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

Residents with a hearing disability are more likely to live in greater Minnesota than in the Twin Cities Region.

**Figure IV-4.**  
**Residents with a Hearing Disability as a Percentage of County Population**

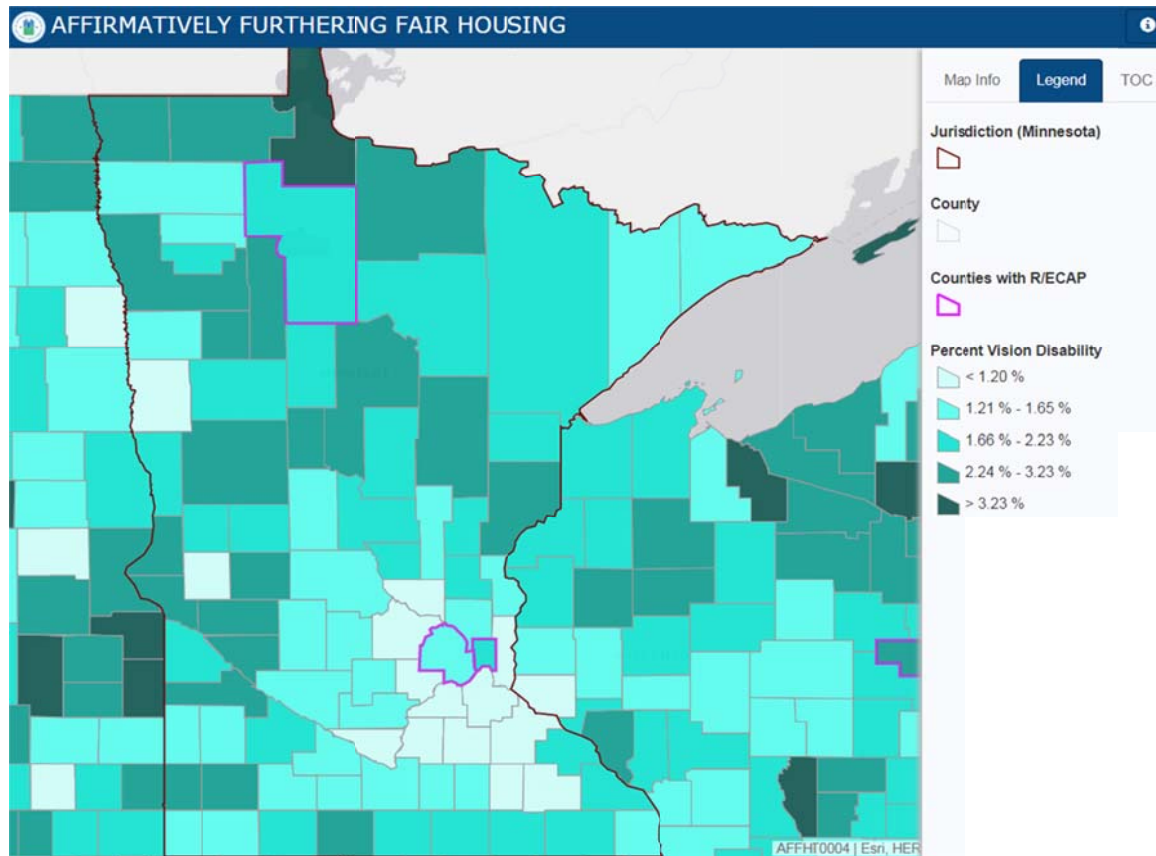


Note: Darker shading indicates greater proportion of county residents with a hearing disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

Within the Twin Cities region, residents with a vision disability are more likely to live in Hennepin or Ramsey County than in the surrounding counties. Elsewhere in the state the share of county residents with vision disabilities varies within and across regions.

**Figure IV-5.**  
**Residents with a Vision Disability as a Percentage of County Population**



Note: Darker shading indicates greater proportion of county residents with a hearing disability.

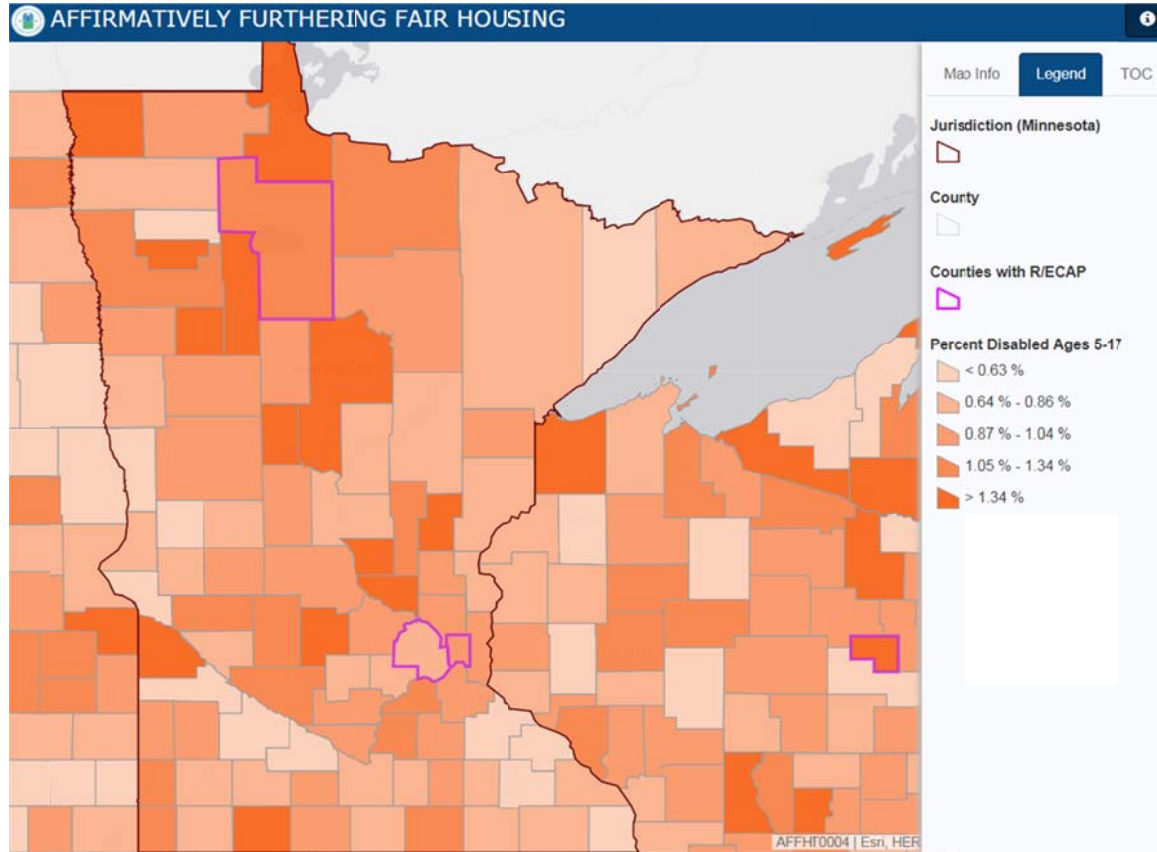
Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

The incidence of disability is correlated with age; older residents are six times as likely as the youngest age cohort to have a disability of some type.

- One in 20 Minnesotans between the ages of five and 17 have a disability and nearly one in 10 residents between the ages of 18 and 64 report one or more disabilities;
- One in three residents age 65 and older has a disability.

As shown in Figure IV-6, children with disabilities live throughout Minnesota and do not appear to be concentrated or over-represented in a given region.

**Figure IV-6.**  
**Residents Ages 5 to 17 with a Disability as a Percentage of County Population**

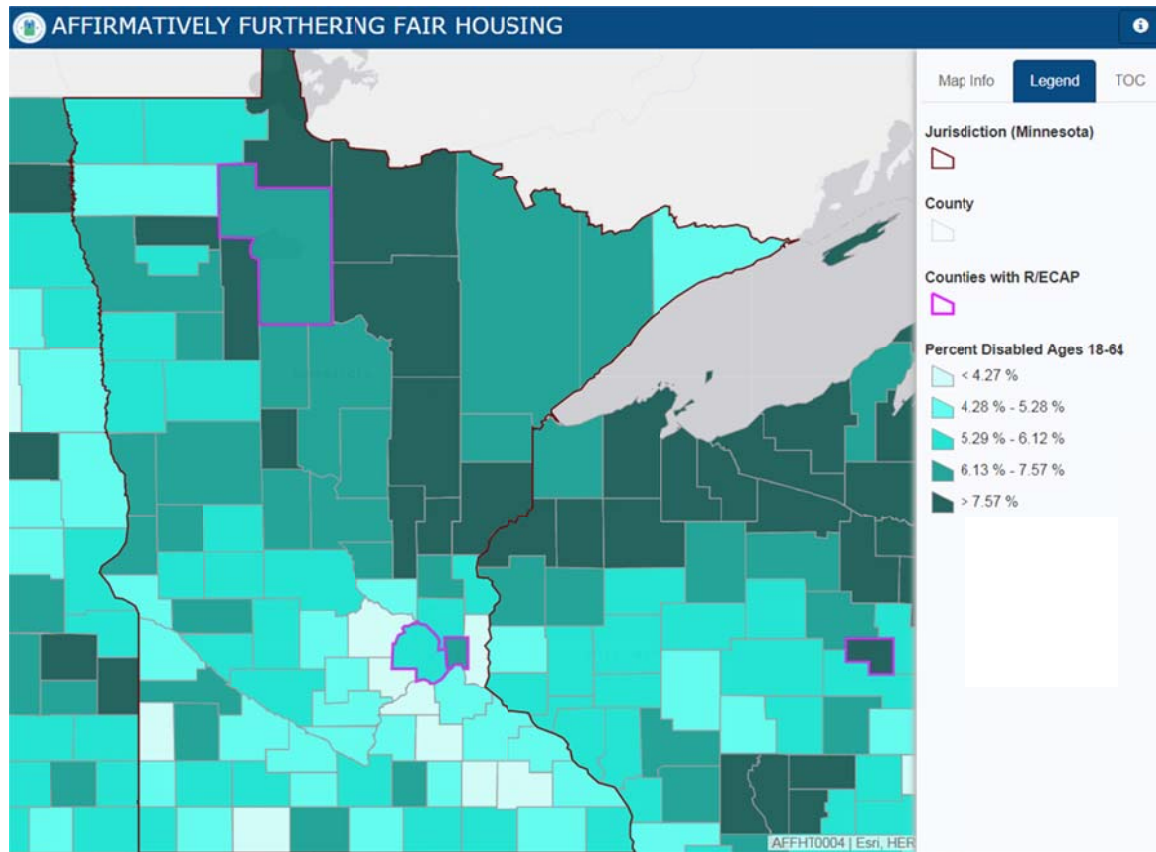


Note: Darker shading indicates greater proportion of county residents ages 5 to 17 with a disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

Compared to other regions, the East Central and western counties of the Arrowhead region have higher proportions of non-senior adult residents with disabilities. Within the Twin Cities region, Ramsey County has the highest proportion of adults with disabilities between the ages of 18 and 64. Non-senior adults with disabilities are less likely to live in the South Central and Southeast regions.

**Figure IV-7.**  
**Residents Ages 18 to 64 with a Disability as a Percentage of County Population**

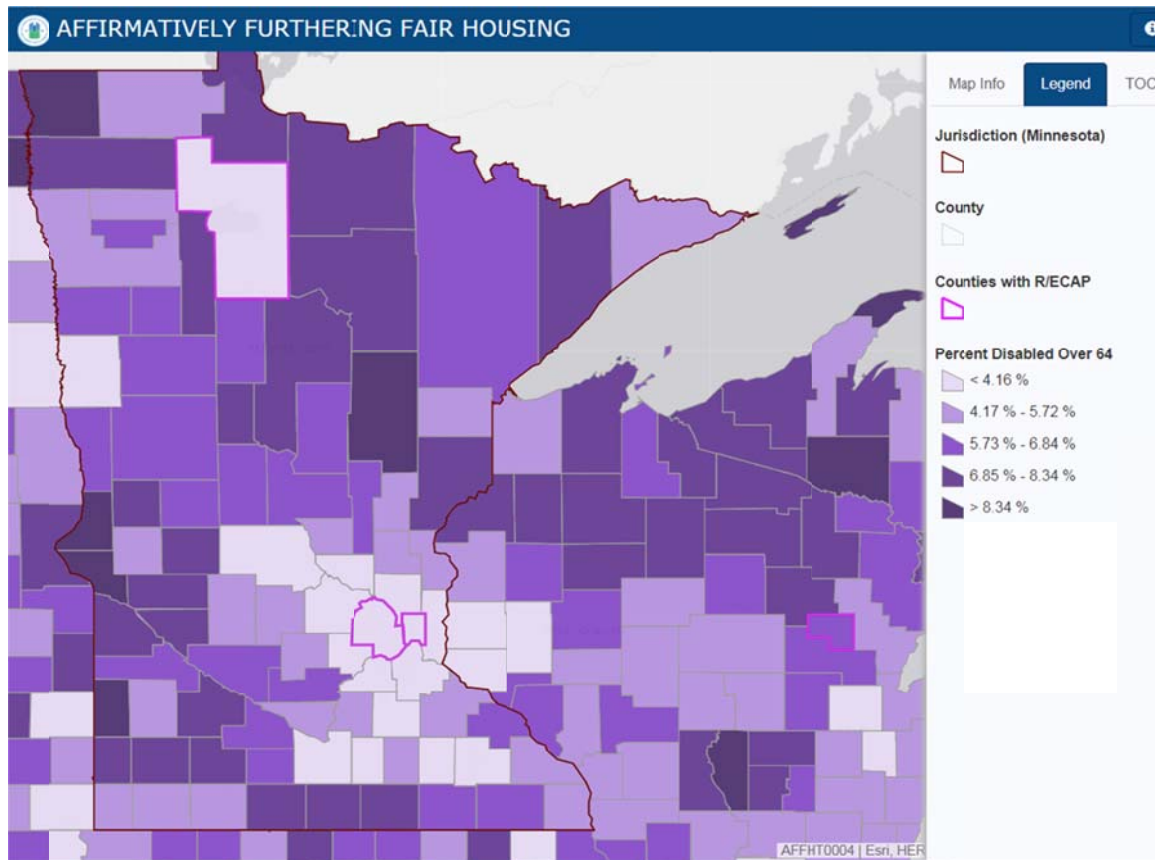


Note: Darker shading indicates greater proportion of county residents ages 18 to 64 with a disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

Residents with a disability who are age 65 or older are more likely to live in greater Minnesota than in the Twin Cities region. As shown in Figure IV-8, the geographic distribution of older adults with disabilities is very similar to that of residents with vision disabilities (Figure IV-5 above), which is not surprising given the positive correlation between age and vision disabilities.

**Figure IV-8.**  
**Residents Age 65 and Older with a Disability as a Percentage of County Population**



Note: Darker shading indicates greater proportion of county residents ages 65 and older with a disability.

Source: HUD Affirmatively Furthering Fair Housing Data and Mapping Tool. <https://egis.hud.gov/affht/>.

## Accessible and Affordable Housing

This section examines the extent to which persons with disabilities are able to exercise fair housing choice and are housed in the most integrated setting appropriate for their needs.

As specified in federal regulations: “The most integrated setting is one that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible, consistent with the requirements of the Americans with Disabilities Act, 42 USC. 12101, et seq., and Section 504 of the Rehabilitation Act of 1973, 29 USC 794. See 28 CFR. part. 35, App. A (2010) (addressing 25 CFR 35.130).” Under this principle, derived from the Supreme Court’s decision in *Olmstead vs. L.C.*, institutionalized settings are to be avoided to the maximum possible extent in favor of settings in which persons with disabilities are integrated into the community.

Different types of modifications, accommodations and/or services may be needed to allow individuals with disabilities to live in integrated settings. For example, persons with physical disabilities may need units with universal design or accessibility features, both within the private market and publicly-supported housing stock, specific to their needs. Persons with other types of disabilities may require access to services and support—e.g., transportation assistance,



personal care services—they need to live independently. Many persons with disabilities need housing that is affordable, as well as accessible. Affordability is a particularly acute concern for those relying on disability benefits.

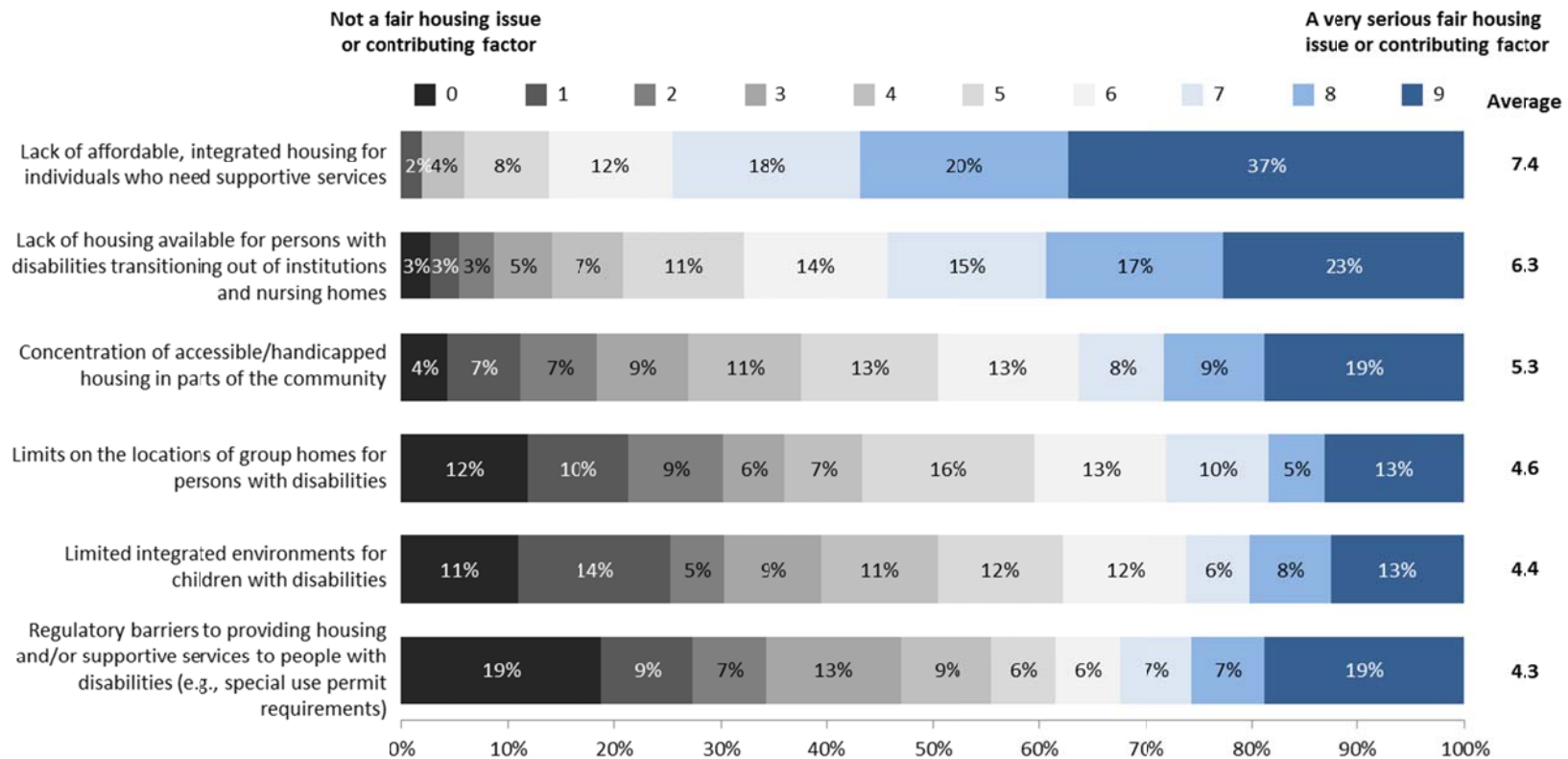
**Access to housing overall.** Data on the location and types of accessible housing units in nonentitlement areas are not publicly available. Multifamily units developed after the 1990s (when the Americans with Disabilities Act was passed) are required to have some accessible units and common area accessibility. However, multifamily construction largely occurs in urban areas and, as such, multifamily units developed after 1990 is not a solid proxy for accessible units in nonentitlement areas.

In order to understand the availability of accessible, affordable housing units, stakeholders knowledgeable about the housing experience of residents with disabilities responded to a series of survey questions regarding housing choice for this protected class. Figure IV-1 presents stakeholder ratings of contributing factors related to the availability of housing suitable for residents with disabilities, integrated housing opportunities, concentration of accessible units and regulatory barriers that may impede accessible housing availability.

- Among all of the fair housing issues or contributing factors considered by stakeholders, *a lack of affordable, integrated housing for individuals who need supportive services* the 2<sup>nd</sup> or 3<sup>rd</sup> most serious contributing factor to fair housing issues (out of 74 rated) statewide and in 12 of the 13 DEED regions. (This measure ranked 4<sup>th</sup> in the South Central region).
- Overall, *a lack of housing available for persons with disabilities transitioning out of institutions and nursing homes* was the 12<sup>th</sup> most serious contributing factor to fair housing issues statewide. Housing for those transitioning out of institutions and nursing homes is considered a more serious issue outside of the Twin Cities, on average, than in the regions. For example, this factor was the 15<sup>th</sup> most serious in the Twin Cities region compared to the 6<sup>th</sup> most serious in the Southeast and West Central regions and the 7<sup>th</sup> in Headwaters, North Central, Northwest, South Central and Southwest Central regions.
- Policies that limit group home locations or create regulatory barriers to providing housing or services to residents with disabilities are not considered a serious contributing factor to fair housing issues for residents with disabilities overall and in most regions. Stakeholders providing services in the Headwaters, North Central, Northwest and Upper Minnesota Valley consider these policies a somewhat serious issue in these regions.

**Figure IV-9.  
Housing Choice for Residents with Disabilities**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



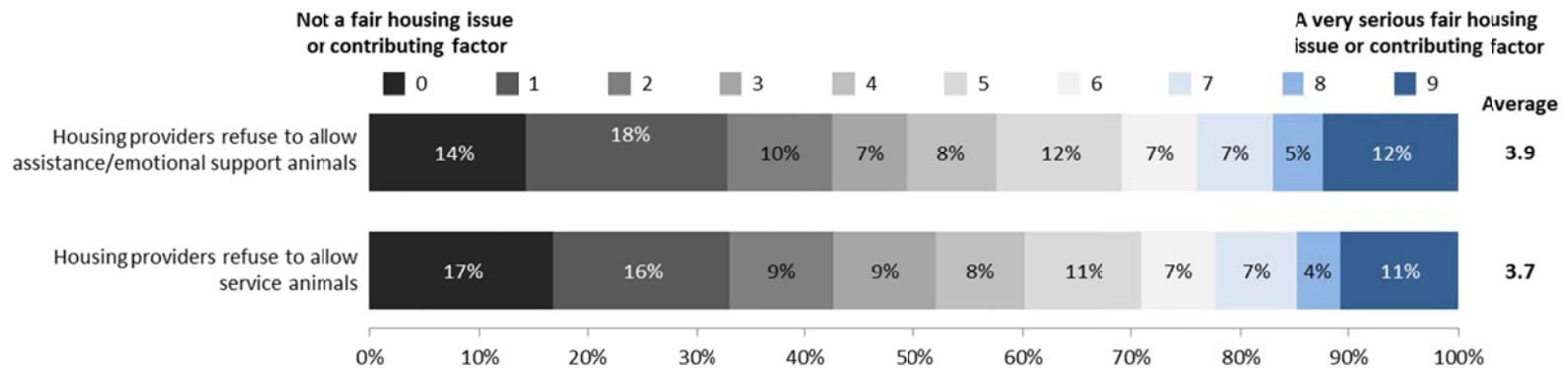
Note: n ranges from 51 to 234.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Reasonable accommodations.** Among the factors considered by stakeholders, landlords refusing to rent due to service or support animals are the least likely to contribute to fair housing issues in Minnesota (ranking 73 and 74 out of 74 issues) and within the regions. This suggests that, on average, most Minnesota landlords make reasonable accommodations for service and support animals.

**Figure IV-10.**  
**Refusal to Rent Due to Service or Support Animals**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 146 to 148.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Principal challenge in acquiring housing and remaining housed.** Overall, four in five stakeholders (81%) believe there are an insufficient number of accessible units in the areas they serve. When considering the principal challenges residents with disabilities experience when acquiring and remaining housed, stakeholders identified:

- A lack of affordable *and* accessible housing;
- Difficulty maintaining housing due to lack of supportive services;
- Difficulty finding landlords willing to accept Section 8, and
- Long wait lists for publicly-supported housing.

Specific stakeholder comments include:

- *“Affordable housing for disabilities is very limited.” (Stakeholder survey respondent)*
- *“Bias against vouchers/mental illness/race/poverty. Landlords being squeamish about risky tenants. Lack of funding to maintain good relationships with landlords (for programs that do vouchers).” (Stakeholder survey respondent)*
- *“Remaining in housing if there are not enough support services to assist them if they are having trouble with lease compliance.” (Stakeholder survey respondent)*

The Minnesota Statewide Independent Living Council (MSILC) conducted a statewide survey of residents with disabilities (see Comprehensive Needs Assessment Survey Results, April 2016) focused on housing, transportation, employment and supportive services. About half of survey respondents identified as having a physical disability and half with mental illness. About two-thirds identified as having more than one disability. Survey respondents included residents with disabilities living in urban areas (36%), suburban areas (28%) and rural areas (20%). Three in four residents with disabilities surveyed need some type of support to stay in their current housing arrangement (maintain housing). This supports include:

- Financial support (44%);
- Home-making or cleaning services (40%);
- Personal care services (34%);
- Yard work and maintenance (34%);
- Cooking support or meal services (34%);
- Home modifications (29%),
- Better access to their home (19%); and
- Nursing services (10%).

With respect to housing choice, about half of urban respondents with disabilities “had more than one option they liked when deciding where to live,” compared to about a third of suburban and

rural residents. Despite having fewer choices, rural participants are less likely to express that they “would live somewhere else if they could” (41% of rural respondents compared to 47% urban and 55% suburban). In order to live somewhere else, respondents would need:

- Affordable housing (64%);
- Assistance finding housing (50%);
- Help packing or moving to live somewhere else (47%);
- Yard work or maintenance (26%);
- Cooking support or meal services (25%);
- Better home access (20%) and home modifications (19%);
- Personal care services (15%) and nursing services.

The authors of the MSILC needs assessment recommend prioritizing housing supports and financial assistance as these were the greatest needs identified.

**Access to publicly-supported housing.** With respect to accessing publicly-supported housing, clients with disabilities are over-represented as occupants of public housing, Section 8 voucher holders, and other affordable rental housing (see Figure II-12 a in Section II). People with disabilities are also over-represented on wait lists. Overall in the state, people with disabilities represent 11 percent of residents; HUD estimates that this may be lower for nonentitlement areas. By comparison, people with disabilities represent between one-fifth and one-half of occupants of publicly-supported housing provided by the PHAs surveyed for this study.

## Integration of Housing and Services

The Supreme Court’s 1999 decision in *Olmstead v. L.C.* requires states “eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs.”<sup>1</sup> This landmark civil rights decision held that Title II of the Americans with Disabilities Act (ADA) prohibits unjustified segregation of individuals with disabilities.<sup>2</sup> While the decision addressed the needs of individuals seeking to leave institutional settings, it also applies to the state’s provision of treatment, services, and supports to prevent institutionalization. The Supreme Court allowed public agencies the opportunity to develop plans (known as *Olmstead* Plans) to comply with the decision’s integration mandate, rather than compliance through litigation.

**Minnesota’s Olmstead Plan.** Minnesota has had an Olmstead Plan since 2015. The Olmstead Plan development process began in 2011 with a class action settlement agreement in *Jensen v. DHS*, which included an agreement to develop an *Olmstead Plan*. In January 2013, Governor Mark Dayton issued an Executive Order to establish an Olmstead Subcabinet and further facilitate the development of an Olmstead Plan. The Olmstead Subcabinet includes representatives from the

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<sup>1</sup> <https://www.ada.gov/olmstead/>

<sup>2</sup> [https://www.ada.gov/olmstead/q&a\\_olmstead.htm](https://www.ada.gov/olmstead/q&a_olmstead.htm)

Departments of Corrections, Education, Employment and Economic Development, Health, Human Rights, Human Services, Transportation the Minnesota Housing Finance Agency, Ombudsman for Mental Health and Development Disabilities and the Governor's Council on Developmental Disabilities. The vision statement for the Subcabinet, which guided the *Olmstead Plan* development, is: *"People with disabilities are living, learning, working, and enjoying life in the most integrated setting."* In January 2015, Governor Dayton issued another Executive Order to further define the role of the Olmstead Subcabinet and the Olmstead Implementation Office (OIO).

The State's initial Olmstead Plan was adopted by the Olmstead Subcabinet in August 2015, and it was approved by the District Court in September 2015. The Olmstead Plan addresses a variety of topic areas to facilitate meaningful choice by people with disabilities, including person centered planning, housing and services needed to move people with disabilities from segregated to integrated settings, and programs and practices to support residents with disabilities as they live and access opportunity in settings of choice. The Plan includes measurable goals across the topic areas that are a mechanism for the State to measure progress. The Olmstead Subcabinet oversees the ongoing implementation of the Olmstead Plan across State agencies. The OIO works with the State agencies to measure compliance and reports to the Olmstead Subcabinet.

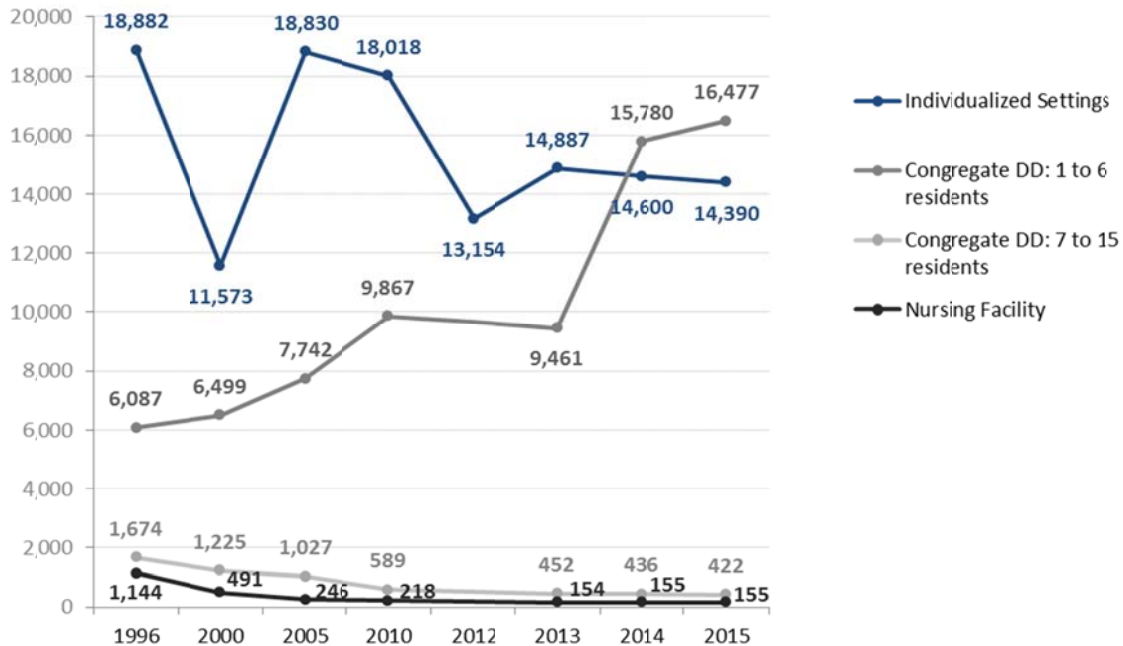
The Minnesota Olmstead Plan is regularly updated. The Olmstead Plan was amended in June 2016 to add additional topic areas and measurable goals and again in February 2017 as part of the annual amendment process. It is anticipated that the Olmstead Subcabinet will approve another revised Plan in March of 2018 and annually thereafter. Each Olmstead Plan amendment process includes a public comment process.

In addition to the Olmstead Plan, which sets out the measurable goals needed to accomplish the vision of an inclusive community, the Olmstead Subcabinet also approves State agency workplans, which are the specific actions that State agencies will take to make process on the measurable goals. The Subcabinet also releases quarterly and annual reports to the public to report on progress.

**In-home and residential supports.** Federal and state funding for in-home services are needed for many persons with disabilities, as well as the elderly, to live in integrated settings. Medicaid is a major funding mechanism for in-home and residential supports. One of the primary tools to facilitate living in community settings is participation in a Minnesota's Medicaid HCBS (Home and Community-Based Services) waiver program. Minnesota offers six HCBS waiver programs. The aim of each program is to provide supports needed for residents with disabilities or chronic illnesses to live in the community rather than an institutional setting. The Alternative Care and Elderly Waiver programs are available to residents age 65 or older who meet program eligibility criteria. These programs are operated by the Department of Human Services Aging and Adult Services Division. The Brain Injury Waiver facilitates in-community living supports for residents whose brain injuries would otherwise require care in a nursing home or neurobehavioral hospital setting. Chronically ill or medically fragile residents who otherwise would require hospitalization may qualify for the Community Alternative Care Waiver. The Community Access for Disability Inclusion and Developmental Disabilities waivers enable residents with disabilities to live in community-based settings rather than nursing homes or Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DD).

Figure IV-11 presents data from the Study of Medicaid Funded In-home and Residential Long-term Supports and Services for Persons with Intellectual or Developmental Disabilities (RISP study data) for Minnesota.<sup>3</sup>

**Figure IV-11.**  
**Minnesota Medicaid Recipients with IDD: Trends in In-Home and Residential Supports, 1996-2015**



Note: Individualized settings include own home, family and host home. Congregate DD are those residences whose purpose is serving individuals with intellectual or developmental disabilities. In both 2014 and 2015 more than 400 family foster care homes converted to corporate foster care settings with shift staff, explaining the large increase in settings categorized as congregate (group homes).

Source: BBC Research & Consulting from Minnesota FY 2015 RISP State Profile.

In 2015, more than 31,000 residents with intellectual or developmental disabilities received long term supports and service through the waiver programs and 3,564 residents with disabilities were waiting to receive an HCBS waiver. In Minnesota, more than one-third (36%) of resident with intellectual or developmental disabilities live in the home of a family member, compared to 58 percent nationally. About one in 10 live in their own home compared to 27 percent nationally.

**Transitioning to and maintaining integrated settings.** The Housing and Services element of the *Olmstead Plan* aims to provide residents with disabilities with “meaningful options about where to live, and with whom and to support housing costs for people with disabilities who choose to live in integrated settings (p. 48).” In 2014 and 2015, progress toward Housing and Services goals includes legislative approval of policy changes to increase housing benefit flexibility, authorization of \$2.5 million in additional funds to expand the Bridges rental assistance program for people with mental illness, receipt of federal funds for 160 Section 811 housing vouchers to transition residents with disabilities from segregated settings to community settings; and Minnesota Housing and DHS planning to align housing and service supports.

<sup>3</sup> <https://risp.umn.edu/>

Housing and Services strategies in the *Olmstead Plan* to achieve the goal of increasing “the number of individuals living in the most integrated housing with a signed lease” to 11,546 residents by 2019 (a 92% increase from the 2015 baseline of 6,017) include:

- **Create more affordable housing** by reallocating existing funding;
- **Implement reform for housing assistance programs** approved by the legislature to promote housing choice;
- **Improve future models for housing in the community** by increasing access to information about integrated housing, encouraging partners and stakeholders to implement person-centered housing strategies, develop policy recommendations to access Medicaid coverage for housing and services, and identify barriers to obtaining or maintaining housing.

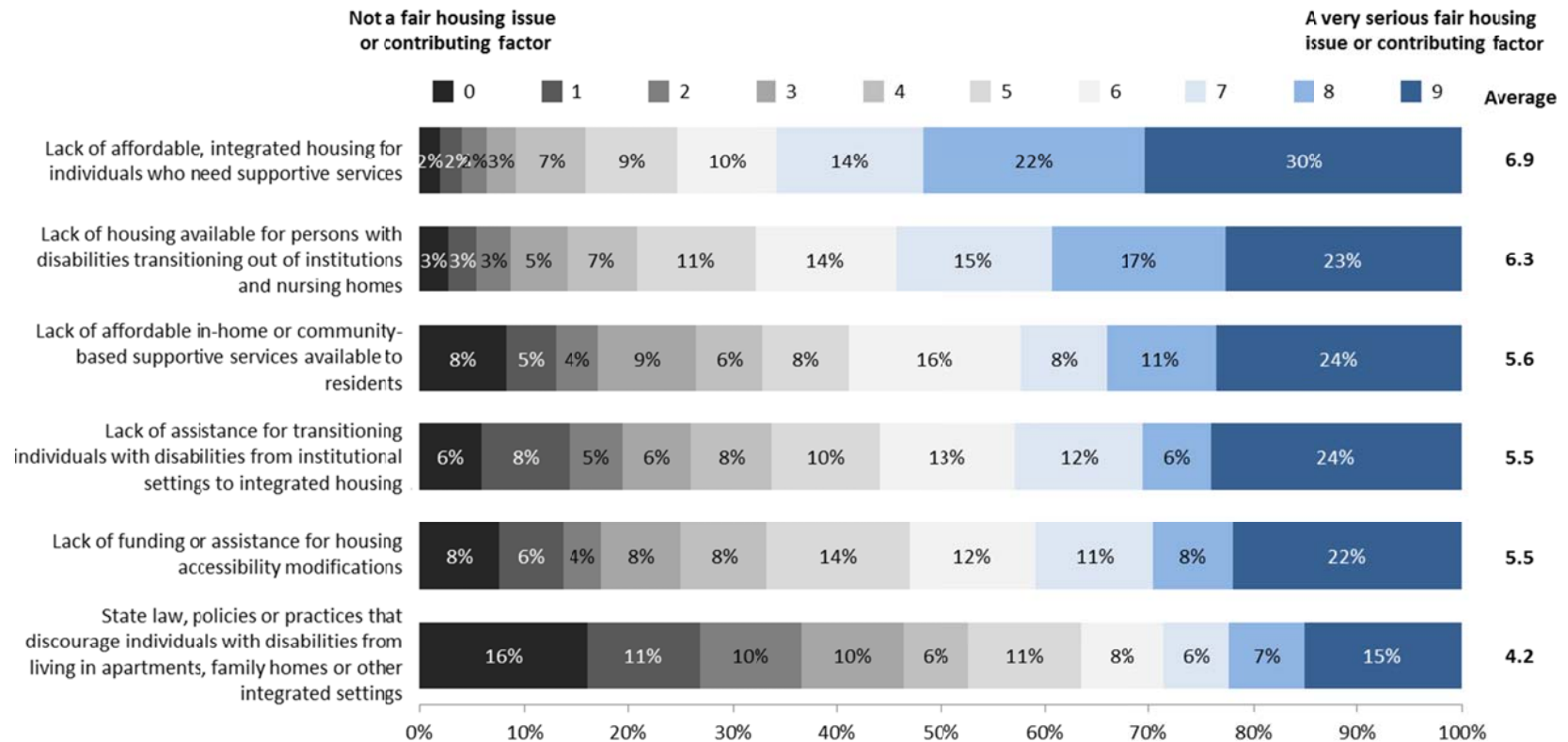
Minnesota Housing and DHS are the agencies responsible for implementing the *Olmstead Plan’s* Housing and Services goals.

**Stakeholder perspectives on transitioning to integrated settings.** Figure IV-12 presents stakeholder survey findings addressing the ability of residents with disabilities to live in the most integrated setting preferred. As discussed previously, a “lack of affordable, integrated housing for individuals who need supportive services” is considered a serious contributing factor to fair housing issues by stakeholders and was the 4<sup>th</sup> most serious factor identified by stakeholders statewide. More than half (54%) of stakeholders identify a lack of housing available for persons with disabilities transitioning out of institutions and nursing homes to be a serious contributing factor (rating of 7-9 on a 0-9 scale where 9 is very serious). Most stakeholders do not consider state laws, policies or practices to be contributing to fair housing issues for residents with disabilities.



**Figure IV-12.  
Transitioning to Integrated Settings**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 112 to 251 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

## Access to Opportunity

Section III examined access to opportunity for members of all protected classes. Opportunity issues specific to residents with disabilities are discussed below.

**Public infrastructure.** A “lack of handicapped accessibility in public areas, including streets and sidewalks” was not considered to be a serious contributing factor to fair housing issues for residents with disabilities both statewide and within the regions. On average, this measure was rated among the least serious and ranked 62<sup>nd</sup> out of 74 contributing factors considered. However, the Olmstead Plan details that in 2012, only 19 percent of curb ramps on MNDOT right of way met accessibility standards while 46 percent of sidewalks on MNDOT right of way met accessibility standards. Over the next five years, additional accessibility improvements will be made as a part of MNDOT roadway projects; the goal is for 38 percent of curb ramps to be compliant by 2020. About 2 percent of MNDOT’s capital budget (about \$12 million per year) is earmarked for accessible pedestrian facilities.

As a resource for residents with disabilities, Disability Minnesota! is a single point of entry online portal to more than 100 state programs focused on disability and aging. Organized by topic, residents with disabilities can access information about accessibility and assistive technology, benefits, community life, education, employment, health, housing, advocacy, transportation and more.<sup>4</sup>

**Transportation.** Stakeholders identify transportation as one of the principal barriers for residents with disabilities to access housing or neighborhood of choice, employment opportunities and access to services. For those providing services in communities with public transit, nearly two in five stakeholders report that residents with disabilities have less access to public transit compared to the rest of the community. For those living outside of the Twin Cities or midsize cities in greater Minnesota, public transit is not available, further limiting opportunities for residents with disabilities to participate in employment and activities of daily living.

**Proficient schools.** In 2017, enrollment in Special Education in Minnesota schools was 134,331 and students in Special Education are 15 percent of school enrollment statewide. Overall, 61 percent of Special Education students in the Class of 2016 graduated, 26 percent are continuing and 9 percent dropped out. The graduation rate for Special Education students is slowly increasing, from 57 percent in 2012 to 61 percent in 2015 and 2016. To increase graduation rates of students with disabilities, the Olmstead Plan urges continued implementation of the IDEA State Performance Plan. On statewide assessments 67 percent of all 4<sup>th</sup> graders scored proficient in math compared to 42 percent of special education students.

As reported in the Olmstead Plan, in 2013, 62 percent of students with disabilities attended school in regular classes for 80 percent or more of their day. On average, stakeholders statewide do not find limited integrated environments for children with disabilities to be a serious

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<sup>4</sup> <https://mn.gov/disability-mn/topics/>

contributing factor (average of 4.4 on a 0-9 scale with a score of 9 being very serious). This perception does vary regionally and limited integrated environments are a more serious concern in the North Central, East Central, Headwaters, and Northwest regions. The Olmstead Plan includes a number of strategies to increase the participation of students with disabilities in integrated classrooms including expanding the use of Positive Behavioral Intervention and Supports (PBIS) which builds school district capacity to include students with disabilities; approximately 27 percent of schools currently implement PBIS.

**Jobs.** More than 302,000 residents with disabilities are between the ages of 18 and 64. Of these, half (144,209) are not in the labor force, compared to 12 percent of working age adults without disabilities. Of those Minnesota adults with disabilities who are in the labor force, 8 percent are unemployed, compared to 3 percent of adults without disabilities.<sup>5</sup> Unemployment is lowest among Minnesota adults with disabilities for those with a vision or hearing difficulty (4% and 5% respectively) and is at least 10 percent for those with cognitive, ambulatory or independent living difficulties. In 2014, the Olmstead Subcabinet adopted the Minnesota Employment First Policy which aligns state agency employment programs for residents with disabilities with guiding principles designed to prioritize employment, offer informed choice of employment options and environments, facilitating the opportunity to work without fear or benefit loss, and increasing the control of residents over services and supports.<sup>6</sup> The Olmstead Plan's employment strategies, including those for youth with disabilities, emphasize the promotion of employment opportunities in competitive, integrated environments. DEED's Vocational Rehabilitations Services Unit (VRS) offers a number of employment-related services, including counseling and training, independent living skills, and long-term employment supports.

In 2015, VRS initiated the Way to Work program focused on encouraging residents with disabilities employed in sheltered workshops or center-based settings to transition to employment in competitive, integrated environments. Nearly 20 percent of the 103 residents with disabilities who requested Way to Work services obtained jobs in the community, demonstrating the potential for residents with disabilities employed in non-competitive settings to transition to integrated employment.

In 2016, VRS provided services to more than 17,600 residents with disabilities<sup>7</sup> and 90 percent of applicants for service had serious limitations in three or more functional areas. Slightly more than one-third of VRS participants have a serious mental illness and two in five participants are under age 25. More than 3,000 VRS participants obtained employment in competitive, integrated settings with an average hourly wage of \$12.71 (for those without ongoing employment supports) and \$10.80 for those receiving ongoing supports. VR services are provided at 50 WorkForce Centers located across the state.

Several stakeholder survey respondents identified a lack of access to reliable transportation and a lack of awareness of services to help residents with disabilities find and maintain employment

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<sup>5</sup> 2016 ACS, Table B18120, Employment Status by Disability Status and Type.

<sup>6</sup> [http://www.dhs.state.mn.us/main/groups/olmstead/documents/pub/dhs16\\_196299.pdf#page=345](http://www.dhs.state.mn.us/main/groups/olmstead/documents/pub/dhs16_196299.pdf#page=345)

<sup>7</sup> [https://mn.gov/deed/assets/src-annual-report-2016\\_tcm1045-273482.pdf](https://mn.gov/deed/assets/src-annual-report-2016_tcm1045-273482.pdf)

as a barrier. Others commented that employment in a sheltered employment setting is the best option for some residents with disabilities. Representative comments include:

- *“Knowing where to go for help with employment is a challenge.” (Stakeholder survey respondent)*
- *“Without support and safe, reliable public transportation, how can they be expected to get and keep jobs?” (Stakeholder survey respondent)*
- *“There is often a mismatch between the type of disability and job requirements.” (Stakeholder survey respondent)*
- *“The people I work with are too disabled to maintain employment in anything but a highly sheltered situation.” (Stakeholder survey respondent)*

**Government services and facilities.** Stakeholders and residents who participated in the community engagement process did not identify specific government facilities as inaccessible to residents with disabilities. However, accessing certain services, including the application process for the Developmental Disability Waiver, requires traveling to and visiting county human services agencies. A stakeholder in the Bemidji area described clients with severe mental illness feeling uncomfortable discussing their circumstances and disability with the (male) staff at the county human services office. The stakeholder suggested that the state consider developing a process where community organizations with staff trained in interacting with residents with cognitive disabilities, traumatic brain injuries, mental illness and other intellectual disabilities could help residents with disabilities navigate the benefits application process. Another stakeholder responding to the survey shared that annual benefits renewal paperwork is complex and phone assistance is not available, requiring residents with disabilities to travel to the county offices.

## **SECTION V.**

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### **Complaint and Regulatory Review**

## SECTION V.

# Complaint and Regulatory Review

This section reviews the fair housing enforcement and regulatory environment. It examines laws, capacity, policies, and practices that can promote or challenge housing choice and access to economic opportunity.

The primary areas covered by this analysis include:

- Fair housing laws and enforcement; and
- Local zoning and land use decisions that affect housing choice. This is based on the findings from the Twin Cities Regional Analysis of Impediments to Fair Housing Choice (AI) Addendum, completed in 2017.

Appendix A contains a detailed review of state regulations related to housing and land use. The analysis in this section informs the resulting action items in Section VI.

### Summary Findings

- Annually, about 100 Minnesotans file fair housing complaints. Forty-percent of the complaints allege discrimination on the basis of disability; about one-quarter allege race-based discrimination. Hennepin County had the most complaints filed, followed by Ramsey, Dakota, and Anoka counties. Nearly 75 percent (72-74%) of all complaints were filed in these four counties.
- In 2015, there were 109 hate crimes reported in the state of Minnesota, or 5.95 hate crimes per 100,000 residents—slightly more than the national average of 5.29. About half of hate crimes reported were committed on the basis of race, ethnicity, or ancestry, compared to 57 percent of national hate crimes.
- A thorough review of state-level statute regulations and programs related to fair housing (appearing in Appendix A) concluded that that state has a multi-faceted regulatory framework in place that does not appear to create barriers to housing choice. Modest improvements could be made to strengthen state laws; these appear in Appendix A.
- The Twin Cities AI Addendum included a comprehensive review of local barriers in the Metro region. The review found that some communities have regulations and practices that could create barriers to housing choice, including: 1) Definitions of family that could be unreasonably restrictive; 2) Exclusionary zoning practices in some communities; 3) Restrictions on the construction, rental, or occupancy of alternative types of housing, including affordable housing; and 4) Design and construction barriers that create unreasonable or arbitrary barriers to affordable housing.

## Federal and State Fair Housing Laws and Enforcement

The Federal Fair Housing Act (FHA), passed in 1968 and amended in 1988, prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability.<sup>1</sup> The FHA covers most types of housing transactions including rental housing, home sales, mortgage and home improvement lending, as well as policies and practices that determine the placement of residential housing (e.g., land use and zoning regulations).

Excluded from the FHA are owner-occupied buildings with no more than four units, single family housing units sold or rented without the use of a real estate agent or broker, housing operated by organizations and private clubs that limit occupancy to members, and housing for older persons.<sup>2</sup>

**State and local laws.** States or local governments may enact fair housing laws that extend protection to other groups. For example, the City of Saint Paul's Human Rights ordinance prohibits discrimination in housing transactions based on age. The State of Minnesota's fair housing law differs from the FHA in that it covers public assistance, sexual orientation, marital status, creed, and age.

- Neighboring states also vary from the FHA in their protections:
- Wisconsin has much broader protections than the FHA. In addition to the coverage provided under the FHA, the Wisconsin Fair Housing Act prohibits discrimination based on marital status, ancestry, source of income, sexual orientation age, and status as a victim of domestic abuse, sexual abuse, or stalking. "Source of income" protection in Wisconsin covers wages, "a voucher having monetary value," social security, public assistance and other related types of payments.
- North Dakota offers additional protections of "status with respect to marriage" and receipt of public subsidies.
- Illinois offers additional protections of sexual harassment, ancestry, age (40 and over), order of protection status, marital status, sexual orientation (including gender-related identity), and unfavorable military discharge.

**Fair housing inquiry and complaint process.** Minnesota residents who feel that they might have experienced a violation of the FHA can contact one or more of the following organizations: HUD's Office of Fair Housing and Opportunity (FHEO), Minnesota Department of Human Rights, and Minnesota Housing.

**Complaints filed with HUD.** Housing discrimination complaints may be filed online at <http://www.hud.gov/complaints/housediscrim.cfm>. Residents may also call HUD toll free at 1-

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<sup>1</sup> For the purposes of this report, the acronym FHA refers to both the Fair Housing Act of 1968 and the amendments from 1988.

<sup>2</sup> "How Much Do We Know? Public Awareness of the Nation's Fair Housing Laws", The U.S. Department of Housing and Urban Development, Office of Policy and Research, April 2002.

800-669-9777 (FHEO in Washington D.C.) or 1-800-765-9372 (Chicago Fair Housing Regional Office, which serves Minnesota residents).

According to HUD, when a complaint is received, HUD will notify the person who filed the complaint along with the alleged violator and allow that person to submit a response. The complaint will then be investigated to determine whether there has been a violation of the FHA.

A complaint may be resolved in a number of ways. First, HUD is required to try to reach an agreement between the two parties involved. A conciliation agreement must protect the filer of the complaint and public interest. If an agreement is signed, HUD will take no further action unless the agreement has been breached.

If during the investigative, review, and legal process HUD finds that discrimination has occurred, the case will be heard in an administrative hearing within 120 days, unless either party prefers the case to be heard in federal district court.

**Complaints filed with the State of Minnesota.** The Minnesota Department of Human Rights (MDHR) enforces the State of Minnesota’s employment and housing anti-discrimination laws. Complaints can be filed online (<https://mn.gov/mdhr/intake/>), by phone, and through regular mail or email. MDHR can only enforce state fair housing law, as the state’s law is not substantially equivalent to the federal FHA.

When MDHR receives a complaint of discrimination, referred to as a charge, they conduct an investigation. MDHR is a neutral enforcement agency when conducting investigations into charges of discrimination.

If the MDHR concludes that discrimination likely occurred (referred to as “probable cause”), they attempt to negotiate a settlement of the dispute. If MDHR is unable to negotiate a settlement, they may refer the matter to the Office of the Minnesota Attorney General for litigation.

**Local resources.** There are many local organizations that conduct fair housing investigations, outreach and education in the state:

|                                 |  |
|---------------------------------|--|
| <b>Fair Housing MN</b>          | <a href="https://fairhousingmn.org/providers/basics/">https://fairhousingmn.org/providers/basics/</a>  |
| <b>HousingLink</b>              | <a href="https://www.housinglink.org/HousingResources/FairHousing">https://www.housinglink.org/HousingResources/FairHousing</a>  |
| <b>Home Line Tenant Hotline</b> | <a href="https://homelinemn.org/">https://homelinemn.org/</a><br>612.728.5767, toll-free: 866.866.3546   |
| <b>Mid-Minnesota Legal Aid</b>  | <a href="http://mylegalaid.org/">http://mylegalaid.org/</a><br><i>Serves Minnesotans in the 20 counties of central Minnesota through three offices in Minneapolis, St. Cloud and Willmar. Seniors are served in the additional counties of Anoka, Cass, Crow Wing, Kanabec, Pine and Wadena counties. Statewide services are offered to people with disabilities.</i><br><b>Minneapolis Office</b><br><a href="http://mylegalaid.org/about/locations/minneapolis">http://mylegalaid.org/about/locations/minneapolis</a><br>612.334.5970, TDD: 612.332.4668 |



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|---|---|
|   | <p><b>St. Cloud Office</b><br/> <a href="http://mylegalaid.org/about/locations/st.-cloud">http://mylegalaid.org/about/locations/st.-cloud</a><br/> 888.360.2889, TDD 800.292.4150</p> <p><b>Willmar Office</b><br/> <a href="http://mylegalaid.org/about/locations/willmar">http://mylegalaid.org/about/locations/willmar</a><br/> 888.360.3666, TDD 800.292.4150</p> |
| <b>Minneapolis Department of Civil Rights</b> | <p><a href="http://www.minneapolismn.gov/civilrights/index.htm">http://www.minneapolismn.gov/civilrights/index.htm</a><br/> 612.673.3012, TDD 612.673.2157</p>  |
| <b>Saint Paul Department of Human Rights</b>  | <p><a href="https://www.stpaul.gov/departments/human-rights-equal-economic-opportunity/human-rights">https://www.stpaul.gov/departments/human-rights-equal-economic-opportunity/human-rights</a><br/> 651.266.8966, TDD: 651.266.8977</p>   |
| <b>Housing Access Center</b>                  | <p><a href="http://www.centercityhousing.org/centercityhousing_files/page0019.htm">http://www.centercityhousing.org/centercityhousing_files/page0019.htm</a><br/> 218.722.6808</p>  |

**Affirmative marketing.** Minnesota Housing, working with HousingLink, has also developed affirmative marketing resources for multifamily developers. This toolkit, available at [www.FairHousingMN.org/providers/toolkit](http://www.FairHousingMN.org/providers/toolkit), will generate an affirmative marketing form and marketing kit for multifamily developers and property management companies. Minnesota Housing also offers [Tenant Selection Plan Guidance](#).

## Complaint Analysis

Fair housing complaint data was requested from HUD and the Minnesota Department of Human Rights (DHR). The data cover the period of January 2012 to December 2016 and are comparable to the complaint analysis that was conducted for the 2012 AI.

Between 2004 and 2010 (the period covered in the 2012 AI), 682 complaints were filed in the state. On average, about 90 complaints were filed each year. The 2012 AI analysis found that the most common reasons for complaints were disability, race, familial status, and national origin. The most common violations included: refusal to make reasonable accommodations, discriminatory terms in rental transactions/refusal to rent, and discriminatory terms, conditions, and privileges.

Another 256 complaints were filed with the Minnesota Department of Civil Rights between 2004 and 2010. These complaints were primarily associated with race-based discrimination by disability. The top fair housing violations included: differential treatment, eviction, harassment, and failure to make a reasonable accommodation.<sup>3</sup>

Between January 2012 and December 2016, nearly 500 fair housing complaints were filed by Minnesota residents. Figure V-1 shows the geographic areas in which the complaints were received. Residents made complaints with the HUD Field Office or the State of Minnesota Department of Human Rights (DHR) and all figures reflect both summaries.

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<sup>3</sup> MDHR tracks fair housing issues slightly differently than HUD.

Hennepin County had the most complaints filed, followed by Ramsey, Dakota, and Anoka counties. Nearly 75 percent (72-74%) of all complaints were filed in these four counties.

**Figure V-1.  
Number of  
Complaints by  
County, State of  
Minnesota,  
January 1, 2012 to  
December 31,  
2016**

Note:

No complaints were filed for Aitkin, Carlton, Clearwater, Cook, Cottonwood, Freeborn, Hubbard, Isanti, Kanabec, Kittson, Koochiching, Lake, Lake of the Woods, Lincoln, Mahnomen, Marshall, Martin, McLeod, Morrison, Murray, Nobles, Norman, Pope, Red Lake, Redwood, Renville, Roseau, Stevens, Traverse, Wadena, Waseca, and Wilkin counties.

Source:

U.S. Department of HUD Complaint Responsive Records 2012 - 2016, Minnesota Department of Human Rights and BBC Research & Consulting.

| County     | HUD Data | State Data | County          | HUD Data | State Data |
|------------|----------|------------|-----------------|----------|------------|
| Hennepin   | 170      | 152        | Rock            | 2        | 1          |
| Ramsey     | 138      | 66         | Swift           | 2        |            |
| Dakota     | 38       | 50         | Watonwan        | 2        |            |
| Anoka      | 18       | 20         | Wright          | 2        | 2          |
| St. Louis  | 16       |            | Becker          | 1        | 2          |
| Washington | 13       | 9          | Benton          | 1        | 2          |
| Olmsted    | 10       | 19         | Big Stone       | 1        |            |
| Goodhue    | 6        | 1          | Brown           | 1        | 1          |
| Stearns    | 6        | 6          | Dodge           | 1        |            |
| Beltrami   | 5        |            | Douglas         | 1        | 1          |
| Clay       | 5        | 5          | Grant           | 1        |            |
| Otter Tail | 5        | 1          | Itasca          | 1        | 2          |
| Carver     | 4        | 3          | Le Sueur        | 1        | 4          |
| Houston    | 4        |            | Meeker          | 1        |            |
| Faribault  | 3        |            | Nicollet        | 1        |            |
| Jackson    | 3        |            | Sibley          | 1        |            |
| Pipestone  | 3        |            | Steele          | 1        | 9          |
| Scott      | 3        | 2          | Todd            | 1        | 1          |
| Sherburne  | 3        | 5          | Yellow Medicine | 1        |            |
| Blue Earth | 2        | 2          | Saint Louis     |          | 8          |
| Cass       | 2        | 1          | Fillmore        |          | 6          |
| Crow Wing  | 2        |            | Winona          |          | 4          |
| Kandiyohi  | 2        | 5          | Lac Qui Parle   |          | 3          |
| Mille Lacs | 2        | 1          | Chippewa        |          | 1          |
| Mower      | 2        | 1          | Chisago         |          | 1          |
| Pennington | 2        |            | Lyon            |          | 1          |
| Polk       | 2        | 1          | Pine            |          | 1          |
| Rice       | 2        | 1          | Wabasha         |          | 1          |

**Basis of complaints.** Statewide complaints based on disability represented nearly 40 percent of all bases of the fair housing complaints.<sup>4</sup> The distribution for the basis of HUD-filed complaints and DHR complaints is similar.

Race represented the second largest share (22-23%) of complaints filed with either HUD or DHR.

<sup>4</sup> Complaints may have more than one basis.

**Figure V-2.**  
**Basis of Filed HUD and DHR Complaints**  
**by Year, State of Minnesota, January**  
**2012 to December 2016**

Note:

HUD uses “sex” to refer to gender discrimination.

Source:

US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

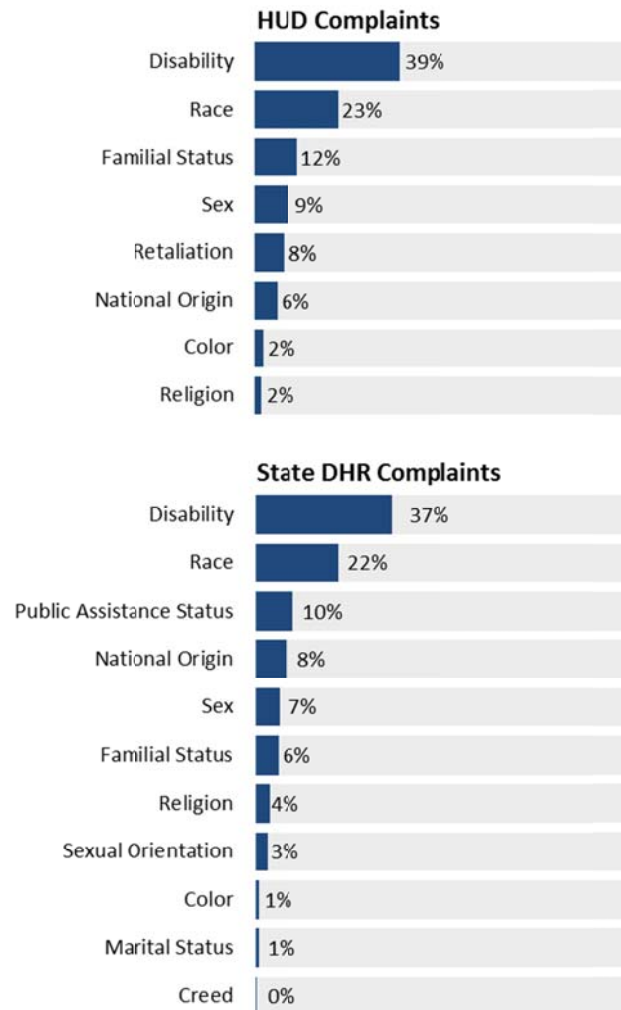
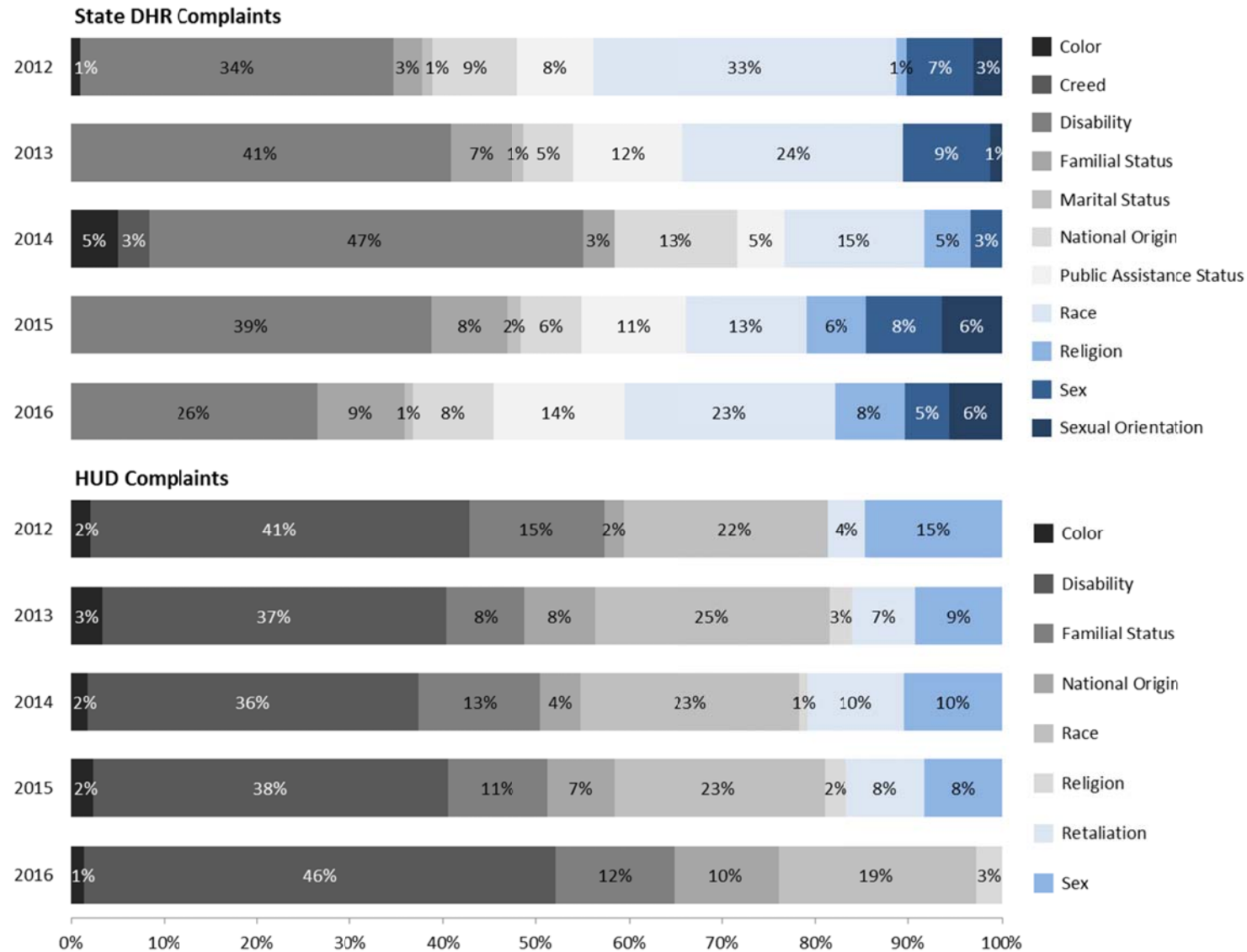


Figure V-3a shows the basis of complaints by year. While the share of complaint bases varied year by year, the most prevalent complaints—disability and race—consistently made up the largest shares from 2012 to 2016. Complaints based on disability accounted for more than a third of each year’s total complaints.

**Figure V-3a.**  
**Basis of Filed HUD Complaints by Year, State of Minnesota, January 2012 to December 2016**



Note: HUD uses "sex" to refer to gender discrimination.

Source: US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

Figure V-3b shows the number of complaints by type by year for both HUD-filed and DHR-filed complaints.

**Figure V-3b.**  
**Number and Basis of Filed HUD Complaints by Year, State of Minnesota, January 2012 to December 2016**

| <i>DHR Complaints</i>    |      |      |      |      |      |           |
|--------------------------|------|------|------|------|------|-----------|
| Basis                    | 2012 | 2013 | 2014 | 2015 | 2016 | All Years |
| Color                    | 1    | 0    | 3    | 0    | 0    | 4         |
| Creed                    | 0    | 0    | 2    | 0    | 0    | 2         |
| Disability               | 33   | 31   | 28   | 24   | 28   | 144       |
| Familial Status          | 3    | 5    | 2    | 5    | 10   | 25        |
| Marital Status           | 1    | 1    | 0    | 1    | 1    | 4         |
| National Origin          | 9    | 4    | 8    | 4    | 9    | 34        |
| Public Assistance Status | 8    | 9    | 3    | 7    | 15   | 42        |
| Race                     | 32   | 18   | 9    | 8    | 24   | 91        |
| Religion                 | 1    | 0    | 3    | 4    | 8    | 16        |
| Sex                      | 7    | 7    | 2    | 5    | 5    | 26        |
| Sexual Orientation       | 3    | 1    | 0    | 4    | 6    | 14        |
| <i>HUD Complaints</i>    |      |      |      |      |      |           |
| Basis                    | 2012 | 2013 | 2014 | 2015 | 2016 | All Years |
| Color                    | 2    | 4    | 2    | 2    | 1    | 11        |
| Disability               | 39   | 44   | 41   | 32   | 36   | 192       |
| Familial Status          | 14   | 10   | 15   | 9    | 9    | 57        |
| National Origin          | 2    | 9    | 5    | 6    | 8    | 30        |
| Race                     | 21   | 30   | 27   | 19   | 15   | 112       |
| Religion                 | 0    | 3    | 1    | 2    | 2    | 8         |
| Retaliation              | 4    | 8    | 12   | 7    | 7    | 38        |
| Sex                      | 14   | 11   | 12   | 7    | 0    | 44        |

Note: HUD uses "sex" to refer to gender discrimination.

Source: US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

**Geographic distribution.** Figure V-4 compares the share of the state population by county with the share of complaints. As the figure suggests, Hennepin and Ramsey counties have a higher proportion of complaints relative to their share of the state population.

**Figure V-4.  
Proportion of  
Complaints and  
Population by County,  
State of Minnesota,  
January 2012 to  
December 2016**

Note:

No complaints were filed for Aitkin, Carlton, Clearwater, Cook, Cottonwood, Freeborn, Hubbard, Isanti, Kanabec, Kittson, Koochiching, Lake, Lake of the Woods, Lincoln, Mahanomen, Marshall, Martin, McLeod, Morrison, Murray, Nobles, Norman, Pope, Red Lake, Redwood, Renville, Roseau, Stevens, Traverse, Wadena, Waseca, and Wilkin counties.

Source:

US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; 2011-2015 ACS 5-Year Estimates; and BBC Research & Consulting.

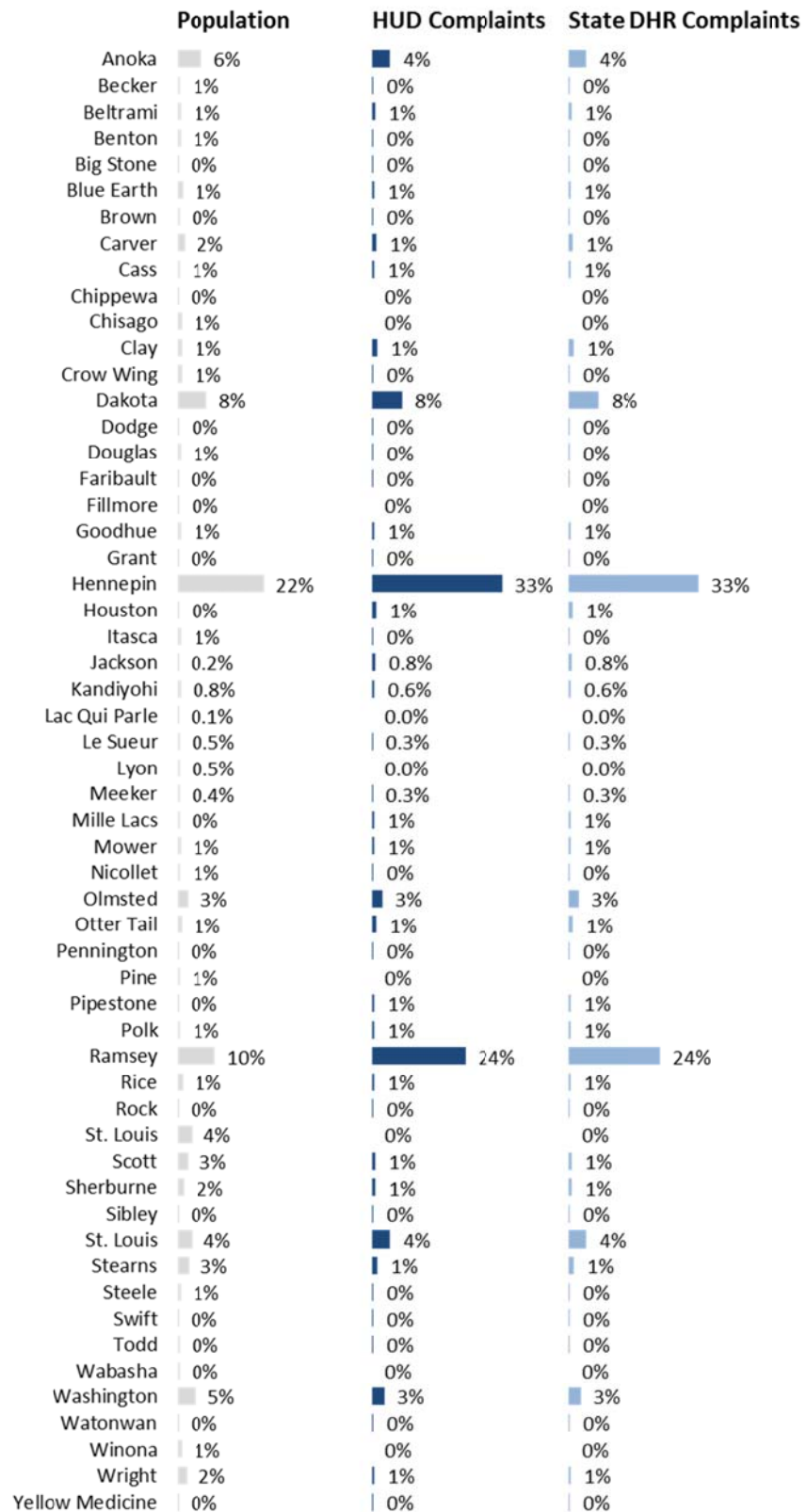


Figure V-5 shows the 10 counties with the greatest number of complaints overall, and the proportion of those that were disability based. Dakota, Anoka, and St. Louis counties' disability-based complaints were a higher proportion of all complaints than the state of Minnesota overall.

Many complaints involve more than one violation (e.g., failure to make reasonable accommodations *and* discriminatory advertising); therefore, it is difficult to draw firm conclusions about the differences in the nature of complaints based on geographic typology.

**Figure V-5.**  
**Disability Based Complaint Proportion, Top 10 Complaint Counties, State of Minnesota, January 2012 to December 2016.**

Note:

Total Complaints include the numbers of multiple complaints per case.

Source:

US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

| County                    | HUD Complaints              |                  | Percent    |
|---------------------------|-----------------------------|------------------|------------|
|                           | Disability Based Complaints | Total Complaints |            |
| Hennepin                  | 53                          | 169              | 31%        |
| Ramsey                    | 38                          | 137              | 28%        |
| Dakota                    | 20                          | 38               | 53%        |
| Anoka                     | 10                          | 18               | 56%        |
| St. Louis                 | 11                          | 16               | 69%        |
| Washington                | 9                           | 13               | 69%        |
| Olmsted                   | 8                           | 10               | 80%        |
| Goodhue                   | 0                           | 6                | 0%         |
| Stearns                   | 5                           | 6                | 83%        |
| Beltrami                  | 1                           | 5                | 20%        |
| <b>State of Minnesota</b> | <b>192</b>                  | <b>492</b>       | <b>39%</b> |

| County                    | DHR Complaints              |                  | Percent    |
|---------------------------|-----------------------------|------------------|------------|
|                           | Disability Based Complaints | Total Complaints |            |
| Hennepin                  | 48                          | 152              | 32%        |
| Ramsey                    | 18                          | 66               | 27%        |
| Dakota                    | 25                          | 50               | 50%        |
| Anoka                     | 11                          | 20               | 55%        |
| Olmsted                   | 5                           | 19               | 26%        |
| Steele                    | 4                           | 9                | 44%        |
| Washington                | 1                           | 9                | 11%        |
| St. Louis                 | 3                           | 8                | 38%        |
| Fillmore                  | 2                           | 6                | 33%        |
| Stearns                   | 1                           | 6                | 17%        |
| <b>State of Minnesota</b> | <b>144</b>                  | <b>402</b>       | <b>36%</b> |

Figure V-6 presents the same analysis as above for race. Dakota and St. Louis race-based complaints were a higher proportion of all complaints than the state of Minnesota overall.

**Figure V-6.  
Race Complaint Proportion,  
Top 10 Complaint Counties,  
State of Minnesota, January  
2012 to December 2016.**

Note:

Total Complaints include the numbers of multiple complaints per case.

Source:

US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

| County                    | HUD Complaints        |                  |            |
|---------------------------|-----------------------|------------------|------------|
|                           | Race Based Complaints | Total Complaints | Percent    |
| Hennepin                  | 35                    | 169              | 21%        |
| Ramsey                    | 34                    | 137              | 25%        |
| Dakota                    | 11                    | 38               | 29%        |
| Anoka                     | 4                     | 18               | 22%        |
| St. Louis                 | 5                     | 16               | 31%        |
| Washington                | 1                     | 13               | 8%         |
| Olmsted                   | 1                     | 10               | 10%        |
| Goodhue                   | 2                     | 6                | 33%        |
| Stearns                   | 0                     | 6                | 0%         |
| Beltrami                  | 2                     | 5                | 40%        |
| <b>State of Minnesota</b> | <b>112</b>            | <b>492</b>       | <b>23%</b> |

| County                    | DHR Complaints        |                  |            |
|---------------------------|-----------------------|------------------|------------|
|                           | Race Based Complaints | Total Complaints | Percent    |
| Hennepin                  | 39                    | 152              | 26%        |
| Ramsey                    | 10                    | 66               | 15%        |
| Dakota                    | 12                    | 50               | 24%        |
| Anoka                     | 3                     | 20               | 15%        |
| Olmsted                   | 4                     | 19               | 21%        |
| Steele                    | 1                     | 9                | 11%        |
| Washington                | 3                     | 9                | 33%        |
| St. Louis                 | 5                     | 8                | 63%        |
| Fillmore                  | 0                     | 6                | 0%         |
| Stearns                   | 3                     | 6                | 50%        |
| <b>State of Minnesota</b> | <b>91</b>             | <b>402</b>       | <b>23%</b> |

**Resolution of complaints.** Figure V-7 shows the resolution of closed complaints. Of the 492 complaints filed with HUD during this time, 13 percent remain open and 19 percent have been closed. Of the 402 complaints filed with DHR during this time, 22 percent remain open and 54 percent have been closed.

Among closed HUD complaints, 38 percent were closed due to no cause determination, which occurs when HUD investigators determine a lack of substantial evidence of a fair housing violation. Seventeen percent were conciliated and closed; this occurs when the complainant and defendant agree on how to address the cause of the complaint. The remaining complaints were closed for a range of reasons, each accounting for a small share all closed complaints. Among closed DHR complaints, only 8 percent were closed due to no cause determination and 6 percent had successful conciliation.



**Figure V-7.  
Status and Resolution of Complaints,  
State of Minnesota, January 2012 to  
December 2016.**

Source:

US Department of HUD Complaint Responsive Records, 2012 – 2016; State of Minnesota Department of Human Rights, 2012 – 2016; and BBC Research & Consulting.

| HUD                     | Number | Percent |
|-------------------------|--------|---------|
| No Cause Determination  | 188    | 38%     |
| Closed Complaints       | 96     | 19%     |
| Successful Conciliation | 82     | 17%     |
| Open Complaints         | 63     | 13%     |
| Withdrawn               | 47     | 10%     |
| Charged or FHAP Caused  | 18     | 4%      |
| STATE                   | Number | Percent |
| Closed Complaints       | 219    | 54%     |
| Open Complaints         | 88     | 22%     |
| No Cause Determination  | 33     | 8%      |
| Withdrawn               | 30     | 7%      |
| Successful Conciliation | 25     | 6%      |
| Appealed                | 7      | 2%      |

**Hate crimes.** The incidence of hate crimes and the prevalence of hate crime groups can be an indicator of discrimination concerns even though they do not directly link to housing discrimination. Enacted in 1990, the Hate Crime Statistics Act requires the Department of Justice to collect data on crimes which “manifest prejudice based on race, religion, sexual orientation, gender or gender identity, disability or ethnicity” from law enforcement agencies. By law, findings from the data collection are publicly available through the Department of Justice.

Designating a crime to be a hate crime is the responsibility of local agencies. If a local agency determines that a crime is based on race, religion, sexual orientation, ethnicity, national origin, or disability, the crime is included in the data. Note that the crimes included in the data represent only the crime, not convictions.

**Hate crimes in Minnesota.** In 2015, there were 109 hate crimes reported in the state of Minnesota, or 5.95 hate crimes per 100,000 residents.<sup>5</sup> This is slightly more than the national average of 5.29 incidents reported per 100,000 residents. In Minnesota, 53 percent of hate crimes reported in 2015 were committed on the basis of race, ethnicity, or ancestry, compared to 57 percent of national hate crimes.

The Southern Poverty Law Center is a nonprofit organization dedicated to civil rights, fighting hate, and seeking justice for the most vulnerable. As part of this mission, the law center monitors hate crime incidents and hate-based organizations. The count and characterization of hate crime groups by the Southern Poverty Law Center was compiled using hate group publications and websites, citizen and law enforcement reports, field sources, and news reports. Nationally, there were about 917 known active hate groups in 2017; 10 are located in Minnesota.

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<sup>5</sup> The FBI uses a basis of 100,000 persons to compare hate crime data between states.

## Allocation of Low Income Housing Tax Credits (LIHTC)

Under Minnesota Statutes § 462A.223 Minnesota Housing is the state agency designated for allocation of the federal Low Income Housing Tax Credits (LIHTC). Minnesota Statutes § 462A.222 dictates the distribution of the annual state ceiling for LIHTC. The distribution occurs in several ways as described in summary form below:

- Each year 10 percent (10%) of the state's LIHTC is first set aside for projects involving a qualified nonprofit organization as required by Section 42 of the Internal Revenue code and Minnesota law.
- Minnesota Housing is then required by state law to divide the remaining LIHTC into a metropolitan pool and a greater Minnesota pool. The percentage of tax credits that go into each pool are derived after applying a needs analysis established by statute.
- For each pool, LIHTC are set aside for "suballocators" which are cities and counties that meet certain statutory criteria, including population thresholds. Suballocators in the metropolitan area include Minneapolis, St. Paul, Washington County and Dakota County. Suballocators in greater Minnesota are Duluth; St. Cloud and Rochester. In general, suballocators independently allocate their share of the state's LIHTC within their own jurisdictions utilizing their own Qualified Allocation Plans (QAP). Minnesota Housing administers LIHTC that are not located in a suballocator jurisdiction pursuant to the state QAP.
- Properties that are financed with tax-exempt bonds may apply to the state, or appropriate bond issuer depending on location of the project, for 4% tax credits that are not subject to the state LIHTC ceiling. Those types of credits can only be allocated if the project satisfies the applicable QAP.

**State Allocation Criteria.** Minnesota Housing conducts a series of engagement sessions with stakeholders including in-person sessions, webinars, direct outreach and a formal comment period with each proposed QAP. The most recent (2019) version of the state QAP was approved by the Governor in September 2017. How this QAP affects protected classes geographic distribution is discussed below.

Article 9 of the 2019 QAP sets the strategic priorities for LIHTC scoring and allocation. These include:

- Assess to fixed transit, defined as projects within one-half mile of a completed or existing light rail bus-rapid-transit or commuter rail stop/station.
- In Greater Minnesota, projects in communities with low vacancy (below 4%) and which have experienced net job growth of 100 or more jobs; 15 percent or more of workforce commuting 30 minutes or more; and planned expansion by a local employer. These communities must also have employer support and a community-supported plan.
- Economic integration, defined as projects in higher income communities (outside of Tribal or rural areas) with access to low and moderate wage jobs.

- Projects sponsored by tribal governments, tribally designated housing entities or tribal corporate entities.
- “Planned Community Development” projects that contribute to active implementation of community development efforts.
- Preservation of existing federally assisted or other critical affordable projects..
- Supportive housing proposals that will serve people with disabilities or high priority homeless.

**Preferences for resident and household groups.** Selection priorities and preference points in the QAP are designed to favor large family housing, people with disabilities, and high priority homeless.

The 2019 QAP also made some changes to emphasize serving large families. Points for Single Room Occupancy (SRO) housing are eliminated. However, developments that serve households with incomes at or below 30 percent of Area Median Income (AMI) still receive preference points. Permanent Supportive Housing bonus points were eliminated because this former criterion was found to have no measurable effect on selections.

An additional category was added to incentivize projects with a smaller percentage of units with rental assistance to better accommodate community settings for persons with disabilities.

**Provisions that influence the location of LIHTC units, particularly in high opportunity areas and in R/ECAPs.** Selection priorities within the QAP include consideration of access to higher performing schools; economic integration; and access to employment.

The 2019 QAP includes several location-based criteria.

- **High performing schools.** Applicants will receive four points if the development is located in an area with access to higher performing schools. The same regions eligible for economic integration points are also eligible for access to higher performing school points. This includes the seven-county Twin Cities metropolitan area and areas in and around Duluth, Rochester and Saint Cloud.
- For **access to transportation**, two categories are available for Greater Minnesota: 1) Urbanized areas with fixed route transit services, and 2) Rural and small urban areas with access to designed stops, route deviation service or dial-a-ride. The Twin Cities Metropolitan area has different scoring for transportation, including level of access to fixed route transit..
- **Community economic integration** is defined in two tiers based on median family income. Communities are eligible for these points in the 7-county Twin Cities metropolitan area and areas in and around Duluth, St. Cloud, and Rochester. For applicants to be awarded preference points for community economic integration, the proposed housing needs to be located in a community (Census tract) with the median family income meeting or exceeding the region’s 40th percentile (for 7 points) and 80th percentile (for 9 points). For each

region, the 40 percent of census tracts with the lowest incomes are excluded from receiving points. R/ECAPs are not in areas eligible for economic integration points. Areas outside the 7-county Twin Cities metropolitan area, Duluth, Rochester, and St. Cloud are not eligible for economic integration or school performance points, but they are eligible for 10 points under the Rural/Tribal Designated Areas.

- **Rural/Tribal areas.** As Community economic integration and high performing schools are not available to rural and tribal areas, the QAP offsets locational points by allowing 7 points in these areas.

In addition, the QAP incorporates a selection priority that incentivizes long term affordability, offering point thresholds for 35 and 40 year affordability periods (beyond the required 30 year requirement).

**HUD Complaints Regarding QAPs.** In January, 2015 the Metropolitan Interfaith Council on Affordable Housing (“MICAHA”), the City of Brooklyn Park, the City of Brooklyn Center, and the City of Richfield filed a complaint with HUD against the Metropolitan Council, the State and Minnesota Housing alleging that they were unlawfully discriminating against Complainants by having policies and practices that they claimed result in additional LIHTC units being located in low-opportunity communities of Minneapolis and Saint Paul, while limiting the number of LIHTC units that are being developed in high opportunity suburban areas. Minnesota Housing, the State and the Metropolitan Council filed responses vigorously denying those claims. The complaint and the responses are being reviewed by HUD.

In 2015 MICAHA, the Webber-Camden Neighborhood Organization, the Whittier Alliance and the Folwell Neighborhood Association filed complaints against the Minneapolis and the Minneapolis /St. Paul Housing Finance Board alleging that they were operating housing and community development programs with the purpose and effect of discrimination. In May, 2016 the parties settled the matter prior to an investigation by HUD through a Voluntary Compliance Agreement (“VCA”). As part of the VCA, Minneapolis agreed to revise its Analysis of Impediments to Fair Housing Choice (“AI”) which it completed in May, 2017.

**Stakeholder views of the state QAP.** Some stakeholders commented on the QAP as part of the community engagement process for the AI. Many of these concerns are addressed in the 2019 QAP:

- *“Many LIHTC developments have low occupancy by non-white, Hispanic residents; this should be investigated and reasons for low occupancy addressed. There should be continued attention to why there are barriers to siting of LIHTC developments in suburban, high-opportunity areas and the creation of larger units for families, including effectiveness of the 2019 QAP changes.” (stakeholder, via survey).*
- *“The 100 job threshold is too high; in some regions, even an increase of even 50 jobs puts additional unmet demand on the housing stock” (stakeholder, via survey).*
- *“The LIHTC should be re considered to allow greater scale of development in regional centers. If Duluth, for example, could build 150 LIHTC units in an allocation, this would be sufficient to put us “up a notch” and not have to reapply for a year or two. Parceling them out 50 units*

*every three years is a recipe that will keep affordable housing developers marginally in business, but not address the issues related to lack of affordable housing” (stakeholder, via survey)*

- *“There needs to be more funding for smaller projects in the QAP process; large developers and financial institutions seem to always get the funding in the competition” (stakeholder, via survey)*

Minnesota Housing conducts a series of engagement sessions with stakeholders including in-person sessions, webinars, direct outreach and a formal comment period with each QAP.

**Metro Area QAPs.** The Metro Area 2017 QAPs were reviewed as part of the AI Addendum. Notable areas include a strong commitment to serving persons experiencing homelessness, preservation of affordable units (especially Saint Paul), and incentives to promote public transportation and, to some extent, economic integration. Some concerns may include:

- The City of Minneapolis rewards five points to proposals that include a written letter of support from relevant community groups or neighborhood groups, which could work against developments in areas with strong NIMBY sentiment.
- Saint Paul gives lower weighting to neighborhood support compared to Minneapolis, but also provides fewer points than Minneapolis for projects that serve persons experiencing homelessness, require no other major subsidy, and foster economic integration.
- Dakota County has high design requirements (more points are awarded to developments that provide exterior entrances for each unit); however, these are justified and balanced by a commitment to accessible units.
- Washington County places a high preferences on projects that are “shovel ready” (which could be difficult for developments to fully achieve when federal resources are declining) and developments within a half-mile of transit (this may be too restrictive in some areas).

## **Public Policies and Practices—Stakeholder Perspectives**

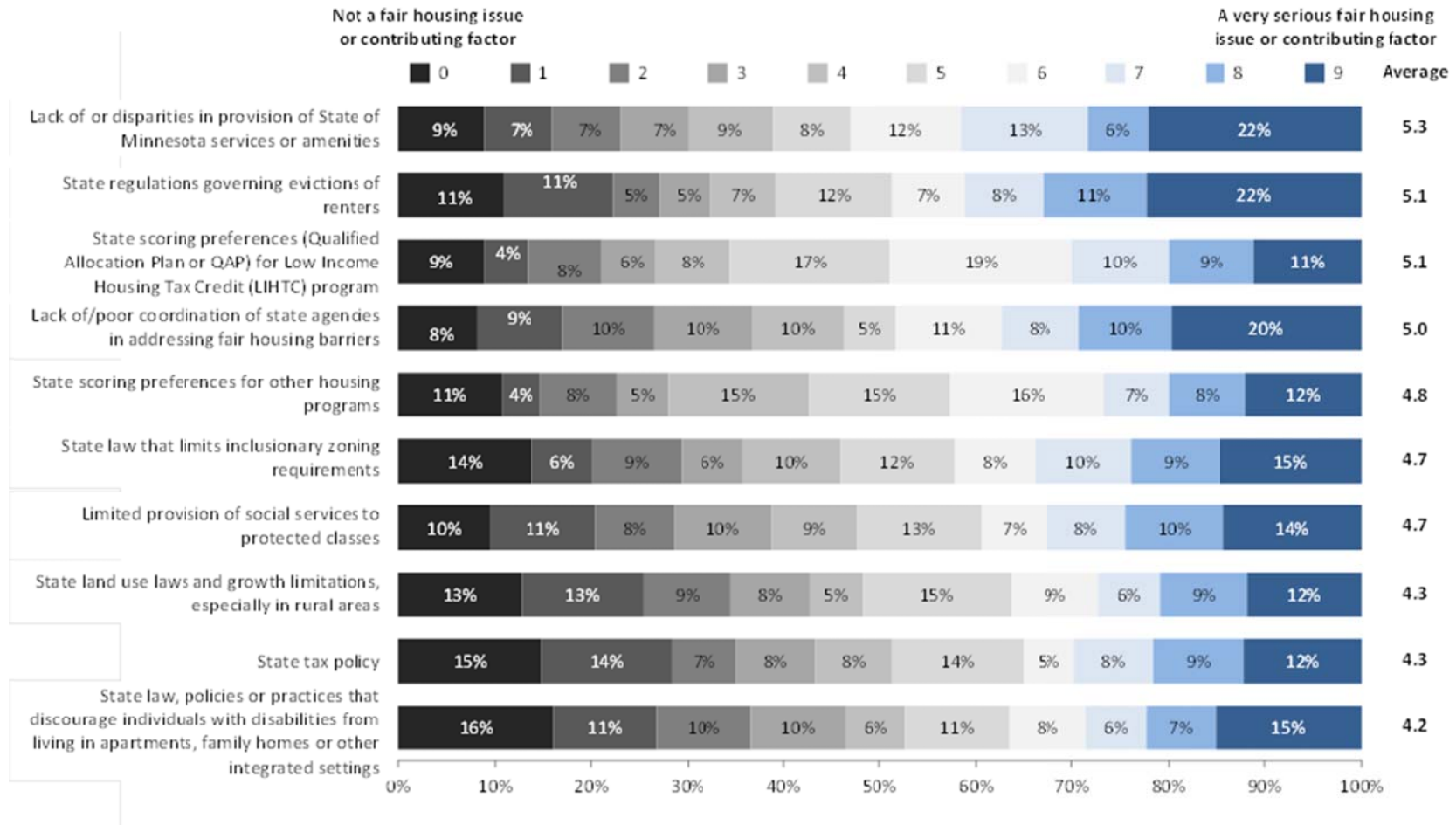
In some cases, fair housing challenges may not be evident through a review of regulatory or code language. As such, consulting stakeholders with experience administering programs funded by the state is necessary. This section discusses regulatory barriers identified by stakeholders in the survey conducted for this study.

Stakeholders were asked to rate, on a scale of 0 to 9, the degree to which potential state and local policies and practices create barriers to fair housing choice and access to opportunity. The following two figures show the responses. No state policies or practices were rated as more than moderately serious barriers. The highest rated barrier (5.3 out of 9) was “lack of disparities in provision of state services or amenities.”

For local barriers, “lack of new housing development in workforce areas” was rated the highest, at 7.1 out of 9.

**Figure V-8.**  
**Stakeholder Perspectives: State Policies and Practices**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*

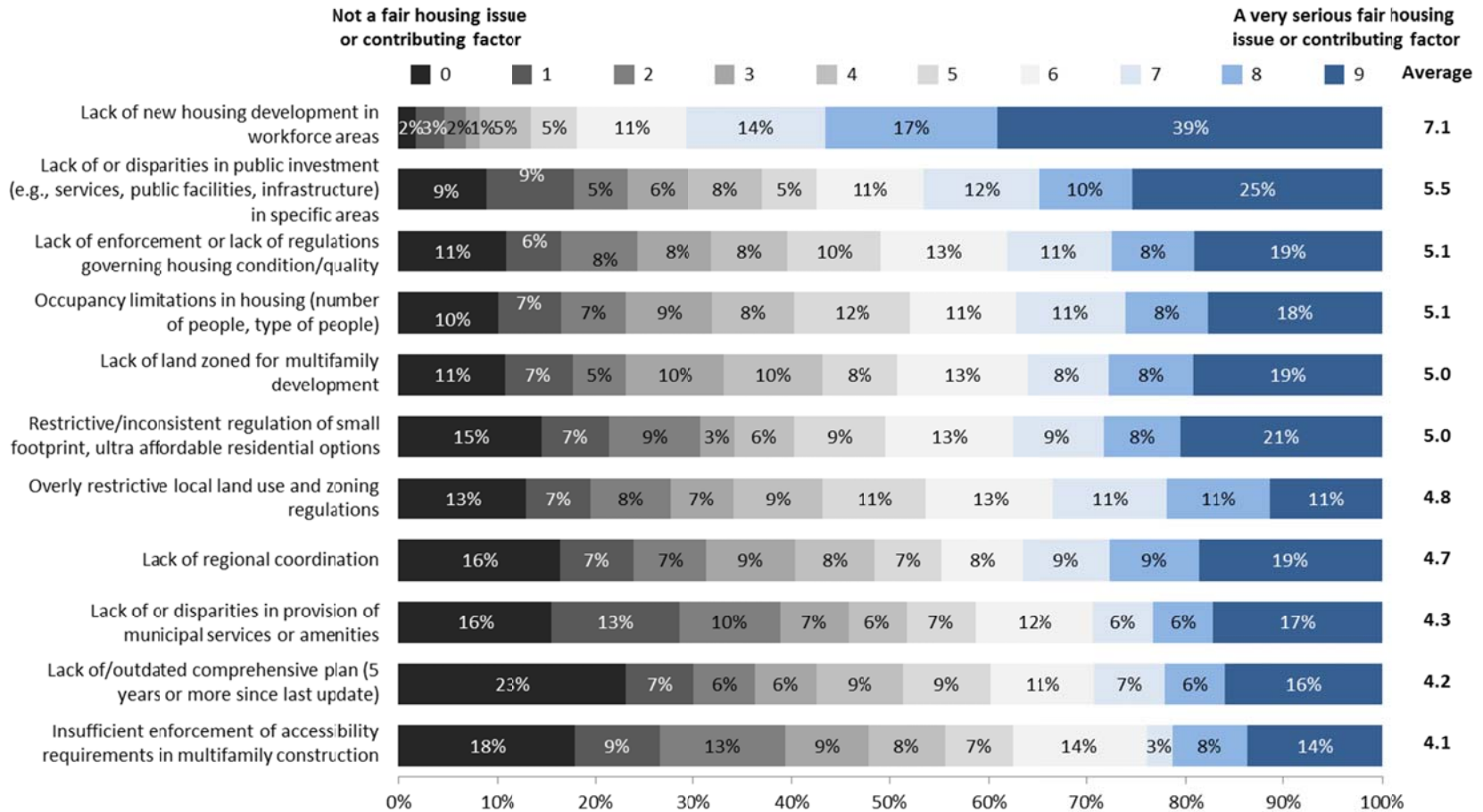


Note: n ranges from 74 to 148 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

**Figure V-9.**  
**Stakeholder Perspective: Regional and Local Policies and Practices**

*On a scale of 0 to 9, please indicate the degree of seriousness of the following possible fair housing issues or contributing factors in the area of Minnesota about which you are most knowledgeable*



Note: n ranges from 113 to 281 stakeholders.

Source: BBC Research & Consulting from 2017 Minnesota Fair Housing Stakeholder Survey.

Stakeholders offered many comments about perceived barriers. The most common issues raised include:

- Rural areas are often not competitive for state funding due to a lack of transportation, low employment growth, high costs of development, and low economies of scale/low profitability of development.
- State school resources should be modified to: 1) Ensure free or reduced price food for students, and increase funding for after school programs in high-poverty areas, to provide more equitable education environments; 2) Account for high transportation costs in rural areas.
- Eviction actions put a mark on the record of a tenant, regardless of the outcome in court. This disproportionately affects families of color and low income families in general. If we could seal the record of a tenant with a favorable outcome in court, this problem could be solved.
- Manufactured home parks are of particular concern: “The residents of these communities - of which there are many, are particularly vulnerable to economic threat and family destabilization through community closure and redevelopment. The issue is even more acute than in loss of low cost (NOAH) rental because the renters, though they get displaced, do not own their units as is the case in manufactured home parks. So when parks close the homeowners lose their neighborhood—often being physically displaced— but they also lose what is typically their largest asset - their home.”
- Use of Tax Increment Financing (TIF) should require some contribution to affordable housing (e.g., Utah requires a certain percentage of affordable housing in residential TIF projects or a payment in lieu into the state housing trust fund).
- The state should allow for and work with various markets to create pilot incentive programs (at least one or two per region) to test new solutions that cater specifically to the unique housing conditions that do exist in each region.

## **State Land Use and Housing Provision Barriers**

A thorough review state-level statute is included in Appendix A. The review found that regulations and programs related to fair housing, and housing in general, shows that Minnesota has a multi-faceted regulatory framework in place.

More specifically, Minnesota statutes:

- Include many broad policy statements that parallel federal language in the Fair Housing Act Amendments of 1988 (FHAA) and Americans with Disabilities Act (ADA), and the categories of individuals protected from discrimination in those statutes is often broader than the categories included in federal law.



- Require that some types of facilities for the disabled be treated as residential uses in single-family or multi-family structures is also commendable and consistent with the goals of both the FHAA and the ADA.
- Grant cities and counties relatively standard zoning, subdivision, and urban redevelopment powers, which local governments can use to promote fair housing goals and programs.
- Include key language related to housing accessibility from the Americans with Disabilities Act, the FHAA, and the Rehabilitation Act of 1973, including the FHAA’s broad definition of “disability,” the ADA’s definition of places of “public accommodation”.

In general, these standards are well aligned with the requirements of the FHAA, ADA, and Rehabilitation act of 1973, which should reduce the inadvertent gaps in coverage between state and federal definitions.

The one exception to the generally good alignment between Minnesota state-level housing and land use controls and the requirements and the FHAA occurs in Section 504B.315. We recommend that the state revise this statute protecting tenancy following a change in familial status to remove the one year protection period. Making housing “unavailable” based solely on familial status is prohibited by the FHAA regardless of how much time has passed.

## **Local Land Use Barriers**

The Twin Cities AI Addendum included a comprehensive review of local barriers in the Metro region.

The top issues identified included:

- 1) Definitions of family that could be unreasonably restrictive,
- 2) Exclusionary zoning practices in some communities that have the effect of disproportionately reducing housing choice for moderate to low-income families, persons of color, persons with disabilities on fixed incomes, families with children, and other protected classes by making the development of affordable housing cost-prohibitive;
- 3) Restrictions on the construction, rental, or occupancy of alternative types of housing, including affordable housing;
- 4) Design and construction barriers that create unreasonable or arbitrary barriers to affordable housing; and
- 5) Inclusionary zoning regulations.

The AI Addendum assessed these risks using a score between 1 and 3, with 1 being low risk and 3 being high risk. The highest risk areas were found in exclusionary zoning and design and construction guidelines, both scoring 1.82, and lack of inclusionary zoning codes, yielding a score of 2.41. Specifically,

- Six jurisdictions scored 3 (high risk) on exclusionary zoning practices. High-risk cities have zoning districts with large minimum lot sizes, low density, and/or onerous minimum design standards. Those that scored a 1 (low risk score) generally have single family and two family districts with minimum lot size requirements to support more density, infill development options, and reasonable minimum livable floor area requirements.
- Design and construction barriers largely included minimum off-street parking requirements, many requiring that all or a portion of those be in an enclosed garage or underground deck. (It is worth noting that, given Minnesota’s winter climate, such a requirement may be viewed as more acceptable than in other parts of the country). However, cities could introduce flexibility into those requirements when the development applicant demonstrates that parking demand will be less than required by city ordinance.
- Inclusionary zoning was rated as the highest risk because nearly two-thirds of the jurisdictions surveyed do not provide any inclusionary zoning incentives for development of affordable or low income housing.

The following table shows the risk scores for each of the municipalities reviewed in the Addendum.

**Figure V-10.**  
**Municipal Land Use and Zoning Risk Review and Scoring**

| Table 4-2: Zoning Analysis - Individual and Average Scores by Issue |                                   |                                   |                                  |  |  |   |               |
|---|-----------------------------------|-----------------------------------|----------------------------------|--|--|---|---------------|
| Jurisdiction  | Issue 1<br>"Family"<br>Definition | Issue 2<br>Exclusionary<br>Zoning | Issue 3<br>Multi-Family<br>Units | Issue 4<br>Alternative<br>Housing<br>Types | Issue 5<br>Design &<br>Performance<br>Guidelines | Issue 6<br>Inclusionary<br>Zoning<br>Incentives | Avg.<br>Score |
| Apple Valley  | 1                                 | 3                                 | 1                                | 2  | 1  | 3   | 1.83          |
| Blaine  | 2                                 | 3                                 | 2                                | 2  | 2  | 3   | 2.33          |
| Bloomington   | 2                                 | 2                                 | 1                                | 1  | 2  | 1   | 1.50          |
| Brooklyn Center   | 1                                 | 1                                 | 2                                | 2  | 1  | 3   | 1.67          |
| Brooklyn Park   | 2                                 | 2                                 | 2                                | 2  | 3  | 3   | 2.33          |
| Burnsville  | 2                                 | 3                                 | 2                                | 2  | 2  | 3   | 2.33          |
| Coon Rapids   | 1                                 | 2                                 | 2                                | 1  | 2  | 3   | 1.83          |
| Crystal   | 3                                 | 1                                 | 1                                | 2  | 2  | 3   | 2.00          |
| Eagan   | 1                                 | 3                                 | 2                                | 1  | 2  | 3   | 2.00          |
| Eden Prairie  | 1                                 | 3                                 | 1                                | 2  | 1  | 3   | 1.83          |
| Edina   | 1                                 | 1                                 | 1                                | 2  | 2  | 1   | 1.33          |
| Hopkins   | 2                                 | 1                                 | 1                                | 2  | 1  | 3   | 1.67          |
| Lakeville   | 2                                 | 2                                 | 3                                | 3  | 2  | 1   | 2.17          |
| Maple Grove   | 1                                 | 2                                 | 2                                | 2  | 1  | 1   | 1.50          |
| Minneapolis   | 3                                 | 1                                 | 1                                | 1  | 3  | 2   | 1.83          |
| Minnetonka  | 2                                 | 3                                 | 2                                | 1  | 2  | 3   | 2.17          |
| New Hope  | 2                                 | 1                                 | 1                                | 2  | 2  | 2   | 1.67          |
| Plymouth  | 1                                 | 1                                 | 2                                | 1  | 2  | 3   | 1.67          |
| Richfield   | 2                                 | 1                                 | 1                                | 1  | 2  | 3   | 1.67          |
| St. Louis Park  | 2                                 | 1                                 | 1                                | 2  | 2  | 1   | 1.50          |
| St. Paul  | 2                                 | 1                                 | 1                                | 1  | 2  | 3   | 1.67          |
| Woodbury  | 1                                 | 2                                 | 2                                | 2  | 2  | 2   | 1.83          |
| <b>Average Score</b>  | <b>1.68</b>                       | <b>1.82</b>                       | <b>1.55</b>                      | <b>1.68</b>                                | <b>1.86</b>                                      | <b>2.41</b>                                     | <b>1.83</b>   |

Source: Twin Cities AI Addendum 2017.

## **SECTION VI.**

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### **Contributing Factors, Priorities, and Goals**

## SECTION VI.

# Contributing Factors, Priorities, and Goals

This section identifies fair housing issues found in the analysis conducted for the State of Minnesota AI. These findings are based on both quantitative and qualitative analysis.

### Definitions

Following HUD's new Assessment of Fair Housing (AFH) format, the section introduces the concept of "contributing factors"—those factors that contribute to fair housing concerns—and establishes priorities and goals for addressing identified fair housing issues.

**Contributing factors.** According to HUD, a "fair housing contributing factor" is a factor that creates, contributes to, perpetuates or increases the severity of one or more fair housing issues. The fair housing issues include:

1. disproportionate housing needs,
2. segregation and concentrated areas of poverty and disparities in access to opportunity,
3. disability and access issues, and
4. fair housing education, outreach and resources.

**Priorities.** Contributing factors require prioritization, and prioritization determines the fair housing goals and strategies. According to 24 C.F.R. Section 5.154(d)(4)(ii), in prioritizing contributing factors, states/counties/cities should give "highest priority to those factors that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance."

### Fair Housing Issues and Contributing Factors

The following fair housing issues were identified through the quantitative analysis in Sections I (Demographic Summary), II (Housing Choice Analysis), III (Access to Opportunity), IV (Disability and Access), and V (Regulatory Analyses). They were informed by the community engagement process comprised of:

- Community conversations held in Worthington, Marshall, Willmar and Bemidji with Anuak, Eritrean, Hispanic, Karen, Oromo, Vietnamese, and Somali residents, residents with disabilities and members of the Red Lake, Leech Lake and White Earth bands of Chippewa Indians—69 residents participated;
- In-depth interviews focused on greater Minnesota with organizations providing services to or advocacy on behalf of: African immigrants and refugees, Asian Pacific residents, residents with disabilities, Karen refugees and immigrants, low income residents,

Minnesota’s tribal nations, and interviews with organizations serving residents of racially or ethnically concentrated areas of poverty in the Twin Cities—17 organizations and agencies participated;

- A survey of public housing authorities operating in greater Minnesota—27 participated;
- A comprehensive stakeholder survey—467 stakeholders participated;
- Discussions with the organizations that led community engagement for the Twin Cities AI Addendum to identify common fair housing issues.

**Primary fair housing issues.** This section presents the fair housing issues identified by stakeholders, residents, and through the analysis of demographic and housing data.

The top issues, according to **stakeholders** who participated in the study, are summarized below. When asked which resident groups these issues mostly affect, stakeholders said: low income families, persons with disabilities, and immigrants/refugees. Many of the fair housing issues are prevalent statewide. Issues that are specific to only some geographic areas are noted as such.

#### **Housing Issues**

- **Poor condition of housing.** This is a top barrier identified throughout Minnesota, especially in areas with growing employment and housing shortages. Stakeholders in the CDBG non-entitlement cities identified poor condition of affordable housing as the most significant barrier affecting their constituencies.
- **Lack of larger rental units for families.** This issue is perceived as disproportionately affecting large and often immigrant families. This is one of the top ranked barriers by stakeholders in addition to units in poor condition. A related concern is that new developments created through incentive programs fail to increase the stock of family units in the Twin Cities (these new developments are mostly studio and 1-bedroom units).
- **High barriers to entry for homeownership (downpayment assistance, credit requirements) for lower income and non-white and Hispanic residents.** General lack of knowledge of how to achieve homeownership and manage ownership in poor economic environments (e.g., foreclosure counseling). For some cultural groups, lack of culturally competent lending products. Statewide issues that disproportionately affect households with credit histories and Black/African American, Hispanic, and Native American households, who are more likely to be denied mortgage loan credit.
- **Onerous “look back” periods for criminal charges of rental applicants.** Thought to be prevalent statewide.
- **Landlords requiring incomes that are three times the required rent payment and charging high security deposits and first and last months’ rent.** Strict standards for rental applicants in tight markets. Lack of landlords that will accept Section 8. This is most prevalent in areas with very low rental vacancy rates, high growth, and strong employment (Twin Cities and high-growth markets in Southern Minnesota).

- **Redevelopment in of naturally occurring affordable housing displacing residents.** This is especially occurring in the Twin Cities region in areas with the most naturally occurring affordable housing (e.g., north Twin Cities Metro area).
- **Expungement of eviction difficult to achieve (state barrier).** Most likely to affect residents who are disproportionately likely to have criminal histories, including Black/African American residents and, to a lesser extent, Native Americans.
- **Perception that affordable housing located in high poverty, low opportunity areas and concentrations of units that accept Section 8.** Lack of landlords that accept Section 8 in high opportunity communities. Identified mostly for the Twin Cities.
- **Onerous parking restrictions.** Parking restrictions that do not permit visitors and/or do not allow street parking, creating challenges for larger families and/or workers in professions that require vehicle use (work trucks, cabs). Barriers were raised in the Twin Cities.
- **NIMBYism/neighborhood opposition to housing development in general.**

#### **Housing barriers specific to persons with disabilities**

- **Lack of housing options.** For people with disabilities, simply acquiring housing and remaining housed are significant challenges. Wait lists for affordable, accessible housing are “years long” in many rural areas.
- **Lack of resources to make accessibility improvements.** If a Housing Choice Voucher holder requires a reasonable accommodation, they will often look to the local PHA to help with those improvements. Most local PHAs do not have the resources to assist with the accommodation.
- **Lack of workers to help transition into independent living and lack of case managers and home care aids to support independent living, particularly in very rural areas and areas with strong employment growth and housing pressures.** In-person intake for services at County departments can be intimidating to persons with intellectual disabilities or severe mental illness, resulting in otherwise qualified individuals not receiving services. Processes to apply for home health care and other supports are complex and stakeholders believe there are insufficient resources to assist residents with applications. Stakeholders note that there has been progress in adopting processes that respect a person’s preferences, but there are insufficient resources to accommodate preferences.

Conversations with a **diverse set of residents** living throughout the state (Worthington, Marshall, Willmar and Bemidji with Anuak, Eritrean, Hispanic, Karen, Oromo, Vietnamese, and Somali residents, residents with disabilities and members of the Red Lake, Leech Lake and White Earth bands of Chippewa Indians) identified the following top concerns. These concerns are particular to areas outside of the Twin Cities, where the engagement occurred.

- **Poor housing condition,** particularly homes that are owned by outside investors and rented to vulnerable populations (undocumented, new immigrants). This was also raised as a top issue in the Twin Cities in the AI Addendum.

- **Limited knowledge and/or access to resources to help communities quickly respond to housing shortages and needs** (e.g., rapid employment growth, limited housing for special needs populations who may be moving from institutional settings, face a critical housing need). This was primarily identified as an issue for growing areas outside of the Twin Cities.
- **Lack of understanding by local officials about how land use and zoning decisions can create barriers to housing choice**; prevalence of a “charity” model of delivering housing and services. Primarily an issue for areas outside of the Twin Cities, including exurbs of the Twin Cities.
- **General ignorance of fair housing laws in rural and semirural areas and the need to increase understanding of such laws and capacity for education and outreach.** This is mostly identified as an issue in rural areas and small town in the state.

The **quantitative analyses** conducted for the AI—which examined segregation and integration, areas of concentrated poverty, equal access to quality educational environments, employment opportunities, transportation, and healthy communities—found the following fair housing concerns:

- **Lack of economic opportunity in high poverty areas that are also racially and ethnicity diverse areas.** The vast majority of these areas are in the Twin Cities region; others are on Native American reservations. Residents living in these areas face challenges in accessing economic opportunity because of many factors including isolation (very rural areas), drug and alcohol addiction (particularly in the Headwaters Region) and language barriers (both in spoken and written languages). Adult illiteracy among the refugee population in greater Minnesota poses a significant barrier to accessing opportunity, from being unable to pass a driver’s license exam to promotional opportunities in the workplace.
- **High and moderate segregation, as measured by the Dissimilarity Index (DI).** The DI is moderate to high in Cass (high), Becker, Beltrami, Hennepin, Kandiyohi, Nobles, Ramsey, and Todd Counties (moderate). Becker, Kandiyohi, and Nobles County are also areas with the largest rates of denials for minority loan applicants seeking home loans, which may exacerbate segregation.
- **Large differences in homeownership among White residents and households of color or Hispanic Ethnicity.** The Twin Cities, in particular, has one of the largest gaps in the country.
- **Gap in mortgage loan applications and approvals for minority applicants** and challenges with lending on Tribal land due to lack of fee (v. trust) land. Statewide, non-white, Hispanic applicants face denial disparities when compared to white applicants: 17 percentage points (African Americans), 16 percentage points (American Indian), and 7 percentage points (Hispanic) and these gaps persist even after adjusting for income. The gap is largest for home improvement loans and refinances, suggesting that minority borrowers have less equity (and, consequently, less wealth building potential) in their homes and/or carry higher debt. This makes them more vulnerable to the economic effects



of market downturns. Geographically, the largest differences in denials between minority and White, non-Hispanic applicants exist in Becker, Carlton, Kandiyohi, Nobles, and Polk Counties. Carlton and Nobles Counties have some of the highest denial rates in the state overall, for both minority and non-minority applicants.

**Prioritization.** The state’s prioritization of contributing factors considered the following:

- **Geographic focus.** Is the issue isolated to a handful of counties? Entitlement areas only? Rural areas only? Or a statewide concern?
- **The significance of the factor in contributing to fair housing and access to opportunity barriers.** How will addressing the factor affect housing and opportunity?
- **The ability of the State to address the factor.** For example, do Minnesota Housing, DEED, and DHS have the authority to address the issue?
- **The effect of addressing the factor on affected protected classes.** Will addressing the issue affect the protected classes who are facing the most barriers to housing choice and access to opportunity?

## Goals and Action Steps

According to HUD, a fair housing goal is designed to overcome one or more contributing factors and related fair housing issues. Goals must have metrics, milestones, and a timeframe for completion. For the purpose of this AI, these are called “Action Steps.”

The action steps that the state will use to meet its fair housing goals in the next five years will be reported in the Annual Action Plan and Consolidated Annual Performance and Evaluation Report (CAPER).

The action steps, as demonstrated in the goal setting table below, are:

- Are strategic in approach,
- Are specific, measurable and establish a responsible party, and
- Identify the resources that are needed to address the goals.

The goal setting table below contains actions to address the fair housing issues and contributing factors discussed above. The goal setting table also recognizes areas where Minnesota Housing and DEED are already taking steps to address fair housing issues, as well as opportunities to collaborate with entitlement jurisdictions.

These action steps fall under three guiding strategic recommendations:

- 1) Commit to a joint effort to address opportunity gaps,
- 2) Expand or create new programs to address disproportionate housing needs, as these were the most significant fair housing identified across the state; and

- 3) Promote best practices in land use and zoning and bolster fair housing education and awareness.

**Recommendation 1. Commit to a joint effort to address opportunity gaps.** The state should continue its efforts to address opportunity gaps by furthering a cross-agency approach to addressing opportunity gaps.

Many Councils currently exist to address opportunity gaps. These include:

- Disability: [Olmstead Subcabinet & Plan](#), [Minnesota State Council on Disability](#)
- Homelessness: [Minnesota Interagency Council on Homelessness](#), and [Minnesota's Plan to Prevent and End Homelessness](#)
- Transportation: [Minnesota Council on Transportation Access](#)
- [State Civic Engagement committee](#) & Plan.
- Race/Ethnicity specific State sponsored councils: [Council on Asian Pacific Minnesotans](#), [Council for Minnesotans of African Heritage](#), [Minnesota Council on Latino Affairs](#), and, [Minnesota Indian Affairs Council](#).

In addition, as this report is being written, the [Governor's Task Force on Housing](#) is underway, with a series of recommendations expected in later 2018. The efforts as a result of this AI will include collaborating with the process of developing and addressing those recommendations.

**Recommendation No. 2 Expand or create programs that address disproportionate housing needs.** This includes offering more rapid response to accessible housing modifications, addressing the housing needs of hard-to-house residents, and expanding housing for residents in areas with critical housing shortages.

**Recommendation 3. Promote best practices in zoning and land use regulations and housing development practices.**

**Regulatory considerations.** Several modifications to the state regulations are recommended to 1) Remove antiquated and confusing language and requirements, and 2) Add clarity and commitment to fair housing laws. These include:

- Allow residents of a town to be eligible for appointment on planning and zoning commissions regardless of ownership status (Section 366.17 Planning and Zoning Commission).
- Remove dated provisions related to Restricted Residential Districts and residential program spacing requirements (Sections 462.12 to 462.17 Restricted Residential Districts).
- Clarify provisions allowing use of conditional permits for adult foster care and community residential facilities (Section 394.301 Conditional Use Permits and 462.3595 Conditional Use Permits).

- Allow towns to adopt regulations more favorable to protected classes even if less restrictive than county regulations. Similarly, allow federal- and state-owned land to comply with county regulations that exceed minimum state or federal mandates.
- Revise references to “disability” and include all protected classes where possible and ensure that references to disability include all classes of persons included as disabled as interpreted by the courts.

**Action Steps.** The following table describes specific action items by Minnesota Housing, DEED, and DHS as they address fair housing challenges.

| Fair Housing Challenge | Draft Action Items | Time Frame | Responsible Parties |
|------------------------|--------------------|------------|---------------------|
|------------------------|--------------------|------------|---------------------|

| <b>Goal 1. Address disproportionate housing needs.</b> For the following fair housing challenges identified through this AI, identify programmatic funding or collaborative responses that can support efforts to increase housing opportunities through expanded or streamlined existing funding resources and through collaboration with a variety of partners to provide services and information and identify other resources. |  |                         |                               |
|--|--|-------------------------|-------------------------------|
| a. Rental housing in poor condition  | <ul style="list-style-type: none"> <li>• Continue and consider expanding programs to support small rental developments (5-50 units):               <ul style="list-style-type: none"> <li>○ Continue funding of public housing rehabilitation programs (for example, the Publicly Owned Housing Program -POHP), evaluate and consider ways to support smaller PHAs through technical assistance to build capacity.</li> <li>○ Continue to utilize CDBG funding to support small rental rehabilitation in nonentitlement communities.</li> <li>○ Evaluate potential increase in Rental Rehabilitation Deferred Loan (RRDL) Program and consider expanding to support developments in urban/suburban areas.</li> </ul> </li> </ul> | 2018-2021 (eval. 19-20) | Minnesota Housing DEED (CDBG) |
|  | <ul style="list-style-type: none"> <li>• Investigate resources for quick response fund for life/safety concerns.               <ul style="list-style-type: none"> <li>○ Continue and consider expansion of resources for developments currently in Minnesota Housing’s portfolio.</li> <li>○ Evaluate feasibility for establishing a receivership revolving loan fund under state statute 504B.451.</li> </ul> </li> </ul>   | 2019-2021               | Minnesota Housing             |
|  | <ul style="list-style-type: none"> <li>• Continue support for HOME Line as a hotline for tenants’ rights.</li> </ul>   | 2018-2021               | Minnesota Housing             |
|  | <ul style="list-style-type: none"> <li>• Continue to track and evaluate results of rental inspections on Minnesota Housing financed rental properties; consider ways to standardize evaluating different inspection types across programs.</li> </ul>  | 2018-2021 (eval. 20-21) | Minnesota Housing             |
| b. Insufficient housing for large families   | <ul style="list-style-type: none"> <li>• For rental development resources:               <ul style="list-style-type: none"> <li>○ Continue to provide points for large family housing in selection criteria of Minnesota Housing funding resources, including through the Low Income Housing Tax Credit Qualified Allocation Plan.</li> </ul> </li> </ul>  | 2018-2021               | Minnesota Housing             |
|  | <ul style="list-style-type: none"> <li>• For homeownership activities:               <ul style="list-style-type: none"> <li>○ Continue to support the enhanced financial capacity program in reaching large immigrant families.</li> <li>○ Continue the priority for large family housing in the Impact Fund.</li> <li>○ Continue to provide priorities for down payment assistance to large families.</li> <li>○ For these programs, evaluate how the priority reaches large families.</li> </ul> </li> </ul>   | 2018-2021 (eval. 20-21) | Minnesota Housing             |
|  | <ul style="list-style-type: none"> <li>• Explore with our partners the feasibility of creating a capital program for small scale rental housing development in rural communities with significant rental housing needs that are currently unable to access development resources.</li> </ul>   | 2019-2020               | Minnesota Housing             |

| Fair Housing Challenge  | Draft Action Items  | Time Frame                          | Responsible Parties  |
|---|---|-------------------------------------|--|
| c. Homeownership and mortgage lending gaps  | <ul style="list-style-type: none"> <li>Enhance and continue partnerships to remove barriers to homeownership and reduce the lending gaps between households of color or Hispanic Ethnicity and white non-Hispanic households.               <ul style="list-style-type: none"> <li>Continue supporting and strengthening the Homeownership Opportunity Alliance.</li> </ul> </li> </ul>   | 2018-2021                           | Minnesota Housing /Homeownership Opportunity Alliance                  |
|   | <ul style="list-style-type: none"> <li>Identify homeownership education activities occurring in the market and evaluate program activities:               <ul style="list-style-type: none"> <li>Expand and enhance the Homebuyer Education, Counseling, and Training (HECAT) program at Minnesota Housing, including adding financial wellness to the services under the program.</li> <li>Continue Minnesota Housing’s homeownership capacity program.</li> <li>Through capacity building and technical assistance, support partners in working on initiatives to help households save for down payments using tools such as individual development accounts (IDAs).</li> <li>Explore ways to deploy resources such as down payment assistance (DPA) through the Impact Fund to serve lending products for interest adverse populations.</li> </ul> </li> </ul> | 2018-2021                           | Minnesota Housing  |
|   | <ul style="list-style-type: none"> <li>Identify and address gaps in lending market:               <ul style="list-style-type: none"> <li>Conduct gaps analysis on homeownership counseling in Greater Minnesota and provide technical assistance resources to increase access to homeownership counseling for renters of color or Hispanic ethnicity.</li> <li>Continue, through intentional program design and business development activities of Minnesota Housing mortgage programs, to ensure households of color and Hispanic ethnicity have meaningful access to homeownership opportunities.</li> <li>Develop or identify resources to connect potential homebuyers with barriers to homeownership opportunities.</li> </ul> </li> </ul>   | 2018-2019<br>2018-2021<br>2019-2021 | Minnesota Housing with partners  |
|   | <ul style="list-style-type: none"> <li>Partner with Tribal Nations to consider strategies to increase homeownership for American Indian households both on and off tribal lands.               <ul style="list-style-type: none"> <li>Work with tribes on the feasibility of eventual tenant ownership for the eligible tax credit properties.</li> <li>Conduct mortgage lending session at bi-annual Indian Housing conference.</li> <li>Evaluate any loan products developed by the GSEs (Fannie Mae and Freddie Mac) for tribal lending as a result of their Duty to Serve Underserved Markets Plans.</li> </ul> </li> </ul>   | 2019-2021<br>2019-2021<br>2018-2020 | Minnesota Housing with partners, including Tribal Nations and the GSEs |
|   | <ul style="list-style-type: none"> <li>If found effective, seek additional resources to expand the Landlord Risk Mitigation Fund program to help address housing needs of persons with criminal records, substance abuse challenges and other barriers.</li> <li>Monitor any proposed regulatory changes that would remove evictions and unlawful detainers from a renters’ court record with a favorable court ruling, identify implications for projects financed by Minnesota Housing.</li> </ul>  | Evaluation 2019-2020<br>2018-2021   | Minnesota Housing<br>Minnesota Housing                                 |
| d. Very high standards for rentals (3x income, high security deposits, no past record of credit |   |                                     |  |

| <i>Fair Housing Challenge</i>  | <i>Draft Action Items</i>  | <i>Time Frame</i> | <i>Responsible Parties</i>                 |
|--|--|-------------------|--|
| problems or criminal activity)   | <ul style="list-style-type: none"> <li>• Monitor local ordinances such as nuisance laws, “crime free” housing ordinances, and source of income protections.</li> </ul>   | 2019-2020         | Minnesota Housing with local partners      |
|  | <ul style="list-style-type: none"> <li>• Regularly provide informational materials on best practices related to tenant selection plans to owners and manager of properties of Minnesota Housing financed rental developments.</li> </ul>                       | 2018-2021         | Minnesota Housing                          |
| e. Affordable housing and landlords accepting housing choice vouchers only located in higher poverty areas | <ul style="list-style-type: none"> <li>• Continue to prohibit properties with funding through Minnesota Housing from refusing to lease to a tenant based on the status of the tenant as a voucher-holder or recipient of similar rental assistance.</li> </ul> | 2018-2020         | Minnesota Housing                          |
|  | <ul style="list-style-type: none"> <li>• Work with Local Housing Authorities to identify and address barriers to project basing Section 8 housing choice vouchers and utilizing housing choice vouchers in lower poverty areas.</li> </ul>                     | 2019-2021         | Minnesota Housing with Housing Authorities |

| Fair Housing Challenge | Draft Action Items | Time Frame | Responsible Parties |
|------------------------|--------------------|------------|---------------------|
|------------------------|--------------------|------------|---------------------|

**Goal 2. Address housing discrimination and improve opportunities for mobility.** For the following fair housing challenges, identify strategic and collaborative approaches to consider both place based solutions and mobility solutions to provide households access to opportunity.

|   |   |                                     |  |
|---|---|-------------------------------------|--|
| a. Non-white and Hispanic residents are disproportionately segregated into some, often high poverty neighborhoods | <ul style="list-style-type: none"> <li>Support efforts to review where investments in creation, preservation, and rehabilitation of affordable housing is occurring relative to areas of concentrated poverty and economic opportunity to encourage a full range of housing choices. (For example, helping to keep HousingLink's Low Income Housing Tax Credit development database current to report distributions).</li> </ul>  | 2018-2021                           | Minnesota Housing with partners including Housing Link |
|   | <ul style="list-style-type: none"> <li>Continue incentives in the state of Minnesota's Low Income Housing Tax Credit Qualified Allocation Plan to develop in high opportunity area areas including access to quality schools, employment, transportation, and higher income communities.</li> </ul>   | 2018-2021                           | Minnesota Housing                                      |
| b. Challenges in accessing housing in concentrated areas of wealth or other opportunities                         | <ul style="list-style-type: none"> <li>Evaluate and continue solutions that mitigate barriers to developing housing in areas of wealth or other opportunities. (For example, address barrier of NIMBYism).               <ul style="list-style-type: none"> <li>Evaluate institutional barriers to funding housing in high opportunity areas by conducting focus groups with local partners.</li> <li>Provide financial support to efforts to educate communities about the importance of affordable housing.</li> <li>Support efforts to continue implementation of recommendations by the Minnesota Challenge to Lower the Cost of Affordable Housing to address the state and local regulatory drivers.</li> </ul> </li> </ul> | 2019-2020<br>2018-2021<br>2018-2021 | Minnesota Housing with partners                        |
|   | <ul style="list-style-type: none"> <li>Monitor any proposed regulatory changes regarding source of income protections.</li> </ul>   | 2018-2021                           | Minnesota Housing with local partners                  |
|   | <ul style="list-style-type: none"> <li>Support development of Housing Hub wait list management tool to streamline tenant access to project based Section 8 wait lists in communities of their choice.</li> </ul>  | 2018-2021                           | Minnesota Housing with Housing Link                    |
| c. Challenges accessing economic and other opportunities  | <ul style="list-style-type: none"> <li>Review and update state language access plans to promote access to state programs for persons with Limited English Proficiency (LEP).</li> </ul>   | 2019-2020                           | Minnesota Housing DEED, DHS                            |
|   | <ul style="list-style-type: none"> <li>Collaborate with partners at the state and regional level to evaluate ways to address community disinvestment and economic isolation.</li> </ul>   | 2018-2021                           | Minnesota Housing with partners                        |
|   | <ul style="list-style-type: none"> <li>Promote contracting opportunities for women and minority business entities in all programs.</li> </ul>   | 2018-2021                           | Minnesota Housing DEED, DHS                            |
|   | <ul style="list-style-type: none"> <li>Continue to support the preservation of affordable housing opportunities as a strategy for community investment.</li> </ul>  | 2018-2021                           | Minnesota Housing                                      |

| Fair Housing Challenge | Draft Action Items | Time Frame | Responsible Parties |
|------------------------|--------------------|------------|---------------------|
|------------------------|--------------------|------------|---------------------|

**Goal 3. Expand access to housing for persons with disabilities.** For the following fair housing challenges, identify collaborative and programmatic funding responses to rehabilitate and create new accessible affordable housing options, support accessibility improvements in single units, and help people with disabilities transition into independent living settings.

|   |   |   |                           |
|---|---|---|---------------------------|
| a. Shortage of affordable, accessible housing               | <ul style="list-style-type: none"> <li>• Conduct gaps analysis of accessible housing opportunities for persons with disabilities in Minnesota, through surveys and data evaluation, leveraging HousingLink’s work. Utilize data collected by DHS Aging and Disabilities Divisions through the long term services and supports biennial gaps analysis. Identify how Minnesota Housing and other state housing resources are serving persons with disabilities.</li> </ul>  | 2020-2021                                   | Minnesota Housing<br>DHS  |
|   | <ul style="list-style-type: none"> <li>• Evaluate and enhance existing funding resources to provide preference in housing developments for persons with disabilities:               <ul style="list-style-type: none"> <li>○ Continue to provide preference points in the Low Income Housing Tax Credit Qualified Allocation Plan and other competitive capital funding resources for developments with units set aside for persons with disabilities. Evaluate how scoring for this preference influences developments being selected. Ensure that selected developers have knowledge of the Home and Community Based Settings Rule and work to ensure that people in properties will be able to access these services.</li> <li>○ When appropriate, ensure that all CDBG rental rehabilitation include accessibility improvements.</li> <li>○ Promote accessibility improvements through Rental Rehabilitation Deferred Loan Program and continue to provide preference for accessibility improvements as part of public housing rehabilitation programs.</li> <li>○ Continue strong rental housing design and construction standards pertaining to accessibility for all Minnesota Housing financed developments.</li> </ul> </li> </ul> | 2018-2021                                   | Minnesota Housing<br>DEED |
|   | <ul style="list-style-type: none"> <li>• (As in 1e). If found effective, seek additional resources to expand the Landlord Risk Mitigation Fund program.</li> </ul>  | Evaluation<br>2019-2020                     | Minnesota Housing         |
| b. Shortage of resources to make accessibility improvements | <ul style="list-style-type: none"> <li>• Provide education and outreach of existing homeownership programs to make accessibility improvements:               <ul style="list-style-type: none"> <li>○ Streamline Minnesota Housing’s Rehab Loan Program to make program more accessible to lenders, and promote to seniors and persons with disabilities.</li> <li>○ Evaluate Impact Fund projects specifically related to accessibility improvements (such as the ramps program). Continue to offer priority points for household targeting of underserved populations (including persons with disabilities), and priority points for universal design and accessibility features.</li> <li>○ Continue to promote Minnesota Housing’s Home Improvement Fix up Fund for persons with disabilities which offer more flexibility in program requirements.</li> <li>○ Continue to provide priorities for down payment assistance to households that include a person with disabilities.</li> </ul> </li> </ul>   | 2018-2019<br><br>2020-2021<br><br>2018-2021 | Minnesota Housing         |



| Fair Housing Challenge  | Draft Action Items   | Time Frame             | Responsible Parties                                   |
|---|--|------------------------|---|
|   | <ul style="list-style-type: none"> <li>• Evaluate resources to make accessibility improvements on a single rental unit:               <ul style="list-style-type: none"> <li>○ For developments not covered by Section 504, evaluate use of existing Minnesota Housing asset management funds to help projects in the agency’s portfolio address needs related to accessibility, and identify gaps.</li> <li>○ Investigate strategies to find or develop other resources to make accessibility improvements on individual units.</li> </ul> </li> </ul>  | 2019-2020<br>2020-2021 | Minnesota Housing                                     |
| c. Shortage of resources to transition into independent living settings | <ul style="list-style-type: none"> <li>• Collaborate with housing and supports activities in the state’s Olmstead Plan and initiatives that increase the number of people with disabilities who live in the most integrated housing of their choice.</li> </ul>  | 2018-2021              | Minnesota Housing with Olmstead Implementation Office |
|   | <ul style="list-style-type: none"> <li>• Minnesota Housing will continue to provide rental assistance to persons with serious mental illness, and evaluate program effectiveness.</li> </ul>   | 2018-2021              | Minnesota Housing                                     |
|   | <ul style="list-style-type: none"> <li>• Minnesota Housing and DHS will continue implementation of the Section 811 rental assistance pilot, partner with HUD in program evaluation, and if found effective, consider other funding sources available for similar program should no further federal assistance become available.</li> </ul>   | 2018-2021              | Minnesota Housing, DHS                                |
|   | <ul style="list-style-type: none"> <li>• Leverage Minnesota Housing and DHS relationship to explore more streamlined connections between housing and support services.               <ul style="list-style-type: none"> <li>○ Promote efforts of Minnesota’s Medical Assistance (MA) Waiver program to allow housing supports to be billed to Medicaid (DHS) and ensure Medicaid Waivered services remain available to individuals living in developments financed by Minnesota Housing.</li> <li>○ Support HousingLink’s efforts to educate owners and tenants on fair housing issues, including reasonable accommodation.</li> </ul> </li> <li>• Develop housing planning tools on HB101.org to help persons with disabilities make informed choices about their housing options.</li> </ul> | 2018-2021              | Minnesota Housing, DHS                                |

| Fair Housing Challenge | Draft Action Items | Time Frame | Responsible Parties |
|------------------------|--------------------|------------|---------------------|
|------------------------|--------------------|------------|---------------------|

| <b>Goal 4. Address limited knowledge of fair housing laws through education, outreach, and developing tools and resources.</b> |   |           |                                     |
|--|---|-----------|-------------------------------------|
| a. Limited knowledge of fair housing laws and resources  | <ul style="list-style-type: none"> <li>Support efforts to maintain and promote the FairHousingMN.org website and online tool to develop Affirmative Fair Housing Marketing Plans.</li> </ul>  | 2018-2021 | Minnesota Housing                   |
|  | <ul style="list-style-type: none"> <li>Provide education to landlords, tenants, prospective tenants and service providers (government and nonprofit) about housing discrimination laws in MN.</li> </ul>  | 2018-2021 | DHR                                 |
|  | <ul style="list-style-type: none"> <li>Develop a Reasonable Accommodation resource on Housing Benefits 101 (HB101.org) to educate persons with disabilities and support professionals about Reasonable Accommodations.</li> </ul>   | 2018-2021 | DHS                                 |
|  | <ul style="list-style-type: none"> <li>Expand education and oversight of Minnesota Housing financed and federally assisted rental developments with regards to Affirmative Fair Housing Marketing Plans.</li> </ul>   | 2018-2019 | Minnesota Housing, DHR              |
|  | <ul style="list-style-type: none"> <li>Expand educational efforts to local government officials in rural areas about housing condition challenges and the important of enforcing housing condition standards.</li> </ul>  | 2020-2021 | Minnesota Housing with partners     |
|  | <ul style="list-style-type: none"> <li>Work with Minnesota Department of Human Rights, Minnesota NAHRO, Minnesota Multi Housing Association and similar organizations to provide education regarding housing discrimination laws through their annual conferences.</li> </ul> | 2018-2021 | Minnesota Housing with partners     |
|  | <ul style="list-style-type: none"> <li>Continue to support educational opportunities and outreach efforts with suburban community elected and appointed officials to understand the important and effectively plan for a full range of housing choices.</li> </ul>            | 2018-2021 | Minnesota Housing with partners     |
|  | <ul style="list-style-type: none"> <li>Distribute fair housing educational materials at annual conferences, public venues, and other opportunities.</li> <li>Each State CDBG Grantee must complete at least one fair housing activity each year.</li> </ul>                   | 2018-2021 | Minnesota Housing DEED, DHS<br>DEED |

| Fair Housing Challenge | Draft Action Items | Time Frame | Responsible Parties |
|------------------------|--------------------|------------|---------------------|
|------------------------|--------------------|------------|---------------------|

| <b>Goal 5. Decrease the loss of housing through displacement and eviction.</b>               |  |                              |                              |
|--|--|------------------------------|------------------------------|
| a. Redevelopment displacing current renters of Naturally Occurring Affordable Housing (NOAH) | <ul style="list-style-type: none"> <li>Continue support of the NOAH Impact Fund and partner with the Greater Minnesota Housing Fund to evaluate the effectiveness of the fund.</li> </ul>  | 2018-2021 (eval. 18-20)      | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Collaborate with Fannie Mae and Freddie Mac (the GSEs) in considering products and solutions to support NOAH as identified in the GSE's Duty to Serve plans.</li> </ul>   | 2018-2020                    | Minnesota Housing & Partners |
|  | <ul style="list-style-type: none"> <li>Monitor state legislation regarding right of first refusal and opportunity to purchase measures for manufactured home parks (tenant purchase rights) and consider the next steps for Minnesota Housing related to the preservation of manufactured home parks to address critical infrastructure issues that limit preservation opportunities, or offset/replace opportunities that are no longer available.</li> </ul> | 2018-2021 (next steps 20-21) | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Monitor state legislative efforts that require communication between property owners and tenants regarding ownership/tenancy changes at a minimum of 60 days prior to sale of the building.</li> </ul>  | 2019-2021                    | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Evaluate resources that could provide short term assistance to tenants displaced by a building sale or renovation.</li> </ul>   | 2019-2021                    | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Create informational materials to provide to communities and other stakeholders regarding the Low Income Rental Classification (LIRC) program.</li> </ul>   | 2019-2020                    | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>(as in 1a) Evaluate potential increase in RRDL and consider expanding to support developments in urban/suburban areas.</li> </ul>   | 2019-2020                    | Minnesota Housing            |
| b. Eviction filings negatively impact renters regardless of outcome                          | <ul style="list-style-type: none"> <li>Monitor work to define and limit predatory rental practices, including questionable eviction practices and poor conditions of rental units.</li> </ul>  | 2018-2021                    | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Monitor state legislative efforts to limit evictions to only appear on a tenant's record following court judgement.</li> </ul>  | 2019-2021                    | Minnesota Housing            |
|  | <ul style="list-style-type: none"> <li>Research just cause eviction ordinances and tenant protection ordinances.</li> </ul>  | 2019-2021                    | Minnesota Housing            |

# **APPENDIX A.**

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## **Review of State Level Public Sector Barriers to Fair Housing in Minnesota**

# Review of State Level Public Sector Barriers to Fair Housing in Minnesota



**CLARION**

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# 1. Introduction

This section reviews whether Minnesota state-level laws have the effect of making housing unavailable for groups of citizens protected by the Fair Housing Act Amendments of 1988 as later amended and as interpreted by the courts (the “FHAA”). The FHAA creates obligations that private individuals and entities and all levels of government not “make unavailable” housing to serve certain protected groups of U.S. citizens. This regulatory review was guided by the state regulatory review criteria suggested in HUD’s [Fair Housing Planning Guide, Volume 1](#).

It is important on the outset to define exactly what this review covers — and what it did not cover.

## ▪ STATE LEVEL

This review focused at the state level and not at the local level. Minnesota, like most U.S. states, delegates a great deal of land use and housing authority to its towns, cities, and counties. This review focused on how the state government’s use of its powers to authorize, limit, or prohibit state or local governments regulation of land use and housing directly and indirectly influences the availability of housing. The fact that a town, city, or county could decide to use state-granted, facially neutral land use authority that complies with the statewide planning systems in ways that would violate the FHAA is not considered a state-created barrier to fair housing.

## ▪ FAIR HOUSING — NOT AFFORDABLE HOUSING

The FHAA prohibits housing discrimination based on race, color, religion, sex, national origin, age, familial status (which includes pregnant women), disability, or handicap. The courts have interpreted this to also include the frail, persons with AIDS, the physically and developmentally disabled, mentally ill, and recovering alcoholics and drug addicts, but not current drug or alcohol abusers who are not “recovering”).

The United States Code 42 USC 3602(h) defines handicap as follows, “with respect to a person— (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of title 21).”

The State of Minnesota defines disability is as follows, “any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.”

We refer to persons included in the federal definition, as interpreted by the courts, as the “FHAA-protected” persons. That list does not include low income persons, and we did not specifically review impacts of state regulations on housing affordability. However, where there is a probable overlap between the FHAA protected classes (such as persons with disabilities) and lower income populations, this review sometimes mentions potential impacts of decreased affordability on the supply of housing for FHAA-protected citizens. Following HUD’s convention in many recent Analyses of Impediments to Fair Housing Choice (AIs), these are noted as observations, but not impediments, as facially neutral and

otherwise legal impacts on housing affordability do not constitute barriers to fair housing under the FHAA.

This review covered relevant sections of the following Minnesota Statutes and Regulations:

- Chapter 245A (Human Services Licensing)
- Chapter 327 (Hotels, Motels, Resorts, and Manufactured Homes)
- Chapter 363A (Human Rights)
- Chapter 366 (Town Board; Powers)
- Chapter 394 (Planning, Development, Zoning)
- Chapter 462 (Planning, Zoning)
- Chapter 462A (Housing Finance Agency)
- Chapter 462C (Municipal Housing)
- Chapter 469 (Economic Development)
- Chapter 471 (Municipal Rights, Powers, Duties)
- Chapter 504B (Landlord and Tenant)

This review is organized into the following topics:

- Human Rights
- Land Use Planning
- Zoning and Subdivision
- Municipal Housing Impact Notes
- Manufactured Homes
- Residential Facilities
- Accessibility to Housing Units
- Building Occupancy
- Regulation of Housing Prices
- Inclusionary Zoning
- Other Programs and Statutes

Consistent with recent revisions to CFR Part 24.100 et. seq., we did not limit the review to regulations that appear to be based on discriminatory intent, but also included those that could have discriminatory impacts on FHAA protected groups or households.

Although some Minnesota town, cities, and counties use the terms “ordinance” and “regulation” differently, we use the term “regulations” to refer to the powers granted by the state to its towns, cities, and counties to adopt zoning, subdivision, land use, and other development and housing controls.



## 2. Background

The ability of private real estate markets to meet the housing needs of any community is strongly affected by zoning, subdivision, and land development regulations adopted by local governments. Those local actions are, in turn, affected by the powers granted by state governments that authorize local land use regulations. Unfortunately many FHAA-protected citizens are disproportionately represented in lower income groups. For that reason, facially neutral local regulations that have the effect of increasing housing prices may reduce both affordability in general and the supply of housing available to FHAA-protected citizens.

In many cases, local regulations that are intentionally or unintentionally exclusionary of different types of housing can offset the impact of affordable housing subsidies or increase the amount of subsidies necessary for the market to meet housing needs. This indirect connection between the affordability of housing and its impact on fair housing is discussed in the paragraphs below. Facially neutral authority to regulate and local exercises of that authority that only impact the affordability of housing to the general population have not been held to be violations of the FHAA. Nevertheless, both state and local governments should be aware that regulations that tend to increase housing prices may have a disproportionate impact on FHAA-protected citizens.

There are many ways in which local land use regulations may raise the price of housing, and many ways that state grants of authority to local governments could be tailored to reduce those impacts. In Zoned Out, analyst Jonathan Levine documented the impact of zoning regulations on the supply of affordable housing, and his findings confirm the conclusions of several earlier studies.<sup>1</sup> For example, a 1998 study of regulatory barriers to affordable housing in Colorado identified five separate types of barriers, including zoning and subdivision controls.<sup>2</sup> The other areas were development processing and permitting, infrastructure financing mechanisms, building codes, and environmental and cultural resource protection tools. In the area of zoning and subdivision, the Colorado study identified four specific types of barriers:

- Minimum house size, lot size, or yard size requirements;
- Prohibitions on accessory dwelling units;
- Limited land zoned and available for multifamily and manufactured housing; and
- Excessive subdivision improvement standards.

Similarly, in 2007, a nationwide study prepared by the National Association of Home Builders for the U.S. Department of Housing and Urban Development documented which types of subdivision regulations have the greatest impacts on housing costs.<sup>3</sup> After establishing benchmark standards representing their estimates of the minimums necessary to protect public health and safety, the study compared the cost of building single family housing under those benchmark standards with actual costs of home construction. The study concluded that:

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1 Levine, Jonathan, *Zoned Out* (RFF Press, Washington, D.C., 2006).

2 Colorado Department of Local Affairs, *Reducing Housing Costs through Regulatory Reform* (Denver: Colorado Department of Local Affairs, 1998).

3 Study of Subdivision Requirements as a Regulatory Barrier. EcoNorthwest, for National Association of Homebuilders Research Center, 2007.

- 65 percent of the added costs were caused by minimum lot size requirements; and
- Nine percent of the added costs were caused by lot width requirements.

A third contributor was minimum house size requirements. Although only eight percent of local governments imposed those controls, they were responsible for 17 percent of the added costs in those cities and counties that use them. Using 2004 data, the study concluded that subdivision regulations exceeding baselines for public health and safety added an average of \$11,910 (4.8%) to the price of a new home.

In addition, in U.S. ex. rel. Anti-discrimination Center v. Westchester County<sup>4</sup>, a U.S. District Court confirmed that local government eligibility for federal Community Development Block Grant Funds requires certification that the city or county is in compliance with the federal Fair Housing Act Amendments of 1988. That, in turn, requires that the local government:

- Conduct an analysis of impediments to fair housing;
- Take actions to address the effects of those impediments; and
- Maintain records of the analysis and the steps taken.

One of the fundamental lessons from the Westchester County is that the analysis of impediments “must consider the existing and impact of race discrimination on housing opportunities and choice in its jurisdiction.” Affordable housing programs or other programs that use federal funds cannot have the effect of creating or perpetuating segregation based on race, disability, or other categories of FHAA-protected citizens.

For all of these reasons, it is important that state governments review their legislation enabling local zoning, subdivision, and land development regulations to ensure that they do not create unnecessary barriers to private production of affordable housing. It is also important that states take reasonable steps to ensure that state grants of power to regulate housing or to address affordable housing needs do not unintentionally create barriers to fair housing choice.

Because the character, development patterns, and future plans of each town, city, and county are different, their zoning, subdivision, and development controls will also differ. No two community development codes are alike. However, there are several land use practices that can help reduce barriers to housing choice, and states should review their authorizing legislation to ensure that those authorities allow and encourage local governments to minimize and remove these barriers to housing choice. More specifically, state level grants of power to regulate land use should enable local governments to include as many of the following tools as possible.

- **Small Lots**

Local land use regulations should be encouraged or required to include at least one zone district (or overlay district, or permit system) that allows small lots for single family detached housing in some locations. While the appropriate minimum lot size will vary with the character of the county, town, or city, a zone district allowing minimum lot sizes in the 2,500-4,000 square foot range could have a significant impact on housing affordability. In addition, lot width requirements should be reasonable and consistent with minimum lot sizes. While some codes require minimum lot widths of 70 feet or more, small homes can

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<sup>4</sup> 495 F.Supp.2nd 375 (S.D.N.Y. 2007).

be constructed on lots as narrow as 25 feet (or even less). Minimum lot size requirements are the type of regulation most responsible for increasing housing costs.

- **Multi-family Parcels**

Failure to provide opportunities for multi-family development has been identified as one of the four leading regulatory causes of increased housing costs. Local land use regulations should include at least one zone district that allows the construction of multi-family housing, and should map enough land into this district(s) to allow a reasonable chance that some multi-family housing will be developed. Maximum heights should be reasonable and consistent with the maximum density permitted. States should discourage, and local governments should avoid, mapping areas for multi-family densities and then imposing height restrictions that prohibit efficient development at those densities.

- **Manufactured Homes as Primary Dwellings**

Manufactured housing meeting HUD safety standards should be allowed in at least one zoning district where single-family “stick-built” housing is permitted. While restricting these homes to manufactured home parks is common, the better practice is to allow them in at least one residential zone where the size and configuration matches the scale and character of the area. Although most manufactured housing regulations were drafted in anticipation of standard manufactured homes in the 800-1,600 sq. ft. range, they may also apply to smaller homes in the 400-800 sq. ft. range that are constructed to meet HUD standards.

- **Minimum House Sizes**

The zoning and subdivision regulations should not establish minimum house or dwelling unit sizes (beyond those in the building code), with one exception. Reasonable minimum house size requirements (e.g. 1,000 sq. ft. for primary structures, but not for accessory structures) may be reasonable in zone districts where all existing homes are more than twice or three times as large, and the potential insertion of Tiny Houses into the district would destabilize existing neighborhood character. Minimum house size requirements have also been identified as a significant cause of increased housing price in those communities where they are in place.

- **Group Housing**

Local land use regulations should clarify that housing for groups protected by the FHAA are treated as residential uses, and should generally allow those group housing uses in at least one residential district (preferably all districts) where equivalently sized single-family homes are permitted, and under the same conditions that would be applied to occupancy by a single household. The same is true for larger multifamily structures; group homes for occupancy by more people than might typically occupy a single-family residential structure should be allowed in the same zone districts where equivalently sized apartment or condominium structures are permitted. Special permit requirements should be avoided, and spacing requirements between group housing is discouraged, since there is very little medical evidence to support the need for distance between these facilities as long as a large number are not located in a small area. Failure to provide for these uses in the code could subject the county to a developer’s request for “reasonable accommodation” under the FHAA, and failure to provide “reasonable accommodation” could be a violation of federal law.

- **Accessory Dwelling Units**

Local land use regulations should allow accessory dwelling units in at least one zone district (preferably in several districts) – either as an additional unit within an existing home structure or in an accessory building on the same lot. While some communities require a special permit for these uses, others find that they can be allowed by right provided that they comply with standards limiting scale, character, and parking. A growing number of communities are allowing Tiny Houses in the 400-800 sq. ft. range to be used as accessory dwelling units.

- **Cottage-style Infill Development**

Unused infill lots, which are often irregularly shaped or have constrained geography (e.g. hillsides, ditches) are increasingly seen as opportunities to promote creative forms of development that can accommodate smaller housing units on smaller private streets. An increasing number of cities are including provisions allowing small parcels of land to be developed with small cottage-type housing (often limited to less than 1,000 sq. ft. of gross floor area) on unplatted lots, or as “site condominiums”, or to otherwise adjust the minimum lot size and width requirements of the zone district where they are located. The added flexibility can make a previously unusable lot usable, and can allow the creation of smaller, more innovative housing units on scattered sites that do not undermine the character of the area.

- **Co-housing Developments**

Co-housing developments involve smaller residential units with small or partial kitchens but also include a larger community kitchen and activity facility. Residents of the smaller housing units are members of the co-housing association and agree to share some of their meals and other community duties. Generally, the individual residential units are not platted and the ground beneath them cannot be sold, so the development is operated as a condominium or cooperative. Local land use regulations should include this option, which may be particularly useful for groups of FHAA-protected citizens who can live independently for many purposes but who require some assistance or communal services.

- **Mixed Use**

In order to promote affordability, housing should be allowed near businesses that employ workers, particularly moderate and lower income employees. To do that the land use regulations should permit residential units in at least one commercial zone district (preferably several districts) or should map some lands for multi-family development in close proximity to commercial districts.

- **Lower Parking Standards**

Although the traditional standard of two parking spaces per dwelling unit may be reasonable in some areas, many communities find that lower requirements (or no requirements in urbanized areas) can be used for affordable housing, multi-family housing, group housing, and special needs housing. Excessive parking requirements can lead to the platting of larger lots, or can limit the size of multi-family projects to accommodate both housing and parking, both of which drive up housing costs.

- **Flexibility on Nonconforming Structures**

Although zoning codes generally require that nonconforming structures damaged or destroyed through fire or natural causes can only be rebuilt in compliance with the current

zoning regulations, an increasing number of codes are exempting affordable housing (and in some cases all housing) from this requirement. Often the most affordable housing in a community is located on lots that are too small or narrow for the district where they are located, or in converted single-family structures or multi-family buildings that sometimes have too many units for the district where they are located. If forced to replat with larger lots or to reduce density following a disaster, those affordable units may be lost, and allowing rebuilding with the same number of units that existed before the damage may be the most efficient way to preserve these units in the housing stock.

■ **Incentives**

In order to encourage the development of affordable housing, land use regulations should recognize the difficult economics involved and should offer incentives. Common incentives include smaller lots, increased density or building height in multi-family areas, reduced parking requirements, or waivers or reductions of application fees or development impact fees. Some communities provide additional incentives for housing that is restricted for occupancy at lower percentages of the Area Median Income (AMI). For example, developments restricted for households earning less than 50% of AMI could receive more generous incentives than those for households earning less than 80% of AMI. While zoning and subdivision incentives alone are often not enough to make development for lower levels of AMI economically feasible, they can be part of a broader package of incentives (for example, financial incentives or land contributions) that make those project possible. Any incentives offered should be updated as new housing studies are completed and new information about specific affordable housing needs is obtained.

■ **Building Permit Rationing Exemptions**

Most communities that operate a growth management system based on annual or periodic rationing of building permits exempt affordable housing or allow it to compete for a separate pool of development rights in order to encourage this type of housing.

### 3. State Level Land Use Statutes and Regulations

#### A. Human Rights

Minnesota’s state and local level statutes and regulations related to FHAA-protected citizens are grounded in the Public Policy statement set forth in [Chapter 363A](#), shown in the blue shaded box below.

**363A.02 PUBLIC POLICY**

**Subd. 1. Freedom from discrimination**

(a) It is the public policy of this state to secure for persons in this state, freedom from discrimination:

...

(2) in housing and real property because of race, color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, sexual orientation, and familial status;

(3) in public accommodations because of race, color, creed, religion, national origin, sex, sexual orientation, and disability;

(4) in public services because of race, color, creed, religion, national origin, sex, marital status, disability, sexual orientation, and status with regard to public assistance; and

...

(b) Such discrimination threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy. It is also the public policy of this state to protect all persons from wholly unfounded charges of discrimination. Nothing in this chapter shall be interpreted as restricting the implementation of positive action programs to combat discrimination.

**Subd. 2. Civil right**

The opportunity to obtain employment, housing, and other real estate, and full and equal utilization of public accommodations, public services, and educational institutions without such discrimination as is prohibited by this chapter is hereby recognized as and declared to be a civil right.

**363A.03 DEFINITIONS**

**Subdivision 1. Terms**

For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

...

**Subd. 12. Disability**

"Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who

(1) has a physical, sensory, or mental impairment which materially limits one or more major life activities;

(2) has a record of such an impairment; or

(3) is regarded as having such an impairment.

**Subd. 13. Discriminate**

The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.

...

**Subd. 18. Familial status**

"Familial status" means the condition of one or more minors being domiciled with

(1) their parent or parents or the minor's legal guardian or

(2) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

...

**Subd. 24. Marital status**

"Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

**Subd. 25. National origin**

"National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

...

**Subd. 30. Person**

"Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

**Subd. 31. Physical access**

"Physical access" means

- (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary,
- (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

...

**Subd. 33. Program access**

"Program access" means

- (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and
- (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

**Subd. 34. Place of public accommodation**

"Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

**Subd. 35. Public service**

"Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

**Subd. 36. Qualified disabled person**

"Qualified disabled person" means:

...

- (2) with respect to public services, a person with a disability who, with or without reasonable modifications to rules, policies, or practices, removal of architectural, communications, or transportation barriers, or the provision of auxiliary aids and services, meets the essential

eligibility requirements for receipt of services and for participation in programs and activities provided by the public service.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

...

**Subd. 39. Real property**

"Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

...

**Subd. 42. Sex**

"Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

...

**Subd. 44. Sexual orientation**

"Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.

...

**Subd. 47. Status with regard to public assistance**

"Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

**Subd. 48. Unfair discriminatory practice**

"Unfair discriminatory practice" means any act described in [sections 363A.08 to 363A.19](#) and [363A.28, subdivision 10](#).

This statute enables all persons residing in Minnesota (including FHAA-protected persons) the opportunity to obtain housing, real estate, and full and equal use of public accommodations, public services, and educational institutions free from discrimination. This fundamental civil right is applicable to all state, county, municipal, and town regulations. The following sections will identify any specific regulatory provisions that may overlap with these broad general rights.



## B. Land Use Planning

### Counties

Minnesota statutes establish two comprehensive planning techniques that counties may use. The first is a “comprehensive plan,” focusing on the planning efforts within the bounds of the county. State statute encourages but does not require counties to adopt a comprehensive plan. The second technique is called a “community-based comprehensive plan,” which includes planning efforts within the bounds of the county, but also requires the county to collaborate with neighboring jurisdictions. This approach is also encouraged but not required (section 394.232, sub. 1).

The definition for comprehensive plan as it relates to counties is shown below:

#### **394.22, Subd. 9. Comprehensive plan**

"Comprehensive plan" means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of the county or any portion of the county.

Counties that choose to adopt a comprehensive plan are also required to adopt, by ordinance, “official controls” that further the purpose and objectives of the comprehensive plan. Official control is defined as follows:

#### **394.22, Subd. 6 Official Control**

"Official control" means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan rules, sanitary codes, building codes, housing codes, and official maps.

Although the adoption of “official controls” is required, no particular type of control (e.g. zoning or subdivision regulations) is mandated. The comprehensive plan must also provide guidelines for the timing and sequence of the adoption of “official controls” to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan.

Statutes relevant to county-wide comprehensive planning efforts are provided below:

#### **394.23 COMPREHENSIVE PLAN**

The board has the power and authority to prepare and adopt by ordinance, a comprehensive plan. A comprehensive plan or plans when adopted by ordinance must be the basis for official controls adopted under the provisions of [sections 394.21 to 394.37](#). The commissioner of natural resources must provide the natural heritage data from the county biological survey, if available, to each county for use in the comprehensive plan.

When adopting or updating the comprehensive plan, the board must, if the data is available to the county, consider natural heritage data resulting from the county biological survey. In a county that is not a greater than 80 percent area, as defined in [section 103G.005, subdivision 10b](#), the board must consider adopting goals and objectives that will protect open space and the environment.

Some Minnesota statutes authorize or encourage local government action in counties “that is not a greater than 80 percent area” The definition of this phrase appears in section 103.G.005, subdivision 10b, and the phrase refers to a “county or watershed where 80 percent or more of the pre-settlement wetland acreage is intact and: (1) 10 percent or more of the current total land area is wetland; or (2) 50 percent or more of the current total land area in state or federal lands.”

### **394.231 COMPREHENSIVE PLANS IN GREATER MINNESOTA; OPEN SPACE**

A county adopting or updating a comprehensive plan in a county outside the metropolitan area as defined by [section 473.121, subdivision 2](#), and that is not a greater than 80 percent area, as defined in [section 103G.005, subdivision 10b](#), shall consider adopting goals and objectives for the preservation of agricultural, forest, wildlife, and open space land, and minimizing development in sensitive shoreland areas. Within three years of updating the comprehensive plan, the county shall consider adopting ordinances as part of the county's official controls that encourage the implementation of the goals and objectives. The county shall consider the following goals and objectives:

- (1) minimizing the fragmentation and development of agricultural, forest, wildlife, and open space lands, including consideration of appropriate minimum lot sizes;
- (2) minimizing further development in sensitive shoreland areas;
- (3) minimizing development near wildlife management areas, scientific and natural areas, and nature centers;
- (4) identification of areas of preference for higher density, including consideration of existing and necessary water and wastewater services, infrastructure, other services, and to the extent feasible, encouraging full development of areas previously zoned for nonagricultural uses;
- (5) encouraging development close to places of employment, shopping centers, schools, mass transit, and other public and private service centers;
- (6) identification of areas where other developments are appropriate; and
- (7) other goals and objectives a county may identify.

### **394.24 OFFICIAL CONTROLS**

#### **Subdivision 1. Adopted by ordinance**

Official controls which shall further the purpose and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance. The comprehensive plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the comprehensive plan.

#### **Subd. 2. Municipality may request inclusion**

Official controls adopted by a board shall apply to and be binding upon the county or any parts thereof including areas within the incorporated limits of a municipality, when requested by the municipality under [section 394.32](#).

#### **Subd. 3. Outside metro, state, federal land**

For the area within which official controls adopted by the board are effective, such controls shall apply to the use of land for both private and public purposes, provided that the need for adequate, timely and convenient public and semipublic services and facilities must receive due consideration in the formulation, administration and enforcement of all official controls and no

land owned or leased by the federal or state government shall be subject to official controls of the county. With respect to the use of land for public purposes, the provisions of this subdivision shall not apply in the metropolitan area as described in [section 473.121](#).

Section 394.24, subd. 3 exempts land that is owned or leased by the federal or state government from being subject to the official controls of the county. The exemption of federally owned land is standard across the U.S., and the degree of exemption granted to state owned lands varies among states. These exemptions could allow federal and state government to avoid fair housing regulations adopted by the county that exceed minimum state or federal mandates, but both federal and state actions are subject to other statutes that include fair housing obligations.

Counties that adopt the optional community-based comprehensive plan are required to coordinate their efforts with their neighbors and their constituent municipalities and towns. Municipalities within that county are required to assist and cooperate with the county's planning efforts (section 462.3535, subd. 2). This collaboration reduces the risk of individual jurisdictions adopting policies or practices that might create barriers to fair housing and encourages jurisdictions to cooperate when tackling regional issues related to fair housing and protecting FHAA-protected individuals.

### **394.232 COMMUNITY-BASED PLANNING**

#### **Subd. 1. General**

Each county is encouraged to prepare and implement a community-based comprehensive plan. A community-based comprehensive plan is a comprehensive plan that is consistent with the goals of community-based planning.

#### **Subd. 2. Notice and participation**

Notice must be given at the beginning of the community-based comprehensive planning process to the Department of Natural Resources, the Department of Agriculture, the Department of Employment and Economic Development, the Board of Water and Soil Resources, the Pollution Control Agency, the Department of Transportation, local government units, and local citizens to actively participate in the development of the plan.

#### **Subd. 3. Coordination**

A county that prepares a community-based comprehensive plan shall coordinate its plan with the plans of its neighbors and its constituent municipalities and towns in order both to prevent its plan from having an adverse impact on other jurisdictions and to complement plans of other jurisdictions. The county's community-based comprehensive plan must incorporate the community-based comprehensive plan of any municipality or town in the county prepared in accordance with [section 462.3535](#). A county may incorporate a municipal or town community-based comprehensive plan by reference.

#### **Subd. 4. Joint planning**

Under the joint exercise of powers provisions in [section 471.59](#), a county may establish a joint planning district with other counties, municipalities, and towns, that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. The county may delegate its authority to adopt official controls under this chapter to the board of the joint planning district.

...

#### **Subd. 6. Plan update**

The county board, or the board of the joint planning district, shall review and update the community-based comprehensive plan periodically, but at least every ten years. When updating the plan, the county board or the board of the joint planning district must consider natural heritage data resulting from the county biological survey. In a county that is not a greater than 80 percent area, as defined in [section 103G.005, subdivision 10b](#), the board must consider adopting goals and objectives that will protect open space and the environment.

**Subd. 7. [Repealed by amendment, 2011 c 76 art 4 s 1]**

**Subd. 8. Planning authority**

Nothing in this section shall be construed to prohibit or limit a county's authority to prepare and adopt a comprehensive plan and official controls under this chapter.

It appears that counties that opt to prepare a “community-based comprehensive plan” rather than a “comprehensive plan” may not be subject to the requirement to adopt “official controls” to implement that plan.

While planning appears to be mostly optional for Minnesota counties, the “official controls” requirement provides counties the tools they need to adopt zoning regulations that comply with the requirements of the FHAA and Minnesota’s anti-discrimination statutes.

## **Municipalities**

Municipalities are also given the power and authority to guide future development through two types of comprehensive planning activities; a “comprehensive municipal plan” and a “community-based comprehensive municipal plan”. While adopting a comprehensive municipal plan is required per state statute (section 462.355, subd. 1), adopting a community-based comprehensive municipal plan is optional (section 462.3535, subd. 1). As with their county counterparts, the two plans differ in that a comprehensive municipal plan focuses on planning activities within the jurisdictional boundaries of the municipality; while the community-based comprehensive municipal plan requires an additional level of collaboration with the county and neighboring jurisdictions.

Key provisions for municipal planning are shown in blue shading below.

### **462.352 Definitions**

**Subd. 1. Application**

For the purposes of [sections 462.351 to 462.364](#) the terms defined in this section have the meanings given them.

**Subd. 2. Municipality**

"Municipality" means any city, including a city operating under a home rule charter, and any town.

**Subd. 3. Planning agency**

"Planning agency" means the planning commission or the planning department of a municipality.

**Subd. 4. [Repealed, 1980 c 566 s 35]**

**Subd. 5. Comprehensive municipal plan**

"Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, and may include, but is not limited to, the following:

statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

**Subd. 6. Land use plan**

"Land use plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

**Subd. 7. Transportation plan**

"Transportation plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation of the municipality and its environs, such as streets and highways, mass transit, railroads, air transportation, trucking and water transportation, and includes a major thoroughfare plan.

**Subd. 8. Community facilities plan**

"Community facilities plan" means a compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the public or semipublic facilities of the municipality such as recreational, educational and cultural facilities.

**Subd. 9. Capital improvement program**

"Capital improvement program" means an itemized program setting forth the schedule and details of specific contemplated public improvements by fiscal year, together with their estimated cost, the justification for each improvement, the impact that such improvements will have on the current operating expense of the municipality, and such other information on capital improvements as may be pertinent.

**Subd. 10. Official map**

"Official map" means a map adopted in accordance with [section 462.359](#), which may show existing and proposed future streets, roads, highways, and airports of the municipality and county, the area needed for widening of existing streets, roads, and highways of the municipality and county, and existing and future county state aid highways and state trunk highway rights-of-way. An official map may also show the location of existing and future public land and facilities within the municipality. In counties in the metropolitan area as defined in [section 473.121](#), official maps may for a period of up to five years designate the boundaries of areas reserved for purposes of soil conservation, water supply conservation, flood control, and surface water drainage and removal, including appropriate regulations protecting those areas against encroachment by buildings or other physical structures or facilities.

**Subd. 11. Governing body**

"Governing body" in the case of cities means the council by whatever name known, and in the case of a town, means the town board.

**462.352, subd. 5. Comprehensive municipal plan**

"Comprehensive municipal plan" means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of

the municipality and its environs, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency's recommendations for the future development of the community.

#### **462.353 AUTHORITY TO PLAN; FUNDS; FEES; APPEAL**

##### **Subd. 1. General authority**

A municipality may carry on comprehensive municipal planning activities for guiding the future development and improvement of the municipality and may prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance and other official actions in accordance with the provisions of [sections 462.351 to 462.364](#).

...

#### **462.355 ADOPT, AMEND COMPREHENSIVE PLAN; INTERIM ORDINANCE**

##### **Subd. 1. Preparation and review**

The planning agency shall prepare the comprehensive municipal plan. In discharging this duty the planning agency shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan. In its planning activities the planning agency shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies.

The planning agency shall periodically review the plan and recommend amendments whenever necessary. When preparing or recommending amendments to the comprehensive plan, the planning agency of a municipality located within a county that is not a greater than 80 percent area, as defined in [section 103G.005, subdivision 10b](#), must consider adopting goals and objectives that will protect open space and the environment.

##### **Subd. 1a. Update by metropolitan municipalities**

Each municipality in the metropolitan area, as defined in [section 473.121, subdivision 2](#), shall review and update its comprehensive plan and fiscal devices and official controls as provided in [section 473.864, subdivision 2](#).

##### **Subd. 2. Procedure to adopt, amend**

The planning agency may, unless otherwise provided by charter or ordinance consistent with the municipal charter, recommend to the governing body the adoption and amendment from time to time of a comprehensive municipal plan. The plan may be prepared and adopted in sections, each of which relates to a major subject of the plan or to a major geographical section of the municipality. The governing body may propose the comprehensive municipal plan and amendments to it by resolution submitted to the planning agency. Before adopting the comprehensive municipal plan or any section or amendment of the plan, the planning agency shall hold at least one public hearing thereon. A notice of the time, place and purpose of the hearing shall be published once in the official newspaper of the municipality at least ten days before the day of the hearing.

##### **Subd. 3. Adoption by governing body**

A proposed comprehensive plan or an amendment to it may not be acted upon by the governing body until it has received the recommendation of the planning agency or until 60 days have elapsed from the date an amendment proposed by the governing body has been submitted to the planning agency for its recommendation.

Unless otherwise provided by charter, the governing body may by resolution adopt and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance.

Except for amendments to permit affordable housing development, a resolution to amend or adopt a comprehensive plan must be approved by a two-thirds vote of all of the members. Amendments to permit an affordable housing development are approved by a simple majority of all of the members.

For purposes of this subdivision, "affordable housing development" means a development in which at least 20 percent of the residential units are restricted to occupancy for at least ten years by residents whose household income at the time of initial occupancy does not exceed 60 percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development, and with respect to rental units, the rents for affordable units do not exceed 30 percent of 60 percent of area median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

Subd. 4. Interim ordinance<sup>5</sup>

(a) If a municipality is conducting studies or has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of a comprehensive plan or official controls as defined in [section 462.352, subdivision 15](#), or if new territory for which plans or controls have not been adopted is annexed to a municipality, the governing body of the municipality may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective.

...

(c)(1) A statutory or home rule charter city may adopt an interim ordinance that regulates, restricts, or prohibits a housing proposal only if the ordinance is approved by majority vote of all members of the city council.

(2) Before adopting the interim ordinance, the city council must hold a public hearing after providing written notice to any person who has submitted a housing proposal, has a pending housing proposal, or has provided a written request to be notified of interim ordinances related to housing proposals. The written notice must be provided at least three business days before the public hearing. Notice also must be posted on the city's official Web site, if the city has an official Web site.

(3) The date of the public hearing shall be the earlier of the next regularly scheduled city council meeting after the notice period or within ten days of the notice.

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<sup>5</sup> This revised section applies to interim ordinances adopted after August 1, 2017.

(4) The activities proposed to be restricted by the proposed interim ordinance may not be undertaken before the public hearing.

(5) For the purposes of this paragraph, "housing proposal" means a written request for city approval of a project intended primarily to provide residential dwellings, either single family or multi-family, and involves the subdivision or development of land or the demolition, construction, reconstruction, alteration, repair, or occupancy of residential dwellings.

(d) The period of an interim ordinance applicable to an area that is affected by a city's master plan for a municipal airport may be extended for such additional periods as the municipality may deem appropriate, not exceeding a total additional period of 18 months. In all other cases, no interim ordinance may halt, delay, or impede a subdivision that has been given preliminary approval, nor may any interim ordinance extend the time deadline for agency action set forth in section 15.99 with respect to any application filed prior to the effective date of the interim ordinance. The governing body of the municipality may extend the interim ordinance after a public hearing and written findings have been adopted based upon one or more of the conditions in clause (1), (2), or (3). The public hearing must be held at least 15 days but not more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended for the following conditions and durations, but, except as provided in clause (3), an interim ordinance may not be extended more than an additional 18 months:

(1) up to an additional 120 days following the receipt of the final approval or review by a federal, state, or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the municipality at least 30 days before the expiration of the interim ordinance;

(2) up to an additional 120 days following the completion of any other process required by a state statute, federal law, or court order, when the process is not completed at least 30 days before the expiration of the interim ordinance; or

(3) up to an additional one year if the municipality has not adopted a comprehensive plan under this section at the time the interim ordinance is enacted.

The lower voting requirement in section 426.355, subd. 3 reflect the state's interest in removing barriers to affordable housing; which also tends to favor the FHAA-protected population.

The municipal planning agency is required to study and make recommendations to the government body reasonable and practicable means for putting the comprehensive municipal plan (or section of the plan) into effect. This allows municipalities to adopt, by ordinance, legislative land use controls (i.e. zoning regulations, regulations for the subdivision of land, official maps, public improvement and public service programs, urban renewal, and a capital improvements program) (462.356, subd. 1). The revised interim ordinance provisions adopted in 2017 are facially neutral with respect to FHAA-protected citizens, are fairly typical of moratoria provisions for pending studies, and include additional due process protections when applied to proposed housing projects or projects with preliminary approvals. These provisions do not create barriers to fair housing, and any impact on the production of affordable housing is temporary.

#### **462.356 PROCEDURE TO EFFECT PLAN: GENERALLY**

##### **Subd. 1. Recommendations for plan execution**



Upon the recommendation by the planning agency of the comprehensive municipal plan or sections thereof, the planning agency shall study and propose to the governing body reasonable and practicable means for putting the plan or section of the plan into effect. Subject to the limitations of the following sections, such means include, but are not limited to, zoning regulations, regulations for the subdivision of land, an official map, a program for coordination of the normal public improvements and services of the municipality, urban renewal and a capital improvements program.

While these county and municipal planning statutes do not explicitly mention fair housing or FHAA-protected citizens, they are not required to do so, and facial neutrality on these issues does not create a barrier to fair housing.

As an alternative to a comprehensive plan, if a municipality elects to adopt a community-based municipal comprehensive plan, it is required to coordinate with the county and neighboring jurisdictions to both prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions. Coordinating efforts among neighboring jurisdiction may bring to light larger regional issues related to fair housing and could encourage pro-active policies to address the issues. Key statutes related to this type of plan are shown below.

#### ***462.3535 Community-Based Planning***

##### **Subd. 1. General**

Each municipality is encouraged to prepare and implement a community-based comprehensive municipal plan.

##### **Subd. 2. Coordination**

A municipality that prepares a community-based comprehensive municipal plan shall coordinate its plan with the plans, if any, of the county and the municipality's neighbors both in order to prevent the plan from having an adverse impact on other jurisdictions and to complement the plans of other jurisdictions. The municipality shall prepare its plan to be incorporated into the county's community-based comprehensive plan, if the county is preparing or has prepared one, and shall otherwise assist and cooperate with the county in its community-based planning.

##### **Subd. 3. Joint planning**

Under the joint exercise of powers provisions in [section 471.59](#), a municipality may establish a joint planning district with other municipalities or counties that are geographically contiguous, to adopt a single community-based comprehensive plan for the district. A municipality may delegate its authority to adopt official controls under sections [462.351 to 462.364](#), to the board of the joint planning district.

If a municipality chooses to adopt a community-based comprehensive plan, it is required to, at a minimum, address in that plan any urban growth areas identified in a county plan. Municipalities may then elect to establish an urban growth area for the urbanized and urbanizing area. If a municipality chooses to establish an urban growth area, the plan must establish a staged process for boundary adjustments to include the urbanized or urbanizing area within corporate limits as the urban growth area is developed and provided municipal services. Relevant text related to urban growth areas are provided in blue shading below.

#### ***462.3535 COMMUNITY-BASED PLANNING***

...

**Subd. 4. Cities; urban growth areas**

(a) The community-based comprehensive municipal plan for a statutory or home rule charter city, and official controls to implement the plan, must at a minimum, address any urban growth area identified in a county plan and may establish an urban growth area for the urbanized and urbanizing area. The city plan must establish a staged process for boundary adjustment to include the urbanized or urbanizing area within corporate limits as the urban growth area is developed and provided municipal services.

(b) Within the urban growth area, the plan must provide for the staged provision of urban services, including, but not limited to, water, wastewater collection and treatment, and transportation.

**Subd. 5. Urban growth area boundary adjustment process**

(a) After an urban growth area has been identified in a county or city plan, a city shall negotiate, as part of the comprehensive planning process and in coordination with the county, an orderly annexation agreement with the townships containing the affected unincorporated areas located within the identified urban growth area. The agreement shall contain a boundary adjustment staging plan that establishes a sequencing plan over the subsequent 20-year period for the orderly growth of the city based on its reasonably anticipated development pattern and ability to extend municipal services into designated unincorporated areas located within the identified urban growth area. The city shall include the staging plan agreed upon in the orderly annexation agreement in its comprehensive plan. Upon agreement by the city and town, prior adopted orderly annexation agreements may be included as part of the boundary adjustment plan and comprehensive plan without regard to whether the prior adopted agreement is consistent with this section. When either the city or town requests that an existing orderly annexation agreement affecting unincorporated areas located within an identified or proposed urban growth area be renegotiated, the renegotiated plan shall be consistent with this section.

(b) After a city's community-based comprehensive plan is approved under this section, the orderly annexation agreement shall be filed with the chief administrative law judge of the state Office of Administrative Hearings or any successor agency. Thereafter, the city may orderly annex the part or parts of the designated unincorporated area according to the sequencing plan and conditions contained in the negotiated orderly annexation agreement by submitting a resolution to the chief administrative law judge. The resolution shall specify the legal description of the area designated pursuant to the staging plan contained in the agreement, a map showing the new boundary and its relation to the existing city boundary, a description of and schedule for extending municipal services to the area, and a determination that all applicable conditions in the agreement have been satisfied. Within 30 days of receipt of the resolution, the chief administrative law judge shall review the resolution and if it finds that the terms and conditions of the orderly annexation agreement have been met, shall order the annexation. The boundary adjustment shall become effective upon issuance of an order by the chief administrative law judge. The chief administrative law judge shall cause copies of the boundary adjustment order to be mailed to the secretary of state, Department of Revenue, state demographer, and Department of Transportation. No further proceedings under [chapter 414](#) or [572A](#) shall be required to accomplish the boundary adjustment. This section provides the sole method for annexing unincorporated land within an urban growth area, unless the parties agree otherwise.

(c) If a community-based comprehensive plan is updated, the parties shall renegotiate the orderly annexation agreement as needed to incorporate the adjustments and shall refile the agreement with the chief administrative law judge.

## **462.352 DEFINITIONS**

### **Subd. 18. Urban growth area**

"Urban growth area" means the identified area around an urban area within which there is a sufficient supply of developable land for at least a prospective 20-year period, based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.

While these standards do not explicitly address how the adoption of an urban growth area may impact fair housing, a limitation on developable land below reasonable long-term needs of the community may drive up property values and housing prices, potentially having negative impacts on FHAA-protected individuals. However, the requirement in section 462.352, subd. 18, requires that growth boundaries be based on 20 year projections of growth and the city's ability to serve growth, which makes it unlikely that the boundary will have a significant impact on land values. Since the community-based planning provisions are optional, they do not create a barrier to fair housing in Minnesota.

## **C. Zoning and Subdivision**

Zoning and subdivision platting are two of the most powerful tools that cities and counties can use to regulate the type, character, and location of housing development with their boundaries; however, almost all of those regulations are adopted at the local level. State level zoning and land use enabling acts and regulations can create barriers to fair housing choice if they require local governments to use zoning or subdivision standards or definitions that reduce the supply or availability of housing for FHAA-protected citizens but the mere fact that they do not prevent local governments from taking those actions does not constitute a state-level barrier to fair housing.

## **County Zoning Statutes**

Minnesota's grant of authority allowing its county governments to engage in planning and to regulate land use through zoning and subdivision controls are contained in chapter 394, relevant sections of which are shown in the blue shaded box below.

### **394.25 FORMS OF CONTROL**

#### **Subd. 1. Adopted by ordinance**

Official controls shall be adopted by ordinance and may include but are not limited to the features set forth in this section.

#### **Subd. 2. Districts set by zoning ordinance**

Zoning ordinances establishing districts within which the use of land or the use of water or the surface of water pursuant to [section 86B.205](#) for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, surface water drainage and removal, conservation of shorelands, as defined in [sections 103F.201 to 103F.221](#), and additional uses of land and of the surface of water pursuant to [section 86B.205](#), may be by official controls encouraged, regulated, or prohibited and for such purpose the board may divide the county into districts of such number, shape, and area as may be deemed best suited to carry out the comprehensive plan.

Official controls may also be applied to wetlands preservation, open space, parks, sewage disposal, protection of groundwater, protection of floodplains as defined in [section 103F.111](#),

protection of wild, scenic, or recreational rivers as defined in [sections 103F.311](#) and [103F.315](#), protection of slope, soils, unconsolidated materials or bedrock from potentially damaging development, preservation of forests, woodlands and essential wildlife habitat, reclamation of nonmetallic mining lands; protection and encouragement of access to direct sunlight for solar energy systems as defined in [section 216C.06, subdivision 17](#); and the preservation of agricultural lands.

Official controls may include provisions for purchase of development rights by the board in the form of conservation easements under [chapter 84C](#) in areas where preservation is considered by the board to be desirable, and the transfer of development rights from those areas to areas the board considers more desirable for development.

**Subd. 3. In district zoning, maps**

Within each such district zoning ordinances or maps may also be adopted designating or limiting the location, height, width, bulk, type of foundation, number of stories, size of, and the specific uses for which dwellings, buildings, and structures may be erected or altered; the minimum and maximum size of yards, courts, or other open spaces; setback from existing roads and highways and roads and highways designated on an official map; protective measures necessary to protect the public interest including but not limited to controls relating to appearance, signs, lighting, hours of operation and other aesthetic performance characteristics including but not limited to noise, heat, glare, vibrations and smoke; the area required to provide for off street loading and parking facilities; heights of trees and structures near airports; and to avoid too great concentration or scattering of the population.

All such provisions shall be uniform for each class of land or building throughout each district, but the provisions in one district may differ from those in other districts.

...

**Subd. 4. Official maps**

Official maps as defined in [section 394.22, subdivision 12](#).

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These statutes contain very traditional enabling language that authorizes many types of zoning actions but does not require or encourage any actions that would create barriers to fair housing.

The county government's authority also includes the ability to grant variances to zone district regulations subject to certain criteria.

**394.27 CREATION AND DUTIES OF BOARD OF ADJUSTMENT**

**Subd. 7. Variances; practical difficulties**

The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities.

Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in [section 216C.06, subdivision 14](#), when in harmony with the official controls.

No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

This is traditional variance enabling act language that is facial neutrality and does not create a barrier to fair housing.

State statute also grants authority to county government to designate certain types of developments as conditional uses under zoning regulations (section 394.301). key provisions are shown in the blue shaded text below.

### **394.301 CONDITIONAL USE PERMITS**

#### **Subd. 1. By ordinance**

The board may by ordinance designate certain types of developments, including planned unit developments and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved upon a showing by an applicant that standards and criteria stated in the ordinance will be satisfied. Such standards and criteria shall include both general requirements for all conditional uses and, insofar as practicable, requirements specific to each designated conditional use.

#### **Subd. 2. Issuance, review**

Conditional use permits shall be issued by the officer administering the official controls only upon the order of the board or the planning commission as designated by ordinance as the approval authority for one or more categories of conditional uses. The planning commission shall in all instances have an opportunity to review conditional uses prior to any final decision by the designated approval authority. Public hearings shall be held in accordance with [section 394.26](#). In connection with ordering the issuance of a conditional use permit the designated approval authority may impose such additional restrictions or conditions as it deems necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation and performance characteristics. When appropriate, restrictive covenants may be entered into regarding such matters.

#### **Subd. 3. Duration**

A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the board from enacting or amending official controls to change the status of conditional uses.

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## **County Subdivision Statutes**

Minnesota grants to its counties powers to regulate subdivisions, as provided in the blue shading below.

### **394.25 FORMS OF CONTROL**

#### **Subd. 7. Specific controls; other subjects**

- (a) Specific controls pertaining to other subjects incorporated in the comprehensive plan or establishing standards and procedures to be employed in land development including, but not limited to, subdividing of land and the approval of land plats and the preservation and dedication of streets and land for other public purposes and the general design of physical improvement.
- (b) A county must approve a preliminary plat that meets the applicable standards and criteria contained in the county's zoning and subdivision regulations unless the county adopts written findings based on a record from the public proceedings why the application shall not be approved.
- (c) The controls may require that a portion of any proposed subdivision be dedicated to the public or preserved for public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space. The requirement must be imposed by ordinance.
- (d) If a county adopts the ordinance required by paragraph (c), the county must adopt a capital improvement program and adopt a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan subject to the terms and conditions in this paragraph and in paragraphs (e) through (p).
- (e) The county may choose to accept a per lot cash fee as set by ordinance from the applicant for some or all of the new lots created in the subdivision.
- (f) In establishing the portion to be dedicated or preserved or the per lot cash fee, the controls must consider the open space, park, recreational, or common areas and facilities that the applicant proposes to reserve for the subdivision.
- (g) The county must reasonably determine that it will need to acquire that portion of land for the purposes stated in this subdivision as a result of approval of the subdivision.
- (h) The fees or dedication must be fair, reasonable, and proportionate to the need created.
- (i) Any cash payments received must be placed by the county in a special fund to be used only for the purposes for which the money was obtained.
- (j) Any cash payments received must be used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space. Cash payments must not be used for ongoing operation, maintenance, or redevelopment of parks, recreational facilities, playgrounds, trails, wetlands, or open space.
- (k) The county must not deny the approval of a subdivision based on an inadequate supply of parks, open spaces, trails, or recreational areas within the county.
- (l) The county must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee or dedication.
- (m) The county must use at least 75 percent of the funds collected under this subdivision according to the plan required in paragraph (d) in the township or city where the collection of funds occurs. However, the township board or city council may agree to allow the county to use these funds outside of the township or city in a manner consistent with the county parks, trails, and open space capital improvement plan or the county parks and open space component in its comprehensive plan. The remainder of the funds may be used by the county only for parks and trails connectivity and accessibility purposes. The county must annually report to cities and townships on where funds were collected and where funds were expended in the past year.

(n) Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of resubdividing the property, the number of lots is increased, then the park dedication or per lot cash fee must apply only to the net increase of lots.

(o) A county must not require a dedication of a portion of a proposed subdivision or a payment in lieu of dedication in a town or city that has adopted a requirement to dedicate or a payment in place of dedication as a provision of the town or city's subdivision regulations under [section 462.358, subdivision 2b](#), or [chapter 366](#).

(p) A county may negotiate an agreement with a town or city to share the revenue generated by dedicating a portion of a proposed subdivision or a payment in place of dedication.

These provisions authorize traditional subdivision platting and related exactions (with limits), and do not require or encourage any actions that would create barriers to fair housing.

## Town Zoning Statutes

The state grants authority to the governing body of any town to exercise the authority to plan and zone as provided by law. Relevant language is included in the blue shading below.

### **394.33 TOWN POWERS**

#### **Subd. 1. Not inconsistent**

The governing body of any town including any town with the powers of a statutory city pursuant to law may continue to exercise the authority to plan and zone as provided by law, but after the adoption of official controls for a county or portion thereof by the board of county commissioners no town shall enact or enforce official controls inconsistent with or less restrictive than the standards prescribed in the official controls adopted by the board.

Nothing in this section shall limit any town's power to adopt official controls, including shoreland regulations which are more restrictive than provided in the controls adopted by the county.

Upon the adoption or amendment of any official controls the governing body of the town shall record a certified copy thereof with the county recorder or registrar of titles. A certified copy of any official controls of any town which are in effect on August 1, 1974, shall also be filed by the governing body of the town with the county recorder or registrar of titles for record within one year from August 1, 1974.

#### **Subd. 2. Like municipality**

The board of supervisors of any town which has adopted or desires to adopt zoning regulations and restrictions pursuant to law shall have the authority granted the governing body of any municipality as provided in [section 394.32](#).

The town board of supervisors may submit to the legal voters of the town the question whether the board should adopt land use and zoning regulations and restrictions in the town. If the majority of the voters elect to adopt land use and zoning regulations; the town may regulate based on the criteria outlined in section 366.12. The town board may also divide the town into zoning districts as per section 366.13, which is shown in blue shaded text below.

The requirement that town regulations be “no less restrictive” than county regulations could be a barrier to fair housing, since county adoption of regulations limiting or prohibiting small lots, or multifamily development, or groups homes for FHAA-protected persons in residential districts, would prevent a town from adopting regulations more favorable to FHAA-protected persons.

### **366.13 ZONING DISTRICTS**

For the purposes of [sections 366.10 to 366.18](#), if a majority of the voters voting on the question have voted "Yes" at an election under [section 366.12](#), the town board may divide the town into districts or zones of the number, shape, and area as it deems best suited to carry out [sections 366.10 to 366.18](#). Within the districts or zones it may regulate and restrict:

- (1) the location, height, bulk, number of stories, size of buildings and other structures,
- (2) the location of roads and schools,
- (3) the percentage of lot which may be occupied,
- (4) the sizes of yards and other open spaces,
- (5) the density and distribution of population,
- (6) the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and
- (7) the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes.

The regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but regulations in one district may differ from those in other districts.

...

Before adopting a division or regulation under this section the board shall hold a public hearing on the matter with notice as provided in [section 366.15](#).

### **366.14 PURPOSE OF REGULATIONS**

Regulations shall be made in accordance with the comprehensive plan to promote the health, morals, convenience, order, prosperity, or welfare of the present and future inhabitants of the town, including, among other things:

- (1) lessening congestion in streets or roads;
- (2) reducing the wastes of excessive amounts of roads;
- (3) securing safety from fire and other dangers;
- (4) providing adequate light and air;
- (5) preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; and
- (6) promoting a distribution of population and classification of land uses and distribution of land development and utilization that will facilitate and conserve provisions for transportation, water flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, food supplies, and protection of urban and nonurban development.

These sections grant Minnesota towns typical zoning powers. While these statutes do not explicitly mention fair housing or FHAA-protected citizens, they are not required to do so, and its facial neutrality on these issues does not create a barrier to fair housing.

### **366.17 PLANNING AND ZONING COMMISSION**



To carry out [sections 366.10 to 366.18](#), the town board may appoint a planning and zoning commission, all of whom shall be landowners. The number of commissioners shall be determined by the board. The planning and zoning commission shall act as an adviser to the town board. The commission may be empowered to employ a civil engineer or city planner as required to establish the districts or zones of any parts of the town.

Section 366.17 enables the town board to appoint a planning and zoning commission, but it also requires the members of that commission to be landowners. The elimination of renters may disenfranchise low income and disabled persons from participating in this aspect of local government decision-making. Many states do not require planning commission members to be property owners, and removal of this requirement would better promote fair housing goals and policies.

## **Town Subdivision Statutes**

We were unable to find explicit statutory authority for Minnesota towns to approve subdivision plats. We assume that either town governments do not have those powers, or that parallel municipal or county subdivision powers apply to towns, in which case the comments on county subdivision powers (above) or municipal subdivision statutes (below) apply here as well.

## **Municipal Zoning Statutes**

The State of Minnesota—like every other state in the United States—grants municipalities zoning authority to divide land into districts and regulate things like building height, lot coverage, setbacks, and density. Key provisions of 2016 Minnesota Statutes granting these powers are set forth in the blue box below.

### ***462.12 RESTRICTED RESIDENCE DISTRICTS***

Any city of the first class may, through its council, upon petition of 50 percent of the owners of the real estate in the district sought to be affected, by resolution, designate and establish by proceedings hereunder restricted residence districts and in and by such resolution and proceedings prohibit the erection, alteration, or repair of any building or structure for any one or more of the purposes hereinafter named, and thereafter no building or other structure shall be erected, altered or repaired for any of the purposes prohibited by such resolution and proceedings, which may prohibit the following: hotels, restaurants, eating houses, mercantile business, stores, factories, warehouses, printing establishments, tailor shops, coal yards, ice houses, blacksmith shops, repair shops, paint shops, bakeries, dyeing, cleaning and laundering establishments, billboards and other advertising devices, public garages, public stables, apartment houses, tenement houses, flat buildings, any other building or structure for purposes similar to the foregoing. Public garages and public stables shall include those, and only those, operated for gain.

Nothing herein contained shall be construed to exclude double residences or duplex houses, so-called schools, churches, or signs advertising for rent or sale the property only on which they are placed, and nothing herein contained shall be construed so as to prohibit the council of any such city of the first class from permitting the remodeling or reconstruction of the interior of any structure in any such restricted residence district which possesses a gross ground area delineated by its foundation walls of at least 1,000 square feet, so that the same shall contain separate accommodations for several, not in excess of four, families; provided that the substantial alteration of the exterior of any such structure shall not be authorized in any such

case; and provided further, that such city council shall expressly find in each such case that such remodeling or alteration shall be consistent with the public health and safety.

The provisions of Section 462.12 are not common and may create a barrier to fair housing. The restricted residence districts permitted by that statute allows the city to prohibit the erection, alteration, or repair of apartment houses, tenement houses, flat buildings, and any other building or structure with similar purposes (i.e. housing other than single-family housing). That authority could be interpreted to include the power to restrict group housing or other housing for FHAA-protected persons. While the statute contains a provision for repealing the restrictive residence designation, the petition and procedural requirements (including assessment of damages occurring through removal) may make it difficult to remove a designation. Section 462.12 appears dated, and removing it could help promote state and federal fair housing goals and objectives.

### **462.357 OFFICIAL CONTROLS: ZONING ORDINANCE**

#### **Subd. 1. Authority for zoning**

For the purpose of promoting the public health, safety, morals, and general welfare, a municipality may by ordinance regulate on the earth's surface, in the air space above the surface, and in subsurface areas, the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in [sections 103F.201 to 103F.221](#), access to direct sunlight for solar energy systems as defined in [section 216C.06](#), flood control or other purposes, and may establish standards and procedures regulating such uses.

To accomplish these purposes, official controls may include provision for purchase of development rights by the governing body in the form of conservation easements under [chapter 84C](#) in areas where the governing body considers preservation desirable and the transfer of development rights from those areas to areas the governing body considers more appropriate for development.

...

The regulations may divide the surface, above surface, and subsurface areas of the municipality into districts or zones of suitable numbers, shape, and area. The regulations shall be uniform for each class or kind of buildings, structures, or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts.

The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.

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**Subd. 1h. Comprehensive plans in greater Minnesota; open spaces**

When adopting or updating a comprehensive plan in a municipality located within a county that is not a greater than 80 percent area, as defined in [section 103G.005, subdivision 10b](#), and that is located outside the metropolitan area, as defined by [section 473.121, subdivision 2](#), the municipality shall consider adopting goals and objectives for the preservation of agricultural, forest, wildlife, and open space land and the minimization of development in sensitive shoreland areas. Within three years of updating the comprehensive plan, the municipality shall consider adopting ordinances as part of the municipality's official controls that encourage the implementation of the goals and objectives.

**Subd. 2. General requirements**

(a) At any time after the adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption.

(b) Subject to the requirements of subdivisions 3, 4, and 5, the governing body may adopt and amend a zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the governing body.

(c) The land use plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the land use plan.

**Subd. 5. Amendment; certain cities of the first class**

The provisions of this subdivision apply to the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial of a property located in a city of the first class, except a city of the first class in which a different process is provided through the operation of the city's home rule charter. In a city to which this subdivision applies, amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such planning commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week

for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

While the governing body may adopt or amend a zoning ordinance by a majority vote; section 462.357, subd. 2 requires a two-third majority vote when changing all or part of the existing zoning district from residential to either commercial or industrial. We note that this provision does not address mixed residential and non-residential development. We assume that rezoning a residential property to a mixed residential-and-nonresidential category would only require a majority vote and not a two-thirds vote, since the resulting district is neither commercial nor industrial. While separating districts based on the land uses listed in the statute has been common since the mid-20<sup>th</sup> century, communities are recognizing that mixed-use development can help incentivize low- and moderate-income housing that would otherwise not be practical under traditional zoning practices.

Although these are fairly typical provisions regarding amendment of a zoning ordinance, many states allow the governing bodies of local governments to amend zoning ordinances by majority vote. This section does not create impediments to the provision of fair housing.

In addition to granting general municipal zoning authority, Minnesota statutes authorize the approval of variances to zoning provisions. Relevant language regarding the appeals and adjustments process is in the blue shading below.

#### **462.357 OFFICIAL CONTROLS: ZONING ORDINANCE**

##### **Subd. 6. Appeals and adjustments**

Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in [section 216C.06, subdivision 14](#), when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances. A

condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**Subd. 6a. Normal residential surroundings for persons with disabilities**

It is the policy of this state that persons with disabilities should not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings. For purposes of subdivisions 6a through 9, "person" has the meaning given in [section 245A.02, subdivision 11](#).

The provisions in Section 462.357, subd. 6 provide the qualifying language for how one can receive a variance. While the standards in subd. 6a protect persons with disabilities from being excluded by municipal zoning ordinances or other land use regulations, it does not cover all categories of FHAA-protected individuals. This is an area where a revision to Minnesota could be strengthened if the protections were extended to all FHAA-protected individuals, not only those with disabilities.

As with counties, Minnesota’s municipalities have been granted explicit authority to create conditional uses, as shown in the blue shaded text below.

**462.3595 CONDITIONAL USE PERMITS**

**Subd. 1. Authority**

The governing body may by ordinance designate certain types of developments, including planned unit developments, and certain land development activities as conditional uses under zoning regulations. Conditional uses may be approved by the governing body or other designated authority by a showing by the applicant that the standards and criteria stated in the ordinance will be satisfied. The standards and criteria shall include both general requirements for all conditional uses, and insofar as practicable, requirements specific to each designated conditional use.

**Subd. 2. Public hearings**

Public hearings on the granting of conditional use permits shall be held in the manner provided in [section 462.357, subdivision 3](#).

**Subd. 3. Duration**

A conditional use permit shall remain in effect as long as the conditions agreed upon are observed, but nothing in this section shall prevent the municipality from enacting or amending official controls to change the status of conditional uses.

This is a typical zoning power in many states and does not create a barrier to fair housing.

**Municipal Subdivision Statutes**

Section 462.358, subd. 1a grants to municipalities the authority to adopt by ordinance subdivision regulations establishing standards, requirements, and procedures for the approval and disapproval of subdivision. Key provisions of the municipal subdivision authority statutes are shown in blue shading below.

**462.358 OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.**

**Subdivision 1. [Repealed, 1980 c 566 s 35]**

**Subd. 1a. Authority**

To protect and promote the public health, safety, and general welfare, to provide for the orderly, economic, and safe development of land, to preserve agricultural lands, to promote the availability of housing affordable to persons and families of all income levels, and to facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds, and other public services and facilities, a municipality may by ordinance adopt subdivision regulations establishing standards, requirements, and procedures for the review and approval or disapproval of subdivisions. The regulations may contain varied provisions respecting, and be made applicable only to, certain classes or kinds of subdivisions. The regulations shall be uniform for each class or kind of subdivision.

A municipality may by resolution extend the application of its subdivision regulations to unincorporated territory located within two miles of its limits in any direction but not in a town which has adopted subdivision regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the subdivision of land equal distance from its boundaries within this area.

#### **Subd. 2a. Terms of regulations**

The standards and requirements in the regulations may address without limitation: the size, location, grading, and improvement of lots, structures, public areas, streets, roads, trails, walkways, curbs and gutters, water supply, storm drainage, lighting, sewers, electricity, gas, and other utilities; the planning and design of sites; access to solar energy; and the protection and conservation of floodplains, shore lands, soils, water, vegetation, energy, air quality, and geologic and ecologic features. The regulations shall require that subdivisions be consistent with the municipality's official map if one exists and its zoning ordinance, and may require consistency with other official controls and the comprehensive plan. The regulations may prohibit certain classes or kinds of subdivisions in areas where prohibition is consistent with the comprehensive plan and the purposes of this section, particularly the preservation of agricultural lands. The regulations may prohibit, restrict or control development for the purpose of protecting and assuring access to direct sunlight for solar energy systems. The regulations may prohibit the issuance of permits or approvals for any tracts, lots, or parcels for which required subdivision approval has not been obtained.

#### **Subd. 6. Variances**

Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

#### **Subd. 11. Affordable housing**

For the purposes of this subdivision, a "development application" means subdivision, planned unit development, site plan, or other similar type action. If a municipality, in approving a development application that provides all or a portion of the units for persons and families of low and moderate income, so proposes, the applicant may request that provisions authorized by clauses (1) to (4) will apply to housing for persons of low and moderate income, subject to agreement between the municipality and the applicant:

(1) establishing sales prices or rents for housing affordable to low- and moderate-income households;

(2) establishing maximum income limits for initial and subsequent purchasers or renters of the affordable units;

(3) establishing means, including, but not limited to, equity sharing, or similar activities, to maintain the long-term affordability of the affordable units; and

(4) establishing a land trust agreement to maintain the long-term affordability of the affordable units.

Clauses (1) to (3) shall not apply for more than 20 years from the date of initial occupancy except where public financing or subsidy requires longer terms.

## **462.352 Definitions**

### **Subd. 12. Subdivision**

"Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

(1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;

(2) creating cemetery lots;

(3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

### **Subd. 13. Plat**

"Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to [chapter 505](#) and containing all elements and requirements set forth in applicable local regulations adopted pursuant to [section 462.358](#) and [chapter 505](#).

### **Subd. 14. Subdivision regulation**

"Subdivision regulation" means an ordinance adopted pursuant to [section 462.358](#) regulating the subdivision of land.

### **Subd. 15. Official controls**

"Official controls" or "controls" means ordinances and regulations which control the physical development of a city, county or town or any part thereof or any detail thereof and implement the general objectives of the comprehensive plan. Official controls may include ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes and official maps.

These statutory texts grant traditional subdivision powers and are facially neutral. One of the criteria by which a municipality can regulate subdivisions is to promote the availability of housing that is affordable to persons and families of all income levels. Any regulations that promote the inclusion of affordable housing tend to benefit FHAA-protected individuals.

While the regulations found in 462.358, subd. 11 address affordable housing, they are optional. These provisions allow a municipality to execute an agreement with the developer that provides all or a portion of a project with low and moderate income units, and to include additional standards to ensure the units provided remain affordable for up to 20 years. The opportunity to negotiate agreements that promote the inclusion of affordable housing tends to indirectly benefit FHAA-protected individuals.

While the power to regulate land use and the density/intensity of development contained in Minnesota's municipal zoning and subdivision statutes raises the possibility that individual cities could restrict density in ways that raise the costs of housing, the state Act does not create or encourage that result. These statutes do not require local governments to take any actions that would restrict access to housing for FHAA-protected citizens, and do not create state level barriers to fair housing for those groups.

## **D. Municipal Housing Impact Notes**

Minnesota statutes also contain a somewhat unusual provision allowing municipalities to prepare housing impact notes, as shown in the blue shaded text below.

### **462.3612 HOUSING FISCAL IMPACT NOTES**

#### **Subd. 1. Definition**

"Housing fiscal impact" means increased or decreased costs that a housing development would incur as a result of an official control adopted or amended by a municipality after August 1, 2002, that adds to or changes the regulation of the location, height, width, bulk, type of foundation, number of stories, size of buildings and other structures, percentage of the lot occupied, size of yards and other open spaces, density and distribution of population, uses of buildings, or design of residential housing in a municipality that has adopted the State Building Code and is located in a county with a population of 30,000 or more.

#### **Subd. 2. Conditions; contents**

The responsible municipality may prepare a housing fiscal impact note prior to the public hearing on the proposed adoption or amendment of an official control.

The housing fiscal impact note may:

- (1) estimate in dollar amounts the increase or decrease in the costs as a result of the municipal proposed action;
- (2) specify long-range implications of the proposed action;
- (3) describe appropriate alternatives to the proposed action; and
- (4) discuss the rationale for the proposed change.

While this statute was probably not created with fair housing opportunities in mind, it authorizes municipalities to engage in more careful thinking about the cost impacts of facially neutral zoning changes. In some circumstances it may tend to discourage zoning changes that would significantly increase the cost of housing, and is therefore supportive of affordable housing (and indirectly supportive of housing for FHAA-protected persons). In other circumstances it might discourage changes that would require housing or housing development designs that promote greater accessibility for the disabled (such as requirements for Universal Design), in which case it could have a negative impact on fair housing goals and objectives. The statutes themselves, however, are facially neutral, and do not create a barrier to fair housing.

## **E. Manufactured Homes**

Manufactured homes are a potential source of affordable housing that could accommodate FHAA-protected citizens, but the availability of manufactured homes is often restricted by local zoning and subdivision ordinances. State level regulations governing individual manufactured



homes are addressed in Chapters 366.151 and 152; 394.25; and 462.357, relevant portions of which are shown with blue shading below.

### **462.357 OFFICIAL CONTROLS: ZONING ORDINANCE**

#### **Subd. 1. Authority for zoning**

...

No regulation may prohibit earth sheltered construction as defined in [section 216C.06, subdivision 14](#), relocated residential buildings, or manufactured homes built in conformance with [sections 327.31 to 327.35](#) that comply with all other zoning ordinances promulgated pursuant to this section.

...

#### **Subd. 1a. Certain zoning ordinances**

A municipality must not enact, amend, or enforce a zoning ordinance that has the effect of altering the existing density, lot-size requirements, or manufactured home setback requirements in any manufactured home park constructed before January 1, 1995, if the manufactured home park, when constructed, complied with the then existing density, lot-size and setback requirements.

#### **Subd. 1b. Conditional uses**

A manufactured home park, as defined in [section 327.14, subdivision 3](#), is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

#### **Subd. 1c. Amortization prohibited**

Except as otherwise provided in this subdivision, a municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception. This subdivision does not apply to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

### **327.14 DEFINITIONS**

#### **Subd. 2. Manufactured home**

"Manufactured home" has the meaning specified in [section 327.31, subdivision 6](#).

#### **Subd. 3. Manufactured home park**

"Manufactured home park" means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

These are fairly typical zoning powers listed in state enabling acts (with one exception), and do not create barriers to fair housing, with one exception. The one unusual provision is the prohibition on altering the existing density, lot-size requirements, or manufactured home setback requirements in any legally constructed manufactured home park established before January 1, 1995. State statute also requires that manufactured home parks be allowed as a conditional use in zoning districts that allow the construction or placement of a building used or intended to be used by two or more families. The protections for older manufactured home parks, and the requirement that county zoning ordinances list manufactured home parks as conditional uses in some zone districts, tend to support the provision of affordable housing (and indirectly support housing for FHAA-protected persons).

## **462A.2035 MANUFACTURED HOME PARK REDEVELOPMENT PROGRAM**

### **Subdivision 1. Establishment**

The agency shall establish a manufactured home park redevelopment program for the purpose of making manufactured home park redevelopment grants or loans to cities, counties, or community action programs. Cities, counties, and community action programs may use grants and loans under this program to:

- (1) provide current residents of manufactured home parks with buy-out assistance not to exceed \$4,000 per home with preference given to older manufactured homes;
- (2) provide down-payment assistance for the purchase of new and preowned manufactured homes that comply with the current version of the State Building Code in effect at the time of the sale, not to exceed \$10,000 per home; and
- (3) make improvements in manufactured home parks as requested by the grant recipient.

### **Subd. 2. Eligibility requirements**

Households assisted under this section must have an annual household income at or below 80 percent of the area median household income. Cities, counties, or community action programs receiving funds under the program must give preference to households at or below 50 percent of the area median household income. Participation in the program is voluntary and no park resident shall be required to participate. The agency shall attempt to make grants and loans in approximately equal amounts to applicants outside and within the metropolitan area.

Section 462A.2035 grants the Minnesota Housing Finance Agency the authority to establish a manufactured home park redevelopment program for the purpose of making manufactured home park redevelopment grants or loans to cities, counties, or community action programs. This laudable program provides financial support for low income residents (and indirectly to FHAA-protected citizens), and does not create barriers to fair housing.

## **462A.2097 RENTAL HOUSING**

The agency may establish a tenant-based or project-based rental housing assistance program for persons of low income or for persons with a mental illness or families that include an adult family member with a mental illness. Rental assistance may be in the form of direct rental subsidies for housing for persons or families with incomes, at the time of initial occupancy, of up to 50 percent of the area median income as determined by the United States Department of Housing and Urban Development, adjusted for families of five or more. Housing for the mentally ill must be operated in coordination with social service providers who provide services requested by tenants. Direct rental subsidies must be administered by the agency for the benefit of eligible tenants. Financial assistance provided under this section must be in the form of vendor payments whenever possible.

This section authorizes the Minnesota Housing Finance Agency to provide an additional form of support for low income residents (and indirectly to FHAA-protected citizens), and does not create barriers to fair housing.

## **CHAPTER 327. HOTELS, MOTELS, RESORTS, AND MANUFACTURED HOMES**

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### **327.16 PLAN REVIEW APPLICATION**

#### **Subdivision 1. Made to state Department of Health**

The plan review application for a manufactured home park or recreational camping area shall be made to the state Department of Health, at such office and in such manner as may be prescribed by that department.

...

### **Subd. 3. Approval**

The application for plan review shall be submitted with all plans and specifications enumerated in [subdivision 2](#), and shall be accompanied by an approved zoning permit from the municipality or county wherein the park is to be located, or a statement from the municipality or county that it does not require an approved zoning permit. The fee submitted for the plan review shall be retained by the state even though the proposed project is not approved and a license is denied.

Section 327.16, Subd. 1 and 3 outlines the plan review application process for manufactured home parks or recreational camping areas and defers to the zoning and land use controls established by the local municipality or county where the manufacture home park or recreational camping area is located. Although many states do not have specific state legislation requiring state health department reviews of manufactured home parks, the requirements of this section are facially neutral with respect to FHAA-protected groups, are closely related to public health and safety, and do not create a barrier to fair housing.

## **F. Residential Facilities**

The definition of FHAA-protected citizens includes the frail, persons with HIV/AIDS, physically and developmentally disabled, mentally ill, and recovering alcoholics and drug addicts. Many of those individuals will require supportive services in order to have a housing environment on par with other citizens. It is important that state legislation authorize (and if possible encourage) local governments to allow a wide variety of assisted living facilities through their zoning and subdivision regulations.

There has been significant litigation over whether group homes must be treated as residential rather than commercial uses — and must therefore be permitted in residential areas under certain circumstances. In general, the courts have required that group homes that have the characteristics of single family homes, most notably in the size and number of people residing in the facility, must be treated as a residential use. That means that they should be allowed in at least one (and preferably several) residential district either by right or through a permit system.<sup>6</sup> Minnesota statutes meet this basic requirement.

Some of the key Minnesota statutes addressing these types of facilities are shown in the blue shading below. Although this text is located among the municipal zoning powers, the bracketed title refers to local governments rather than municipalities, and the text of some subdivisions explicitly mentions counties and towns, so we assume these regulations apply to all three types of local government.

## **CHAPTER 462. PLANNING, ZONING [Local Government Police Powers]**

### ***462.357 OFFICIAL CONTROLS: ZONING ORDINANCE***

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<sup>6</sup> See for example: *Rhodes v. Palmetto Pathway Homes, Inc.*, 400 S.E.2d 484 (S.C. 1991); *Dornbach v. Holley*, 854 S.O.2d 211 (2002 FL); *Evergreen Meadows Homeowners Association*, 773 P.2d 1046 (Colo. 1989); and *Baltimore Neighborhoods Inc., v. Rommel Builders*, 40 F.Supp.2d 700 (1999).

...

**Subd. 7. Permitted single family use<sup>7</sup>**

A state licensed residential facility or a housing with services establishment registered under [chapter 144D](#) serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, [parts 9502.0315 to 9502.0445](#) to serve 14 or fewer children shall be considered a permitted single family residential use of property for the purposes of zoning, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

**Subd. 8. Permitted multifamily use**

Except as otherwise provided in subdivision 7 or in any town, municipal or county zoning regulation as authorized by this subdivision, a state licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning.

A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the facility which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility. Nothing herein shall be construed to exclude or prohibit residential or day care facilities from single family zones if otherwise permitted by a local zoning regulation.

Section 462.357, subd. 8 allows a township, municipal, or county zoning authority to require a conditional use permit for residential facilities serving seven or more individuals. The statute includes an important caveat that no conditions can be imposed on the facility that are more restrictive than those imposed on other conditional use or special uses of residential property in the same zones. However, in order to provide housing opportunities on a par with persons not included in FHAA-protected persons, such facilities should be permitted on the same basis as other general residential uses of the same size that are permitted in the same district. The intent of the FHAA is that group residential facilities for FHAA-protected persons be treated as a standard use of residential property, not a special use of such property that requires special review and approval.

Rather than requiring conditional use review, municipalities and counties should permit each of these types of facilities in neighborhoods where the scale of the facility matches the general scale or occupancy of residential dwellings in that area. In general, courts resolving challenges to restrictions on group homes in residential neighborhoods have held that facilities in single-family dwelling structures that house no more than six or eight persons should be treated as a standard use of property in zone districts where single-family detached homes are permitted by right, and that larger group homes should be treated as standard uses of property in zone districts where larger townhouse, apartment, or condominium structures are permitted by right. While some federal courts reviewing zoning systems that require conditional uses for group

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<sup>7</sup> We could not find a definition for “residential facility”; however we did find a definition for “residential program” 245A.02, subd. 14.

homes for FHAA-protected persons have upheld those statutes and ordinances, others have held the conditional approval conditions invalid under the FHAA.

In addition, Minnesota’s human services licensing statutes contain the following provisions, which we assume apply to counties, towns, and cities.

## **CHAPTER 245A. HUMAN SERVICES LICENSING**

### **245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS**

#### **Subd. 1. Policy statement**

It is the policy of the state that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.

#### **Subd. 2. Permitted single-family residential use**

Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

#### **Subd. 2a. Adult foster care and community residential setting license capacity**

(a) The commissioner shall issue adult foster care and community residential setting licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (b) to (f).

(b) The license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a facility with a licensed capacity of up to five persons to admit an individual under the age of 55 if the variance complies with [section 245A.04, subdivision 9](#), and approval of the variance is recommended by the county in which the licensed facility is located.

...

This statute also includes lengthy provisions for the approval of an additional bed (up to five in the facility) for emergency or respite care, which, because of the temporary nature of the occupancy are probably not considered “residences” and may not be subject to the FHAA. However, the basic limitation of adult foster care and community residential settings to four persons (or even five) is smaller than some courts have concluded are necessary under the FHAA.

The portion of these statutes defining residential treatment facilities as permitted uses of single family or multifamily residential districts are consistent with FHAA requirements that housing be

made available on the same basis for persons regardless of whether they are in classes protected by the FHAA or not.

## **CHAPTER 245A. HUMAN SERVICES LICENSING**

### **245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS**

#### **Subd. 3. Permitted multifamily residential use**

Unless otherwise provided in any town, municipal, or county zoning regulation, a licensed residential program with a licensed capacity of seven to 16 persons shall be considered a permitted multifamily residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure proper maintenance and operation of a residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the persons being served by the program. Nothing in this chapter shall be construed to exclude or prohibit residential programs from single-family zones if otherwise permitted by local zoning regulations.

As discussed above, the first portion of subdivision 3 is consistent with the intent of the FHAA, but the ability to impose conditions on residential uses by FHAA-protected persons may not be.

Spacing requirements can create barriers to fair housing if the state authorizes (or local governments adopt) excessive requirements. Under the FHAA, the only legitimate reason to require minimum distances between residential facilities is for the benefit of those residing in those facilities. Since the goal of most smaller residential facilities is to allow their residents to receive treatment or assistance in a typical neighborhood environment, it is possible that the grouping of several residential facilities close together would defeat this purpose, since the neighborhood might no longer appear or function as a typical residential neighborhood.

Yet most conversations about spacing focus on the desires of the residential neighborhoods to limit the number of residential facilities in the area rather than the needs or rights of FHAA-protected citizens to live in a typical residential environment. For those reasons, residential facility spacing requirements can become barriers to fair housing choice.

One of the ways in which the State of Minnesota sought to achieve deinstitutionalization was through the dispersal of facilities for persons with mental illness. The legislature adopted the current spacing requirements in 1976 and, in 1984, ordered counties to take affirmative steps to promote the dispersal of group residential facilities, to assure that persons with mental illness would receive treatment in noninstitutionalized settings.

Minnesota Courts have also recognized the state's interest in the placement of group homes. In *Costley v. Caromin Housing, Inc.* (Minn. 1981), the court did not allow an attempt to exclude from a community a residential facility for mentally ill.

The key Minnesota statutory provisions regarding spacing are shown in blue shading below.

### **245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS**

...

#### **Subd. 4. Location of residential programs**

In determining whether to grant a license, the commissioner shall specifically consider the population, size, land use plan, availability of community services, and the number and size of

existing licensed residential programs in the town, municipality, or county in which the applicant seeks to operate a residential program.

The commissioner shall not grant an initial license to any residential program if the residential program will be within 1,320 feet of an existing residential program unless one of the following conditions apply:

- (1) the existing residential program is located in a hospital licensed by the commissioner of health;
- (2) the town, municipality, or county zoning authority grants the residential program a conditional use or special use permit;
- (3) the program serves six or fewer persons and is not located in a city of the first class; or
- (4) the program is foster care, or a community residential setting as defined under [section 245D.02, subdivision 4a](#).<sup>8</sup>

**Subd. 5. [Repealed, 2014 c 262 art 5 s 7]**

**Subd. 5a. Integration of residential programs**

The commissioner of human services shall seek input from counties and municipalities on methods for integrating all residential programs into the community.

These statutes prohibit the licensing of any residential program if that program will be within 1,320 feet of an existing residential program unless certain criteria are met (245A.11, subd. 4). This is near the high end of separation requirements that we have reviewed in state enabling acts and local ordinances (e.g. some states authorize 750 ft. spacing).

Minnesota state statute also allows as a permitted use the temporary placement of a mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person. Chapter 462 applies to municipalities, and chapter 394 applies to counties. Key provisions are shown in blue shading below.

**462.3593 TEMPORARY FAMILY HEALTH CARE DWELLINGS**

**Subd. 1. Definitions**

(a) For purposes of this section, the following terms have the meanings given.

(b) "Caregiver" means an individual 18 years of age or older who:

- (1) provides care for a mentally or physically impaired person; and
- (2) is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring.

(c) "Instrumental activities of daily living" has the meaning given in [section 256B.0659, subdivision 1, paragraph \(i\)](#).

(d) "Mentally or physically impaired person" means a person who is a resident of this state and who requires assistance with two or more instrumental activities of daily living as certified in

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<sup>8</sup> Subd. 4a. Community residential setting. "Community residential setting" means a residential program as identified in section 245A.11, subdivision 8, where residential supports and services identified in section 245D.03, subdivision 1, paragraph (c), clause (3), items (i) and (ii), are provided and the license holder is the owner, lessor, or tenant of the facility licensed according to this chapter, and the license holder does not reside in the facility.

writing by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state.

(e) "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, or niece of the mentally or physically impaired person. Relative includes half, step, and in-law relationships.

(f) "Temporary family health care dwelling" means a mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that meets the requirements of subdivision 2.

...

### **Subd. 3. Temporary dwelling permit; application**

(a) Unless the municipality has designated temporary family health care dwellings as permitted uses, a temporary family health care dwelling is subject to the provisions in this section. A temporary family health care dwelling that meets the requirements of this section cannot be prohibited by a local ordinance that regulates accessory uses or recreational vehicle parking or storage.

(b) The caregiver or relative must apply for a temporary dwelling permit from the municipality. The permit application must be signed by the primary caregiver, the owner of the property on which the temporary family health care dwelling will be located, and the resident of the property if the property owner does not reside on the property, and include:

(1) the name, address, and telephone number of the property owner, the resident of the property if different from the owner, and the primary caregiver responsible for the care of the mentally or physically impaired person; and the name of the mentally or physically impaired person who will live in the temporary family health care dwelling;

(2) proof of the provider network from which the mentally or physically impaired person may receive respite care, primary care, or remote patient monitoring services;

(3) a written certification that the mentally or physically impaired person requires assistance with two or more instrumental activities of daily living signed by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state;

(4) an executed contract for septic service management or other proof of adequate septic service management;

(5) an affidavit that the applicant has provided notice to adjacent property owners and residents of the application for the temporary dwelling permit; and

(6) a general site map to show the location of the temporary family health care dwelling and other structures on the lot.

(c) The temporary family health care dwelling must be located on property where the caregiver or relative resides. A temporary family health care dwelling must comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. The temporary family health care dwelling must be located on the lot so that septic services and emergency vehicles can gain access to the temporary family health care dwelling in a safe and timely manner.



(d) A temporary family health care dwelling is limited to one occupant who is a mentally or physically impaired person. The person must be identified in the application. Only one temporary family health care dwelling is allowed on a lot.

(e) Unless otherwise provided, a temporary family health care dwelling installed under this section must comply with all applicable state law, local ordinances, and charter provisions.

**Subd. 4. Initial permit term; renewal**

The initial temporary dwelling permit is valid for six months. The applicant may renew the permit once for an additional six months.

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**Subd. 8. No public hearing required; application of section 15.99**

(a) Due to the time-sensitive nature of issuing a temporary dwelling permit for a temporary family health care dwelling, the municipality does not have to hold a public hearing on the application.

(b) The procedures governing the time limit for deciding an application for the temporary dwelling permit under this section are governed by [section 15.99](#), except as provided in this section. The municipality has 15 days to issue a permit requested under this section or to deny it, except that if the statutory or home rule charter city holds regular meetings only once per calendar month the statutory or home rule charter city has 30 days to issue a permit requested under this section or to deny it. If the municipality receives a written request that does not contain all required information, the applicable 15-day or 30-day limit starts over only if the municipality sends written notice within five business days of receipt of the request telling the requester what information is missing. The municipality cannot extend the period of time to decide.

**394.307 TEMPORARY FAMILY HEALTH CARE DWELLINGS**

**Subd. 1. Definitions**

(a) For purposes of this section, the following terms have the meanings given.

...

(f) "Temporary family health care dwelling" means a mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that meets the requirements of subdivision 2.

...

**Subd. 3. Temporary dwelling permit; application.**

(a) Unless the county has designated temporary family health care dwellings as permitted uses, a temporary family health care dwelling is subject to the provisions in this section. A temporary family health care dwelling that meets the requirements of this section cannot be prohibited by a local ordinance that regulates accessory uses or recreational vehicle parking or storage.

A residence that is only to be occupied for a period of six to 12 months falls somewhere between a long-term residence (which is subject to the FHAA) and temporary accommodations (which are generally not covered). Given the short duration of the intended occupancy, these statutes arguably go beyond what is required by the FHAA, and Minnesota is to be commended for

requiring municipalities and counties to allow a disabled person to occupy a dwelling they may not otherwise be able to occupy. These regulations help to remove barriers to fair housing.

## **G. Accessibility of Housing Units**

The Fair Housing Act offers protection to persons with disabilities (broadly defined) to ensure they have equal access to safe and affordable housing options. However, that right will be impaired if none of the available housing is accessible to disabled persons (i.e. doors are too narrow to accommodate wheelchairs, or building entries are located above or below grade level with no means for a wheelchair to accommodate that change in grade). Permitting persons with disabilities to make modifications to a dwelling unit in order to live safely in that unit is an important aspect of providing housing choice for this class of FHAA-protected citizens. 42 U.S.C. 3604(f)(3)(A) and (B) provide that “discrimination” includes:

- A. A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
- B. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling . . .

Minnesota implements this portion of the FHAA in part through the provisions of section 363A.10, relevant portions of which are shown below.

### **363A.10 REAL PROPERTY; DISABILITY DISCRIMINATION**

#### **Subd. 1. Reasonable modifications/accommodations**

For purposes of [section 363A.09](#), discrimination includes:

- (1) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person if modifications may be necessary to afford the disabled person full enjoyment of the premises; a landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, excluding reasonable wear and tear;
- (2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling; or
- (3) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:
  - (i) the public use and common use portions are readily accessible to and usable by a disabled person;
  - (ii) all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(iii) all premises contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

**Subd. 2. Covered multifamily dwellings; definition**

As used in this section, the term "covered multifamily dwellings" means:

- (1) a building consisting of four or more units if the building has one or more elevators; and
- (2) ground floor units in other buildings consisting of four or more units.

**Subd. 3. Applicability**

This section does not invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this section applies, that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this section.

**Subd. 4. Limitations on compliance**

This section does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Not only is the intent of these provisions to expand the accessibility of multi-family dwellings to persons with disabilities, but its language is aligned with the requirements of both the FHAA and the ADA helping to remove barriers to fair housing choice.

## H. Building Occupancy

Restrictions on building occupancy in residential dwelling units help preserve health and safety and prevent overcrowding in dwelling units. Over time, however, some local governments have used this tool to restrict the number of unrelated persons living together in one dwelling unit to restrict rental housing, group homes and other affordable housing options.

Most building occupancy restrictions in zoning codes allow any number of related individuals to occupy a dwelling unit in order to avoid challenges based on due process or equal protection.<sup>9</sup> In contrast, many building occupancy codes simply establish a standard for overcrowding — a number of people per room, or per square foot — that cannot be exceeded regardless of whether the occupants are related or not. Building occupancy regulations that are too stringent can serve as a barrier to housing choice for lower income households and for large families. However occupancy codes — like manufactured home safety codes and building codes — are considered a public health and safety protection in which the government’s desire to ensure that all housing is safe and sanitary implicitly outweighs its impact on making some sizes or types or qualities of housing unavailable for the general public.

Because occupancy laws rarely mention any group of occupants by name, they are seldom implicated in FHAA analysis. At worst, their impact is to make small housing units unavailable to large households, which is not a restriction based on familial status because it would have the

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9 Moore v City of East Cleveland, 431 U.S. 494 (1977).

same impact on a household of seven members as it would on a group of seven unrelated individuals living together.

Regardless of how well-accepted they currently are, it is important to acknowledge that occupancy codes may have a disproportionate impact on FHAA-protected households in two situations. First, many assisted living facilities for FHAA-protected households have more residents than an average family (six or seven persons, when care providers are included, compared to the less than four in an average family), so an occupancy limit anywhere below the average occupancy of small assisted living facility may have a disproportionate impact on group home occupants. Second, if households (family or not) of a particular racial group are likely to be larger than average, an occupancy limit anywhere below the average household size for that racial group may have a disproportionate impact on that group.

We found no Minnesota statutes that require counties, towns, or municipalities to restrict occupancy to levels that would create barriers to fair housing.

## **I. Regulation of Housing Prices**

Minnesota statutes provide that a local government cannot regulate housing rents or sales prices, but can create and implement incentives and development agreements to encourage the production of moderate or lower-cost housing. This limits the ability of local governments to preserve the affordability of housing units, which may restrict the supply of housing available to FHAA-protected groups. However, some exceptions to the prohibition on rent and price controls are available, and are shown in the blue shaded text below.

### ***471.9996 RENT CONTROL PROHIBITED***

#### **Subd. 1. In general**

No statutory or home rule charter city, county, or town may adopt or renew by ordinance or otherwise any law to control rents on private residential property except as provided in subdivision 2. This section does not impair the right of any statutory or home rule charter city, county, or town:

- (1) to manage or control property in which it has a financial interest through a housing authority or similar agency;
- (2) to contract with a property owner;
- (3) to act as required or authorized by laws or regulations of the United States government or this state; or
- (4) to mediate between property owners and tenants for the purpose of negotiating rents.

#### **Subd. 2. Exception**

Subdivision 1 does not preclude a statutory or home rule charter city, county, or town from controlling rents on private residential property to the extent that the city, county, or town has the power to adopt an ordinance, charter amendment, or law to control these rents if the ordinance, charter amendment, or law that controls rents is approved in a general election.

Subdivision 1 does not limit any power or authority of the voters of a statutory or home rule charter city, county, or town to petition for an ordinance or charter amendment to control rents on private residential property to the extent that the power or authority is otherwise provided for by law, and if the ordinance or charter amendment is approved in a general election. This subdivision does not grant any additional power or authority to the citizens of a statutory or

home rule charter city, county, or town to vote on any question beyond that contained in other law.

Subdivision 1 does not apply to any statutory city unless the citizens of the statutory city have the authority to vote on the issue of rent control granted by other law.

Section 471.9996 allows local governments to control rents and sales prices in two situations; first by contract with a private property owner, and second through a ballot initiative. This provides a mechanism for local and county governments to establish policies that preserve existing and new affordable housing stock. These are FHAA supporting policies in that they encourage affordable housing and indirectly benefit the FHAA-protected population. However, the unavailability of rent and price controls in most situations is not a violation of the FHAA or a barrier to fair housing.

## **J. Inclusionary Housing Ordinances**

One additional tool to promote the production of affordable housing, which may indirectly benefit FHAA-protected persons, is through inclusionary zoning. When adopted by local governments, this tool requires builders of market rate housing to include in their developments a certain percentage of units affordable to residents at stated income levels. Throughout the United States, inclusionary zoning has proven to be an effective tool for requiring the production of affordable housing rental or sales units by making the production of those units a condition attached to the construction of market rate housing units. In spite of the prohibition on rent controls discussed above, section 462.358 Subd. 11 explicitly authorizes municipalities to impose inclusionary housing requirements on a “subdivision, planned unit development, site plan, or other similar type action” at the request of the housing developer. In addition, section 471.9996 authorizes housing rent or sales price limits as conditions on development approvals if the local government’s power to do so has been approved in a general election. More broadly, by letter opinion dated October 25, 2007 (which in turn referred to an opinion letter dated October 1, 2001), the Office of the Minnesota Attorney General advised the City of Forest Lake that the prohibition on sales price and rent controls in section 471.9996 did not prevent a Minnesota municipality from attaching conditions requiring the provision of affordable housing to a subdivision approval or planned unit development. The Office of the Attorney General opined that the adoption of section 462.358 in 2002 did not repeal or limit general municipal authority to condition or deny a development approval that did not comply with local regulations, and that general authority included municipal regulations requiring the provision of affordable housing. Both the 2001 and 2007 opinion letters concluded, however, that the ability of a municipality to impose inclusionary housing requirements did not include the ability to impose a payment-in-lieu alternative to the required provision of affordable housing. The ability of Minnesota municipal governments to include inclusionary housing requirements tends to promote the provision of affordable housing, and does not create a violation of the FHAA or a barrier to fair housing.

### **462.358 OFFICIAL CONTROLS: SUBDIVISION REGULATION; DEDICATION.**

#### **Subd. 11. Affordable housing**

For the purposes of this subdivision, a "development application" means subdivision, planned unit development, site plan, or other similar type action. If a municipality, in approving a development application that provides all or a portion of the units for persons and families of low and moderate income, so proposes, the applicant may request that provisions authorized by

clauses (1) to (4) will apply to housing for persons of low and moderate income, subject to agreement between the municipality and the applicant:

- (1) establishing sales prices or rents for housing affordable to low- and moderate-income households;
- (2) establishing maximum income limits for initial and subsequent purchasers or renters of the affordable units;
- (3) establishing means, including, but not limited to, equity sharing, or similar activities, to maintain the long-term affordability of the affordable units; and
- (4) establishing a land trust agreement to maintain the long-term affordability of the affordable units.

Clauses (1) to (3) shall not apply for more than 20 years from the date of initial occupancy except where public financing or subsidy requires longer terms.

## **K. Other Programs and Statutes**

### **Public Accommodation**

The Human Rights chapter of the 2016 Minnesota Statutes provides that all persons shall have full and equal enjoyment of public accommodations. This statute is provided in blue shading below.

#### **363A.11 PUBLIC ACCOMMODATIONS**

##### **Subd. 1. Full and equal enjoyment of public accommodations**

(a) It is an unfair discriminatory practice:

- (1) to deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, marital status, sexual orientation, or sex, or for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person's disability; or
- (2) for a place of public accommodation not to make reasonable accommodation to the known physical, sensory, or mental disability of a disabled person. In determining whether an accommodation is reasonable, the factors to be considered may include:
  - (i) the frequency and predictability with which members of the public will be served by the accommodation at that location;
  - (ii) the size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees;
  - (iii) the extent to which disabled persons will be further served from the accommodation;
  - (iv) the type of operation;
  - (v) the nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation; and
  - (vi) the extent to which any persons may be adversely affected by the accommodation.

(b) State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures.

### **Subd. 2. General prohibitions**

This subdivision lists general prohibitions against discrimination on the basis of disability. For purposes of this subdivision, "individual" or "class of individuals" refers to the clients or customers of the covered public accommodation that enter into the contractual, licensing, or other arrangement.

(1) It is discriminatory to:

(i) subject an individual or class of individuals on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity;

(ii) afford an individual or class of individuals on the basis of the disability of that individual or class, directly or through contractual, licensing, or other arrangements, with the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations that are not equal to those afforded to other individuals; and

(iii) provide an individual or class of individuals, on the basis of a disability of that individual or class, directly or through contractual, licensing, or other arrangements, with goods, services, facilities, privileges, advantages, or accommodations that are different or separate from those provided to other individuals, unless the action is necessary to provide the individual or class of individuals with goods, services, facilities, privileges, advantages, or accommodations, or other opportunities that are as effective as those provided to others.

(2) Goods, services, facilities, privileges, advantages, and accommodations must be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(3) Notwithstanding the existence of separate or different programs or activities provided in accordance with [sections 363A.08 to 363A.19](#), and [363A.28, subdivision 10](#), the individual with a disability may not be denied the opportunity to participate in the programs or activities that are not separate or different.

(4) An individual or entity may not, directly or through contractual or other arrangements, use standards or criteria and methods of administration:

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

### **Subd. 3. Specific prohibitions**

This subdivision lists specific prohibitions against discrimination on the basis of disability. For purposes of this subdivision, discrimination includes:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless the

criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations;

(2) failure to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to afford the goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations;

(3) failure to take all necessary steps to ensure that no individual with a disability is excluded, denied services, segregated, or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking the steps would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations being offered and would result in an undue burden;

(4) failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles used by an establishment for transporting individuals, not including barriers that can only be removed through the retrofitting of vehicles by the installation of hydraulic or other lifts, if the removal is readily achievable; and

(5) if an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable or cannot be considered a reasonable accommodation, a failure to make the goods, services, facilities, privileges, advantages, or accommodations available through alternative means if the means are readily achievable.

Section 353A.11 ensures FFAA-protected person have full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation. While these provisions do not relate directly to zoning or land use controls, they demonstrate Minnesota's commitment to protecting these vulnerable populations from discrimination. This theme continues into the next section, 363A.12 provided in the blue shading below.

### **363A.12 PUBLIC SERVICES**

#### **Subd. 1. Access to public service**

It is an unfair discriminatory practice to discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation. In determining whether providing physical and program access would impose an undue hardship, factors to be considered include:

(1) the type and purpose of the public service's operation;

(2) the nature and cost of the needed accommodation;

(3) documented good faith efforts to explore less restrictive or less expensive alternatives; and

(4) the extent of consultation with knowledgeable disabled persons and organizations.

Physical and program access must be accomplished within six months of June 7, 1983, except for needed architectural modifications, which must be made within two years of June 7, 1983.



Section 363A.12 directs state and local governments to align their rules with the FHAA and Americans with Disabilities Act so all individuals have access to, admission to, and full use of or benefit from any public service. This provision is consistent with the requirements of the FHAA, and Minnesota is to be commended for adopting this statute.

## **Affordable Housing**

Another instrument for increasing the accessibility of housing to FHAA-protected individuals is to support programs that increase the supply of affordable housing. Section 462.3912 allows the Headwaters Regional Development Commission to establish a non-profit corporation focused on increasing the supply of affordable housing and improving opportunities for home ownership.

### **462.3912 REGIONAL HOUSING DEVELOPMENT**

The Headwaters Regional Development Commission may establish a not-for-profit corporation for the purposes of increasing the supply of affordable housing and improving opportunities for home ownership in development region two. The not-for-profit corporation may, among other things, acquire land, accept grant and loan funds from the state and federal governments, construct and rehabilitate housing units, and sell or manage housing in the region.

This initiative is noteworthy, and could be evaluated for extending it into other regions of the state.

The state authorizes municipalities to develop and administer municipal housing programs to assist low- and moderate-income individuals and families as well as to encourage the rehabilitation and development of multi-family dwellings. Relevant statutes are included in blue shading below.

### **462C.01 AUTHORIZATION**

A city may develop and administer programs of

- (1) making or purchasing mortgage or rehabilitation loans pursuant to section 462C.03 to finance the acquisition or rehabilitation of single family housing by low and moderate income persons and families anywhere within its boundaries, or
- (2) making or purchasing loans pursuant to section 462C.05 to finance multifamily housing developments or the rehabilitation of multifamily housing developments if the program is submitted for review pursuant to section 462C.04, subdivision 2.

The programs outlined in chapter 462C tend to increase the supply of affordable housing in an area which tends to benefit FHAA-protected individuals.

In addition to housing programs, municipalities may also establish housing and redevelopment authorities to advance the quality and supply of affordable housing for low-and moderate-income individuals and families. Statutes related to housing and redevelopment authorities are shown in the blue shading below.

### **469.001 PURPOSES**

The purposes of [sections 469.001 to 469.047](#) are:

- (1) to provide a sufficient supply of adequate, safe, and sanitary dwellings in order to protect the health, safety, morals, and welfare of the citizens of this state;
- (2) to clear and redevelop blighted areas;

- (3) to perform those duties according to comprehensive plans;
- (4) to remedy the shortage of housing for low and moderate income residents, and to redevelop blighted areas, in situations in which private enterprise would not act without government participation or subsidies; and
- (5) in cities of the first class, to provide housing for persons of all incomes.

Public participation in activities intended to meet the purposes of sections [469.001 to 469.047](#) and the exercise of powers confined by [sections 469.001 to 469.047](#) are public uses and purposes for which private property may be acquired and public money spent.

#### **469.012 PUBLIC BODY; POWERS, DUTIES, PROGRAMS; TAXES LIMITED**

##### **Subd. 1i. Set, use income levels.**

An authority may, within its area of operation, determine the level of income constituting low or moderate family income. The authority may establish various income levels for various family sizes. In making its determination, the authority may consider income levels that may be established by the Department of Housing and Urban Development or a similar or successor federal agency for the purpose of federal loan guarantees or subsidies for persons of low or moderate income. The authority may use that determination as a basis for the maximum amount of income for admissions to housing development projects or housing projects owned or operated by it.

#### **469.020 DISCRIMINATION PROHIBITED, DISPLACED FAMILIES**

There shall be no discrimination in the selection of tenants because of race or religious, political, or other affiliations, but, if the number of qualified applicants for dwelling accommodations exceeds the dwelling units available, preference shall be given to inhabitants of the municipality in which the project is located, and to the families who occupied the dwellings eliminated by demolition, condemnation, and effective closing as part of the project, as far as is reasonably practicable without discrimination against families living in other substandard areas within the same municipality.

#### **469.029 DISPOSAL OF PROPERTY**

##### **Subd. 8. Discrimination forbidden**

There shall be no discrimination in the use of any land in a redevelopment project because of race or religious, political, or other affiliations.

The powers outlined in chapter 469 are common in many states and tend to promote fair housing.

#### **504B.315 RESTRICTIONS ON EVICTION DUE TO FAMILIAL STATUS**

(a) As used in this section, "familial status" has the meaning given it in [section 363A.03, subdivision 18](#).

(b) No residential tenant of residential premises may be evicted, denied a continuing tenancy, or denied a renewal of a lease on the basis of familial status commenced during the tenancy unless one year has elapsed from the commencement of the familial status and the landlord has given the tenant six months prior notice in writing, except in case of nonpayment of rent, damage to the premises, disturbance of other tenants, or other breach of the lease. Any provision, whether oral or written, of any lease or other agreement, whereby any provision of this section is waived by a tenant, is contrary to public policy and void.

While the provisions of Section 504B.315 are intended to provide some protection for households whose familial status changes during their tenancy, it may not go far enough to avoid creating a barrier to housing. Under the FHAA, making housing “unavailable” due to a change in familial status is not permitted, even after a one year period has passed.

## 4. Conclusion

This review of state-level statutes, regulations and programs related to fair housing, and housing in general, shows that Minnesota has a multi-faceted regulatory framework in place.

More specifically, Minnesota statutes:

- Include many broad policy statements that parallel federal language in the FHAA and Americans with Disabilities Act, and the categories of individuals protected from discrimination in those statutes is often broader than the categories included in federal law.
- Require that some types of facilities for the disabled be treated as residential uses in single-family or multi-family structures is also commendable and consistent with the goals of both the FHAA and the ADA.
- Grant cities and counties relatively standard zoning, subdivision, and urban redevelopment powers, which local governments can use to promote fair housing goals and programs.
- Include key language related to housing accessibility from the Americans with Disabilities Act, the FHAA, and the Rehabilitation Act of 1973, including the FHAA’s broad definition of “disability,” the ADA’s definition of places of “public accommodation”.

In general, these standards are well aligned with the requirements of the FHAA, ADA, and Rehabilitation act of 1973, which should reduce the inadvertent gaps in coverage between state and federal definitions.

The one exception to the generally good alignment between Minnesota state-level housing and land use controls and the requirements and the FHAA occurs in Section 504B.315. We recommend that the state revise this statute protecting tenancy following a change in familial status to remove the one year protection period. Making housing “unavailable” based solely on familial status is prohibited by the FHAA regardless of how much time has passed.

### Areas for Further Consideration

While Minnesota’s state-level statutes are generally well aligned with the requirements of the FHAA and the Americans with Disabilities Act, we suggest that the state consider strengthening or revising the following statutes to be even more supportive of state and federal fair housing goals:

- **Section 245A.11 (Special Conditions for Residential Programs)**  
The state could review or provide justification for the residential program spacing requirements. There is little evidence that FHAA-protected citizens in these types of residential programs benefit from spacing requirements.

- **Sections 366.13 (Zoning Districts) and 366.14 (Purpose of Regulations)**  
 These provisions could be revised to mention fair housing (and/or affordable housing) to provide further support for state and federal fair housing goals and policies.
- **Section 366.17 (Planning and Zoning Commission)**  
 This text could be amended to allow residents of a town to be eligible for appointment on the planning and zoning commission regardless of ownership status. The elimination of renters may disenfranchise low income and disabled persons from participating in this aspect of local government.
- **Section 394.24, subd. 3 (Official Controls)**  
 Provisions could be amended to require federal- or state-owned land to comply with county regulations related to fair housing that exceed minimum state or federal mandates.
- **Sections 394.27 (Creation and Duties of Board of Adjustment) 462.357 (Official Controls: Zoning Ordinance), and 462.358 (Official Controls; Subdivision Regulations)**  
 These provisions for variances could be modified to allow issuance of a variance based on a request for a “reasonable accommodation” or “reasonable modification” under the FHAA. That change would also require that the criteria for granting a variance in these situations be revised to match the federal standards rather than traditional “hardship” standards. In addition, these provisions (or others) could be revised to clarify that the board of adjustment’s exclusive power to grant variances does not preclude towns, cities, or counties from creating an administrative approval system (rather than a variance) for requests for reasonable accommodation or reasonable modification under the FHAA.
- **Section 394.33 (Town Powers)**  
 These provisions could be modified to allow a town to adopt regulations more favorable to FHAA-protected persons, even if those regulations are “less restrictive” than county regulations.
- **Section 394.301 (Conditional Use Permits) and 462.3595 (Conditional Use Permits)**  
 This text could be revised to clarify that no use may be listed as a conditional use if federal or state law requires that it be allowed as a permitted use, and to clarify that conditions on approval may not include any conditions prohibited by state or federal law. More specifically, these provisions could prohibit requirements for conditional permits for adult foster care and community residential facilities that are no larger than comparable residential structures occupied by the general public. These changes would align the law more closely with the FHAA intent that housing for FHAA-protected persons be made available under the same conditions and procedures that apply to similarly sized buildings in similar structures for other citizens.
- **Sections 462.12 to 462.17 (Restricted Residential Districts)**  
 These antiquated provisions for the creation of Restricted Residential Districts should be deleted, because the use of these powers would create unnecessary barrier to the types of housing often needed by FHAA-protected persons. We understand that these powers have not been used in many years, so their removal should not be controversial.

- **Sections 462.357 (Official Controls: Zoning Ordinance)**  
 The state could consider aligning the licensing provisions with the generally higher thresholds for occupancy in residential facilities cited by some court decisions interpreting the FHAA -- which have endorsed occupancy by six to eight persons as consistent with the character of single-family neighborhoods.
- **Sections 462.357 (Official Controls: Zoning Ordinance), 469.020 (Discrimination Prohibited) and 469.029 (Disposal of Properties) and 504B.315 (Restrictions on Eviction Due to Familial Status)**  
 While these sections mention disabilities, race, religion, politics, or familial status, the state could consider broadening these protections to apply to all persons protected by the FHAA, as interpreted by the courts.
  - Ensure that the definitions of “disability” are broad enough to include all classes of persons included in the FHAA definition of disability as interpreted by the courts
- **Section 504B.315 (Restrictions Due to Familial Status)**  
 The state should consider extending this protection beyond the one year period stated in the text, as an eviction or refusal to continue a tenancy based solely on familial status could be inconsistent with the FHAA.
- **Section 462.3912 (Regional Housing Development)**  
 The state could consider extending the authority to create these types of non-profit corporations to more (or all) regions of the state.

# **APPENDIX B.**

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**Public Comment Summary & Response**  
**Full Written Public Comments**

## State of Minnesota 2018 Analysis of Impediments- Public Comment Summary & Response

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### Commenters

- Housing Justice Center (HJC)
- Metropolitan Interfaith Council on Affordable Housing (MICAH)
- Minnesota Housing Partnership (MHP)
- Three Rivers Community Action (Three Rivers)

### Comments and Response Organized by Themes

#### Affirmatively Furthering Fair Housing - Rules and Regulations

- The state's decision to utilize the new rule is noteworthy and significant in furthering fair housing in Minnesota, benefiting our state and residents. - MHP
- The AI has no data on the most serious housing problems, fails to present data that demonstrates the disproportionate needs of racial and ethnic minorities. Suggests using HUD data that breaks down housing problems by income category (AMI) and race. - HJC
- Suggests the plan should more prominent focus on needs of Extremely Low Income households (<30% Area Median Income). – HJC, MHP
  - Document does not acknowledge that affordable housing production falls behind the need for new affordable housing. - HJC
  - Suggests strengthening statute (M.S. §473.859 Subd 4) that requires comprehensive plans to provide sufficient affordable housing. - HJC
  - Suggests strengthening QAP in section on “Serves Lowest Income Tenants/Rent Reduction”. – HJC
  - Affordable housing is a fair housing issue. The AI should address broader set of current state regulations that create fair housing barriers such as rent control and the state court's interpretation of status with regard to public assistance. - HJC

**Response:** *The final AI is updated to include additional data on extremely low income households and housing problems broken down by income category and race. While this report doesn't focus on housing production needs specifically, resource and housing shortages are discussed in many actions.*

*M.S. §473.859 Subd 4 does provide that the housing element of the land use plan will “provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low and moderate income housing”.*

*The “Serves Lowest Income Tenants/Rent Reduction” section in the QAP reaches tenants at 30% AMI through priority for rent assistance and is an important mechanism of the state to ensure the low income housing tax credit program is serving extremely low income tenants.*

*The AI includes two actions pertaining to source of income protections, both to monitoring state regulatory changes and local ordinances regarding source of income protections.*

#### Community Engagement

- The community engagement process was not adequate to make conclusions on fair housing barriers being faced by communities across the state. – HJC, MICAH
  - This is not the robust community engagement required by federal AFFH regulations – HJC
- MHP recommends that the Twin Cities approach to community engagement be used as a model for effective participation in fair housing planning.- MHP

- Communities without broadband may not have been able to participate in the survey and it may have impacted survey results. - MICAH

**Response:** *The State increased community engagement for the AI that focused on Greater Minnesota directly and leveraged community engagement conducted for the development of the recently released Regional AI. The State of Minnesota held community conversations 69 residents in Worthington, Marshall, Wilmar and Bemidji. The process also included in-depth interviews with 17 stakeholder organizations and agencies. Survey responses were substantial throughout the state, including those submitted through PHAs, and printed copies of the survey were available on request. In total, we received 467 survey responses from individuals and 27 PHA responses. For the Regional AI, we conducted a thorough review of the engagement results and followed up with four additional stakeholder groups who organized that process.*

### Displacement, Evictions and Gentrification

- A major theme heard throughout the regional community discussions was displacement of residents due to rising rent costs in the metro area [...] often hand in hand with gentrification. The issue of displacement was one of ten goals listed in the regional AI recommendation but the theme is not in the state AI. – HJC
- Add Goal 5. Reduce Resident Displacement - HJC
  - Add 5.a. Research state law regarding just cause eviction ordinances. - HJC
  - Add 5.b. Monitor state legislation regarding right of first refusal statutes and develop programs to implement.
  - Add 5.c. Research and create tax abatement programs and market them to homeowners in areas of increasing displacement.
  - Add 5.d. Promote policies that provide for rehabilitation and preservation of existing affordable housing in areas where displacement is known to be occurring.
- People of color, people with disabilities, elderly are being displaced from urban areas due to gentrification, conversion of NOAH units, rent increases, and more restrictive tenant selection criteria. – MICAH
- State should take greater leadership on evictions and add additional action steps, including research to better understand the extent and impact of evictions and UD actions, examining barriers to expungement of UDs and convening stakeholders to develop solutions. – MHP
- Add goal that 165,000 of the current 170,000 NOAH units in metro will continue to be affordable in 2021. - MICAH

**Response:** *The State of Minnesota recognizes the growing issues and concerns with displacement particularly through NOAH and evictions. The AI was revised to include a new goal area, entitled “Decrease the loss of housing through displacement and eviction”. New actions added to this goal include:*

- *Monitoring state legislative efforts that require communication between property owners and tenants regarding ownership/tenancy changes at a minimum of 60 days prior to sale of the building.*
- *Evaluating resources to provide short term assistance to tenants displaced in these cases.*
- *Monitoring work to define and limit predatory rental practices, including questionable eviction practices and poor conditions of rental units.*
- *Monitoring state legislative efforts to limit evictions to only appear on a tenant’s record following court judgement.*
- *Research just cause eviction ordinances and tenant protection ordinances.*

### Fair Housing Education and Testing

- HUD and MDHR files are not an accurate picture of fair housing enforcement. Annually, metro legal services offices receive over 500 fair housing complaints. This information should be included in the State AI as it is in the metro AI Addendum. – HJC
- State should establish fair housing testing. – MHP, HJC
- 4.a. – Strengthen action items to employ stronger language than “monitor” and “provide educational materials” to meet goal – Three Rivers



- Add 4.b. Fair Housing Training for Government – HJC
- Conduct research first before developing best practices about tenant screening procedures – HJC

**Response:** *Minnesota Housing will partner with Minnesota Department of Human Rights (DHR) to evaluate additional data sources on complaints testing and create new or improve existing fair housing educational materials. In a newly added action item to this final AI, DHR will provide education to landlords, tenants, prospective tenants and service providers about housing discrimination laws in MN. We recognize the benefits of fair housing testing and will continue to explore funding and partnerships across the state.*

#### Greater Minnesota/Twin Cities Strategies

- The AI should identify and consider issues that are similar across the state but also identify differences between regions, e.g. Greater Minnesota and Metro. – HJC, MHP, Three Rivers
- State should establish strategies for Metro/Greater Minnesota separately – HJC, MHP, Three Rivers

**Response:** *We recognize and appreciate that there are regional differences across the state. The primary purpose of the state of Minnesota AI is to evaluate issues statewide and establish appropriate responses. The goals within the AI are broad enough to establish specific strategies tailored to local housing needs that are described in the quantitative and qualitative analysis conducted for the full report.*

#### Homeownership

- Homeownership and mortgage lending gaps should include actions to address mortgage loan denials among difference races - MICAH
- Homeownership of people of color will be at least 50% by 2021. – MICAH

**Response:** *Generally, the actions in the AI to support homeownership for households of color do not split out specific races, although we recognize there may be different strategies to increase access to homeownership by race or other protected classes, which may face differing barriers. To address gaps in homeownership in Tribal areas, for example, we do have an action to work with tribal nations to specifically increase homeownership for American Indian households both on and off tribal lands. Minnesota Housing has a goal to reduce Minnesota’s racial and Ethnic homeownership disparity, and seek to maintain 35% of our first-time homebuyer mortgages going to households of color, continuing to lead the Homeownership Opportunity Alliance, and continue Homeownership Capacity as a permanent program.*

#### Increased Access to Opportunity

- Change title of goal 2 to “Address housing discrimination and improve opportunities for mobility within the region” – HJC
- Add item as in Regional AI Addendum to “collect and present local data to elected officials illustrating the need for source of income protection. Advocate for source of income protection legislation across the region”. – HJC
- Add action to invest in place-based community improvements – HJC
- Add additional actions on addressing barriers to using housing choice vouchers. – MHP
- Inclusionary Zoning is legal in Minnesota and should be reflected in the analysis – HJC

**Response:** *With regards to addressing a broader set of regulations that create fair housing barriers, the revised AI includes monitoring legislative efforts that require communication between property owners and tenants regarding ownership and tenancy changes, as well as efforts to limit evictions to only appear on a tenant’s record following court judgement and just cause and tenant protection ordinances.*

*The AI includes an action to continue to support the preservation of affordable housing opportunities as a strategy for community investment, one strategy to approach place-based community improvements. Another action is to collaborate with our partners to evaluate additional ways to address community disinvestment and economic*

isolation. Through the latter action, more specific strategies for place-based community improvements should be recognized.

Barriers to using housing choice vouchers is addressed in the AI through Minnesota Housing working with local housing authorities to identify and address the barriers. One method to identify barriers is to monitor and evaluate the new Landlord Risk Mitigation Fund to determine the effectiveness of that tool in breaking down barriers for tenants by encouraging landlords to accept hard to house individuals. In addition, the state will monitor and evaluate materials from HUD through the newly developed federal taskforce to determine barriers that discourage landlords from accepting vouchers.

The regulatory review in Appendix A of the report was modified to reflect the legality of inclusionary zoning.

#### Other/Miscellaneous Topics Areas

- Add details of Lead Safe Homes into Section III (Access to Opportunity, regarding environmentally healthy neighborhoods). Add action that all Minnesota apartments/homes will be lead safe by 2020. – MICAH

**Response:** Strategies and action items that seek to address poor rental housing conditions would include the issue of lead-based paint in rental housing, in any rehabilitation strategies. The state of Minnesota, through the Environmental Health Division of MDH oversees a comprehensive lead program, and it is the policy of Minnesota Housing to address lead hazards in all program activities.

- Provide more historical context on actions and inactions by federal state and local government, as well as private actors in prohibiting communities of color, Jewish community members, and other protected classes from fair opportunities to purchase and rent homes in Minnesota. – MHP

**Response:** Minnesota's AI does not include a historical review, although the regulatory review does seek to find existing regulations that are no longer relevant from that perspective.

- Data used in AI undercounts LEP populations. – MICAH

**Response:** The data used in the AI for LEP populations is the best available from the US Census Bureau.

- Set a goal to allow applications by mail, internet, and through other community providers (regarding barrier for requiring people with disabilities to apply onsite at county office). – MICAH

**Response:** The state of Minnesota will partner with DHS in developing further resources on Housing Benefits 101 website and develop tools to help persons with disabilities make informed choices about housing options.

**HOUSING JUSTICE CENTER COMMENTS ON  
MINNESOTA 2018 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING**

The Housing Justice Center (HJC) submits the following comments to the State’s 2018 Analysis of Impediments to Fair Housing. In summary, the State’s Analysis of Impediments failed to address the most pressing housing need in the state; failed to adequately engage the community; needs to examine barriers to affordable housing as a barrier to fair housing; and needs to identify stronger and more specific action steps to address the State’s fair housing impediments.

**Failure to Address Most Prevalent Disproportionate Housing Needs**

HUD’s regulations repeatedly define Affirmatively Furthering Fair Housing as “taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity.” 24 C.F.R. § 5.152. The regulations stress that in developing a successful affirmatively furthering fair housing strategy “it is central to assess the elements and factors that cause, increase, contribute to, maintain...disproportionate housing needs.” 24 C.F.R. § 5.154(a). Section II of the State’s Analysis of Impediments (AI) purports to meet these requirements. Pg. II-1. In fact, the AI fails to meet this regulatory standard - the section has no data on the most serious housing problems, fails to present readily available data demonstrating the disproportionate needs of racial and ethnic minorities, fails to identify elements causing or contributing to these disproportionate needs, and fails to describe changes in public strategies and programs necessary to address the most serious disproportionate needs.

The HUD CHAS data for 2010-2014 clearly demonstrate that far and away the largest group of households with the most serious housing problems, including serious cost burdens (housing costs greater than 50% of income) are renters with incomes at or below 30% of AMI (extremely low-income renters):

| <b>Minnesota Households with Severe Cost Burden<sup>1</sup></b> |                |                             |               |                             |            |                             |
|---|----------------|-----------------------------|---------------|-----------------------------|------------|-----------------------------|
| <b>Income</b>   | <b>Renters</b> | <b>% with Severe Burden</b> | <b>Owners</b> | <b>% With Severe Burden</b> | <b>All</b> | <b>% With Severe Burden</b> |
| <b>&lt;=30%AMI</b>  | 104160         | 78.2%                       | 51075         | 42.1%                       | 155235     | 61.0%                       |
| <b>&gt;30%&lt;=50%AMI</b>                                       | 23070          | 17.3%                       | 36165         | 29.8%                       | 59235      | 23.3%                       |
| <b>&gt;50%&lt;=80%AMI</b>                                       | 4845           | 3.6%                        | 22390         | 18.5%                       | 27235      | 10.7%                       |
| <b>&gt;80%&lt;=100%AMI</b>                                      | 765            | 0.6%                        | 5645          | 4.7%                        | 6410       | 2.5%                        |
| <b>&gt;100%AMI</b>  | 355            | 0.3%                        | 6060          | 5.0%                        | 6415       | 2.5%                        |
| <b>Total</b>  | 133195         |                             | 121335        |                             | 254530     |                             |

Of the quarter million state households paying more than 50% of income for housing costs, 40.9% are extremely low-income renters and 20.1% are extremely low-income homeowners. 78.2% of seriously cost burdened renters are extremely low income. No other income groups are even close.

<sup>1</sup> <https://www.huduser.gov/portal/datasets/cp.html>; CHAS Query tool

The same pattern exists with the CHAS data for households with serious housing problems, including paying more than 50% income for housing, more than 1.5 persons/room, or incomplete kitchen or plumbing facilities. Extremely low-income renters are 69% of renters with severe problems and 36.6% of all households with severe problems.

|                              | Renters | % of Renters with Severe Problems | Owners | % of Owners with Severe Problems | All    | % of All with Severe Problems |
|------------------------------|---------|-----------------------------------|--------|----------------------------------|--------|-------------------------------|
| <b>&lt;=30%AMI</b>           | 109825  | 69.0%                             | 52720  | 37.4%                            | 162545 | 54.1%                         |
| <b>&gt;30%AMI&lt;=50%AMI</b> | 31335   | 19.7%                             | 39515  | 28.0%                            | 70850  | 23.6%                         |
| <b>&gt;50%AMI&lt;=80%AMI</b> | 11225   | 7.0%                              | 27295  | 19.4%                            | 38520  | 12.8%                         |
| <b>&gt;80%AMI</b>            | 6855    | 4.3%                              | 21455  | 15.2%                            | 28310  | 9.4%                          |
| <b>Total</b>                 | 159240  |                                   | 140985 |                                  | 300225 |                               |

This is clearly a fair housing issue. Statewide, minority households are more than four times as likely as white non-Hispanic households to be low income renters with serious housing problems.

| <b>Tenure and Severe Housing Problems</b> |                  |   |                         |
|---|------------------|---|-------------------------|
|   | All Households * | Total Renters, <=30%AMI with Serious Problems | % with Serious Problems |
| <b>White, non-Hispanic</b>                | 1,848,965        | 68,560  | 3.71%                   |
| <b>Minority</b>                           | 266,370          | 41,265  | 15.49%                  |
| <b>Ratio</b>                              |                  |   | 4.18                    |
| *with cost burden computed                |                  |   |                         |

What is critical to know about this disparity in severe housing problems is that providing affordable housing to seriously cost burdened, extremely low-income renters requires rent (tenant-based) or operating (project based) subsidies. Rental operating costs alone are not affordable to this group. The supply of such subsidies in the state, largely tenant- and project-based Section 8, is virtually static.

<sup>2</sup> Derived from 2010-2014 CHAS Table 2, <https://www.huduser.gov/portal/datasets/cp.html>, select Data Download Page.

<sup>3</sup> Derived from 2010-2014 CHAS Table 2, <https://www.huduser.gov/portal/datasets/cp.html>, select Data Download Page.

There have been no new project-based Section 8 projects since the 1980s and the state supply of tenant-based Section 8 vouchers is growing only very slowly. Between July 2010 and July 2017, the number of vouchers in use in the state grew from 29,940 to 30,922, or only by 140 vouchers per year.<sup>4</sup>

The largest federal affordable housing production program, the Low Income Housing Tax Credit (LIHTC) program, largely targets households with incomes around 50% of AMI. To the extent that extremely low-income households occupy LIHTC projects, it is households with Section 8 vouchers, or living in project-based Section 8 housing. But use of Section 8 in LIHTC housing isn't increasing the supply of extremely low income housing, it is simply moving around the location of the Section 8 subsidies.

Actually addressing this huge fair housing issue requires a recognition by state and local agencies that housing for extremely low income households is the state's most serious housing problem, that minorities are dramatically disproportionately affected, and that funding operating or rent subsidies is as critical as funding capital subsidies in addressing the issue.

The State AI, because it ignores the problem, provides no action items to address the problem. There are models nationally for addressing, with rent and operating subsidies, the needs of extremely low-income households<sup>5</sup> and they should be discussed and recommended.

The State AI fails to notice that affordable housing production falls far behind the need for new affordable housing. In the metro area, for instance, the Metropolitan Council has concluded that about 5,000 new units affordable at or below 60% of AMI are needed each year of the current decade. In 2016, production reached a high point of only 1,724 units produced, less than half of what was needed. Worse, half of those were restricted to households 55 and older and virtually all were affordable only to households with incomes between 50% and 60% of AMI.

What is required is a state law that puts teeth into Minn. Stat. § 473.859 Subd. 4, which requires comprehensive plans which "will" provide sufficient affordable housing to meet state and local needs. To make this a reality, the statute needs to be amended to provide the Metropolitan Council with the tools necessary to enforce the requirement, such as the fair share laws in New Jersey. Additionally, the State (and the State AI) needs to commit to help fund the operating or rental subsidies needed.

Figure II-4 does not examine use of state resources to address the state's biggest housing need, for extremely low-income households. The AI does not examine the state Housing Finance Agency's Qualified Allocation Plan with respect to the need for extremely low-income housing. In fact, the proposed 2020 QAP Self Scoring Worksheet, Section 2.A. "Serves Lowest Income Tenants/Rent Reduction" is worth 8-13 competitive points. But getting these points does not require income restrictions, but only rents at 50% of AMI, and only for 10 years. The QAP fall far short of what is necessary, given the magnitude of the need for extremely low-income housing.

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<sup>4</sup> And a portion of this increase in housing choice vouchers is simply a replacement of project based vouchers with tenant based.

<sup>5</sup> See, for instance, "Model Approaches to Providing Homes for Extremely Low Income Households," Center for Community Change, 2011 at: <http://housingtrustfundproject.org/wp-content/uploads/2011/10/Models-for-Providing-ELI-Housing-HTFProject1.pdf> Describes programs from Washington State, Louisiana, New Jersey, North Carolina, Seattle, Chicago, and Washington, D.C.

### **Inclusionary Zoning is Legal in Minnesota**

The AI at page 47 is wrong about the legality of inclusionary zoning in Minnesota. Item J on page 47 states that inclusionary zoning is illegal in Minnesota due to the anti-rent control statute at Sec. 471.9996. But in fact, IZ is explicitly permitted by Minn. Stat. Sec. 462.358 Subd. 11. See the Minnesota Attorney General's Opinion dated October 25, 2007. Several Metro area cities, including Edina, Brooklyn Park, and Golden Valley have active inclusionary zoning policies.

### **Analysis of Impediments Did Not Adequately Engage the Community**

The community engagement process was not adequate to be able to make conclusions on fair housing barriers being faced by communities across the state. According to the executive summary, 69 residents were part of community conversations that were to represent the voices throughout the state of Minnesota. In contrast, the regional analysis of impediments engaged 824 participants in direct community conversations on fair housing barriers. It appears that most of the information for the State analysis was collected via survey response, which seemed to limit participants' choices of barriers to an enumerated, prepared list of issues that they were then to respond to rather than allowing them to highlight or bring to the surface their own issues. This is not the robust community engagement required by the federal AFFH regulations.

The executive summary also states that the community engagement process also included a thorough analysis of the community engagement responses to the regional addendum to the AI. However, major issues raised in that process were either not mentioned or glossed over in the State's AI. For example – a major theme heard throughout the regional community discussions was displacement of residents due to rising rent costs in the metro area. This displacement often went hand in hand with gentrification. This issue of displacement was one of ten goals listed in the regional AI's recommendation ("Goal 2: Reduce Resident Displacement.") However, this theme is not seen in the State's AI.

In the section of federal and state fair housing laws and enforcement, stakeholder input, particularly local legal services that handles the most fair housing complaints in the state, was not adequately integrated into the report. In Section 5, page 1, the report finds that annually, about 100 Minnesotans filed fair housing complaints. While this may be true when examining HUD and MDHR files, it is not an accurate picture of fair housing enforcement. Annually, metro legal services offices receive over 600 fair housing complaints, and these represent only a fraction of fair housing violations since the legal services offices have income limits applicable to those they serve. While the regional addendum to the AI did capture this information, it is not reflected in the State's AI, and thus not identified as an issue. This section needs to reflect accurately the number of complaints, both to government agencies and nonprofits, that were based on fair housing concerns.

### **Affordable Housing is a Fair Housing Issue**

In its analysis of state regulations, the AI draws a line between affordable housing and fair housing, stating that the consultants "did not specifically review impacts of state regulations on housing

affordability. However, where there is a probable overlap between the FHAA protected classes (such as persons with disabilities) and lower income populations, this review sometimes mentions potential impacts of decreased affordability on the supply of housing for FHAA-protected citizens.” In a state like Minnesota, which leads the country in racial disparities for homeownership, where black families are 2.5 times more likely than white families to be extremely cost burdened, regulations that restrict affordable housing is a fair housing issue and should be treated as such. Examples of current state regulations that create fair housing barriers include:

- Minnesota’s statute prohibiting cities from passing rent control ordinances without an initiative on the ballot at a general election;
- The state court’s interpretation of “status with regard to public assistance” in the context of Housing Choice Voucher acceptance;
- The Land Use Planning Act, which requires cities to account for their fair share of affordable housing need, is effectuated by cities simply guiding land at an appropriate density level to account for the need, regardless of whether the land is appropriately buildable for such housing.

Accordingly, the review of state regulations should be much more thorough, identifying impacts on decreased affordability as a fair housing issue and requiring the State to address it in specific action steps.

### **Consideration of Metro and Greater Minnesota Issues Separately**

The AI discusses most issues as generally applicable throughout the state. However, we know that issues that are of greatest urgency in Greater Minnesota (i.e., workforce housing, loss of Rural Development units) are very different from the urgent issues in the metro and other metropolitan cities (rising rents, displacement). While the addendum to the regional analysis took a deep dive into the metro needs, it was not with an eye to the State’s obligations, but instead the local entitlement jurisdictions. Therefore, the final draft of the State’s analysis should identify the issues that are similar across the state, but also identify the major, urgent barriers to fair housing that are distinct in different parts of the state.

### **Suggested Recommendations and Action Steps**

The following action steps should either be amended or added to the recommendation section:

**Goal 1a.** We support serious consideration to expanding the RRDL program to the Metro area. This would particularly be the case if we can combine RRDL with 4d benefits in order to accomplish two goals: upgrading of the physical condition of NOAH properties, and commitments to meaningful longer-term affordability commitments. It is worth thinking through how a program of this kind could both meet the needs of “problem properties” as well as those where we want owners to commit long term affordability rather than maximizing rent opportunities. Those two sets of buildings probably overlap but are not the same, and so the question is whether a Metro RRDL program could meet both

objectives. The RRDL program should also be considered in the context of or in conjunction with financing for energy efficiency improvements.

Additionally, we support establishing a receivership revolving loan fund; however, the recommendations should not be “evaluate feasibility”; the statute allows for this and the need for it is urgent. Recently, in Hennepin County, a landlord was stripped of 42 rental licenses because of failing to make necessary habitability repairs. These properties are currently in receivership; however, the administrator is having difficulty accessing money to making the necessary repairs. The City of Minneapolis also recently revoked 60 licenses of another landlord, representing hundreds of units. Many of these buildings are also under receivership, also with limited funds to make the necessary repairs. We urge the State to commit to adding money to the receivership fund, as well as commit to ongoing annual funding.

**Goal 1e.** One action step suggested is providing informational materials on best practices related to tenant screening criteria. Based on our research to date, there does not seem to be a recognized set of best practices in this area. We believe working toward a set of best practices in tenant screening is essential. However, an important first step is to support the necessary research and analysis work to determine what are best practices in this area, so as to treat tenants fairly and also serve landlord needs to identify applicants who will be successful tenants.

**Add Goal 1g - Increase Resources for Households at <30% AMI.** The recommendations should include a state-funded, dedicated source of money for rental or operating subsidies for the most prevalent, disproportionate housing needs, namely those households at less than 30% AMI.

**Goal 2.** The title of goal 2, “address housing segregation and increase access to opportunity,” does not adequately name the issues raised by community and stakeholders. Segregation is a result of discrimination, current and historical, intentional and disparate impact. Additionally, the language of “high opportunity” areas suggests that there are no opportunities within communities that have been historically disinvested in. Rather, the focus should not be on moving people from an area of “low opportunity” to one of “high opportunity”, but instead providing more options through increased mobility while at the same time investing in place-based community investments. A suggested title for this section would be “Address housing discrimination and improve opportunities for mobility within the region.”

**Goal 2b.** We support the State focusing attention on regulatory changes regarding source of income protections. However, because of the affordable housing crisis and, specifically, the very low percentage of landlords with units within FMR limits who currently accept Housing Choice Vouchers<sup>6</sup>, we believe the State needs to take a more proactive part in seeing that these regulatory changes happen. The regional AI recommends that entitlement jurisdictions “collect and present local data to elected officials illustrating the need for source of income protection. Advocate for source of income protection legislation across the region.” (Recommendation 1B.) We urge the State to use the same language in their recommendation, but on a statewide basis.

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<sup>6</sup> HOME Line’s 2015 survey of Minneapolis landlords showed that only 23% of units that were affordable to voucher holders actually accepted the voucher; a more recent survey of St. Paul showed an even smaller percentage (17.3%). The surveys can be found at <https://homelinemn.org/5646/minneapolis-st-paul-section-8-reports/>.



**Add Goal 2d – Explore a Fair Housing Testing Program.** Fair housing testing is a major source of evidence of fair housing violations. Right now, the only consistent fair housing testing in the state is done by Mid Minnesota Legal Assistance, an organization that primarily does complaint based testing. This does not allow for wider, survey tests, tests of the real estate market, or the lending market. The State agencies should invest in fair housing testing that would allow a broader view of fair housing discrimination in the rental, homeownership and lending fields. Minnesota Housing should consult with the Metropolitan Council on its recent efforts to fund fair housing testing.

**Add Goal 2e - Invest in place-based community improvements.** The answer to addressing concentrated areas of poverty is not simply moving low-wealth households to regions with a higher median income. Instead, while providing options to move to high-wealth communities, there must be investment in the communities and people of those communities, place based strategies that cater to the communities currently there.

**Add Goal 4b - Fair Housing Training for Government.** We support fair housing outreach and education across all communities. Additionally, we recommend that the State commit to funding fair housing training and education for government officials, both local and state level, on fair housing implications in their work. Zoning, planning, funding, and programming all have the potential for disparately impacting protected class communities. All government staff and elected officials should be looking at their jobs, and the decisions they are considering, through a fair housing lens.

**Add Goal 5 - Reduce Resident Displacement.** While primarily a metro and larger metropolitan area problem, it is one of the issues most voiced by tenants and which has increased the loss of affordable housing exponentially. We would recommend that the State adopt the recommendations seen in the regional AI, listed below, revising them to leverage the State's resources and abilities to address the issue.

- Goal 5a – Research state law regarding just cause eviction ordinances. As possible, work toward and advocate state adoption of just cause eviction ordinances.
- Goal 5b – Monitor state legislation regarding right of first refusal statutes and develop programs to implement. Consider implementation for multi-unit rental properties.
- Goal 5c – Research and create tax abate programs and market them to homeowners in areas of increasing displacement.
- Goal 5D – Promote policies that provide for rehabilitation and preservation of existing affordable housing in areas where displacement is known to be occurring.

Thank you for your consideration and attention to these comments.



March 2, 2018

Minnesota Housing  
Attn: Action Plan/AI  
400 Wabasha Street N, Ste 400  
St Paul, MN 55102  
[Mn.housing@state.mn.us](mailto:Mn.housing@state.mn.us)

[www.mhponline.org](http://www.mhponline.org)

2446 University Ave W, Suite 140  
Saint Paul, MN 55114-1740

p: 651-649-1710  
800-728-8916  
f: 651-649-1725

Re: Action Plan/AI

To whom it may concern:

Thank you for this opportunity to comment on the State of Minnesota's draft Analysis of Impediments to Fair Housing Choice.

**Minnesota Housing Partnership.**

Minnesota Housing Partnership (MHP) convenes, guides, and supports a diversity of partners working to improve conditions of home and community. Building on decades of experience, we strengthen development capacity and promote policies that expand opportunity, especially for people at the lowest income levels. MHP's mission is to promote homes for all Minnesotans and assist Minnesota communities in the creation and preservation of housing affordable to low- and moderate-income people.

**Addendum to Twin Cities Regional Analysis of Impediments (AI).**

Beginning in 2016, HUD contracted with MHP to support the engagement activities for the addendum to the Twin Cities region's 2014 Fair Housing Analysis of Impediments (AI). MHP facilitated a fair housing community advisory committee and a community engagement micro-grant program. The advisory committee was responsible for assisting the development of the AI addendum, with membership representing the major fair housing stakeholders in the Twin Cities. The micro-grants went to organizations closely connected to low-income populations and communities of color to gain community expertise on fair housing issues.

MHP documented its involvement in the AI addendum engagement process, and the perspective of community member participants, with a July 2017 report titled "A New Approach to Fair Housing Community Engagement." MHP recommends that the Twin Cities approach to community engagement in the Twin Cities Regional AI, with a staff/consultant-supported committee of stakeholders and funded community-led outreach and interviews, be used as a model for effective participation in fair housing planning by people most impacted by that planning, particularly communities of color.

**Comments on State of Minnesota's draft Analysis of Impediments to Fair Housing Choice:**

- MHP commends the State for utilizing the new Affirmatively Furthering Fair Housing rule promulgated by HUD in 2015, including the Assessment of Fair Housing planning tool, even though the state is not required by HUD to use the new rule until 2021. MHP agrees with the state's reasons for utilizing the new rule in 2018: using the AFH tool now will better prepare the state for its developing a new plan in 2021 and will result in an AI with a more developed and

holistic set of recommendations. The state's decision to utilize the new rule is noteworthy and significant in furthering fair housing in Minnesota, benefitting our state and residents.

- **Community engagement critical to the draft AI.** MHP appreciates the state's efforts to incorporate community engagement into its plan development process, including its review of the community engagement results from the Twin Cities Regional AI Addendum process that MHP helped to facilitate. As only 69 residents participated in community conversations conducted state-wide as part of the draft AI's community engagement process, this is a concerningly small number and MHP recommends that more must be done by the state to adequately engage the community. MHP notes, as well, that community members expended substantial effort, expertise, and time in the year-long process to develop the Twin Cities Regional AI Addendum, and it is important that this work is acknowledged and incorporated into the broader state plan. MHP encourages Minnesota Housing to incorporate more of the action steps from the Twin Cities Regional AI Addendum into the State's draft AI, honoring the solutions surfaced by low income and communities of color during the Twin Cities Regional AI community engagement process.
- **Commit to Fair Housing Testing.** The Draft AI's Executive Summary, on page 360 of 405, notes that "Regulatory review findings [show that] [a]nnually about 100 Minnesotans file fair housing complaints." This small number of complaints should be notable to the state and raise questions about potential underreporting of fair housing complaints, especially in light of the significance of disability and race-based disparities noted in other areas of the Draft AI. MHP recommends that Minnesota Housing examine, in partnership with agencies and organizations with civil rights and housing complaint experience, the barriers to filing complaints and ensure complaints to non-state agencies and to non-profits providing legal services have also been captured. MHP further recommends that the State include fair housing testing as an action item, to ensure the state more fully examines the extent of discrimination in the marketplace and its impact on opportunities for fair housing. The Twin Cities Regional AI Addendum recommends fair housing testing as goal 10D.
- **State Leadership Needed on Evictions.** In 2016 alone, 8,976 evictions were filed in Hennepin and Ramsey counties, according MN State Court records. A City of Minneapolis report by its Innovation Team found that more than 90% of evictions are for non-payment of rent, including situations where tenants withhold payments due to substandard conditions. The significant impact of evictions is mentioned in the draft AI's summary of housing issues on page 361 of 405 ("Tenant screening can include ... evictions of rental applicants. ... Expungement of eviction difficult to achieve (state barrier).") While the state does recommended the action step of "monitor[ing]" regulatory changes on evictions and identify implications for projects financed by Minnesota Housing," MHP recommends urges greater state leadership on evictions and additional action steps, including research to better understand the extent and impact of evictions and unlawful detainer (UD) actions, examining barriers to expungement of UD's, and convening stakeholders to develop solutions.
- **Section 8 – Housing Choice Vouchers.** The state's draft AI describes many challenges for Section 8 Housing Choice Voucher recipients, who are some of the most vulnerable residents in our state. The challenges listed include a lack of landlords that will accept Section 8, particularly in high opportunity communities. MHP supports the draft AI's proposed action of working with Local Housing Authorities to address barriers to utilizing housing choice vouchers and

encourages even stronger action steps by the state in this critical area. MHP also notes that the Twin Cities Regional AI has several recommended action steps to address fair housing concerns relating to Section 8 Housing Choice Vouchers.

- **Displacement and Loss of Affordable Units as a Fair Housing Issue.** The Summary of Findings notes, on page 358 of 405, that “segregation in the Twin cities is declining as a result of migration of Black/African American residents into suburban communities, overall growth in Hispanic residents, and an increase of white households in inner-city neighborhoods.” Yet, this finding is not connected to fair housing concerns, particularly in the Twin Cities region, of displacement of communities of color and gentrification, compounded by increasing prices of real estate and rental units. This point is made more clearly in the Twin Cities Regional AI Addendum, pages 166-179, and in the recommendations - Goal 2. This may also be one way that issues of segregation and displacement are experienced differently in the Twin Cities than in greater Minnesota communities. MHP recommends that the state review the Twin cities Regional AI Addendum’s section on Gentrification, Displacement, and Loss of Affordable Units and incorporate this issue as a fair housing concern.
- **Historical context.** MHP recommends that the state add historic context to its draft AI, describing in more detail the actions and inactions by federal, state and local government, as well as private actors, in prohibiting communities of color, Jewish community members, and other protected classes from fair opportunities to purchase and rent homes in Minnesota. Better understanding of this recent history is important context to the report findings and recommendations of the draft AI.
- **Develop Intentional Strategies to Address Fair Housing Issues in Greater Minnesota and the Twin Cities Metropolitan Region.** While impediments to fair housing are state-wide issues, the presentation of these issues are different in greater Minnesota than in the Twin Cities metropolitan area. The impact of transportation needs, issues of segregation and displacement, and workforce housing are just a few issues that have different fair housing impact for residents and call for different solutions in different parts of the state. MHP recommends that the state develop more actions that are specific to the particular needs of different areas of our state, to more effectively address fair housing needs.
- **Further Focus Needed on 30% AMI.** MHP urges the state to develop action steps specific to the great need for more housing serving those residents at 30% of AMI. This statewide need is a fair housing concern, which requires focused and intentional strategies.

Thank you for the opportunity to comment on the state’s draft Analysis of Impediments to Fair Housing Choice. MHP is committed to assisting the state in its efforts to further fair housing and offers its expertise and partnership. Please do not hesitate to call on us for information or assistance.

Sincerely,



Elizabeth Glidden  
Director of Strategic Initiatives and Policy



March 2, 2018

MICAH's Comments on the  
Analysis of the Impediments to Fair Housing Choice

Thank you for the opportunity to comment.

General Comments:

1. We appreciate the extensive review of literature, graphs, maps and review of current laws by BBC Research and Consulting. We also appreciate the document being modeled after the structure of HUD's proposed Fair Housing for States and Insular Areas.
2. While there was an attempt to include community engagement through this process by meeting with potentially 69 people impacted by fair housing issues, surveys 467, and interviews with 17 providers and 27 public housing authorities. We are very concerned that it provides an incomplete view and support a more robust community engagement process similar to what occurred in the metro area.
  - a. The number of people impacted by the housing crisis involved in the community engagement, would not be considered by most researchers, as statistically significant based on the potential numbers impacted in Minnesota.(69 people from 4 communities( info unclear if it was more than 4) and 467 surveys completed) In Minnesota, we have 590,000 renter households, ½ pay over 30% of their income for housing, about 25% pay over 50% of their income for housing. 53% of people of color are cost burdened.  
We have 1.5 million homeowners. Only 40% are people of color. While 76% of whites are homeowners.
  - b. There are 119 public housing authorities in greater Minnesota. Only 27 participated in this process. Less than 23% participated.
3. The recommendation for the amended Metro Regional AI did not include recommendations for MN Housing, DEED, and or DHS. If the Metro amended AI is be included, it should include recommendations and/or goals for each of these Departments.

Specific Comments:

1. Executive Summary:

**Demographic Analysis-** Segregation- Migration. People of color, people with disabilities elderly are being displaced from urban areas due to gentrification, conversion of NOAH units, rent increases, and more restrictive tenant selection criteria.

**Regulatory Review:** The low number of complaints is often related to fear of retaliation and losing their housing, lack of assistance in filing complaint, and length of time to reach a settlement.

**Housing Issues:** Redevelopment of NOAH units displaces people of color, people with criminal/credit/tenancy issues and people on public assistance, people with disabilities and frail seniors.

2. Section 1:

Page 5. The population growth rate and concentration in Twin Cities and Central Minnesota. No information provided on the changes in rural areas due to farm foreclosures and loss of jobs in the timber, fishing and mining industries forcing people to move to find work in 1980s and 1990s.

Maps- It would be helpful to have in addition, one state map which would provide all the data from the individual maps.

Page 21. Somali move to both the urban core and suburbs where other Somali have already obtained housing for social support.

Page 23. More than 50,000 Minnesotans have limited English proficiency (LEP). We believe defining LEP as a household where there is no one over age 14 speaks English well, significantly undercounts the number of limited English proficient Minnesotans especially within our refugee populations.

Page 35. We agree with the conclusion of a balanced approach. There needs to be housing choice opportunities and equity in place in every community. Investments into communities must create and maintain affordable housing and create opportunities and wealth for the residents.

We suggest a map on the aging of Minnesota's population. The By 2035, our seniors, 65 or older, will be about 20% of population with many seniors living in poverty and with disabilities.

Page 52. Last paragraph add while experiencing higher levels of unemployment, poverty and significant housing struggles.

3. Section II Housing Choice Analysis:

Pages 1, 21, 29 Mortgage loans denied and gaps in approvals among different races and ethnicities. No goals were set to address this finding, we should amend HMDA data factors to be more inclusive. Include USDA's programs.

Page 2 Voucher Holders- 40% unable to find housing: No goal was set to address this finding.

Page 3 Landlords requiring 3x income as rent, high security deposits, poor housing condition, as a serious concerns. No goal set to address this finding.

Lack of private investment as a serious fair housing issue: No goal was set to address this finding.

Page 7. While most stakeholders that participated did not see steering by real estate agents and restrictive covenants as serious issues it is one of the major driving force in disparities in homeownership in Minnesota.

Page 17 Recommendation for a consolidated wait list. No goal was set to address this finding.

Page 18. PHAs may believe there is adequate fair housing training in the community. Most community members have never had a course on landlord tenant law, fair housing, credit/tenancy/criminal records and impact on accessing housing.

Page 32, 34. HUD's guidance on criminal history screening and Fair Housing Act: Only ½ PHAs that participated planned to change their screening process. No goal was set to utilize it to provide Second Chances for residents with criminal records.

#### 4. Section III

Page 2 We agree with Summary findings and would add: livable incomes- jobs and public assistance, safe, decent, accessible and affordable housing in every community

Page 23. Please include Lead Safe Homes. Currently according to MDH at least 700 children (disproportionately children of color) are poisoned by lead each year in Minnesota. 359,000 occupied renter households were built before 1978 which have potential lead poisoning hazards. It costs \$1500-\$2,000/unit every 5 years to make it lead safe. It costs \$100,000/child/year who becomes disabled by lead. Goal to make all housing lead safe by 2020. HF 491. SF 350 are bills being heard in 2018 Legislative Session.

Page 25. Communities least likely to have broadband may have not been able to participate in your survey and it may have impacted your survey results.

Page 31. Laws and policies pertinent to transportation were not considered a contributing factor to fair housing. We disagree. Policies and lack of funding to provide access to a variety of rural and urban transportation opportunities is a significant impediment to accessing Fair Housing and opportunities.

Page 33. NOAH units may become less available as an option as conversion moves into South and Southwest Communities.

Page 34. We agree, Minnesota Somali residents lack Islamic lending products and this creates a significant barrier to homeownership. No specific goal set to address this issue.

Page 36 Segregation. We encourage the use of language *that groups of people choose to live in close proximity to share language, culture, social capital* and not define that as segregation.

#### 5. Section IV :Disability and Access Analysis

Page 1 We agree that requiring people with disabilities to apply onsite at a county office is a significant barrier. A goal needs to be set to allow applications by mail, internet and through other community providers.

Page 12 Reasonable accommodations for service animals. The information we have heard from people with disabilities is different and many landlords do not know the law.

6. Section V Complaint and Regulatory Review

Page 1 **Regulatory Review:** The low number of fair housing complaints, 109, is often related to fear of retaliation and losing their housing, lack of assistance in filing complaint, and length of time to reach a settlement

We disagree with your analysis of state level statutes: We believe the law prohibiting rent control and lack of a statewide inclusionary zoning law are critical impediments to fair housing and opportunities.

Page 15. MICAH's complaint was much broader than indicated. It included LIHTC, QAP and all State and Met Council funding and policies. MICAH settled with Minneapolis, MSP Board and St. Paul with VCAs.

We agree with stakeholder in rural MN that 100 job threshold for a rural community is too high in the QAP.

7. Contributing Factors, Priorities and Goals

Pages 1-7 We agree with the contributing factors and primary fair housing issues. We would add: lack of creation and preservation of safe, decent, accessible and affordable housing, livable incomes- jobs and public assistance benefits, and other issues identified in previous comments.

**We would like to see a total re-write of the tables and specific action items by Minnesota Housing, DEED and DHS to address the fair housing challenges that were identified on pages 1-7.**

**The action steps must be specific and measurable.**

The majority of the current goals are process goals utilizing language such as: continue, consider, investigate, explore, monitor, identify, partner, work with, review, promote, conduct gap analysis, evaluate, provide, leverage, etc. All of these are good process steps toward specific concrete goals.

Examples of some concrete goals we would recommend. (Process goals including funding and those responsible would be added to get to these results.)

1. 165,000 of the current 170,000 NOAH units in the metro area will continue to be affordable at rent levels of \$500-\$1200/month in 2021.
2. All Minnesota apartments/homes will be lead safe by 2020
3. Homeownership of people of color will be at least 50% by 2021.

8. **Review of State Level Public Sector Barriers to Fair Housing in Minnesota.**

We support implementation of items on pages 3-7 and many of your recommendations throughout this section, and we do encourage further work and implementation of your recommendations on pages 53-54.



Thank you again for the opportunity to comment.

Sincerely,

Sue Watlov Phillips, M.A.

Executive Director, MICAH

**From:** Jennifer Prins [<mailto:jprins@threeriverscap.org>]  
**Sent:** Friday, March 02, 2018 4:16 PM  
**To:** MN\_MHFA MN Housing, . (MHFA) <[MN.Housing@state.mn.us](mailto:MN.Housing@state.mn.us)>  
**Subject:** AI/AAP

Hello –

Thank you for the opportunity to submit comments on the Draft Analysis of Impediments to Fair Housing and the 2018 Draft Annual Action Plan. I am submitting these comments on behalf of the River Valleys Continuum of Care (Rochester/Southeast Minnesota CoC , MN -502). The CoC greatly appreciates being advised of the drafts and has compiled a couple key comments regarding the AI and Action Plan.

### **Analysis of Impediments:**

Regarding the Demographic Analysis, we are concerned that the characterization of the state’s racial and ethnic diversity being “predominantly in the Twin Cities” may result in disinvestment in smaller communities where investment and action is needed. For example, many of the greater Minnesota counties identified as areas of concern for gaps in mortgage lending are those where rapid racial and ethnic change has occurred. Proportionally, these communities may be at least as diverse as the Twin Cities, even though total numbers are lower.

Regarding the goals of the plan, we strongly affirm the need for education, outreach, tools, and resources to address limited knowledge of (and compliance with) fair housing laws. We are concerned, however, that the Action Items derived from these goals are not sufficient to address the challenge. Action Items 1.e. and 4.a., for example, need to employ stronger language than “monitor” and “provide educational materials” to truly meet the goal named and affect change in communities in our CoC region. As providers serving households who are experiencing homelessness or at risk of homelessness, we see firsthand the impact of “crime free” housing ordinances that disrupt lives of non-offenders. We also consistently see tenant selection practices that prevent very vulnerable households with barriers from accessing housing, stabilizing their lives, and becoming the productive and active community member they desire to be. This is not new knowledge. We highly recommend that this section be reconsidered to focus on action as much as on evaluation and education, and our CoC is happy to support tool development, response protocols, and outreach efforts in our region.

### **Annual Action Plan**

Overall, our CoC believes that the balance of needs for housing and community development in the region is reflected well in the Action Plan, and we appreciate the effort to do that.

p.6 Regarding the description of consultation with Continuums of Care: We believe this section does not adequately address the question of consulting with CoCs to determine ESG fund allocation, develop performance standards, or evaluate outcomes. The discussions at the monthly meeting hosted at DHS is cursory at best related to these topics, and specific action is needed to fully implement this requirement. We recommend that this section more accurately and specifically address current practice and that a more detailed action plan be developed to truly meet the spirit of this requirement.

Thank you for the opportunity to provide comment. We see the State as a valuable partner in meeting community needs, especially where it works to prevent and end homelessness through the programs referenced in these draft documents. If there is any way that our CoC membership can be of help to implement the actions proposed, please contact me and I will bring it to our CoC board and/or membership.

Best –

Jennifer

**Jennifer Prins, MURP**

Planning Director/Continuum of Care Coordinator

Three Rivers Community Action

1414 North Star Drive, Zumbrota, MN 55992

Direct: 507-732-8577 | [jprins@threeriverscap.org](mailto:jprins@threeriverscap.org)

***Three Rivers Community Action** works with community partners to provide warmth, transportation, food, housing, advocacy, and education to individuals and families. For more information on how you can help, visit our website at [www.threeriverscap.org](http://www.threeriverscap.org).*

***River Valleys Continuum of Care** is a community-based coalition dedicated to preventing and ending homelessness in southeastern and south central Minnesota by coordinating services and maximizing resources. Find more information at [www.threeriverscap.org/continuum-of-care](http://www.threeriverscap.org/continuum-of-care).*