



2015 Analysis of Impediments to Fair Housing Choice



A report on behalf of New Hampshire Housing Finance Authority
and the New Hampshire Community Development Finance Authority

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PART I: OVERVIEW OF 2015 UPDATE

A. INTRODUCTION

Our nation is quickly closing in on the 50th anniversary of the enactment of the federal Fair Housing Act (FH Act). The FH Act was passed by Congress in 1968 in the weeks following the assassination of Dr. Martin Luther King. The FH Act was the last piece of the civil rights legislation of the 1960s. The civil rights laws of that decade may be seen as the greatest and most heroic acts of 20th century Congressional legislation. They flow from the bedrock national declarations that all are created equal and all are entitled to equal protection under the law. The express purpose of the FH Act was and is to suppress racial segregation in housing and to promote integration and equal housing opportunities for all, particularly those who have historically been excluded.

The U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Justice are the two federal agencies charged with enforcement of the FH Act. The FH Act requires that HUD “administer the programs and activities relating to housing and urban development in a manner affirmatively to further fair housing.”¹ States and local governments that directly receive HUD community development funds are required by HUD to prepare an analysis of impediments to fair housing as part of their obligations to affirmatively further fair housing (AFFH).²

The Analysis of Impediments to Fair Housing (AI) is a cornerstone of a jurisdiction’s work to affirmatively further fair housing. In addition to creation of an AI, the jurisdiction must also take action to overcome impediments and maintain records of the analysis and actions taken to address the impediments.³

Identifying and analyzing barriers to equal access to housing can be quite challenging, especially in a racially homogenous state like New Hampshire. In recent years, we have gained a clearer understanding that beyond personal bias and purposeful discrimination, the structures of our society have often been constructed in ways that favor some groups of people far more than others. In the fair housing arena, policy makers as well as advocates have expanded their analyses to include focus on structural impediments to equal housing opportunity.

The *Westchester* case has served as a wake-up call for many jurisdictions, providing a clear message that patterns of racial segregation must be identified and addressed.⁴ In *Westchester*, a local housing discrimination group sued Westchester County, New York under the federal False Claims Act claiming that the County had falsely certified to HUD that it was affirmatively furthering fair housing in the administration of its community development programs when in fact its policies furthered racial and ethnic segregation. The court ruled that merely creating

¹ 42 U.S.C. § 3608(e)(5).

² 24 C.F.R. § 570.601(a)(2). *See also* 24 C.F.R. §94.425(a)(1)(I) and HUD’s Fair Housing Planning Guide, p. 1-2 (1996).

³ *See Fair Housing Planning Guide*, *supra* note 2 at p. 1-2.

⁴ *U.S. ex rel. Anti-Discrimination Center v. Westchester County*, 495 F.Supp. 2d 375 (S.D.N.Y. 2007).

affordable housing opportunities was not sufficient and held that “a government agency that certifies to the federal government that it will affirmatively further fair housing as a condition to its receipt of federal funds must consider the existence and impact of race discrimination on housing opportunities and housing choice within its jurisdiction.”⁵

Since the *Westchester* case, HUD has taken many steps to provide guidance to jurisdictions on the expectations of the AFFH obligation. In July 2013, it issued proposed rules on AFFH and the final rules were published in July 2015 encouraging grantees to use data analysis to more effectively evaluate segregation and integration patterns within a geographic area.⁶ HUD has identified the core AFFH areas to be analyzed as: segregation, racially/ethnically concentrated areas of poverty, disparities in access to community assets, and disproportionate housing needs.⁷

Although HUD has not yet completed its work on the creation of data sets and tools, we have decided to incorporate analysis of areas of racially/ethnically concentrated areas of poverty and access to opportunity within this update. We began incorporation of structural impediments 10 years ago in the first update and have continued to provide such analysis in this update. We believe our state is poised to meet the challenges of overcoming the impediments we have identified in the past and new ones identified in this document. It is our hope that the 2015 Update to the Analysis of Impediments to Fair Housing will provide constituents, government officials, policy leaders and advocates with a comprehensive roadmap.

B. EXECUTIVE SUMMARY

The publication of the 2015 Update to the Analysis of Impediments to Fair Housing marks the fourth analysis conducted since 1996 when the Office of State Planning issued the original Analysis of Impediments to Fair Housing in New Hampshire (AI).⁸ By 2004, New Hampshire Housing Finance Authority (NHHFA) had taken responsibility for evaluating barriers to housing opportunity and published an update to the AI (2004 Update). In 2010, NHHFA issued its second update (2010 Update) and this 2015 Update is the third. NHLA, under contract with NHHFA and the New Hampshire Community Development Finance Authority (CDFA), has produced all three of the updates.

Scope of Investigation

In preparing the 2015 Update, we engaged the following activities:

1. Demographic analyses
2. Evaluation of areas of high poverty and racial/ethnic concentrations

⁵ *Id.* at 375.

⁶ *Affirmatively Furthering Fair Housing: Proposed Rule*, 78 Fed. Reg. 43710 et seq. (July 19, 2013). *See also*, HUD Publication *AFFH Data Documentation (Draft)* (June 2013) at http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_AFFH_data_documentation.pdf. The final rule, published after research for this document had been completed, can be found at <https://www.federalregister.gov/articles/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>.

⁷ *AFFH Data Documentation (Draft)*, *supra* Note 6 at p. 1.

⁸ The original document, *Analysis of Impediments to Fair Housing in New Hampshire* was published in 1996. NHHFA also published updates in 2004 and 2010.

3. Analysis of geographic distribution of housing choice voucher users within state
4. Organizing two focus groups
5. Review of mortgage lending patterns
6. Review of hate crime data
7. Review of fair housing resources in New Hampshire
8. Compilation of housing discrimination complaint data
9. Overview of legal developments
10. Summaries of impediments faced by particular protected class groups
11. Identification of additional impediments
12. Review of progress made on previously identified impediments
13. Recommendations on addressing existing impediments
14. Inclusion of supplemental materials in report appendix

In the 2015 Update, we have included data analyses of areas within the state where there is an intersection of higher levels of poverty and racial and/or ethnic minorities. We then look at those concentrated areas through the lens of access to opportunity. This is the first time we have utilized this analysis and it has yielded interesting results. Also, for the first time we have included a discussion on historical structural legal inequities that in some cases have not been fully reversed.

We conducted two focus groups in order to gain individual perspectives on housing discrimination and information about the participants' views of their communities. We have continued to survey new legal developments, discuss challenges facing members of the various protected classes; conduct a review of fair housing complaints handled by the three entities that investigate housing discrimination in New Hampshire, and identify existing impediments. The report concludes with recommendations and action steps.

Findings

New Hampshire has experienced many changes since the 2010 Update, quite a few positive. Our research indicates that significant impediments continue to affect housing choice for members of protected cases in New Hampshire.⁹ In Part II, Opportunity Analysis, our review points out that long ago biases embedded in our culture and our laws have had long-lasting effects on equal access to housing and economic opportunity. Racial and ethnic minorities, women, and people with disabilities are comparatively worse off economically than White populations, males, and persons who are not disabled.

In Part II, we also conducted a challenging assessment of areas of concentrations of poverty and racial and ethnic minorities that revealed several important points. First, the tools that HUD has recommended for such assessments present evaluative difficulties for small, more rural states like New Hampshire. Second, there are no census tracts within New Hampshire that meet HUD's

⁹ Protected classes in New Hampshire are based on race, color, national origin, religion, sex, familial status, disability, age, marital status, and sexual orientation.

definitions of concentration, although a few tracts come close. That is good news and it gives the state an opportunity to prevent it from happening. Third, we do have census tracts within the state where there is significant incidence of both poverty and racial and ethnic minorities. Fourth and most disheartening, is that people living in those tracts are worse off than almost anywhere else in the state.

Because input from individuals is crucial, we conducted two focus groups: one comprised of Latinos living in Nashua and the other of Deaf and Hard-of-Hearing residents from various communities. Both groups felt that they did not have enough information about their rights under fair housing laws. Members of both groups had experienced barriers, many due to language access issues. Participants described situations in which they or others had been treated differently, or in the case of the Deaf participants, had not been provided with equal access to services and/or had been denied accommodations or modifications to which they were entitled.

The Legal Update in Part III reviews legal developments of note, both at the federal and state level. The most significant development is the decision of the U.S. Supreme Court ruling that the disparate impact or discriminatory effects theory is a legitimate and enforceable aspect of housing discrimination law under the FH Act. There were several HUD actions in New Hampshire invoking the disparate impact theory based on gender and its effects on domestic violence victims. The *Amanda D.* case was brought against the state of New Hampshire in federal court on behalf of persons with severe mental illness for violations of their civil rights. The case was settled and has resulted in the creation of structures designed to prevent institutionalization through the provision of community-based services, including housing.

Part IV, Analysis of Fair Housing Impediments, contains a review of fair housing resources available to state residents underscoring the importance of the internet. One can find excellent education materials about fair housing law, view the websites of the courts, legal services organizations, HUD and the New Hampshire Human Rights Commission (HRC). One may also apply for legal services assistance or file a discrimination complaint online.

It is clear from an evaluation of complaint statistics that NHLA handles more fair housing complaints than any other entity in New Hampshire. HRC handles the least. Inclusion of information about hate incidents and hate groups in New Hampshire indicates that although the incidence is small, it is still troubling.

A discussion of the various protected class groups and particular challenges is followed by a discussion of additional impediments to fair housing in our state. Finally, the 2015 Update concludes with Part V's recommendations designed to address the obstacles to achieving fair housing. An Appendix contains reference materials.

C. ACKNOWLEDGMENTS

The authors would like to acknowledge the contributions of the following people:

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PART II: OPPORTUNITY ANALYSIS

Where you live usually determines the school your children attend, your degree of neighborhood safety, your access to public transportation or highways, the availability and quality of finance and credit, your employment opportunities, and your social network.

- John Powell¹⁰

Part II analyzes access to opportunity from several aspects. We begin with a brief discussion of New Hampshire as an opportunity state; move to an overview of historical structural inequities that have affected access to opportunity in the state; then discuss the outcomes of a study on concentrations of poverty and racial/ethnic segregation; and end with a report on two focus groups conducted as a part of this analysis.

A. MOVING TO OPPORTUNITY

In recent years, HUD has placed increasing importance on utilizing its resources to create inclusive communities. HUD defines inclusive communities as those “in which all people – regardless of race, ethnicity, socioeconomic status, age, disability or sexual orientation – have access to the same housing, transportation, health, education, and employment opportunities.”¹¹ Others have called this the geography of opportunity – recognizing that where one lives most often determines access to the features that are directly linked to the economic success and quality of one’s life.

New Hampshire is an opportunity state. It boasts a low poverty rate,¹² good schools,¹³ low unemployment,¹⁴ comparatively affordable housing,¹⁵ low crime rate,¹⁶ and high environmental

¹⁰ Powell, John, *Race, Place and Opportunity*, The American Prospect (Sept. 21 2008) available at: <http://prospect.org/article/race-place-and-opportunity>.

¹¹ U.S. Department of Housing and Urban Development, *FY 2010-2015 HUD STRATEGIC PLAN 4* (May 2010), at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_4436.pdf.

¹² New Hampshire’s poverty rate was 8.7% in 2013, the latest data available. See *Spotlight on Poverty and Opportunity* at <http://www.spotlightonpoverty.org/map-detail.aspx?state=New-Hampshire>. In 2013, the U.S. poverty rate was 14.5%. See U.S. Census data at <https://www.census.gov/hhes/www/pverty/about/overview>.

¹³ For example, see *2011 Assessment Snapshot: A Comparison of New Hampshire Students with Nation and Surrounding States*, N.H. Department of Education, available at <http://education.nh.gov/instruction/assessment/index.htm>.

¹⁴ New Hampshire’s current unemployment rate is 3.9% while the U.S. unemployment rate is 5.5% for the same period (Mar. 2015). See Chart produced by the N.H. Department of Employment Security at www.nhes.nh.gov/elmi/statistics/laus-data.html.

¹⁵ Clifford, Robert, *The Housing Bust and Housing Affordability in New England: An Update of Housing Affordability Measures*, Discussion Paper 101, New England Public Policy Center, Federal Reserve Bank of Boston (June 2010).

¹⁶ New Hampshire was recently rated the state with the lowest crime rate by USA.com. See <http://usa.com/rank/us--crimeindex--state-rank.htm>.

health.¹⁷ It is a good place to work and raise a family. It offers a range of environments and communities from seashore and lakes to forests and mountains and from farms and villages to suburbs and urban areas. Because it offers so much, for many years New Hampshire enjoyed steady growth. However, over the past several years, in-migration has slowed significantly.¹⁸

With all its positive attributes, New Hampshire has not attracted much diversity. Historically and even during periods of population growth, New Hampshire, has remained not only one of the least ethnically and racially diverse states in New England, but also the nation. While New Hampshire's homogeneity is slowly decreasing, its population remains overwhelmingly White (91.6%).¹⁹

Although the current growth rate for ethnic and racial minorities far exceeds the White growth rate, all minority populations combined represent less than 10% of the state's population.²⁰ Latinos now comprise 3.2% of the population, Asians 2.4%, Blacks 1.5%, and Native Americans .3%.²¹ It is important to question why so few members of minority groups seek the opportunities that New Hampshire offers. After all, even remote Alaska, the penultimate state to join the union and the coldest, boasts a higher diversity rate than New Hampshire (and all of New England).²²

This is not an issue that appears to have been studied and therefore, there are no well developed theories that might help explain this phenomenon. Christine Wellington, Esq., co-author of this update reached out to Jason Sokol, Ph.D, a noted University of New Hampshire history professor specializing in 20th century American politics, race, and civil rights. Professor Sokol recently published *All Eyes Are Upon Us*, a treatise on race and politics in the Northeast which focused on southern New England and New York. When asked if he had any theories, he speculated that perhaps "New Hampshire's lack of big cities was something of a deterrent to racial minorities. In addition, its reputation as a politically conservative state probably deterred racial minorities."²³

There may be other structural factors rooted in the state's history that have contributed to the maintenance of an overwhelmingly White population. It is important to examine structural barriers, both historic and modern, in order to overcome these impediments.

¹⁷ For example, see *America's Health Rankings®, A Call To Action For Individuals and Their Communities*, United Health Foundation (2014).

¹⁸ Johnson, Kenneth M., *New Hampshire demographic trends in the twenty-first century* (2012), The Carsey Institute at the Scholars' Repository, Paper 164 at <http://scholars.unh.edu/carsey/164>.

¹⁹ See New Hampshire QuickFacts from the U.S. Census (2014) at <http://quickfacts.census.gov/gfd/states/33000.html>. Massachusetts, Rhode Island and Connecticut have significantly more racial and ethnic diversity than the northern New England states. See Maine QuickFacts (2014) at <http://quickfacts.census.gov/gfd/states/23000.html>; Vermont QuickFacts (2014) at <http://quickfacts.census.gov/gfd/states/50000.html>, Massachusetts QuickFacts (2014) at <http://quickfacts.census.gov/gfd/states/25000.html>, Connecticut QuickFacts (2014) at <http://quickfacts.census.gov/gfd/states/09000.html>, and Rhode Island QuickFacts (2014) at <http://quickfacts.census.gov/gfd/states/44000.html>.

²⁰ *New Hampshire demographic trends*, *supra* Note 18.

²¹ New Hampshire QuickFacts (2014), *supra* Note 19.

²² Alaska QuickFacts (2014) <http://quickfacts.census.gov/gfd/states/02000.html>.

²³ Email correspondence with Prof. Sokol (May 1, 2015).

B. HISTORIC STRUCTURAL INEQUITIES AND NEW HAMPSHIRE LAW

The reasons for New Hampshire's lack of diversity are not clear but may be connected to the vestiges of old injustices reflected in the history of our state, including its laws. Over the course of time, our state has built up structures and torn down others that both underscore egalitarian and democratic values as well as challenge them. From the beginning, our state and our nation have struggled to realize the lofty ideals of our constitutional democracy. The truth is that our society, including our legal system, has been and is now organized in ways that benefit some more than others. The legacy of historic structural inequities still impacts access to opportunity.

Many have struggled for equal rights in this state from its beginning. The protections of New Hampshire's Constitution were not initially intended to extend to all humans within the borders of the state. Slavery was legal even after the Revolutionary War. Restrictions were placed on eligibility for voting and holding state office. Only qualified men could vote or hold office. Animus and distrust of Catholics and Jews initially prohibited them from serving in the state legislature. Eligibility for holding the office of state representative or state senator was limited to those who held an estate of 100 pounds (deleted 1852)²⁴ and who were Protestant (deleted 1877).²⁵ Animosity toward the rising immigrant population led to the imposition of literacy requirements in 1903.²⁶ It was not until 1974 that New Hampshire definitively and explicitly recognized the rights of those previously denied when the state constitution was amended to prohibit discrimination based on race, color, religion, sex or national origin.²⁷

The European migration into what we were taught to call the "New World" brought adventurers, traders, settlers and soldiers all seeking opportunities in these lands. This migration also brought devastation to the native peoples of North and South America. The land that New Hampshire occupies had been inhabited by human beings for as long as 12,000 years when the English founded a permanent settlement on the seacoast in 1623.²⁸ The newcomers had little regard for the sovereign rights of the native populations who were generally regarded as inferior to the arriving Europeans.

The growth of English settlements in New Hampshire resulted in dire consequences for Native Americans and caused their virtual disappearance from the state. Disease brought by Europeans decimated the native people. Armed conflicts between the English and French that spilled into what has become New Hampshire further disrupted Native American lives. Many Native Americans sided with the French in these conflicts. During this period, the majority of

²⁴ N.H. Const., Part 2nd, [Art.] 14. [Representatives, How Elected, Qualifications of]. (1784 and 1852); [Art.] 28 [Senators, How and by Whom Chosen; right of Suffrage] (Repealed); and [Art.] 29 [Qualifications of Senators].

²⁵ *Id.* (1784 and 1877).

²⁶ N.H. Const., Part 1st, [Art.] 11. [Elections and Elective Franchises]. (1784 and 1903). "Amended 1903 to provide that in order to vote or be eligible for office a person must be able to read the English language and to write." This requirement does not appear to have been deleted or repealed.

²⁷ *Id.* N.H. Const., Part 1st, [Art.] 2. [Natural Rights]. "Equality of rights under the law shall not be denied or abridged by this state on account of race, creed, color, sex or national origin."

²⁸ Wallace, R. Stuart, *New Hampshire History in Brief*, New Hampshire Division of Historical Resources, www.nh.gov/nhdhr/markers/brief.html (undated).

Native Americans left the lands we call New Hampshire and resettled in what is now Canada.²⁹ The Native American population of New Hampshire remains very small to this day.³⁰

The first people of African origin to arrive in the Americas came as slaves. Like Native Americans, Africans were seen as inferior by many of European heritage, providing justification for the institution of slavery. Although colonial Americans also engaged in the practice of indentured servitude, only persons of African heritage were subjected to slavery. Always relatively few in number and declining even more steeply after the American Revolution, from the early 17th century until the mid 19th century, people of African heritage were held in slave bondage in New Hampshire.

Many of the New England states prohibited slavery in the years after the American Revolution. Although the New Hampshire Constitution, enacted in 1784, declares that “all men are born equally free and independent,” it did not accord equal protection to people of African heritage.³¹ New Hampshire census records show the presence of slaves (although the numbers are miniscule) until 1840.³² In 1857, New Hampshire passed legislation that declared that no one could be denied citizenship because of African descent, thought by many to be a repudiation of slavery.³³ That same year, New Hampshire repealed its laws barring Black men from enlisting in the state militia. However, the institution of slavery in New Hampshire was not clearly and unequivocally abolished until the passage of the 13th Amendment which New Hampshire ratified on July 1, 1865.³⁴

The African American population in New Hampshire has remained historically small. The Great Migration, the movement of African Americans out of the South spanning the period of 1910 to 1970, largely bypassed the northern New England states of Maine, Vermont and New Hampshire for reasons that are not clear. The largest modern influx of people of African heritage into New Hampshire has been through refugee resettlement programs which have been responsible for settling people from many African countries including the Democratic Republic of Congo, Sudan, Somalia, Liberia, Sierra Leone and others.

Women were first admitted to practice law in New Hampshire in 1890,³⁵ but they were unable to obtain universal suffrage until the 19th Amendment was enacted into law on August 26, 1920.³⁶ Although earlier than female suffrage, women’s admission to the New Hampshire Bar

²⁹ Swanton, J.R., *The Indian Tribes of North America*, Journal of American Ethnology, Bulletin 145. U.S. Government Printing Office, Washington, D.C.(1953), available at <http://www.accessgeneology.com/native/new-hampshire-indian-tribes.htm>.

³⁰ *The American Indian and Alaskan Native Population: 2010, 2010 Census* Briefs (Jan. 2012). The 2010 U.S. Census reports 3,150 persons who report Native American/Alaska Native as their only race and an additional 7,374 people reporting their race as Native American/Alaskan Native in combination with one or more other races. These numbers represent modest increases from the 2000 census. Current population estimates indicate that .3% of New Hampshire’s population is Native American. *Supra*, Note 19.

³¹ N.H. Constitution, Part 1st, Art. 1 [Equality of Men; Origin and Object of Government]. (June 2, 1784)

³² Harper, Douglas, *Slavery in the North, Slavery in New Hampshire*, slavenorth.com (2003).

³³ *Slavery and the Making of America: Time and Place*, Thirteen/WNET New York, www.pbs.org/wnet/slavery/timeline/1857.html (2004). See also, Harper, *supra*, Note 32.

³⁴ *Id.* See also, African Burying Ground Trust Project Introduction Booklet, *In Honor of Those Forgotten: The Portsmouth New Hampshire African Burying Ground*, p. 3, www.AfricanBuryingGroundNH.org (undated).

³⁵ *Ricker’s Petition*, 66 N.H. 207 (1890). “A woman may be an attorney-at-law. In a limited sense, a member of the bar is an officer of the court: but in the work of his profession he does not take an official part in the government of the state, for which women are disqualified by common law.” *Id.* at 207.

³⁶ New Hampshire was the 16th state to ratify the amendment. But note that in 1871, the New Hampshire legislature granted women permission to run for local school committee positions and in 1878 allowed them to vote in local school committee elections. See Eaton, Aurore, *Victory, then defeat for the women’s vote*, Union Leader (Feb. 3.2016).

did not result in a deluge of female admissions. Of the first 100 women admitted to the New Hampshire Bar, a good number are still in practice in 2015.³⁷ New Hampshire's constitutional recognition of the civil rights of women was a milestone only achieved on the eve of the last quarter of the 20th century. New Hampshire women continue to strive for equal access to opportunity and continue to earn less than their male counterparts.³⁸

The issue of immigration has always been controversial in New Hampshire even when the newcomers were Europeans. Towards the turn of the 19th century, immigrants came to New Hampshire seeking work in the mills. The immigrants came from Canada and all over Europe. A great number were not fluent in English and were Catholic or Jewish. The influx caused consternation among many in the Granite State and led to conflicts and legislative attempts to discourage immigrant participation in mainstream civil activities. The 1903 amendment to the New Hampshire Constitution requiring the ability to read and write English as a prerequisite for voting or running for office is the starkest example. Ironically, and because it was never repealed, this constitutional provision led to federal oversight of 10 communities in New Hampshire under the Voting Rights Act of 1965. New Hampshire was just released from oversight in 2013.³⁹

Until the enactment of the Immigration Act of 1965, immigration laws favored those from western and northern Europe and denied immigration opportunities for those from Asia, Africa and South America.⁴⁰ Since the quota system has been reformed, immigration from countries previously disfavored has increased, bringing an influx of non-White immigrants to U.S. shores. Anti-immigrant sentiment appears to have risen in New Hampshire, particularly since the terror attacks of September 11, 2001. New Hampshire has had its share of anti-immigrant legislation introduced since then but those efforts have largely been unsuccessful.⁴¹

According equal rights for persons with disabilities has been a difficult journey that remains unfinished. From the 19th century through the 20th century, people with mental disabilities were often subjected to long-term institutionalization. People with mental illness and developmental delays, both adults and children, were warehoused under often horrifying conditions. People with physical disabilities were denied full participation in community activities and often treated with ignorance and disrespect.

Most of the significant legal strides for persons with disabilities have been made in the last fifty years. By the 1960s, a strong national movement arose advocating for deinstitutionalization in favor of community-based supports. The federal Rehabilitation Act of 1973 was the first piece of legislation that recognized the civil rights of persons with disabilities and the obligations of federal agencies and those receiving federal funds toward them.⁴² The 1984 Voting Accountability for the Elderly and Handicapped Act required full and equal access to voting and

³⁷ New Hampshire Women's Bar Association, <http://www.nhwba.org/resources/first100women/>

³⁸ Alford-Teaster, Jennifer, *Understanding Equal Pay in the Granite State*, New Hampshire women's Initiative (Aug. 2014).

³⁹ *Federal Court Okays N.H. 'bailout' from Voting Rights Act Preclearance Rule*, Concord Monitor (Mar. 4, 2013).

⁴⁰ Immigration and Nationality Act of 1965 (Pub. L. 89-235, 79 Stat. 911, enacted June 30, 1968). *See also*, Fitzgerald, David S. and Cook-Martín, David, *The Geopolitical Origins of the U.S. Immigration Act of 1965*, Migration Policy Institute (Feb. 5, 2015) at www.migrationpolicy.org/article/geopolitical-origins-us-immigration-act-1965.

⁴¹ *See, for example, Fahy, et. Al. v. Comm'r, Dep't of Public Safety*, Civ. No. 05-CV-97-SM, Opin. No. 2006 DNH 038, (Mar. 26, 2006), 2006 U.S. Dist. LEXIS 18170. In *Fahy*, the New Hampshire Division of Motor Vehicles regulations subjecting lawfully present non-citizens to disparate treatment were challenged and resulted in the DMV abandoning its discriminatory practices.

⁴² 29 U.S.C. § 701 (1973).

election activities.⁴³ That same year, the New Hampshire Constitution was amended “to provide accessibility to all registration and polling places.”⁴⁴ In 1990, Congress enacted its most comprehensive legislation, the Americans with Disabilities Act, which set out the obligations of both public and private entities to persons with disabilities.⁴⁵ Many states, including New Hampshire, enacted their own protections for persons with disabilities.⁴⁶

New Hampshire has also been subject to legal actions that have radically improved the lives of many citizens with mental disabilities. In *Garrity v. Gallen*, advocates sued the state on behalf of residents of the Laconia State School, an institution serving people with developmental delays. The lawsuit resulted in the closing of the school and the shifting of services for those residents to a community-based model.⁴⁷ More recently, the New Hampshire Disability Rights Center filed a legal action against the state on behalf of seriously mentally ill persons for the state’s failure to provide adequate community-based services. The lawsuit resulted in a comprehensive settlement agreement that promises to improve the lives of New Hampshire residents with mental illness.⁴⁸

Although laws advancing equal rights for persons with disabilities have been in effect for several decades now, compliance still lags behind obligation. Many individuals have been forced to file complaints and lawsuits to vindicate their rights to equal access. Local governments, hospitals, housing providers and others have been subject to liability for failure to provide equal access to services and opportunities despite clear duties.⁴⁹

Until recently, people who identified themselves as lesbian, gay, bisexual, and/or transgender (LGBT) were often treated as pariahs in our society and were subjected to legal discrimination and criminal prosecution. Same-sex sexual relations were outlawed in pre and post-revolution America until the late 20th century through enforcement of sodomy laws. After the 1969 Stonewall uprising in New York City, which is largely thought to mark the beginning of the LGBT civil rights movement, many states began to repeal their sodomy laws.⁵⁰ New Hampshire repealed its statute in 1975.⁵¹

Broader civil rights protections for LGBT people were non-existent until the turn of the 21st century. New Hampshire added sexual orientation as a protected class in 1998.⁵² In June 2015, the U.S. Supreme Court ruled that same-sex couples have the constitutional right to marry throughout the United States.⁵³ New Hampshire passed laws permitting same-sex marriage in

⁴³ 42 U.S.C. § 1973 et seq. (1984).

⁴⁴ New Hampshire Constitution, [Art.]11.[Elections and Elective Franchises.]

⁴⁵ 42 U.S.C. § 12101 (1990).

⁴⁶ See RSA 354-A, Law Against Discrimination which protects the rights of persons with disabilities in employment, public accommodations and housing.

⁴⁷ 522 F.Supp. 171 (D.N.H. 1981).

⁴⁸ *Amanda D., et al. v. Hassan, et al.*, Civ. No. 1:12-CV-53-SM (D.N.H. 2014).

⁴⁹ See, for example, *Trovato v. City of Manchester*, 992 F.Supp. 493 (1997) (mother and daughter needing accessible driveway sued city for failure to waive zoning ordinance to accommodate their needs.) Deaf patients have filed complaints against New Hampshire hospitals for failure to provide certified American Sign Language Interpreters resulting in settlement agreements. See, for example, *Settlement Agreement Between The United States of America and Concord Hospital*, D.J. No. 202-47-46 (2008) available at www.ada.gov/concord_hosp.htm. Housing discrimination cases will be covered in another section.

⁵⁰ *Stonewall Riots: The Beginning of the LGBT Movement*, The Leadership Conference (June 22, 2009) at www.civilright.org/archives/2009/06/449-stonewall.html.

⁵¹ See *New Hampshire Prohibited Consensual Sexual Activity Laws*, FindLaw at <http://statelaws.findlaw.com/new-hampshire-law/new-hampshire-prohibited-consensual-sexual-activity-laws.html>.

⁵² RSA 354-A, 1997 Amendments.

⁵³ *Obergefell v. Hodges*, 576 U.S. ____ (June 26, 2015).

2009 and was the second state, after Vermont, to enact it by legislative action.⁵⁴ In addition, New Hampshire law has reformed its laws to allow for gender changes on birth certificates and driver's licenses.⁵⁵ New Hampshire law still does not explicitly prohibit discrimination based on gender identity but its Human Rights Commission, in practice, broadly defines the protected class of "sex" as covering gender identity.⁵⁶

The consequences of long ago discriminatory laws are long-term and resonate even today. Contemporary legal structures that limit full and equal participation in American society present formidable barriers. Coupled with lack of resources or the will to enforce existing legal protections, many people, even in states like New Hampshire, suffer significant harm that can be generational. Many steps have been taken to redress injustices and new and creative paths have yet to be forged.

C. ASSESSMENT OF CONCENTRATIONS OF POVERTY AND RACIAL/ETHNIC POPULATIONS IN NEW HAMPSHIRE

1. Introduction:

In July 2013, HUD published a proposed rule on affirmatively furthering fair housing.⁵⁷ The key goal of the proposed rule was to improve analysis of fair housing impediments by state and local government recipients of HUD funds. To further this goal, HUD made some determinations about the kinds of data that would be the most effective and committed to provide some of that data to those jurisdictions.⁵⁸ HUD's Office of Policy Development and Research produced a paper, AFFH Data Documentation (Draft), discussing its recommendations on data for jurisdictions to use.⁵⁹

The below analyses track HUD's recommendations. At this time, there are a number of limitations to the recommended analyses, particularly as applied to New Hampshire, including the following:

1. HUD's assessment tool(s) were not ready, so much of the data extracted and collated had to be completed in a very time consuming manner;

⁵⁴ RSA 457:1-a Equal Access to Marriage (2009).

⁵⁵ See RSA 5-C:87, V. (2005) and N.H. Department of Safety Administrative Rule PART Saf-C 1011.03.

⁵⁶ Telephone conversation with Joni Esperian, Executive Director of the New Hampshire Commission for Human Rights, May 22, 2015.

⁵⁷ *Affirmatively Furthering Fair Housing*, Fed. Reg. Vol. 78, No. 139, p. 43710 *et seq.* (July 19, 2013) at <https://www.federalregister.gov/articles/2013/07/19/2013-16751/affirmatively-furthering-fair-housing> (AFFH Proposed Rule). Note that the final rules were published on July 16, 2015 after the assessment for the 2015 Update had been completed. See *Affirmatively Furthering Fair Housing*, Fed. Reg. Vol. 80, No. 136, p. 42272 *et seq.* (July 16, 2015) at <https://www.federalregister.gov/articles/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>.

⁵⁸ AFFH Proposed Rule at 43711.

⁵⁹ HUD Publication AFFH Data Documentation (Draft) (June 2013) at http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_AFFH_data_documentation.pdf.

2. The below data extraction, collation and analysis may not be consistent with what HUD ultimately provides in its assessment tool(s);

3. HUD's preference for analyzing poverty and minority concentrated areas fits with a more urban and/or racially and ethnically diverse environment than New Hampshire; and

4. Small sample sizes and concentrations, particularly for minority populations, limit the effectiveness and validity of the recommended assessment tools for states like New Hampshire.

On July 16, 2015 HUD published the Final Rule on Affirmatively Furthering Fair Housing (AFFH). Although not required as part of this 2015 Analysis of Impediments Update, the applicability, validity and usefulness of the approach outlined in the rule was tested. The analyses were performed, as consistently as possible with HUD's developed metrics to evaluate "housing opportunity" by area for racially or ethnically concentrated areas of poverty in New Hampshire.

For a more low population, rural state like New Hampshire which has limited racial and ethnic diversity, it would be beneficial to consider the development of metrics/analyses evaluating housing opportunity for additional protected classes such as persons with disabilities and families with children (i.e. based on "familial status"). In addition to HUD's recommended analyses, subsidized units by household in poverty, the location of housing vouchers within areas of opportunity, and Home Mortgage Disclosure Act (HMDA) data were reviewed.

A number of data sets were downloaded and employed to do the following analyses in MS Excel and SPSS, including information from:

- U.S. Census American Community Survey (ACS) data
- HUD Picture of Subsidized Housing data set
- U.S. Census Bureau, Housing and Household Economic Statistics Division, Current Population Survey (CPS) data
- U.S. Dept. of Labor. Bureau of Labor Statistics, unemployment data
- HUD's Consolidated Planning/CHAS Data (CHAS)
- U.S. Federal Financial Institutions Examination Council's HMDA data
- U.S. Environmental Protection Agency, National Air Toxics Assessment 2005 data (NATA)
- New England Common Assessment Program (NECAP) school testing data
- NHLA's study on the distribution of Housing Choice Vouchers in New Hampshire
- NHHFA's data and analyses
- Boston Federal Reserve, HMDA Data for New England

2. Segregation Analysis

HUD's June 2013 AFFH Data Documentation (Draft) (hereinafter "AFFH Data") calls for a definition, identification and review of opportunity in racially/ethnically-concentrated areas of poverty ("RCAP/ECAP").⁶⁰ Unless otherwise specified, the data and data time frames outlined in the AFFH Data framework were used. For reasons noted below, many of the data analysis tools and benchmarks articulated in the AFFH Data do not apply very well to New Hampshire.

a. Poverty Concentration Analysis

⁶⁰ AFFH Data, *supra*, Note 59.

According to HUD, in order for a census tract to have a high poverty concentration, the percentage of households living at or below poverty levels must be 40 percent or more. **No census tract in New Hampshire has that level of poverty.** Using ACS census tract level household data, below are the fifteen poorest census tracts in New Hampshire, and the fifteen least poor census tracts in New Hampshire:

Census Tracts by Percent of Households in Poverty (2010 ACS)

Fifteen Poorest Census Tracts in New Hampshire

Town	County	Census Tract	Percent of HHs Below Poverty
Manchester	Hillsborough	Tract 15	39.61%
Manchester	Hillsborough	Tract 14	38.37%
Manchester	Hillsborough	Tract 20	31.67%
Nashua	Hillsborough	Tract 106	29.00%
Manchester	Hillsborough	Tract 13	28.93%
Manchester	Hillsborough	Tract 2004	26.23%
Manchester	Hillsborough	Tract 16	25.94%
Nashua	Hillsborough	Tract 105	25.82%
Concord	Merrimack	Tract 329	24.49%
Nashua	Hillsborough	Tract 107	24.32%
Nashua	Hillsborough	Tract 108	23.74%
Manchester	Hillsborough	Tract 19	22.70%
Dover	Strafford	Tract 813	21.87%
Berlin	Coos	Tract 9506	21.47%
Franklin	Merrimack	Tract 430.01	20.32%

Census Tracts by Percentage of Households in Poverty (2010 ACS)

Fifteen Least Poor Census Tracts in New Hampshire*

Dover	Strafford	Tract 812	2.55%
Nashua	Hillsborough	Tract 114.01	2.61%
Canterbury	Merrimack	Tract 370	2.58%
Greenland, Newington	Rockingham	Tract 1075	2.49%
Manchester	Hillsborough	Tract 11	2.46%
Nashua	Hillsborough	Tract 113	2.43%
Danville	Rockingham	Tract 530	2.41%
Amherst	Hillsborough	Tract 151	2.26%
Sanbornton	Belknap	Tract 9654	2.18%
Merrimack	Hillsborough	Tract 142.02	2.08%
Epsom	Merrimack	Tract 340	1.98%
Nashua	Hillsborough	Tract 101	1.92%
Kensington, South Hampton	Rockingham	Tract 625	1.79%
Hollis	Hillsborough	Tract 171	1.49%
Weare	Hillsborough	Tract 210	1.24%

*The term "least poor census tracts" is not the equivalent of the term "wealthiest census tracts." It indicates the tracts with the least number of persons living below poverty levels not tracts with the highest incidence of wealth.

This analysis excludes census tracts with statistically insignificant estimates of households in poverty that do not exceed the margin of error for households in poverty. This analysis also excludes census tracts with high concentrations of poverty which include a high percentage of college or university student (non-family) households; i.e. Durham Tract 802.03; Keene Tracts 9714.01 & 9711.00; Plymouth Tract 9610.10.

b. Racial/Ethnic Concentration Analysis

According to HUD, in order for a census tract to have a high racial/ethnic concentration, the non-White population must be 50 percent or more. **No census tract in New Hampshire has that level of non-White concentration.** Using 2010 ACS census tract level household data, below are the fifteen most racially/ethnically concentrated census tracts in New Hampshire, and the fifteen least racially/ethnically concentrated census tracts in New Hampshire:

Census Tracts by Percent Non-White Households Fifteen Most Racially/Ethnically Concentrated Census Tracts in New Hampshire

Town	County	Census Tract	Percent Non-White
Manchester	Hillsborough	Tract 15	35.99%
Manchester	Hillsborough	Tract 19	29.17%
Nashua	Hillsborough	Tract 111.02	28.89%
Nashua	Hillsborough	Tract 108	28.83%
Manchester	Hillsborough	Tract 16	26.78%
Manchester	Hillsborough	Tract 14	25.43%
Nashua	Hillsborough	Tract 111.01	24.82%
Manchester	Hillsborough	Tract 20	24.50%
Nashua	Hillsborough	Tract 114.02	23.15%
Nashua	Hillsborough	Tract 105	22.26%
Manchester	Hillsborough	Tract 13	20.66%
Nashua	Hillsborough	Tract 112	20.55%
Concord	Merrimack	Tract 329	19.37%
Nashua	Hillsborough	Tract 102	19.28%
Nashua	Hillsborough	Tract 107	18.47%

Census Tracts by Percent Non-White Households
Fifteen Least Racially/Ethnically Concentrated Census Tracts in New Hampshire

East Kingston	Rockingham	Tract 620	2.08%
Gilford	Belknap	Tract 9664.01	2.08%
Bartlett, Jackson, Hart's Location, Hale's Location	Carroll	Tract 9551	2.07%
Moultonborough	Carroll	Tract 9563	2.05%
Warner, Webster	Merrimack	Tract 385	2.04%
Deerfield	Rockingham	Tract 560	1.94%
Tuftonboro	Carroll	Tract 9564	1.89%
Danbury, Hill, Wilmot	Merrimack	Tract 415	1.86%
Strafford	Strafford	Tract 860	1.83%
Effingham, Freedom	Carroll	Tract 9558	1.83%
Loudon	Merrimack	Tract 360	1.71%
Mason	Hillsborough	Tract 185.02	1.66%
Alton	Belknap	Tract 9665	1.62%
Clarksville, Pittsburg, Stewartstown	Coos	Tract 9501	1.45%

The census tract of Hanover 9616.02 was excluded due to student population. There are no census tracts with Black populations exceeding 20% of the households. The two highest Black populations by census tract are in Manchester in census tracts 15 and 19 having Black populations of 11.75% and 9.09%, respectively. The highest percentage of Latino populations in census tracts, above 20% per census tract, are as follows: Nashua (108) with 30.85%, Manchester (15) with 28.36%, Nashua (105) with 22.75%, then Manchester tracts 19, 14 and 16, with 22.27%, 21.40% and 20.47%, respectively. The two census tracts with by far the highest concentration of Asian populations are in Nashua (112 & 111.02), with 17.6% and 17.5%, respectively, of the heads of households in those two tracts identifying as Asian.

c. Predicted Racial/Ethnic Composition Ratio

The AFFH Data framework calls for analysis of segregation, including using dissimilarity and isolation indices.⁶¹ **In New Hampshire, there are too few census tracts statewide with minority or ethnic concentrations to perform an adequate and reliable dissimilarity or isolation index.** Rather, consistent with HUD's suggestion in Section 3.3 of the AFFH Draft, an analysis of predicted values for racial/ethnic shares of a jurisdiction by metropolitan area (as defined by New Hampshire city) versus the rest of the state is used. Specifically, a chi-square test shows significantly higher than predicted shares of racial/ethnic minorities in New Hampshire's cities versus the rest of the state. Not surprisingly, the cities of Manchester and Nashua drive this analysis. Both Manchester and Nashua are HUD Entitlement communities and

⁶¹See AFFH Data pp. 2-3; see also Dissimilarity and Isolation indices:
<http://www.s4.brown.edu/us2010/segregation2010/Default.aspx>.

have an obligation to respond to the Final Rule on Affirmatively Furthering Fair Housing. This analysis is not intended to represent their responses.

Manchester and Nashua continue to have a disproportionate number of Blacks and Latinos living in poverty:

Table: Poverty, Ethnicity and Race by Larger Area⁶²

	NH Statewide % in Poverty	Manchester Share of Statewide	Nashua Share of Statewide	Nashua and Manchester Combined
Whites	8.6%	11.8%	8.1%	19.9%
Blacks	21.0%	51.6%	N/A	N/A
Latinos	20.2%	30.0%	33.4%	63.3%

That said, the percentage of Blacks in poverty in Manchester has gone down from 55.0% to 32.2%, since the 2010 Analysis of Impediments.⁶³ The Black population has grown from 3,795 to 5,041 (or 32.8% population growth), with an increase in the number of household from 1,347 to 1,622 households. Conversely, the percentage of Latinos in poverty in both Manchester and Nashua has increased slightly, from 21.1% to 26.8% in Manchester and from 24.8% to 28.9% in Nashua. There is no readily available explanation for the increase in the Black population in Manchester, or the decrease in Black poverty in Manchester, since 2010. Nor is there a readily available explanation for the increase in Latino poverty in both Manchester and Nashua since 2010.

While there are no RCAP/ECAP areas in New Hampshire, for the remainder of this analysis, the census tracts with relatively high racial/ethnic concentrations and high poverty concentrations will be evaluated, compared with the rest of the state. Ten of the fifteen census tracts with relatively high racial/ethnic concentrations (by New Hampshire standards) overlap with the census tracts in New Hampshire with relatively high poverty concentrations. Six of those census tracts are in Manchester: 13; 14; 15; 16; 19; 20. Three are in Nashua: 105; 107; 108 (the so-called “Tree Street” area). One is in Concord: 329 (the so-called “Heights” area). These ten census tracts will be the subject of the analysis and will be called the New Hampshire Analysis Tracts (NHAT). It is important to note that with the exception of the Concord – 239 Census Tract, all of the NHAT areas are in Community Development Block Grant Entitlement cities that will develop their own responses to the Affirmatively Furthering Fair Housing Final Rule.

⁶² The data for Asians was unavailable because sample size too small.

⁶³ See 2010 Update of the Analysis of Impediments, Part II, pp. 15-16: http://www.nhhfa.org/data-planning/planning/impediments/AI2010_pt2.pdf.

3. Community Asset Indicators

a. Neighborhood School Proficiency Index

The draft HUD AFFH framework calls for the creation of a neighborhood school proficiency index, evaluating the percentage of elementary school children proficient in Math and Reading in the closest schools. Data was taken from the New England Common Assessment Program, which is a test that is the result of collaboration among New Hampshire, Rhode Island, Vermont and Maine. School proficiency under this test is as follows: 4=proficient with distinction; 3=proficient; 2=partially proficient; 1=substantially below proficient. Data from the Fall 2013, Grade 4, 2013-2014 school year, was downloaded, with percent proficient equaling total percent of children scoring either 4 or 3 in Math and Reading. The applicable elementary schools in NHAT areas⁶⁴ were used and the following analysis resulted:

Neighborhood School Proficiency Index

Census Tract/Area	Applicable Elementary School	Percent Proficient in Reading	Percent Proficient in Math	School Proficiency Index
Manchester-13	Beech Street School	36%	39%	0.75
Manchester-14	Beech Street School	36%	39%	0.75
Manchester-15	Beech Street School	36%	39%	0.75
Manchester-16	Wilson School	27%	38%	0.65
Manchester-19	Bakersville School	43%	35%	0.78
Manchester-20	Gossler Park School (21)	59%	61%	1.20
Nashua-105	Mt. Pleasant School (104)	61%	38%	0.99
Nashua-107	Dr. Norman W. Crisp School (106)	49%	36%	0.85
Nashua-108	Ledge Street School	67%	57%	1.24
Concord-329	Broken Ground School (328)	63%	67%	1.30
Total NHAT	N/A	48%	45%	0.93
NH Statewide	All Grade Schools Reporting	75%	73%	1.48

The average School Proficiency Index was created for the NHAT area and compared with the statewide School Proficiency Index. A comparison of means test indicates the difference in mean School Proficiency index of 0.93 for the NHAT area is significantly different and lower than the statewide School Proficiency Index of 1.48.⁶⁵ Moreover, elementary schools in the collar towns of Manchester, including in Bedford and Auburn, have much higher school proficiency.

⁶⁴ The addresses of the schools on an overlay census tract map were reviewed.

⁶⁵ It should be noted that the statewide School Proficiency index of 1.48 contains data from the NHAT areas, resulting in an artificially lower statewide index.

b. Affordable Housing Choice

Although not called for by the AFFH Data framework, the availability of stationary subsidized affordable housing units ⁶⁶ as well as the dispersion of Housing Choice Vouchers (also known as Section 8 vouchers) were evaluated. The 2010 Analysis of Impediments displayed ratios of subsidized stationary housing units per household in poverty by city/town.⁶⁷ Below is a table containing that same analysis by NHAT area:

Ratio of Stationary Subsidized Housing to Households in Poverty (2014)

Census Tract/Area	Public Housing	Section 8 NC/SR	Mod Rehab	Multi-Family Other	Section 236	Number of HHs in Poverty	Ratio of Stationary Subsidized Housing Per HH in Poverty
Manchester-13	20	0	0	0	0	410	0.049
Manchester-14	303	0	0	0	0	325	0.932
Manchester-15	7	30	0	27	0	362	0.177
Manchester-16	25	0	0	0	0	407	0.061
Manchester-19	40	10	0	0	0	220	0.227
Manchester-20	170	9	17	0	0	299	0.656
Nashua-105	11	44	11	0	0	449	0.147
Nashua-107	196	15	0	0	0	179	1.179
Nashua-108	90	107	0	83	0	718	0.390
Concord-329	0	53	0	258	0	485	0.641
Total NHAT	862	268	28	368	0	3854	0.396
Remainder of NH	3241	5239	85	2057	200	40818	0.265

As illustrated, the mean ratio of stationary subsidized housing units per household in poverty in the NHAT area is 0.396, as compared with the mean ratio of 0.265 for the rest of New Hampshire. A comparison of means test indicates this difference is statistically significant. Of note, five of the ten NHAT areas have lower ratios than the rest of the state. Furthermore, two NHAT areas, Manchester-14 and Nashua-107, have the greatest effect on the total mean and likely have high ratios due to the number of household in poverty being served by the public housing. The data can be read as reinforcing concentrations, or providing affordable housing opportunity in areas of concentrations.

This point underscores the fact that in rural states with relatively low population density, sometimes the existence of a project with subsidy is the basis of a concentration (Census Tract Manchester-14 with 3 elderly public housing projects). The ratios are wildly different in the

⁶⁶ Low Income Housing Tax Credit (LIHTC) housing units were excluded from the analysis because that data was not available at the census tract level. The data was drawn from HUD's picture of affordable housing unit dataset.

⁶⁷ See 2010 Update to the Analysis of Impediments, Part II, p. 13: http://www.nhhfa.org/data-planning/planning/impediments/AI2010_pt2.pdf.

various NHATs, indicating the impact of the location of subsidized projects as well as where the census lines are drawn.

In any case, decades of federal and local grant recipient policies guided the use of limited resources. Those resources have been used to improve low income areas (community development) and to efficiently serve the greatest number of households in need. Those actions could be seen as having a concentrating effect or as community revitalization initiatives.

The data cannot be read in isolation of an evaluation of the locations of Housing Choice Vouchers, which afford housing mobility. The appendices have maps that show concentrations of Housing Choice Vouchers in certain neighborhoods. The data used to create these maps came from HUD and the U.S. Census Bureau.⁶⁸ There are maps for three areas: the State of New Hampshire,⁶⁹ the Manchester area,⁷⁰ and the Nashua area.⁷¹ Manchester and Nashua were selected because they contain the NHAT areas identified.⁷² All three sets of maps include the following:

- (1) The number of renter occupied units by census tract, which excludes Project-Based Section 8 units (labeled “Section 8”) and public housing units. (A tenant would not be able to use a Housing Choice Voucher at those units because they are already subsidized.) This shows, in each census tract, the size of the active rental housing stock potentially available for Housing Choice Vouchers; and
- (2) The ratio of Housing Choice Vouchers to renter occupied units by census tract. This shows, in each census tract, the ratio of the non-subsidized renter occupied units that are rented by tenants with Housing Choice Vouchers (i.e., 1 in 10 = a ratio of 0.10).

Additionally, the Manchester and Nashua area sets of maps show the number of Housing Choice Vouchers per census tract.

The maps help show that tenants with Housing Choice Vouchers are concentrated in certain neighborhoods, even when controlling for the number of renter-occupied units. A chi-square analysis shows a statistically significant difference in the concentrations of Housing Choice Vouchers in the Manchester and Nashua areas generally, and significant differences for Housing Choice Vouchers concentrations in NHAT areas versus non-NHAT areas. As a specific example, the census tract surrounding Boire field in northwest Nashua (a non-NHAT tract) has 1,572 “renter-occupied” units, but only 59 of these units have Housing Choice Vouchers (i.e. a ratio of 0.038, or, in other words, only 3.8% of “renter-occupied” units there have Housing Choice Vouchers). By contrast, the census tract for west downtown Nashua (the so-called “Tree Street” area), tract 108, a NHAT area, has a total of 2,390 “renter-occupied” units, and 295 have Housing Choice Vouchers (i.e. a ratio of 0.123, or, in other words, 12.3% of the “renter-occupied” units here have Housing Choice Vouchers).

Based on local knowledge, please note that some landlords in neighborhoods with low concentrations of Housing Choice Vouchers have rental prices above HUD’s Fair Market Rents

⁶⁸ The maps were prepared in 2013 for NHLA by Jennifer Alford-Teaster, MA, MPH, Applied Research and Geospatial Project Manager, The Geisel School of Medicine at Dartmouth, Dartmouth College.

⁶⁹ Appendix A.

⁷⁰ Appendix B.

⁷¹ Appendix C.

⁷² Although Concord contains one NHAT area, tract 329, there is no significant concentration of Housing Choice Vouchers in tract 329.

(“FMRs”). However, some landlords in these same neighborhoods have rental prices below the FMRs, but simply refuse to accept Housing Choice Vouchers (HVC). There is no “source of income” protection for New Hampshire renter households.

It should also be noted that both Manchester and Nashua have local housing authorities with 2,041 and 781 vouchers respectively

At present, there is no ability to determine exactly why these concentrations exist as there are too many unquantifiable variables. It should be noted that even with a Housing Choice Voucher, a low income household will often for a variety of reasons, end up living in lower cost housing.

The Boire field neighborhood contains a significant number of single family detached homes with some small apartment buildings. Rents and amenities are generally greater than those in the Tree Streets neighborhood. With a history of low numbers of rental units in the state and relatively low rental unit production, there is a stark difference between the cost, amenities and quality of the older rental stock and any newly produced units. As noted above, some rents exceed the HCV payment standards.

For those not exceeding the limits, by federal policy, rental costs over 30% of their income (up to 40% at lease up) must be paid by the household. Thus to retain more discretionary income, tenants are more likely to rent lower cost units.

Finally, the ratio does not take into account the non-rent-subsidized assisted projects in the selected census tracts i.e. Low Income Housing Tax Credit (LIHTC) projects. Those projects are rent controlled, have income limits and may not exclude households on the basis of their participation in the HCV program. Subsequently, the existence of those projects would also tend to concentrate HCV households.

LIHTC Projects in Identified Census Tracts		
	Units	Type
Manchester		
Tract 13		
None		
Tract 14		
Tree Street Renewal	23	Family
Tract 15		
Phoenix Apartments	14	Family
Cedar Beech	24	Family
Cedar House	30	Elderly
Three Corners	21	Family
Tract 16		
None		
Tract 19		
Silver Mills	57	Family
Tract 20		

Douglas Street	7	Family
Nashua		
Tract 105		
Xavier House	34	Elderly
Brentwood Manor	22	Elderly
Tract 107		
None		
Tract 108		
Mclaren Avenue and Ledge St.	8	Family
Milette Manor	22	Elderly
Gatewood Manor	97	Elderly
Concord		
Tract 329		
None		

From the perspective of the administrator of the statewide HCV program, the number of HCV households in the 10 census tracts is tiny and does not represent a concentration. Using updated 2012 ACS data, an analysis of NHHFA voucher holders revealed that there were eight census tracts in the state that exceeded the threshold for concentrated areas of poverty based on the methodology presented in the HUD published AFFH Data Documentation, June 2013. Of the 545 NHHFA voucher holders in Manchester, 173 (31.7%) were in six of the identified tracts and this represented 5.4% of the NHHFA voucher households in the state. Similarly, of the 223 NHHFA voucher holders in Nashua, 65 (29.1%) were in two of the identified tracts and they represented 2.0% of the NHHFA voucher households in the state.

c. Poverty Index

HUD's suggested Poverty Index is derived from family poverty rate and the percentage of households receiving public assistance, such as Temporary Assistance to Needy Families (TANF).⁷³ TANF caseloads in New Hampshire experienced a sharp decline in the last couple of years.⁷⁴ The decline may be attributable to New Hampshire's practice of counting Supplemental Security Income as part of the TANF household income. Irrespective of the cause, given this sharp decline, it does not appear that TANF is a reliable proxy reflecting poverty, and therefore should not be included in the index. Instead, ACS data (2009-2013) for New Hampshire, by census tract, for households receiving food stamps as well as households at or below poverty were used to create the Poverty Index.

⁷³ AFFH Data, *supra* Note 59, p. 5.

⁷⁴ Center on Budget and Policy Priorities, *New Hampshire TANF Caseload and TANF-to-Poverty Ratio Fact Sheet* (Nov. 4, 2014) at http://www.cbpp.org/files/11-4-14tanf_factsheets/NH.pdf

Poverty Index

Census Tract/Area	HH Poverty Rate	HH Food Stamp Receipt Rate	Poverty Index
Manchester-13	28.93%	27.20%	0.56
Manchester-14	38.37%	34.67%	0.73
Manchester-15	39.61%	45.34%	0.85
Manchester-16	25.94%	34.43%	0.60
Manchester-19	22.73%	22.31%	0.45
Manchester-20	31.67%	37.36%	0.69
Nashua-105	25.82%	31.70%	0.58
Nashua-107	24.32%	29.75%	0.54
Nashua-108	23.74%	29.80%	0.54
Concord-329	24.49%	18.00%	0.42
Total R/E CAP	27.26%	30.07%	0.57
Remainder of NH	8.12%	7.07%	0.15

According to HUD's AFFH Data, this index is meant to "...capture the depth and intensity of poverty in a given neighborhood."⁷⁵ The average Poverty Index was created for the NHAT areas as well as the remaining state population. A comparison of means test indicates the difference in mean Poverty Index of 0.57 for the NHAT area is significantly different than the mean Poverty Index of census tracts in the rest of the state: 0.15. In pure nominal terms, NHAT areas have a Poverty Index almost four times the Poverty Index for non-NHAT areas.

d. Labor Market Engagement Index

The AFFH Data calls for a "Job Access" model⁷⁶ and a "Labor Market Engagement" index. None of this data has been provided by HUD. ACS 2006-2010 data, by census tract, was collected for unemployment rate, labor market participation rate, and percent of households with at least one person having a bachelor's degree which are the three inputs HUD calls for to create a Labor Market Engagement Index.⁷⁷ The overall result,⁷⁸ across area, is summarized here:

⁷⁵ AFFH Data, *supra*, Note 59, p. 5.

⁷⁶ There is not the data or capacity to perform a "gravity model" for Job Access.

⁷⁷ AFFH Data, *supra*, Note 59, pp. 5-7.

⁷⁸ The Labor Market Engagement index appears meant to be additive, therefore the percentages of each of the three inputs are added to create the index (where the inverse of the unemployment rate were used; e.g. for Manchester-13 the following: $(1 - 0.1401) + (0.7552) + (0.1382) = 1.75$).

Labor Market Engagement Index

Census Tract/Area	Unemployment Rate	Labor Market Participation Rate	Percent w/ Bachelor's Degree	Labor Market Engagement Index
Manchester-13	14.01%	75.52%	13.82%	1.75
Manchester-14	23.15%	55.77%	7.31%	1.40
Manchester-15	14.84%	68.69%	8.25%	1.62
Manchester-16	6.91%	68.38%	11.62%	1.73
Manchester-19	9.76%	57.75%	9.98%	1.58
Manchester-20	22.37%	61.13%	6.27%	1.45
Nashua-105	13.29%	74.92%	10.91%	1.73
Nashua-107	5.88%	47.00%	13.64%	1.55
Nashua-108	13.65%	72.75%	12.17%	1.71
Concord-329	15.71%	69.58%	45.34%	1.99
Total R/E CAP	13.58%	67.50%	13.46%	1.67
Remainder of NH	5.67%	70.07%	29.82%	1.94

According to HUD, this index is meant to gauge "...the relative intensity of labor market engagement and human capital in a neighborhood."⁷⁹ The average Labor Market Engagement index was created for the NHAT area as well as the remaining state. A comparison of means test indicates the difference in mean Labor Market Engagement index of 1.67 for the NHAT area is significantly different than the mean Labor Market Engagement index of census tracts in the rest of the State of 1.94. Under this index, households in census tracts in areas of New Hampshire with a relative concentration of both poverty and racial and ethnic minorities have less economic opportunity than the rest of the State even though the neighborhoods are closer to the economic activity. It is important to note that this index is a measure of the households' participation in economic/employment opportunities rather than the geographic proximity of economic/employment opportunities.

e. Environmental Health Hazard Exposure Index

Census Tract/Area	Env. Health Hazard Exposure Index
Manchester-13	0.01086119
Manchester-14	0.01090548
Manchester-15	0.01207138
Manchester-16	0.01088813
Manchester-19	0.01075262

⁷⁹ AFFH Data, *supra*, Note 59, p. 6.

Manchester-20	0.01023322
Nashua-105	0.01342706
Nashua-107	0.01431277
Nashua-108	0.01018924
Concord-329	0.00802755
Total R/E CAP	0.01111153
Remainder of NH	0.00649899

The AFFH Data framework calls for analysis of environmental health hazards, including the creation of an environmental health hazard exposure index. However, HUD has not provided this data.⁸⁰ HUD calls for an index that is a linear combination of standardized EPA estimates of air quality carcinogenic, respiratory and neurological hazards. There were multiple data points for each of the three. The table to the left shows the average exposure of all data points in a given area, across carcinogenic,

respiratory and neurological exposure data points. Overall, there were $n=3,612$ data points in the NHAT area and $n=91,176$ data points in the rest of New Hampshire. A comparison of means test indicates the difference in mean exposure of about 0.011 for the NHAT area is significantly different than the mean exposure in census tracts in the rest of the State: 0.0064. In pure nominal terms, the mean exposure to environmental health hazards in NHAT area was almost double the exposure in non-NHAT areas. Census tract 107, in the so-called “Tree Streets” section of Nashua, has the worst environmental health hazard index (0.014). Households in Census tracts in areas of New Hampshire without a concentration of both poverty and racial and ethnic minorities are exposed to less environmental hazards. It should be noted that environmental hazards are not bounded by census tracts and that the majority of the state is forested. Therefore, without more detailed research it is not clear that the significant difference in the mean exposure index is related to the relative concentration of poverty or is a function of an urban environment versus a rural environment. In any case, the research indicates that there are healthier environments within which to live outside of the NHAT tracts.

f. Transit Access

The draft HUD AFFH framework calls for analysis of transit access. The data HUD points to is not available for New Hampshire.⁸¹ At least one regional planning commission in New Hampshire, the Nashua Regional Planning Commission (NRPC), performed a fairly extensive analysis of access to transit in and around Nashua.⁸² On a statewide basis, household access to at least one vehicle has remained the same, comparing ACS generated three year estimates from 2010 to 2013. As the chart indicates below, most households in New Hampshire have at least one vehicle:

⁸⁰ Footnote 4 on p. 6 of the AFFH Data says: “HUD anticipates deriving health hazard exposure data from EPA’s to-be-released C-FERST tool when available.” That tool is not available. Therefore, the NATA 2005 dataset for New Hampshire from the EPA was downloaded and analyzed in both MS Excel and SPSS.

⁸¹ HUD points to this website: <http://www.gtfs-data-exchange.com>. There was no data for New Hampshire on this website.

⁸² *Housing Needs Assessment for the Nashua Region*, Nashua Regional Planning Commission, (Dec. 17, 2014) pp. 57-58: http://www.granitestatefuture.org/files/8214/2186/3430/Housing_Final_Adopted_121714.pdf

Number of Households Without At Least One Vehicle

	Households	Number of HHs	Number of HHs w/o At Least One Vehicle	% of HHs w/o At Least One Vehicle
ACS 2008-2010	Owner Occupied	370,750	7,483	2.02%
	Renter Occupied	144,435	18,851	13.05%
	All Households	515,185	26,334	5.11%
ACS 2011-2013	Owner Occupied	367,117	6,610	1.80%
	Renter Occupied	150,971	19,876	13.17%
	All Households	518,088	26,486	5.11%

While there is less owner occupied housing than in the past (likely a result of the foreclosure crisis), the slightly lower proportion of home owners without at least one vehicle appeared to shift into the rental market, resulting in the same estimated percentage of households without access to at least one vehicle: 5.11%. If vehicle ownership is a proxy for wealth, then this shift makes sense (i.e. lower income homeowners may be more likely to get foreclosed upon and then move into rentals).

In terms of what people use to get to work, the ACS 2009-2013 data shows that while Blacks constitute 1% of the New Hampshire workforce, Blacks constitute 5.4% of the workforce that uses public transportation to get to work. Similarly, while Latinos constitute 2.4% of the statewide workforce, they constitute 4.1% of the workforce that uses public transportation to get to work. Although there is no data indicating that Blacks and Latino households have a lower percentage of vehicle ownership, it seems likely that Blacks and Latinos are disproportionately reliant on public transportation to get to work. Public transportation is only available in a few urban areas. Therefore these neighborhoods benefit from this community asset.

g. Overall Access or Exposure to Community Assets

Section 4.8 of the AFFH Data framework calls for an overall assessment of access or exposure to community assets.⁸³ As provided above, there are statistically significant differences between the identified NHAT areas and the rest of New Hampshire. Using the data/analyses from above, the below table provides an overall summary:

Overall Review of Exposure to Community Assets

Census Tract/Area	School Proficiency Index	Poverty Index	Labor Market Engagement Index	Env. Health Hazard Exposure Index
Manchester-13	0.75	0.5613	1.75	0.01086119
Manchester-14	0.75	0.7304	1.4	0.01090548
Manchester-15	0.75	0.8495	1.62	0.01207138
Manchester-16	0.65	0.6037	1.73	0.01088813
Manchester-19	0.78	0.4504	1.58	0.01075262
Manchester-20	1.2	0.6903	1.45	0.01023322
Nashua-105	0.99	0.5752	1.73	0.01342706
Nashua-107	0.85	0.5407	1.55	0.01431277
Nashua-108	1.24	0.5354	1.71	0.01018924
Concord-329	1.3	0.4249	1.99	0.00802755
Total R/E CAP	0.93	0.5733	1.67	0.01111153
Remainder of NH	1.48	0.1519	1.94	0.00649899

The column highlighted can be characterized as a community asset indicator. Households in New Hampshire in areas with a relatively high concentration of poverty and ethnic and racial minorities have less exposure to community assets such as good schools and lower health hazard exposure, but better access to transportation and economic activity.

4. CHAS and Other Statewide Demographics

According to the most recent Current Population Survey (CPS) estimates, the percent of households with at least one adult with a disability rose from 11.3% in 2008 to 13.8% in 2014. That increase is correlated with CPS estimates of an increase in the population age 65 and older, with 11.9% of the population age 65 and older in 2008, to 15.2% of the population age 65 and older in 2014.

Section 5 of the AFFH Data framework calls for a jurisdiction-wide analysis of “disproportionate housing needs” by race and ethnicity in low-income categories; i.e. the percent of households with at least one housing problem, by race and ethnicity, for households at or

⁸³ AFFH Data, *supra*, Note 59, p. 8.

below 100% of HUD’s adjusted median family incomes (HAMFI).⁸⁴ Data was downloaded from HUD’s Comprehensive Affordable Housing Strategy (CHAS) dataset, for the state of New Hampshire. After appropriately sorting and analyzing the data, including owner and renter data together, the results are as follows:

Percentage of HHs with One or More Housing Unit Problems⁸⁵

HH Income	HH Race/Ethnicity	Percent of HHs
less than 30% of HAMFI	White	81.62%
less than 30% of HAMFI	Black	77.48%
less than 30% of HAMFI	Asian	93.75%
less than 30% of HAMFI	Latino	86.43%
less than 30% of HAMFI	All HHs	81.91%
30% to 50% of HAMFI	White	74.85%
30% to 50% of HAMFI	Black	89.06%
30% to 50% of HAMFI	Asian	94.25%
30% to 50% of HAMFI	Latino	82.48%
30% to 50% of HAMFI	All HHs	75.60%
50% to 80% of HAMFI	White	53.13%
50% to 80% of HAMFI	Black	40.44%
50% to 80% of HAMFI	Asian	68.12%
50% to 80% of HAMFI	Latino	57.19%
50% to 80% of HAMFI	All HHs	53.35%
80% to 100% of HAMFI	White	38.38%
80% to 100% of HAMFI	Black	21.28%
80% to 100% of HAMFI	Asian	38.46%
80% to 100% of HAMFI	Latino	47.29%
80% to 100% of HAMFI	All HHs	38.58%

Highlighted are race/ethnicity sub-groups with a “disproportionate housing need”, defined by HUD in the AFFH Data framework as a race/ethnicity sub-group with at least one housing problem at a rate greater than 10% of the average within a low-income sub-group. As you can see from above, except for Asian households between 80% and 100% of HAMFI, it appears low-income Asian households experience disproportionate housing needs.

⁸⁴ AFFH Data, *supra*, Note 59, pp. 8-9.

⁸⁵ “Four housing problems are considered: lacks complete kitchen facilities; lacks complete plumbing facilities; more than one person per room; cost burden- monthly housing costs (including utilities) exceed 30 percent of monthly income.” AFFH Data, *supra*, Note 59, p. 9 *citing* CHAS applications.

5. HMDA Analysis

Mortgage applications have dropped regionally, “[t]he most substantial declines occurred in Maine and New Hampshire, where from 2011 to 2012, denials dropped from 21 percent to 13.5 percent and from 18.7 percent to 12.1 percent, respectively.”⁸⁶ High risk loans are disappearing across New England; more specifically, only 1 percent of all originated loans in 2012 were high-Annual Percentage Rate (APR) loans, which represents a dramatic drop from 2006, when high-APR loans comprised 23.1 percent.⁸⁷ In New England, “[w]hile the proportions of denied applications have decreased slightly for every race/ethnicity in New England, *blacks and Latinos were almost twice as likely as their white counterparts to have their applications declined for both home-purchase and refinance purposes.*” (emphasis in original).⁸⁸ Trendline data for the region is provided as follows:

New England Mortgage Loans by Race/Ethnicity: Applications, Originations and Denial Rates⁸⁹

	Number of All Loan Applications by Race/Ethnicity					% Denied by Race/Ethnicity				
	2007	2008	2009	2010	2011	2007	2008	2009	2010	2011
White	258,157	220,704	377,193	336,269	282,058	21.7%	20.5%	15.6%	14.8%	14.8%
Black	12,297	6,963	7,515	6,485	5,551	38.8%	39.7%	28.4%	26.2%	25.8%
Asian	8,414	8,460	16,235	16,733	14,192	19.3%	18.1%	14.6%	14.1%	14.2%
Latino	16,220	9,627	11,172	9,442	8,204	37.5%	37.8%	26.1%	23.5%	22.8%

	Number of Home Purchase Loan Applications by Race/Ethnicity					% Denied by Race/Ethnicity				
	2007	2008	2009	2010	2011	2007	2008	2009	2010	2011
White	108,687	84,114	85,850	77,717	71,403	11.8%	12.6%	11.7%	11.9%	11.3%
Black	5,522	3,497	3,148	3,104	2,479	28.8%	25.3%	20.5%	21.3%	21.6%
Asian	5,585	4,888	5,144	4,884	4,199	11.8%	13.6%	13.0%	13.4%	13.5%
Latino	7,897	5,252	5,030	4,612	4,035	27.2%	26.0%	21.0%	21.2%	19.8%

Refinance

	Number of Refinance Loan Applications by Race/Ethnicity					% Denied by Race/Ethnicity				
	2007	2008	2009	2010	2011	2007	2008	2009	2010	2011
White	134,032	125,503	277,859	246,372	198,180	27.1%	24.4%	16.6%	15.7%	16.0%
Black	6,269	3,244	4,218	3,241	2,922	43.5%	47.4%	32.2%	29.5%	28.4%
Asian	2,640	3,452	10,911	11,715	9,736	28.7%	22.9%	15.1%	14.2%	14.5%
Latino	7,786	4,155	5,933	4,653	4,008	43.1%	45.5%	29.2%	25.0%	24.9%

⁸⁶ Benderskaya, Kseniya, *Mortgage Lending in New England: Key Trends and Observations in 2012*, Community Development Issue Brief 2, 2014, Federal Reserve Bank of Boston, p.5 (May 2014) at:

<http://www.bostonfed.org/commdev/issue-briefs/2014/cdbrief22014.pdf>.

⁸⁷ *Id* at p. 7.

⁸⁸ *Id* at p. 12.

⁸⁹ Source: *Home Mortgage Disclosure Act (HMDA) Data for New England*, Federal Reserve Bank of Boston at: <http://www.bostonfed.org/commdev/data-resources/hmda/>

At the New Hampshire level, all loan data for 2013 were downloaded and analyzed in SPSS.⁹⁰ In doing so, the only variables that were consistently a statistically significant predictor of loan denial rates were ethnicity (Latino) and household income.⁹¹ In short, in 2013, if you were Latino you were significantly less likely to have access to housing financing.⁹² This is true controlling for applicant gender; type of loan (origination v. refinancing); conventional v. government-backed; loan amount; race; denial reason; and geography. For example, while denial rates in the collar towns of Manchester were slightly higher than in Manchester itself, and the denial rates in the NHAT areas were slightly higher than the rest of New Hampshire, once ethnicity and income were added in a logistic regression analysis, the significance of neighborhood disappeared. Stated differently, in 2013 in New Hampshire, where you live did not seem to affect whether you were approved for a loan, regardless of the loan type. In 2013, in New Hampshire, your household income and whether you were Latino drove denials/approvals.

Across all regression models run, in 2013 in New Hampshire, Non-Latino White applicants were between 31.7% and 41.4% less likely to be denied an application than Latino applicants. For a one unit increase in household income, the applicant was between 16.9% and 19.4% less likely to be denied an application. Cross tabulations and chi-square analyses of denials for Non-Latino White versus Latino applicants were run across “denial reasons,”⁹³ and showed no clear difference in reasons for denials. It should be noted that not every lending institution is required to report application data for inclusion in the HMDA data set, and there may be regulatory or other explanations not able to be identified in the HMDA data set that might help to explain this finding.

It is to be expected that the higher one’s income the more likely it is to secure a loan. However, the consistent, cross-model results for Latino applicants having such a higher chance of denial, controlling for other variables, calls for further analysis of the lending market in New Hampshire in order to ascertain what is driving these Latino applicant denials, and how they are related to the practices of the financial institutions.

⁹⁰ Several variables were recoded into more usable variables; e.g. the raw applicant household income data were recoded into a 7 point ordinal scale, with 1= \$0-\$40,000; 2=\$41,000-\$80,000; 3=\$81,000-\$120,000; 4=\$121,000-\$160,000; 5=\$161,000-\$200,000; 6=\$201,000-\$300,000; 7=\$301,000 plus. Area and neighborhood variables were also created, including a binary variable for the identified NHAT areas versus the rest of New Hampshire as well as a variable for Manchester versus the collar towns of Manchester. Dozens of iterations of cross tabulations, chi-squares, and binary logistic regression analyses were performed. The dependent variable in the binary logistic regression was “application denied or other adverse action” versus “application approved”. Hosmer and Lemeshow tests were performed to verify goodness of fit for the regression analyses. Only those regression analyses with a significant goodness of fit were reviewed and considered.

⁹¹ A sampling of the many analyses are contained in Appendix D.

⁹² Denial rates for Black/African-Americans and other races were not statistically significant.

⁹³ HMDA denial data: Debt-to-Income Ratio; Employment History; Credit History; Insufficient Cash; Unverifiable Information; Credit Application Incomplete; Mortgage Insurance Denied; Other.

6. Conclusion

Several important observations can be made from the above analyses:

- In terms of “opportunity,” people living in the NHAT areas, as defined and developed above, appear worse off than the non-NHAT areas.
- Housing Choice Vouchers are concentrated in certain neighborhoods, and typically in neighborhoods with less “opportunity.”
- In 2013, Latinos were much more likely to be denied mortgage applications than non-Latinos, controlling for many different (but not all) variables, including income, geography and type of mortgage applied for.

The first conclusion is not surprising; however, coupled with the second conclusion, it leads to the importance of examining why concentrations of Housing Choice Vouchers exist in low opportunity neighborhoods. Do landlords in higher housing opportunity neighborhoods refuse to accept housing vouchers, or could it be that neighborhoods considered by HUD to be “high opportunity” lack qualities that voucher holders desire, such as easy access to public transportation, food shopping and employment? The last point indicates that more research is required on mortgage lending decisions involving Latinos living in New Hampshire.

For a more rural state like New Hampshire which has limited racial and ethnic diversity, it would be beneficial to consider the development of metrics/analyses evaluating housing opportunity for additional protected classes such as persons with disabilities and families with children (i.e. based on “familial status”).

The connection between affordable housing and fair housing is much stronger in rural-homogeneous New Hampshire. As stated in our prior Analysis of Impediments to Fair Housing (AI) states “Municipal land use policies and lack of affordable housing especially in opportunity areas, present major obstacles to those in lower income groups. Because members of protected classes in New Hampshire are disproportionately low-income, these barriers disproportionately affect access to housing.” Finally, “Structural impediments [to fair housing] such as zoning ordinances have significant effects on ethnic and racial minorities, as well as families with children.” Some land use controls have the effect of limiting affordable housing. To our knowledge, no local ordinances directly limit access to housing based on protected classes.

Finally, rental housing affordability for low, very low, and extremely low income households is a significant problem that greatly exceeds the availability of publically-funded housing subsidies. Most rental housing in New Hampshire is market rate and generally located within urban communities. To provide greater housing choice, local land use regulations in “opportunity” areas should allow for and encourage a variety of housing options including rental, multifamily, lower cost, alternative living arrangements, and accessory dwelling units. Care must be taken, however, to avoid favoring affordable housing development solely in areas of theoretical “opportunity” as the efficacy of these tools in New Hampshire is untested. The voluntary de-concentration of low income minority households, providing housing choice, is a worthy and achievable goal for development so long as conventional underwriting standards including confidence in market demand are met. Market demand is important because

households might not find externally-determined components of “opportunity” particularly relevant or desirable to them, but might be motivated by other unrelated factors in choosing where to live. For example, even though there might be better schools in one district, a household could determine that the benefit of moving to that district would be negated by increased costs to commute to work, access food or conduct personal business.

D. FOCUS GROUP REPORT

In March 2015, as part of the 2014 Update, NHLA conducted two focus groups of protected class members. The first group was comprised of Latinos residing in Nashua and the second was made up of Deaf and Hard-of-Hearing individuals residing throughout the state. In both cases, NHLA partnered with a community advocacy group that serves the targeted population. Both populations represented groups that have experienced significant language access challenges that quite often affect equal access to housing opportunities. In addition to questions about housing discrimination, members of the groups were also asked questions about their quality of life within their respective communities.

1. Latino Focus Group

Location of Meeting: Boys & Girls Club, Nashua, NH

Date and Time: March 23, 2015, 6:00 - 7:30 p.m.

Co-sponsored by: New Hampshire Legal Assistance and MIRA Coalition

Organizers/Facilitators: Chris Wellington (NHLA), Janet Sanchez (MIRA),
Eva Castillo (MIRA)

The meeting was held at the Nashua Boys & Girls Club. Parents and older siblings who drop off and/or wait for children participating in sports activities were recruited to participate in the group. Pizza and soda were served. Seven Latino adults and two young adults participated; 6 women and 3 men. The adults were all in their thirties or forties and there were two young women in their late teens.

All of the participants lived in Nashua. Eight of the participants were tenants. One participant was a new home buyer and also the landlord of one tenant. One person lived in public housing and one participated in the Housing Choice Voucher program. The rest of the group was in private housing. Seven of the participants had children living with them.

The meeting was conducted in Spanish. All participants were comfortable speaking Spanish, a few were not fluent in English.

Below are the questions and responses:

1. Do you believe that Latinos have been subjected to housing discrimination in New Hampshire?

Eight people said no. One person responded “Sometimes.” No one was able to elaborate on their negative responses. One participant mentioned that if people have an accent, they don’t get the same housing opportunities as people without an accent. Landlords say that the apartment is not available.

2. Have you personally ever been subjected to housing discrimination?

The person who said “Sometimes” stated that she has a stronger Spanish accent than her sister who was born in the U.S. and she has asked her sister to call up and ask about apartments for her because she believes that she had been turned down because the landlord identified her as Latina.

3. Have you ever been directed to certain buildings, neighborhoods or parts of the city for housing opportunities?

All respondents replied that they were unaware of having been steered in housing searches.

4. Have you ever been charged more rent/security deposit than other tenants? Homeowners – mortgage rates, insurance costs, appraisal costs?

All respondents replied that they were unaware of having been charged more and several also pointed out that it would be difficult for them to find out that information.

5. Have you ever unfairly been denied an opportunity to rent a particular apartment or buy a particular home?

One participant said that she was aware of another Latina tenant who had been charged higher late fees than other tenants and that she went to court about this. Another said that she knew of a Latino tenant who was “targeted” by the landlord and treated differently than tenants of European descent. The landlord frequently blocked in the tenant’s car. Another thought that perhaps real estate agents looked for bigger commissions from Latino home buyers and another said that in Nashua, people have to put down larger down payments than in Milford.

6. Within the context of housing, has anyone ever made any discriminatory statements to you about your race, nationality, immigration, skin color, accent?

One tenant stated that in her building another tenant complained to the landlord about the cooking smells coming from an apartment where the family was from the

Dominican Republic. The complaining non-Latino tenant stated that he didn't like the "curry" smell. The participants thought that was funny as most Latino cooking does not involve the use of curry.

7. For people in subsidized housing and prefer to speak Spanish:

Both participants who either live in public housing or have a voucher speak English fluently so for them it is not an issue. One of those participants reported being aware that the housing authority has used telephonic interpretation services. She also said that one of her neighbors who speaks Spanish was having a hard time communicating to the housing authority maintenance person about a maintenance issue and he told the tenant "Go to school and learn English." The participant said that none of the housing authority's maintenance staff speak Spanish. The other stated that she has interpreted for other tenants or program participants.

Have you been able to communicate with someone who speaks Spanish?

See above.

Receive important documents in Spanish?

The participants are aware that some documents have been translated into Spanish but do not have much information because they are both fluent in English.

Other?

See above.

8. For those with children,

Have you ever been directed to certain buildings, neighborhoods or parts of the city for housing opportunities because you had children?

No participants were aware of any steering because of children.

Have you ever been charged more rent/security deposit than other tenants because you had children?

No participants were aware of such a situation because of children.

Within the context of housing, has anyone ever made any discriminatory statements to you because you had children?

One participant reported that he has three children – 2 boys and 1 girl. He was shown, as requested, a 3 bedroom apartment but the rental agent told him that he

had to have a 4 bedroom apartment – one for each child and one for him and his wife. He did not work with the rental agent after that.

Has anyone told you that they could not rent to you and your children because of the presence of lead paint?

No participants experienced such a situation.

9. What type of community do you wish to live in? How important are the following to you:

Living near schools

All 9 participants felt that this was important.

Living near schools that rank high in educational success

Five participants replied that this was important.

Living near where you work

No participants found that this was important.

Having access to public transportation

Two participants felt that this was important to them.

Living in a neighborhood with a low crime rate

All felt that this was important.

Living in an area close to amenities like parks, stores, hospitals, etc.

Four people felt that this was important.

Living in a neighborhood with people of your same ethnicity, income group, ages, etc.

Three people felt that this was important to them.

Living in a neighborhood with people of different ethnicities, income groups, ages, etc.

Six people felt that this was important.

10. Are you currently living in a neighborhood that you wish to be in? What do you like about it?

For this question, each participant contributed individually.

Participant A: I like my neighborhood. I am near the highway, with easy access to and from other locations.

Participant B: I like my neighborhood. It is quiet and safe for my daughter. It has a good school.

Participant C: No, I do not like my neighborhood that much. One good thing is that there is not much traffic and it is safe for the kids to play.

Participant D: Yes, I like my neighborhood and the access to all the things a city has to offer.

Participant E: Yes, I like my neighborhood. It is quiet and it has good schools.

Participant F: No, I do not really like my neighborhood but there are a few good things about it – it is convenient to other things, the schools are good.

Participant G: Yes, my neighborhood is very convenient to other things.

Participant H: I like my neighborhood. It has a park and good schools.

Participant I: I like my neighborhood. It is quiet and I like my neighbors.

What would make it better?

Participant A: Better attention by the Parks and Recreation Departments to beautify the parks. Sometimes I think neighbors in certain neighborhoods do not want the city to fix the parks too much or people from other neighborhoods will come and enjoy them, too. One example is Greeley Park.

Participant B: More kids in the neighborhood so that my children would have more friends nearby.

Participant C: Reducing crime including police attention to suspicious drug activity. Also, better snow removal and trash pick up.

Participant D: Fix the condition of the streets and beautify the neighborhoods.

Participant E: I cannot think of any improvements that my neighborhood needs.

Participant F: Improving street conditions.

Participant G: Fix the potholes!

Participant H: I am not sure.

Participant I: I cannot think of any changes.

What are barriers to making your neighborhood better?

None of the participants were able to identify any barriers.

11. What are barriers or obstacles for Latinos looking to rent or buy?

The participants did not make distinctions in barriers to buying rather than renting. The group identified the following barriers:

- **Housing that is affordable**
- **Housing stock is old with problems**
- **Housing costs a lot**
- **Language barriers affect access to good housing**
- **Latinos are “shy” and do not like confrontation**
- **Latinos would rather move than stand up for their rights**
- **People do not know what their rights are**
- **People do not know where to go if they think they have been treated unfairly**

12. Do you know where to go/call if you believe you have been the victim of housing discrimination?

None of the participants knew of any of the fair housing resources available to them.

13. Would you like more information on housing discrimination?

All of the participants said they were interested in learning more about their fair housing rights. Most would like the training to be offered in Spanish. Four left their names to be contacted if training was offered.

2. Deaf and Hard-of-Hearing Focus Group

Location of Meeting:	Northeast Deaf and Hard of Hearing Services Concord, NH
Date and Time:	March 24, 2015, 2:00 - 4:00 p.m.
Co-sponsored by:	New Hampshire Legal Assistance and Northeast Deaf and Hard of Hearing Services
Organizers/Facilitators:	Chris Wellington (NHLA), Sarah Burke-Cohen (NHLA), Susan Wolf-Downes (NDHHS)

The meeting was held at NDHHS in Concord. Deaf and Hard-of-Hearing individuals throughout the state were recruited to participate in the group. Refreshments were served. Nine adults participated: 4 women and 5 men, ranging in age from the late twenties to the sixties. All of the participants lived in New Hampshire except for one who was from Salem, Massachusetts.⁹⁴ Four of the participants were tenants. Five participants were homeowners and one was also a landlord. Two persons lived in public housing. The rest of the group was in private housing. None of the participants had children under 18 years living with them.

⁹⁴ Participants lived in the following communities in New Hampshire: Campton (1); Deerfield (1); Dover (1); Goffstown (1); Manchester (4).

The meeting was conducted in American Sign Language (ASL) and with the use of CART services.⁹⁵ Prior to engaging with the participants in the focus group questions, we showed a video produced in ASL on the federal Fair Housing Act.

Below are the questions and responses:

1. Do you believe that Deaf and Hard of Hearing people have been subjected to housing discrimination in New Hampshire? Explain.

Yes: 7

Examples given:

- **Deaf couple was turned down for apartment because they were deaf. This happened a few years ago.**
- **Participant rents an apartment in public housing. There is no doorbell system in place besides a buzzer system, so he doesn't know when people are trying to visit him.**
- **Assisted living care facilities. Participant stated that Deaf residents can't hear the buzzer or bells and need a flashing light or some system so the residents know when to answer the door or go to a meal.**
- **Many Deaf people don't know how to ask for help and often ask family members to assist. Sometimes these family members aren't helpful and do not ask for what the Deaf person really needs.**
- **Participant reports problems in Senior housing. A guest uses a phone to call the resident. Participant stated that she had a client living in senior housing where they use an intercom system for visitors to contact resident. There were issues getting the caption phone/video relay connected to the buzzer/entry system.**
- **Participant reports problem in public housing in which emergency notices are sent via a phone call and not received by Deaf and Hard-of-Hearing residents.**
- **Participant reports that he lives on 9th floor in public housing. He reports that he has requested a buzzer system that either flashes or is a video system. He states that he has contacted HUD and HRC and has open cases relative to this issue. He reports that visitors have to text him and he has to go downstairs to let them in.**
- **Participant reports that parking ban papers are usually delivered under the door, which is helpful.**

⁹⁵ Communication Access Realtime Translation, live captioning technology.

2. Have you personally ever been subjected to housing discrimination? Explain. (*See also previous responses.*)

- **Participant discussed the need for an assisted living community for Deaf and Hard-of-Hearing people. It could just be a wing of an existing facility. Ideally, there would be a nurse on every shift that could understand ASL.**
- **Participant wants a place for Deaf and Hard-of-Hearing seniors in N.H. Currently, he reports feeling isolated because he has no neighbors that understand ASL.**

3. Have you ever been directed to certain buildings, neighborhoods or parts of the city for housing opportunities?

No: 9

4. Have you ever been charged more rent/security deposit than other tenants? Or if you are a homeowner – mortgage rates, insurance costs, appraisal costs?

No: 9

5. Have you had issues with maintenance not responding to your requests?

Participant reports yes, but is unsure if it is that maintenance is lazy or not responding specifically to his requests. He lives in public housing. He reports giving up because nothing happens when he makes requests. A second participant living in public housing reports similar experiences.

6. Have you ever unfairly been denied an opportunity to rent a particular apartment or buy a particular home?

No: 8

- **A participant said that many Deaf people ask relay operators not to announce that it is a relay call because the Deaf person is afraid it will be difficult getting the apartment if landlord knows that the person is Deaf.**
- **A participant reported recently calling Northeast Utilities by video relay. The Customer Service Representative (“CSR”) told him that CSR would not be able to take his information via relay operator because she thought it was a scam. The participant explained that he was Deaf and this was his way of communicating. The participant spoke with a supervisor and was finally able to get his information accepted. The supervisor said before closing the call with the participant that maybe next time he should have a sibling or other family member call.**

- **Multiple participants reported issues with the Social Security Office getting interpreters. The participants reported that their complaints are registered but there is no change.**

7. Within the context of housing, has anyone ever made any discriminatory statements to you about your ability to hear or for other reasons?

A participant reported that a real estate agent asked her when she was looking at property if she currently lived in a mobile home and looked at her like all Deaf people have no money and that she didn't understand how the participant could afford the property. She reported that the real estate agent's behavior felt very condescending.

8. Have you ever asked your housing provider for an accommodation or modification (such as use of an interpreter or other assistive communication tools, installation of flashers for doorbells or fire alarms or other types of equipment)? What happened? Did you know that public housing and subsidized housing providers may have to pay for certain accommodations and modifications (such as provision of interpreters or other assistive communications; installation of flashers for doorbells or fire alarms or other types of equipment)?

See previous answers. Participants have asked for reasonable accommodations and modifications. The general consensus was that the participants make the requests and landlords say they will make the accommodation or modification, but never get to it. Participants then give up the fight and deal with the issues on their own.

9. Do any children (18 or under) visit you?

A participant reports that his nieces/nephews come visit (but rarely because he lives in a bad neighborhood). He reports that nieces/nephews must text him that they are at the front door and that he must go down and let them in. This is from the 9th floor. He also reports that his family doesn't come often because they are "creeped out" by the place that he lives because it is in a bad area, it is dirty and things are broken. He reports people have gotten stuck in the elevator.

10. What type of community do you wish to live in? How important are the following to you:

- **Living near schools: 2 (Because resale value of property is good.)**
- **Living near schools that rank high in educational success: 1**
- **Living near where you work: 1**
- **Having access to public transportation: 4**
- **Living in a neighborhood with a low crime rate: 9**
- **Living in an area close to amenities like parks, stores, hospitals, etc.: 9**

- **Living in a neighborhood where there are other Deaf/Hard of Hearing people: 9**
 - **Living in a neighborhood with people of different ethnicities, income groups, ages, etc.: 5**
11. Are you currently living in a neighborhood that you wish to be in? What do you like about it? What would make it better? What are barriers to making your neighborhood better?
- **(Salem, MA): Fairly satisfied with neighborhood. Close to conveniences, lived there for 10 years. Wants a change. Doesn't like congestion that comes with Halloween.**
 - **(Campton, NH): 23 years in same house; close to village/conveniences; big house with nice back yard; nice neighborhood but for one problem neighbor. Wants to move closer to son and his family.**
 - **(Deerfield, NH): Loves home in Deerfield. Has a dog because nice yard; conveniences are close; can meet up with friends (hearing & non-hearing); likes community; close to church; Deerfield Fair.**
 - **(Manchester, NH): Likes apartment; amenities are close; nice area; building is clean; can't see out window right now due to snow piles; can't hear fire alarm, but cat freaks out so she knows something is going on; has flashing fire alarm in kitchen, but not in common areas. Reports issues with buzzer system and not having an alternative and reports landlord is barrier to getting things done.**
 - **(Manchester, NH): Living in apartment for 8 years (it is public housing). Wants to live in subsidized senior housing, but applied for 1 place in NH and was told there was a waiting list that was 7-8 years. He reports applying 3-4 years ago; doesn't want to go to New England Home for the Deaf in Massachusetts. He says that west side of Manchester has high crime rate and police are active in his area. He lives close to CMC and amenities, but would like some place quieter. He reports he has a friend that is Deaf that he keeps in contact with so he isn't bored because his neighbors are all hearing.**
 - **(Goffstown, NH): Homeowner for 20 years. Recently completed renovations to his home and refinanced to a lower mortgage rate that will allow him to pay his house off in 7-8 years. He lives close to amenities in a low crime area. He lives near police & fire stations and a school. He doesn't like the heavy traffic during rush hour, but he can walk most anywhere. He also reports that the west side of Manchester used to be nice, but now has a bad crime and drug issue.**
 - **(Dover, NH): Likes neighborhood. Feels safe walking in neighborhood.**
 - **(Manchester, NH): Homeowner. Likes everything about area including diversity and nearby amenities.**

- **(Manchester, NH): He lives on the west side in public housing. He reports heavy/bad traffic. The area also has high crime, including shootings, accidents, drugs, gangs. He reports he is afraid that his car is going to be stolen. He reports that you just don't know who is in the area and that it is not a friendly area. He wants to move. He is anxious all the time about not being safe. His family doesn't visit because the family is afraid and cars have been keyed. He reports that the landlord is useless and just tells tenants to call the police. He reports that he wants to move out of Manchester. He would like to be able to walk. He wants things at a slower pace. He feels that if he were in a different environment he would feel better.**

12. Do you know where to go/call if you believe you have been the victim of housing discrimination? Would you like more information on housing discrimination?

Yes.

13. Other questions asked by participants and we responded to their questions:

- **Why does a tenant have more rights when living in federally subsidized unit.**
- **Can rent be reduced in a private rental setting?**
- **Does a RA/RM need to be in writing?**
- **Can someone else request a reasonable accommodation or modification on behalf of another person?**
- **Many participants felt very strongly about having an assisted living facility/elderly housing that had at least a wing that was for Deaf/Hard of Hearing people.**

3. Conclusions/Observations

Several observations and conclusions can be made from the responses of the participants in both groups. First, in both groups, participants expressed that they were not knowledgeable about state and federal housing discrimination laws. Most did not know whom to contact. Many were interested in gaining more information about fair housing laws. Although the majority of participants in both groups reported that they were unaware of having been victimized by housing discrimination, several participants described discriminatory actions or reported knowing someone of their protected class status that had been subjected to discrimination in housing. Members of both groups acknowledged that there are many circumstances in which they would be unaware if they had been subjected to discriminatory practices.

It was also clear that communications barriers affect the quality of access to housing opportunities. Participants in the Latino group reported knowing of situations in which the housing authority did not provide interpreters. One participant told of asking her sister who does not have a Latino accent to call housing providers on her behalf to increase her chance of success

since she perceived her opportunities to be diminished if the provider thought she was Latina. A Deaf participant spoke about the practice of asking the relay operator to refrain from announcing that it was a relay call because of perceived disadvantage if the housing provider knew the caller was deaf.

Many of the Deaf participants described routinely encountering discrimination in their daily lives, including housing. Several participants described situations in which they had not been provided equal treatment or appropriate accommodations and/or modifications in their housing. Of particular concern was the number of complaints from Deaf participants living in publicly funded housing in which there are clear obligations to people with disabilities.

When asked about the quality of their communities, most liked where they were living and placed a high value on good schools, low crime, and amenities like parks and well-maintained streets. Several in both groups reported valuing living in communities with diversity. However, a theme that emerged from the Deaf and Hard-of-Hearing group was the value of having other Deaf people living in close proximity. Members of this group expressed that it is very isolating if there are no others with whom they can freely communicate and where appropriate services are available.

The fact that participants in both groups were unaware of whether they had been subjected to unlawful discrimination in their housing transactions also points to the very high value of fair housing testing, a tool that can be very effective in rooting out otherwise undetectable discriminatory practices.

NHLA staff has made plans to continue to work with the two groups that co-sponsored the focus groups to provide fair housing training and will also evaluate fair housing testing possibilities.

PART III: LEGAL UPDATE

Part III highlights legal developments from 2010 through 2015, both on the federal level and in New Hampshire. There have been many interesting issues that have arisen over the past five years, including a U.S. Supreme Court case that will have a major impact on fair housing jurisprudence. Although many of the developments cited directly involve housing discrimination law, we have also included some that affect protected class members directly or indirectly.

A. FEDERAL LAW DEVELOPMENTS

1. The Fair Housing Act and Discriminatory Effects Theory

a. HUD's Discriminatory Effects Regulation

On February 15, 2013, HUD issued regulations on the Discriminatory Effects Standard to be applied in HUD fair housing investigations.⁹⁶ The regulations clarified and formalized this theory of fair housing law commonly known as “disparate impact” liability. Disparate impact theory holds that seemingly neutral policies, practices, and laws may be unlawful under the FH Act if they have a disproportionate impact on one or more protected classes. Although all of the federal appeals courts that have issued rulings on this theory acknowledged that a neutral policy or practice may be unlawful under the Fair Housing Act because of its disparate impact, the courts had adopted different standards of analysis. The HUD regulations set a 3-pronged burden-shifting standard for analysis of a seemingly neutral law, policy or practice through the lens of disparate impact. The regulation was immediately challenged by the American Insurance Association as discussed below. The U.S. Supreme Court ruled in June 2015 that the discriminatory effect theory is viable under the Fair Housing Act, and articulated standards of analysis that do not appear to be completely consistent with the regulation. It is not immediately clear how the Court’s decision will impact this regulation (*see* Inclusive Communities discussion below).

b. American Insurance Association v. HUD

A few months after the implementation of the Discriminatory effects regulation, the American Insurance Association and others filed an action against HUD challenging its authority to issue such a regulation, arguing that it impermissibly expands the scope of the FH Act.⁹⁷ The federal District Court for the District of Columbia ruled in the Plaintiffs’ favor and vacated the regulation. It is not yet clear how the U.S. Supreme

⁹⁶ 24 C.F.R. § 100.500, *Implementation of the Fair Housing Act’s Discriminatory Effects Standard*, 78 Fed. Reg. 11460 *et seq.* (Feb. 15, 2013).

⁹⁷ *AIA v. U.S. Dep’t of HUD*, Docket No. 1:13-cv-966-RJL (D.D.C. June 26, 2013).

Court decision in *Inclusive Communities* (discussed below) will impact the ultimate outcome of this case.

c. Texas Department of Housing v. Inclusive Communities Project

The U.S. Supreme Court accepted this case in 2014 for the sole purpose of issuing a decision on the viability of the discriminatory effects theory under the FH Act. The original lawsuit was filed by a community advocacy group and alleged that the Texas Housing Authority violated the FH Act through its policies on the allocation of affordable housing tax credits. The community advocacy group claimed that the policies resulted in the promotion of racially/ethnically segregated communities. On June 25, 2015, the Court issued its decision holding that the discriminatory effects theory was valid.⁹⁸ Writing for the majority, Justice Anthony Kennedy said that disparate impact is an important and legitimate theory of law under federal housing law. He said disparate impact cases “may prevent segregated housing patterns that might otherwise result from covert and illicit stereotyping.”⁹⁹ The Court also set out a fairly narrow interpretation of the scope of disparate impact analysis, limiting liability to governmental or private entity policies that are “artificial, arbitrary, and unnecessary barriers.”¹⁰⁰ This landmark decision once and for all establishes the legitimacy and vitality of discriminatory effects theory.

2. LGBT Rights Advances

a. Equal Access Regulation in HUD Housing Programs

In 2012, HUD published its regulation guaranteeing that its programs “are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status.”¹⁰¹ The stated purpose of the rule was three-fold: to increase opportunities for LGBT individuals and families who have been denied access to housing in the private marketplace; to ensure that no HUD-funded program discriminates against an otherwise eligible individual or family; and to serve as a model for equal housing opportunity.¹⁰²

b. U.S. v. Windsor

In 2013, the U.S. Supreme Court struck down a section of the Defense of Marriage Act and accorded same-sex couples who are legally married full access to federal benefits.¹⁰³ The effects of the decision on same-sex couples and their families were immediate and profound. In *Windsor*’s case, it meant that she was entitled to the federal

⁹⁸ *Texas Department of Housing and Community Affairs v. Inclusive Communities, Inc.*, 576 U.S. ____ (2015), Slip Opinion No. 13-1371 (June 25, 2013), pp. 7-24.

⁹⁹ *Id.* at 18 (Slip Opinion).

¹⁰⁰ *Id.*

¹⁰¹ *Equal Access to Housing Regardless of Sexual Orientation or Gender Identity*, 77 Fed. Reg. 5662 *et seq.* (Feb. 3, 2012).

¹⁰² *Id.* at 5662.

¹⁰³ *U.S. v. Windsor*, 570 U.S. ____ (2013).

estate tax exemption for surviving spouses, thereby wiping out a tax liability of \$363,053.¹⁰⁴ Legally married same-sex spouses are now entitled to spousal treatment under federal tax law, federal retirement programs, federal disability programs and more.

c. Obergefell v. Hodges

In June 2015, the U.S. Supreme Court ruled that same-sex couples have the constitutional right to marry within every jurisdiction of the United States.¹⁰⁵ The case brought before the Supreme Court was a lower court consolidation of cases from several states that prohibited same-sex marriage and state benefits to survivors of same-sex spouses and involved 14 same-sex couples and 2 men whose same-sex partners were deceased. This case marks another significant civil rights accomplishment although it did not address other civil rights protections for LGBT people in the areas of housing, employment and public accommodations.

3. Domestic Violence and Housing

a. 2013 Amendments to the Violence Against Women Act

In 1994, Congress enacted the Violence Against Women Act (“VAWA”), a comprehensive initiative targeting violence against women and others victimized by family and sexual violence. Each time that Congress has reauthorized the law, it has enacted additional initiatives and protections. The 2005 VAWA reauthorization imposed significant obligations on public and federally subsidized housing providers. Among other protections, it prohibited covered housing providers from denying access to their housing programs or evicting or terminating a family member from a subsidized housing program solely on the basis of her status as a victim of domestic violence. It allowed housing providers to bifurcate a lease and evict only the abusive party rather than the whole family. In 2013, Congress again reauthorized VAWA and expanded the housing protections to include among other things, coverage of additional federally subsidized housing programs and provided further protections to survivors of sexual assault.

b. Fair Housing and Domestic Violence

i. HUD Memorandum on Investigating Claims of Housing Discrimination against Domestic Violence Victims

In 2011, HUD issued an internal memo providing guidance to HUD fair housing staff which included a comprehensive review of cases litigated

¹⁰⁴ *Id.*

¹⁰⁵ *Obergefell v. Hodges*, 576 U.S. ____ (June 26, 2015).

under both disparate treatment and disparate impact theories.¹⁰⁶ In 2015, HUD published a proposed rule on the housing provisions in VAWA.¹⁰⁷

ii. Impact Cases: HUD Complaints in New Hampshire involving Housing Discrimination and Domestic Violence Survivors

In 2013, New Hampshire Legal Assistance filed discrimination complaints with HUD on the basis of sex discrimination and due to adverse housing actions suffered by a domestic violence survivor because of her status as a victim. Complaints were filed against two separate Berlin housing providers and the cases both settled with monetary damages to the victim. HUD issued a press release which was covered nationally, including in the Washington Post. *See* press release in Appendix.

iii. HUD Secretary-initiated Complaint against the City of Berlin

During the course of its investigation in the above cases, HUD investigators discovered that a Berlin ordinance played a significant role in the actions the housing providers took against the domestic violence victim. The Berlin ordinance, penalized landlords for too many police and other municipal responses to their properties. In 2014, HUD initiated a complaint on its own accord articulating that the ordinance, as written, had a disparate impact on domestic violence victims who are disproportionately women. The case settled in 2015 and resulted in an amendment to the ordinance exempting victims of crime from its penalties. *See* press release in Appendix.

4. Affirmatively Furthering Fair Housing Regulation

On July 16, 2015, HUD issued its long-awaited rule on affirmatively furthering fair housing.¹⁰⁸ The purpose of the rule is to clarify existing fair housing obligations of jurisdictions receiving HUD funding and to provide data tools that will assist funding recipients in creating Assessments of Fair Housing. The goal is to expand “access to opportunity for all Americans”.¹⁰⁹ The regulation also emphasizes that “one size fits all” is not an effective approach to this obligation and it encourages a collaborative approach acknowledging the expertise and knowledge within the individual jurisdictions.

¹⁰⁶ Pratt, Sara K., *Assessing Claims of Housing Discrimination against Domestic Violence Victims under the Fair Housing Act (FH Act) and the Violence Against Women Act (VAWA)*, HUD Memorandum (Feb. 9, 2011).

¹⁰⁷ *Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs (Proposed Rule)*, 80 Fed. Reg. 17548 *et seq.* (Apr. 1, 2015).

¹⁰⁸ *Affirmatively Furthering Fair Housing*, Fed. Reg. Vol. 80, No. 136, p. 42272 *et seq.* (July 16, 2015) at <https://www.federalregister.gov/articles/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>.

¹⁰⁹ *Id.*

5. Disability Discrimination Cases Filed in U.S. District Court, District of New Hampshire

a. Amanda D. v. Hassan

This lawsuit, filed in 2012 by the New Hampshire Disability Rights Center and joined by the U.S. Department of Justice, was brought against the state on behalf of plaintiffs with serious mental illness.¹¹⁰ The legal action centered on the state's institutionalization practices and asserted that they were unjustified and unlawful discrimination against persons with mental illness pursuant to the 1999 U.S. Supreme Court's *Olmstead* decision.¹¹¹ The parties reached a settlement in 2014 that has and will have a significant impact on this under-served population. The agreement requires the provision of enhanced community-based mental health services, employment support services and provision of supportive housing within all areas of the state. See Appendix for summary of outcomes.

b. U.S. v. Mennino Place, LP

This case, filed in 2013 by the U.S. Department of Justice, involved an allegation that the federally subsidized housing provider in Concord failed to accommodate a tenant with a disability by refusing her request to use a window air conditioning unit in addition to the floor unit supplied by the housing provider. The parties entered into a settlement agreement in September 2014.¹¹²

c. U.S. v. Avatar Properties, Inc.

Filed in 2014, this case involves an action brought by the U.S. Department of Justice against a Londonderry condominium community for failure to accommodate a person with disabilities by providing a parking space with closer access to his home.¹¹³ The case is currently pending in the U.S. District Court in New Hampshire.

B. NEW HAMPSHIRE LEGAL DEVELOPMENTS

1. Prohibition Against Affirmative Action in State Agencies and State Educational Systems

In 2011, the New Hampshire Legislature passed HB 623, which prohibits the use of preferences “in recruiting, hiring, promoting or admissions within state agencies, the

¹¹⁰ *Amanda D. v. Hassan*, Docket No. 1:12-CV-00053-SM (D.N.H. Feb. 9, 2012).

¹¹¹ *Olmstead v. L.C.*, 527 U.S. 581 (1999). In *Olmstead*, the Court ruled that persons with mental illness have a qualified right to live within community settings rather than in institutional settings.

¹¹² *U.S. v. Mennino Place, LP*, Docket No. 1:13-CV-00287-JL (D.N.H. July 21, 2013).

¹¹³ *U.S. v. Avatar Properties, Inc.*, Docket No. 14-CV-502-LM (D.N.H. Nov. 7, 2014).

university system, community college system, and post-secondary education commission based on race, sex, national origin, religion, or sexual orientation.”¹¹⁴ The impact of such legislation is unknown..

2. Controversy Over In-state Tuition Benefits for New Hampshire Immigrant Residents

Until the introduction of HB 1383 in 2012, any New Hampshire resident who had lived in the state for 12 months or more qualified for in-state tuition within the state university system. In 2012, the legislature passed an amendment to RSA 187-A:16 requiring that every person receiving in-state tuition sign an affidavit affirming legal residence in the U.S.¹¹⁵ In 2014, the House passed HB 474 which would have restored in-state tuition for those who would be eligible to file for “legal residency.” The bill was referred to a Senate study committee and no further action was taken.

3. Passage of Symbolic Bill Posthumously Granting Freedom to Enslaved Revolutionary War Veterans

In 2013, New Hampshire righted an old wrong when it posthumously granted the petition of 14 men who had served in the Revolutionary War while held in slavery. In 1799, the veterans petitioned the New Hampshire Legislature for their freedom and a vote on the petition was postponed and never taken up again until the 2013 legislative session. The bill was passed unanimously and signed into law.¹¹⁶

4. Attempts to Amend the Law Against Discrimination Housing Provisions

a. HB 1143 – Amendments to Address Lack of Substantial Equivalency

In 2013, a bill, supported by the New Hampshire Commission for Human Rights, was introduced to amend RSA 354-A in order to address its lack of “substantial equivalency” with the federal Fair Housing Act.¹¹⁷ The bill passed the House and was sent to the Senate where, with the support of the Human Rights Commission, it was deemed inexpedient to legislate. The Commission determined that it needed more time to work on the proposed changes. No further action has been taken.

b. HB 1409 – Amendment to Add Further Protected Class Status in Housing for Voucher Holders and Victims of Domestic Violence, Stalking and Sexual Assault

¹¹⁴ RSA 227 (eff. Jan. 1, 2012).

¹¹⁵ RSA 187-A:16 (eff. Jan. 1, 2013).

¹¹⁶ RSA 204 (eff. July 9, 2013).

¹¹⁷ HB 1143 (2013).

This bill, also introduced in 2013, sought to amend the housing discrimination Sections of RSA 354-A to prohibit housing discrimination against persons with Housing Choice Vouchers (also known as Section 8 vouchers) and persons due to their status as victims of domestic violence, stalking or sexual assault.¹¹⁸ The bill passed the house but did not survive the Senate.

5. Bedbugs and Rights and Obligations of Landlords and Tenants

The passage of 2013 legislation amending RSA 540 and 540-A to address the scourge of bedbugs in residential property was a success story that resulted in a fair balance between the rights and obligations of landlords and tenants. Among other things, the amendments set out a process for determining liability for the costs of bedbug remediation; added an additional basis for eviction based on a tenant's failure to prepare for remediation; and incorporated penalties for landlords' failure to address an infestation within a certain time period.¹¹⁹

¹¹⁸ HB 1409 (2013).

¹¹⁹ HB 483 (2013).

PART IV: 2015 ANALYSIS OF FAIR HOUSING IMPEDIMENTS

In this section, we review fair housing resources within the state; fair housing complaint data; information on protected class groups; additional impediments; and a review of actions taken on the recommendations published in the 2010 Update.

A. REVIEW OF FAIR HOUSING RESOURCES

As predicted in the 2010 Update, the internet has greatly improved access to information about fair housing law and fair housing resources in New Hampshire. A Google search of the phrase “housing discrimination in New Hampshire” produced 92,600 results with links to the state’s major resources listed on the first two pages.

1. Federal Resources

a. U.S. Department of Housing and Urban Development

HUD is the federal agency designated by statute to administratively enforce federal housing discrimination laws and provisions including the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act. HUD’s Regional Office of Fair Housing and Equal Opportunity (FHEO) is located in Boston and serves New England. HUD’s website (www.hud.gov) is fairly easy to navigate and is also available in Spanish. The website allows access to an abundance of information on fair housing including brochures, policies and guidance memoranda, press releases, recent conciliation agreements, and other materials.

Persons wishing to file a complaint may do so by phone, mail or online. The complaint form is available in seven languages: English, Spanish, Arabic, Chinese, Korean, Russian and Vietnamese. There is no cost for filing. Complaints are reviewed within an intake unit and once accepted for investigation, are assigned to a team of civil rights specialists. One specialist will investigate the claim and the other will make attempts to conciliate the case as required by federal statute.¹²⁰ Although most of the investigation and conciliation efforts are done by telephone, electronic communications and written correspondence, HUD staff may travel to New Hampshire during the course of their work. Most investigations are completed within 100 days of opening the investigation.

¹²⁰ 42 U.S.C. §3610 (b)(1).

b. U.S. Department of Justice, Civil Rights Division

The Housing and Civil Enforcement Section of the U.S. Department of Justice (DOJ) is responsible for prosecuting civil violations of federal housing discrimination laws. Its website, http://www.justice.gov/crt/about/hce/housing_coverage.php, is not as comprehensive as HUD's but contains useful explanations of different types of housing discrimination. Its office may be reached by telephone, TTY, email or fax. The website suggests that people who believe they have been victims of housing discrimination may file a complaint with HUD:

Individuals who believe that they have been victims of housing discrimination may file a complaint with the Department of Housing and Urban Development [HUD] or file their own lawsuit in federal or state court. You must file the complaint with HUD within one year of the incident you believe to be housing discrimination. You have two years to file your own lawsuit in federal court.¹²¹

There is an English language invitation to ask for an interpreter for those who are not fluent in English and a list of several languages to select that explain the language access policy.

c. U.S. District Court, District of New Hampshire

Private parties, including unrepresented persons, may file housing discrimination lawsuits in the federal District Court located in Concord. The Court's website, www.nhd.uscourts.gov, does not contain any specific information about housing discrimination cases. There is a very good section for *pro se* litigants entitled "Filing Without a Lawyer." It contains quite a bit of helpful information including a section called "Alternatives to Filing Pro Se" which provides a listing of free civil legal services in New Hampshire. The section explains the costs associated with filing a federal case and includes forms in English and Spanish to request waiver of fees for indigent persons.

2. State Resources

a. New Hampshire Commission for Human Rights

The HRC is a state government department and is vested under RSA 354-A with the responsibility to "receive, investigate and pass upon complaints alleging violations of this chapter" which covers employment, housing and public accommodations discrimination.¹²² It processes relatively few complaints of housing or public accommodations discrimination especially in comparison to the numbers of employment complaints it handles. The numbers discrepancy may be partially attributed to the fact that HRC has achieved "substantial

¹²¹ U.S. DOJ Website at www.justice.gov/crt/complaint/#six

¹²² RSA 354-A:5, VI.

equivalency” with the U.S. Equal Employment Commission (EEOC) and receives funding to handle employment discrimination claims based on both state and federal law. HRC has not yet achieved substantial equivalency approval from HUD although it has made attempts to do so. As a consequence, HRC does not receive HUD funds for housing discrimination work as do many other state and local governments across the nation. HRC’s website, www.nh.gov/hrc, contains helpful information about discrimination issues in general but does not highlight housing discrimination. Persons visiting the site can download case determinations, pamphlets and posters, and find information about how to file a complaint, as well as connect to links to other related sites. At least one poster is available in Spanish. All state-based housing discrimination cases must be lodged with HRC, at least initially. Complaints may be removed to court with HRC’s permission which is readily granted. Complainants may file a complaint by telephone, fax, mail, on-line or in-person. The website has a specific complaint form for housing discrimination complaints. HRC’s process for filing a complaint is similar to HUD’s. Once the complaint has been screened through an intake procedure, it is assigned to an investigator. HRC has two years to complete an investigation and the investigations are often quite extensive. It also offers a mediation program using volunteers who are mostly attorneys.

b. New Hampshire Office of the Attorney General

Although the Office of the Attorney General (AG’s Office) does not handle housing discrimination cases in the first instance, HRC may refer cases to it for injunctive relief.¹²³ The AG’s Office has jurisdiction to investigate and enforce violations of RSA 354-B, the Civil Rights Act, on behalf of members of certain protected classes if they have been subject to violence or threatened violence due to their protected class status. In such cases private citizens, as well as law enforcement agencies, may file complaints directly with the AG’s Office. The website, www.doj.nh.gov, does not provide any information about civil rights protections or cases, nor do the biennial reports covering the years from 2009 through 2013.

c. State Courts

Housing discrimination complainants may bring complaints based on state law in state court only after first filing the complaint with the HRC and requesting permission to remove the matter to court. Federal Fair Housing Act complaints may be filed directly in state court. Filing fees and other costs associated with court litigation may be waived for low-income litigants. The New Hampshire Court website, www.courts.state.nh.us, has helpful information for litigants, but does not specifically reference housing discrimination matters.

¹²³ RSA 354-A:5, XIV.

3. New Hampshire Non-Profit Legal Services

a. New Hampshire Legal Assistance

NHLA is a non-profit statewide law firm serving low-income residents of New Hampshire. It has offices in Berlin, Claremont, Concord, Manchester and Portsmouth. Housing law is a primary practice area for NHLA and housing discrimination work is a key component. NHLA remains the only entity in New Hampshire that receives HUD funds to enforce the FH Act. As a result, NHLA attorneys have developed an expertise in this area of law. NHLA receives more housing discrimination complaints than either HUD or HRC. NHLA staff investigate cases and litigate fair housing complaints with the HRC, HUD and in federal and state court. NHLA operates the only fair housing testing program in the state and engages in outreach initiatives to educate housing professionals, protected class groups, social service providers and others about state and federal housing discrimination laws.

Complainants seeking legal assistance for housing discrimination issues are screened for income eligibility and may contact NHLA by phone or in person. They may also file an on-line application for services through NHLA's sister agency, the Legal Advice and Referral Center at www.nhlegalaid.org. Legal services are free. NHLA operates a website, www.nhla.org, which offers information about its services. The website can be viewed in the following languages: English, Spanish, Chinese, French, Japanese, and Korean. NHLA publishes fair housing pamphlets in English, Spanish, French, Arabic and Bosnian.

b. Disability Rights Center

The DRC is a statewide non-profit law firm located in Concord that provides free legal services to persons with disabilities, including legal advocacy and representation in housing discrimination cases. DRC maintains a comprehensive website in English (with some aspects available in Spanish): www.drcnh.org. Although it does not prominently feature housing discrimination issues on its opening page, the website contains access to helpful information on various aspects of housing discrimination against people with disabilities.

B. FAIR HOUSING COMPLAINT DATA 2010-2014

This section analyzes housing discrimination complaint data collected by HRC, HUD and NHLA for the period of 2010 through 2014. As in the past, the review is of complaint data rather than dispositional data. Complaint data represents the number of filings by persons who believed that they had been victimized by discrimination. Dispositional data can be misleading in that it does not necessarily reflect the merits of a case. Many cases are resolved through settlement agreements without a finding of fault. Complainants may drop out of the process for any number of reasons unrelated to the strength of a case. Other cases may be determined to lack sufficient probable cause to make a finding of discrimination. Even cases in which probable cause is found at the investigative stage may result in a court or administrative law adjudication that does not find discrimination.

There is some duplication of numbers among the three organizations. Complainants may

have filed complaints both at HUD and HRC. NHLA often files complaints it has investigated with either HUD or HRC. Complaints may allege more than one form of discrimination. The HUD and NHLA data reported here is based on the primary category of discrimination while HRC's is not. HRC lists the number of housing discrimination complaints received by federal fiscal year (October 1 – September 30). HUD and NHLA data can be aggregated in several ways and it is reported here by calendar year.

The first chart shows the total number of complaints filed with each agency by year. It is clear that NHLA manages far more cases than any other entity.

1. New Hampshire Housing Discrimination Complaints By Organization

Total Number of Housing Discrimination Complaints Filed with Organization by Year			
Year	HUD	HRC	NHLA
2010	33	6	90
2011	25	4	128
2012	37	12	166
2013	19	5	76
2014	13	8	168
Total	127	35	628

For all three organizations, for most years complaints based upon disability far outnumber complaints based on other protected class statuses. This is reflective of national data, as well.¹²⁴ For NHLA, familial status discrimination ranks second with race and then national origin following. Nationally, race-based complaints are the second highest number with familial status and national origin third and fourth, respectively.¹²⁵ The following charts show the complaint date for each organization for year and by primary discrimination type.

2. Housing Discrimination Complaints Filed with NHLA

NHLA Data By Primary Discrimination Type						
Year	2010	2011	2012	2013	2014	Totals
Race	8	8	41	2	18	77
Color	0	0	0	1	0	1
National Origin	7	16	8	3	3	37
Familial Status	15	13	15	7	29	79
Disability	57	85	92	55	115	404
Religion	0	0	1	1	1	3
Sex	1	4	5	7	1	18
Sexual Orientation	1	0	0	0	0	1
Marital Status	0	2	2	0	0	4
Age	1	0	2	0	1	4
Retaliation/Other	0	0	0	0	0	0
Total Number of Complaints	90	128	166	76	168	628

¹²⁴ *Annual Report on Fair Housing, FY 2012-2013*, U.S. Dep't. of Housing and Urban Dev. (2014), p. 19.

¹²⁵ *Id.*

3. Housing Discrimination Complaints Filed with HUD

HUD Data By Primary Discrimination Type						
Year	2010	2011	2012	2013	2014	Totals
Race	5	1	5	1	1	13
Color	0	0	0	0	0	0
National Origin	2	1	5	0	1	9
Familial Status	8	4	17	4	2	35
Disability	17	18	7	9	9	60
Religion	0	0	0	0	0	0
Sex	1	0	0	3	0	4
Sexual Orientation	NA	NA	NA	NA	NA	NA
Marital Status	NA	NA	NA	NA	NA	NA
Age	NA	NA	NA	NA	NA	NA
Retaliation/Other	0	1	3	2	0	6
Total Number of Complaints	33	25	37	19	13	127

4. Protected Class Bases in Housing Discrimination Complaints Filed with HRC*

HRC Data By Primary Discrimination Type						
Year	2010	2011	2012	2013	2014	Totals
Race	1	0	0	0	0	1
Color	0	0	0	0	1	1
National Origin	1	0	1	0	1	3
Familial Status	3	0	2	0	0	5
Disability	1	2	6	5	5	19
Religion	0	0	1	0	0	1
Gender	1	0	1	0	0	2
Sexual Orientation	0	2	2	0	1	5
Marital Status	0	0	0	0	2	2
Age	0	0	1	0	1	2
Retaliation/Other	0	0	1	1	4	6
Total Number of Bases	7	4	15	6	15	47

*Note that HRC data is compiled based on the federal fiscal year: October 1 – September 30. HRC reports all protected class bases filed by a complainant not just the primary basis. This practice results in a number larger than the number of complaints filed and reflected in the earlier chart.

5. Discussion

HRC and HUD's Regional FHEO in Boston are the primary governmental agencies that investigate and enforce housing discrimination laws in New Hampshire. HUD also provides funding to state and local governments and non-profit organizations to promote and enforce the FH Act. No governmental unit in New Hampshire is currently eligible for HUD funding due to the fact that New Hampshire housing discrimination law is not substantially equivalent to the FH Act. As a consequence, HRC cannot accept complaints based on federal law (as it does with employment-based discrimination claims). The lack of funding, lack of ability to investigate federal and state claims simultaneously, and the relative "newness" of the state statute,¹²⁶ may all be factors contributing to the very small number of housing discrimination complaints filed with HRC.

HUD, by contrast, is well-recognized as a resource for filing discrimination complaints. From 2010 through 2014, a total of 162 complaints were filed with a governmental agency. Of those, 78% were filed with HUD and 22% with HRC.

	Avg. # Complaints/Year	Time Period	Total # Complaints/Period
2004 Update			
NHLA	72.4	1/1/96 – 12/31/03	579
HUD	17.8	1/1/96 – 12/31/03	143
HRC	6.3	7/1/96 – 6/30/03	44
2010 Update			
NHLA	79	1/1/04 – 12/31/09	471
HUD	44	1/1/04 – 12/31/09	264
HRC	8	10/1/03 – 9/30/09	47
2015 Update			
NHLA	125.6	1/1/10 – 12/31/14	628
HUD	25.4	1/1/10 – 12/31/14	127
HRC	7	10/1/09 – 9/30/14	35

¹²⁶ In 1992 the earlier Law Against Discrimination was repealed and replaced with RSA 354-A which for the first time, included prohibitions against discrimination in housing.

For the past twenty years NHLA has prioritized fair housing work and for most of that period has received HUD Fair Housing Initiatives Program (FHIP) Private Enforcement Initiative (PEI) funds. This funding has allowed NHLA to devote resources to the identification, investigation and enforcement of federal and state housing discrimination laws. While nearly all of the complainants who file directly with HUD have self-identified as having been victimized by discrimination, many of the parties that NHLA serves are unaware that they may have fair housing claims until an NHLA advocate becomes involved. In addition, parties represented by NHLA attorneys generally have a better chance of success because their cases are better developed, articulate the legal standards more clearly and are prepared with expertise. The HUD funding has been a very successful venture as evidenced in the statistics discussed above.

There are many additional benefits of this partnership. Those who cannot afford an attorney are provided with free legal advice and representation. Complaints are screened and analyzed for merit prior to filing with an administrative agency or court and many complaints are resolved without the need for formal process thereby reducing the use of overburdened governmental resources and resulting in a quicker, less stressful resolution for the parties.

C. HATE CRIME REPORTS

Although not directly related to housing discrimination, we also include hate crime information reported to the FBI by New Hampshire law enforcement agencies; and hate incident reports collected by the Southern Poverty Law Center; as well as a list of hate groups present in the state. There is a nexus between bias incidents and community well-being, particularly for those groups whose members have been targeted.

In recent years, law enforcement agencies in New Hampshire have taken hate crimes very seriously. In 2013, after a painstaking investigation by police, a grand jury indicted a man accused of writing racist and anti-immigrant graffiti on the homes of several African families living in Concord. In 2014, the New Hampshire Supreme Court upheld the hate crime conviction of a New Hampshire man based on threats he made to a Wal-Mart employee due to his anti-Semitic animus.¹²⁷

¹²⁷ *N.H. v. Costella*, N.H. Supreme Ct. Docket No. 2013-071 (Sept. 12, 2014).

Southern Poverty Law Center Hate Incident Reports in New Hampshire 2010 - 2014¹²⁸

9/8/2014	Lebanon	NH	A sticker from the Christian Identity group (white supremacist/anti-Semitic organization) Kingdom Identity Ministries was left on a trash can in a neighborhood.
10/22/2013	Concord	NH	A 42 year old White man was indicted on a felony charge of criminal mischief for allegedly writing racist graffiti on the residences of several African refugee families.
3/12/2012	Newmarket	NH	A 63 year old White man is facing two counts of mischief and one count each of uttering threats and criminal harassment for allegedly threatening an interracial couple and vandalizing their residence in four separate incidents between September 2011 and January 2012.
10/23/2011	Concord	NH	A swastika was spray-painted on a car, derogatory remarks and obscenities were spray-painted on a church and a swastika, profanity and a sexually explicit drawing were spray-painted on a garage in separate locations throughout the city.
9/17/2011	Concord	NH	Racist messages were written on the residences of several African refugee families.
1/3/2010	Concord	NH	Westboro Baptist Church (anti-gay, anti-Semitic group) members rallied outside the Episcopal Diocese of New Hampshire, home of the first openly gay bishop, in response to the state's legalization of gay marriage.

The Southern Poverty Law Center (SCLP), a non-profit civil rights organization, tracks hate activities throughout the United States. It also reports on organized hate groups that espouse animosity and often violence against others based on protected class status. It produces a map of the U.S. listing hate groups found within the respective states. The map currently listed six organized groups within New Hampshire.¹²⁹

FBI Uniform Crime Report Data¹³⁰ New Hampshire Hate Crime Incidents Bias Motivation 2010 - 2013

Year	Race	Religion	Sexual Orientation	Ethnicity	Gender*	Disability
2013	11	5	4	1	0	0
2012	16	7	4	2	NR	0
2011	12	4	4	2	NR	0
2010	11	6	11	3	NR	0

*Gender not included until 2013

The above chart represents incidents that were reported to local and state law enforcement agencies that then categorized the activity as a crime motivated by bias and submitted it to the FBI. It is very likely that the reported incidents are a small subset of the actual number of incidents occurring in the state. Race-based incidents account for a significant proportion of the

¹²⁸ Southern Poverty Law Center Hate Incident Reports are located at www.splcenter.org/get-informed/hate-incidents. The information is drawn from media reports. We have redacted the names of perpetrators from the reports and have added parenthetical explanations (also obtained from SPLC materials) on the two so-called religious groups cited in the reports.

¹²⁹ See *Hate Map*, Southern Poverty Law Center at <http://www.splcenter.org/hate-map#s=NH>.

¹³⁰ FBI Uniform Crime Reports, *Hate Crime Incidents*, 2010-2013, accessed at www.fbi.gov/about-us/cjis/ucr/ucr. The 2014 data has not yet been released.

crimes reported. Crimes motivated by the victim's perceived religion, sexual orientation and national origin were also reported.

D. PROTECTED CLASSES

Recognition of pervasive discrimination in the daily lives of African Americans in the United States led to the enactment of the Civil Rights Acts of 1866 and 1964 and resulted in the development of the legal notion of "protected class." Acknowledgement that other groups of people also suffered unequal access to opportunities has expanded the number of groups protected under state and federal anti-discrimination and civil rights laws. The federal Fair Housing Act now includes seven protected classes: race, color, national origin, religion, sex, familial status and disability. Federal regulations prohibit discrimination based on age, marital status, sexual orientation and gender identity in HUD funded housing programs. New Hampshire's anti-discrimination laws expand protection to three additional groups based on age, marital status or sexual orientation.

It has long been noted by the Courts, that civil rights laws, including the FH Act were intended to eliminate discrimination "root and branch."¹³¹ Sadly, that has not yet been fully realized: tenacious conditions within our societal structures and culture continue to disadvantage members of protected class groups in full and equal access to opportunity. This section discusses the ten protected classes covered by federal and/or New Hampshire housing discrimination laws.

1. Race

Although civil rights laws prohibiting racial discrimination were initially enacted to protect those of African American descent, the laws' protections extend to persons of all races who have been harmed by discriminatory actions. For the reporting period of 2010 through 2014, housing discrimination complaints based on race accounted for 12% of NHLA housing discrimination cases (n = 77); 10% of HUD complaints (n = 13); and 2% of HRC complaints (n = 1).

Race still matters in our state and in our country. Black people in New Hampshire account for 1.5% of the state's population.¹³² As noted in earlier discussion, New Hampshire boasts a poverty rate below the national average yet African Americans in the state, as a group, have not benefited. The 2014 poverty rate for Black Americans in New Hampshire is 23% as compared to the state poverty rate of 8.7%.¹³³ Black residents in New England have a higher denial rate for mortgage loans than White people. Homeownership rates among minority residents (46.3%) of the state lag behind homeownership rates for White residents (71.8%).¹³⁴ Still, all is not dismal. A recent article published in the New Pittsburg Courier touted New Hampshire as the fifth best state in the country for Black Americans:

With a median Black household income of \$46,818, New Hampshire looks like a great place to live. The high school graduation rate is 76

¹³¹ *Green v. County School Bd.*, 391 U.S. 430, 437-38 (1968).

¹³² New Hampshire QuickFacts (2014), *supra* Note 59.

¹³³ Center for American Progress at www.talkpoverty.org/state-year-report/newhampshire-2014-report/ citing 2014 American Community Survey statistics.

¹³⁴ *Assets & Opportunity Scorecard*, CFED 2013 data available at <http://scorecard.assetsandopportunity.org/latest/measure/homeownership-by-race>.

percent for Black students—the fifth highest in the nation—and New Hampshire also ranks second, behind Hawaii, as the best place to raise a Black child.¹³⁵

2. Color

This distinct protected class category is most often used in conjunction with allegations of racial or national origin discrimination. Several contemporary studies have documented discriminatory treatment of individuals based on the lightness or darkness of their skin both by members of the same racial/ethnic group and by members of different racial/ethnic groups.¹³⁶ There were no cases reported in this update period in which color was listed as the primary basis of a housing discrimination case.

3. National Origin

The U.S. Supreme Court has said that the term national origin refers “to the country where a person was born, or, more broadly, the country from which his or her ancestors came.”¹³⁷ The FH Act and other civil rights laws have interpreted the notion of national origin to include ethnicity such as being of Latino or Arabic heritage.¹³⁸

New Hampshire is slowly becoming more diverse with Americans of non-European heritage and immigrants from many areas of the world settling in the state. These populations, although quite small, contribute significantly to the well-being of the state. A recent study by the Immigration Policy Center noted the following:

Immigrants, Latinos, and Asians account for growing shares of the economy and electorate in New Hampshire. Immigrants (the foreign-born) make up more than 1 in 20 Granite Staters, and more than half of them are naturalized U.S. citizens who are eligible to vote. “New Americans”—immigrants and the children of immigrants—account for 5.7% of registered voters in the state. Immigrants not only contribute to the state’s economy as workers, but also account for billions of dollars in tax revenue and consumer purchasing power. Moreover, Latinos and Asians (both foreign-born and native-born) wield \$2.4 billion in consumer purchasing power and the businesses they own had sales and receipts of more than \$900 million and employed nearly 6,000 people at last count. At a time when the economy is still recovering, New Hampshire can ill-afford to alienate such an important component of its labor force, tax base, and business community.¹³⁹

¹³⁵ Belton, Denise C., *The 5 Best States for African American People*, New Pittsburg Courier (Nov. 20, 2014).

¹³⁶ See, e.g., Hersch, Joni, *Skin Color Discrimination and Immigrant Pay*, 58 Emory L.J. 358 (2009), *Shades of Difference: Why Skin Color Matters* (Evelyn Nakano Glenn ed., 2008).

¹³⁷ *Espinoza v. Farah Mfg. Co., Inc.*, 414 U.S. 86, 88 (1973).

¹³⁸ Schwemm, Robert G., *Housing Discrimination: Law and Litigation*, 11A-3 (2009).

¹³⁹ *New Americans in New Hampshire: The Political and Economic Power of Immigrants, Latinos and Asians in the Granite State*, Immigration Policy Institute (May 2013) available at www.immigrationpolicy.org.

The information contained in this policy paper underscores the fact that immigrant populations continue to contribute to the fabric of American society including within the state of New Hampshire. This serves as a valuable counterpoint to the fear-mongering and anti-immigrant sentiments one sometimes encounters within the state.

As of 2011, New Hampshire had over 70,000 residents who were born outside the U.S., comprising 5.6% of the population. 51.8% of those immigrants were naturalized and eligible to vote.¹⁴⁰ Approximately 8% of immigrants live in households where English is not the primary language, much lower than the national average of 20%.¹⁴¹ Latinos make up 3.2% of New Hampshire's population and Asians, 2.4%.¹⁴²

Refugee resettlement programs have settled 2,235 refugees within the state from 2010 through 2014. Concord, Laconia, Manchester and Nashua continue to be the receiving communities. Of the persons who entered the U.S. through the resettlement programs, 66% came from Asia, 18% from Africa, and 16% from the Middle East. Less than .01% of resettled persons came from Europe during this period.¹⁴³

During this reporting period, housing discrimination complaints based on national origin accounted for 5% of NHLA housing discrimination cases (n = 37); 7% of HUD complaints (n = 9); and 4% of HRC complaints (n = 2). Access to housing, steering and disparate treatment are often impediments based on national origin. Language access is another dimension of discrimination often experienced by persons who are not proficient in English. Although it has been clear for some time now that entities that receive federal funds are obligated to provide language access to persons with limited English proficiency (LEP), many LEP individuals are denied that access. In housing situations, that may constitute housing discrimination based on national origin.

4. Religion

Reports of housing discrimination based on religion are miniscule in New Hampshire. During this reporting period, HUD reported no complaints based on religion. NHLA investigated 3 complaints, comprising less than 1% of the discrimination cases it handled. HRC investigated 1 case during this period.

This does not mean that bias based on religion is nonexistent in New Hampshire. Reports of hate incidents and hate crimes are frequently based on the victim's religion (or perceived religion). *See* Hate Crime Reports section above. Many of the incidents have been based on anti-Semitism.

5. Sex

Sex discrimination was added as a protected class in 1974 in recognition that women have been disadvantaged in all aspects of their lives due to their gender. Women constitute 50.6% of New Hampshire's population but still have not reached economic or social parity with their male counterparts. In New Hampshire, women earn 77 cents to a man's dollar, less than the

¹⁴⁰ *Id.* at 1.

¹⁴¹ New Hampshire QuickFacts, *supra* Note 19.

¹⁴² *Id.*

¹⁴³ *Refugee Facts*, Office of Minority Health, N.D, Dep't. of Health and Human Services (undated), available at <http://www.dhhs.nh.gov/omh/refugee/facts.htm>

national (and still shameful) average of 82 cents: 1 dollar.¹⁴⁴ “This significant wage gap means that the typical New Hampshire woman working full-time earns approximately \$8,993 less each year than the typical New Hampshire man.”¹⁴⁵

Lower wages especially impact households headed by a single parent. The vast majority of single-parent households in New Hampshire are headed by women (71.6%). The poverty rate for those families is 40%.¹⁴⁶ Like other groups whose housing opportunities are limited by disproportionately lower incomes, women-headed families face obstacles in accessing affordable housing.

Women are at greater risk of victimization by domestic violence, sexual harassment and gender stereotypes than men. Domestic violence is a leading cause of homelessness for women.¹⁴⁷ A housing provider’s decision to treat domestic violence victims differently than other crime victim many also trigger liability under fair housing laws. Sexual harassment in housing is another recognized aspect of sex discrimination in housing.

Sex discrimination claims are a small percentage of the types of discrimination reported in New Hampshire. They made up 3% of the complaints NHLA handled (n = 18); 3% of the complaints HUD investigated (n = 4); and 4% of HRC complaints (n = 2).

During the course of this reporting period, NHLA represented several domestic violence victims facing adverse housing actions based on their statuses as victims. The cases that received the most attention involved the cases cited in the legal update of a woman whose landlord refused to renew her lease because of her calls to police for an abusive ex-husband. She then was denied another rental opportunity because of her victim status by a second landlord. Those cases received national attention when they were resolved. NHLA has also represented women who were facing eviction and/or termination of a subsidy because of violence perpetrated against her or who were denied access to housing based on negative references rooted in problems caused by the perpetrators. Since almost of these cases involved federally subsidized housing, NHLA was able to utilize provisions of VAWA to overcome these barriers.

6. Disability

The number of persons with disabilities in New Hampshire is estimated at 140,228, representing 13% of the state’s population.¹⁴⁸ The vast majority of the group, 69.2% report not being in the workforce. Many are low-income with 16% at or below the poverty level and another 12.7% between 100 – 149% of the poverty level.¹⁴⁹ Affordable housing remains a challenge to many with disabilities. Accessibility barriers may limit others with specific physical disabilities such as mobility impairments, blindness or deafness.

¹⁴⁴ Alford-Teaster, Jennifer, *Understanding Equal Pay in the Granite State*, New Hampshire women’s Initiative (Aug. 2014), p. 2.

¹⁴⁵ *Id.* at 16.

¹⁴⁶ *New Hampshire Kids Count Data Book(2015)* available at <http://nhkidscount.org/sites/default/files/pdfs/Single-Parent%20Families.pdf>.

¹⁴⁷ *Preventing Domestic Violence Survivors from Becoming Homeless*, National Center for Homelessness & Poverty (2015) at <http://www.nlchp.org/prevention>.

¹⁴⁸ *Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status*, 2009-2013 American Community Survey 5-Year Estimates at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?_afpt=table.

¹⁴⁹ *Id.*

Disability discrimination comprises the largest number of cases in New Hampshire. Sixty-four percent of NHLA's housing discrimination cases are based on disability (n = 404); 47% of HUD cases (n= 60); and 40% of HRC cases (n = 19).

Persons with disabilities are entitled to accommodations and modifications that are related to their disabilities and which are necessary to allow them to fully use and enjoy their homes. HUD has issued several guidance statements that are very helpful for both housing professionals and persons with disabilities. Most of the complaints in New Hampshire are based on the need for accommodations or modifications. There is no violation of the law until a request is denied. The majority of these cases are resolved before any formal complaint is filed. Direct discrimination is less common but still frequent enough and often targets people with mental health disabilities.

Lack of accessibility to housing services, amenities, programs, etc. is another factor in this area of fair housing law. It can take many forms. As feedback from the participants in the focus group for Deaf and Hard-of-Hearing persons indicated, housing providers including those receiving federal subsidies many times fail to provide equal access. Architectural accessibility and compliance is another complex area where there is often confusion on the part of local builders and municipalities about their compliance obligations.

The Amanda D. case settlement includes the requirement to create more housing opportunities for persons with severe mental illness. Even before, NHHFA had been working with developers to create more opportunities. NHHFA creating a scoring system into its Qualified Allocation Plan (QAP) that awarded more points to developers who provided housing opportunities for persons with mental illness. NHHFA recently received Section 811 funding to foster development of more housing opportunities for persons with mental illness.

7. Familial Status

In 1988, the FH Act was amended to prohibit discrimination in housing based on familial status, which refers to the presence of children under 18 years in the home. Included in the class are families of many configurations including parents expecting the birth of a child, adoptive parents, foster parents, grandparents and other relatives caring for children, and parents awaiting custody of a child, and may include residential facilities for children.

The category of familial status discrimination has the second highest incidence of complaints in New Hampshire. During this reporting period, 13% of NHLA's fair housing cases involved familial status discrimination (n = 79); 28% of the HUD complaints (n = 35); and 11% of HRC's cases (n = 5).

Low-income families are most at risk of familial status discrimination. It is often more overt and still sometimes slips into advertisements and conversations with housing providers. Often the cases involve access to housing where families are turned down explicitly because they have children or "too many" children or they are told the unit is no longer available. NHLA's testing program can be particularly effective with these types of cases. Tests may be conducted to further confirm or dispel the presence of discriminatory conduct on the part of the housing provider.

Communities often fear a larger tax burden if too many families with children come to live in their towns. Many municipalities invest a disproportionate share of their affordable housing opportunities on senior housing developments. Zoning restrictions often limit the development of multi-family housing.

8. Age

New Hampshire law prohibits age and familial status discrimination in housing except in cases where the housing provider has met the federal and state standards required to provide housing for persons 55 and older or 62 and older.¹⁵⁰ In those cases, providers can prohibit families with children. The interplay between state and federal laws renders this area quite complex and easy to misconstrue. Many municipalities have ordinances governing housing for older persons in their communities.

In earlier reporting periods, NHLA routinely handled complaints against 55+ communities that were not operating within the scope of the state and federal laws that would allow them to legally bar families with children from their developments. The incidence of these types of cases has decreased dramatically.

A person of any age may bring an age discrimination complaint. Occasionally, NHLA has received complaints from younger persons who believe they have been turned down from a housing opportunity because of their young age and stereotypes about young people.

Age discrimination complaints have been rare and accounted for less than 1% of NHLA's cases (.3%) (n = 2), and 4% of HRC's cases (n = 2).

9. Marital Status

Complaints of housing discrimination under New Hampshire law based upon marital status are infrequent but do arise occasionally. Marital status discrimination comprised less than 1% of NHLA's complaints (.6%) (n = 4) and 4% of HRC's cases (n = 2).

10. Sexual Orientation

Sexual orientation is the newest protected class under New Hampshire law having been added in 1997.¹⁵¹ New Hampshire law also prohibits eviction of a tenant solely because the person has or is perceived to have AIDS, a once lethal health condition that disproportionately affected gay men in the U.S.¹⁵²

Few cases are reported in New Hampshire. For this reporting period, NHLA investigated 1 complaint in 2010, the same year that same-sex marriage went into effect. HRC investigated 5. The highest incidence of hate crimes based on sexual orientation also occurred in 2010. It is unclear if this legal development was related to the advent of same-sex marriage.

Although the FH Act does not include sexual orientation as a protected class, HUD has incorporated prohibitions against discrimination based on sexual orientation in HUD-funded housing programs. HUD has also investigated cases involving discrimination based on sexual orientation as sex discrimination.

¹⁵⁰ 42 U.S.C §.3607(b); RSA 354-A:15.

¹⁵¹ RSA 354-A.

¹⁵² RSA 354-A:10, VI.

E. ADDITIONAL IMPEDIMENTS

1. Land Use Controls and “Crime Free” Ordinances

a. Land Use Controls

Local land use controls in New Hampshire present formidable obstacles for many members of protected classes to access housing in communities of opportunity. Segregation of the affluent from the poor and working class has been on the rise across the nation and New Hampshire is not immune. These increases are associated with the surge of income inequality and the shrinkage of middle class and mixed income neighborhoods.¹⁵³ Similar trends can be seen in New Hampshire.

Zoning ordinances, growth controls, and impact fees create conditions, intentionally and otherwise, that inhibit the development of affordable housing for families; provide incentives for “housing for older persons;” and promote housing for the affluent through such devices as large lot requirements. As earlier discussions have pointed out, membership in a protected class usually comes with economic consequences. Black and Latino families’ median incomes are significantly lower than White families’ incomes. Lack of affordable housing opportunities in more affluent communities in New Hampshire is a contributing factor to the concentrations of racial and ethnic minorities in the state’s largest cities. Large lot restrictions in suburban municipalities affect the affordability of single homes thereby disproportionately affecting minority homebuyers.

Many, if not most New Hampshire communities receive or have received HUD community development funds through state agencies. Each of the municipalities that have accepted those funds have explicitly committed to “affirmatively furthering fair housing” in the use of those funds. Failure to incorporate fair housing analysis or recognize structural barriers to housing opportunity may trigger liability under the FH Act.

There have been many efforts to address the effects of exclusionary land use controls. The New Hampshire Legislature enacted RSA 674:21, Innovative Land Use Controls, including inclusionary zoning, in 1983. In 1991, the New Hampshire Supreme Court ruled in *Britton v. Town of Chester* that all New Hampshire communities were obligated to provide reasonable and realistic development opportunities for affordable housing. In 2008, the *Britton* case was codified in the state’s new Workforce Housing Law.¹⁵⁴ The law requires each municipality within the state to provide real and credible opportunities for development of affordable housing.

¹⁵³ Taylor, Paul & Fry, Richard, *The Rise of Residential Segregation by Income*, Pew Research Center (Aug. 1, 2012), p.1.

¹⁵⁴ RSA 674:58 – 674:61 (eff. 1/1/2010).

b. “Crime-free” Ordinances

Across the country, there has been a proliferation of crime-free or nuisance property ordinances that create additional impediments for members of protected classes and may trigger violations of the FH Act.¹⁵⁵ There have been several communities in New Hampshire that have either enacted or have considered enacting such laws.

Key features of crime-free ordinances are requirements imposed on landlords to suppress the potential for criminal activity at rental properties. Requirements may include mandatory criminal record checks for prospective tenants, use of leases with “crime-free” language; mandatory evictions for tenants who violate the ordinance; and fines imposed on non-complying landlords. Typically, police and/or other municipal service response to a property trigger consequences for landlords and tenants.

While the goal of suppressing criminal activity may seem reasonable and well-intended, these ordinances tend to bypass the due process protections of judicial proceedings and can unjustly target crime victims, persons with mental disabilities and members of racial and ethnic minorities.

The City of Berlin was subject to a 2014 sex discrimination charge initiated by the Secretary of HUD for its municipal crime free ordinance. The ordinance required a landlord to begin eviction proceedings against tenants who have been subject to a certain amount of police responses. The HUD complaint alleged that a domestic violence victim had suffered adverse housing actions by two separate housing providers as a direct consequence of the ordinance. The case settled and Berlin amended its ordinance to specifically exempt victims of crime from mandatory eviction proceedings. Advocates remain concerned that the actions taken do not go far enough to protect others from unjustified consequences of enforcement of the ordinance.

2. Housing for Older Persons

Both federal and state law permit age-restricted housing for persons fifty-five years or older. These housing developments, if compliant with both statutory requirements, are exempt from familial status and age discrimination claims. Under New Hampshire law, age-restricted developments must offer “significant facilities and services specifically designed to meet the physical and social needs of older persons” or establish that “such housing is necessary to provide important housing opportunities for older persons.”¹⁵⁶

In reality, many age-restricted developments claim to be exempt, but are not compliant with state law requirements. Unfortunately, many municipal government authorities either ignore or are not cognizant of the state law requirements, and as a consequence, non-compliant projects are approved. Municipalities are also under pressure from constituents to keep property taxes down and they routinely favor projects that limit opportunities for families with children.

¹⁵⁵ Werth, Emily, *The Cost of Being “Crime Free”: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances*, Sargent Shriver National Center on Poverty Law (Aug. 2013) at <http://poertylaw.org/sites/default/files/files/housing-justice/cost-of-being-crime-free.pdf>.

¹⁵⁶ RSA 354-A:15, IV(a).

3. Mortgage Lending

Although the economy and the housing market have improved since the 2010 AI Update, troubling lending patterns based on race and ethnicity persist. The Boston Federal Reserve Bank's analysis of mortgage lending practices in New England reveals that Blacks and Latinos continue to suffer disparities in mortgage lending approvals for both new mortgages and refinancing, as well as in the type of mortgage products used.¹⁵⁷ Further analysis of HMDA data showed irregular and disadvantageous mortgage lending patterns for Latinos in New Hampshire. *See* Part II, pp. 31-33.

4. Economic Factors – Housing Affordability

New Hampshire's economy and housing market have rebounded since the great recession but acquisition and retention of affordable housing remains a challenge for many in the Granite State, especially the many protected class group members who are disproportionately lower income. Nationally, the share of rental households has increased since the recession as people lost homes through foreclosure and entered the rental market.¹⁵⁸ In New Hampshire, 30% of the state's population are now renters.¹⁵⁹ The vacancy rate in New Hampshire in 2014 was 2.5% with affordable rental housing stock increasingly harder to find.¹⁶⁰

The National Low Income Housing Coalition has calculated that in New Hampshire, a family would need a full-time wage earner making an hourly wage of \$20.18 to afford a 2 bedroom apartment.¹⁶¹ New Hampshire's minimum wage is \$7.25 an hour. A family dependent on cash assistance through the New Hampshire Department of Health and Human Services does not receive sufficient financial support to pay a market rate rent. It is clear that low-income families cannot afford to pay fair market rent for an apartment without a housing subsidy and there are an insufficient number of subsidized housing opportunities available to satisfy the need.

In spite of the challenges, and even though affordable housing remains an impediment, progress has been made. Several new initiatives were implemented over this time period to address housing affordability and access to opportunity areas. NHHFA has worked for many years providing technical assistance to municipalities in order to create affordable housing opportunities. The New Hampshire legislature enacted the Work Force Housing statute which specifically requires municipalities to allow development of affordable housing.

NHHFA's history of addressing affordable housing barriers was a factor in the award of the Community Planning Grant (CPG). The CPG enabled all of the state's Regional Planning Commissions (RPC) to develop innovative affordable housing strategies appropriate for their individual regions. In addition, each RPC was required to complete an assessment of fair housing obstacles within their communities.

¹⁵⁷ *HMDA Data*, *supra* Note 89.

¹⁵⁸ Bean, Jessica A., *Renters More Often Burdened by Housing Costs After Recession*, Carsey Institute (Spring 2012) available at <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1168&context=carsey>.

¹⁵⁹ *2015 State Housing Profiles*, National Low Income Housing Coalition (2015) at <http://nlihc.org/sites/default/files/2015-SHP-NH.pdf>.

¹⁶⁰ *Residential Rental Cost Survey*, New Hampshire Housing Finance Authority (June 2014), p. 12.

¹⁶¹ *State Profiles*, *supra* at Note 159. *See also*, *NHHFA Housing Survey*, *supra* at Note 160.

5. Lack of Substantial Equivalency

In order to enforce the federal FH Act most effectively, HUD provides funding to qualifying states and local governments. To qualify, the state housing discrimination laws must be “substantially equivalent” to the FH Act.¹⁶² Thirty-nine states have achieved substantial equivalency, including every New England state except for New Hampshire. HUD has determined that RSA 354-A, New Hampshire’s Law Against Discrimination, does not meet that standard. HUD has published an opinion letter outlining the provisions in our statute and the administrative rules that describe the areas of concern.

Lack of substantial equivalency means that federal dollars are not available to help support the state’s efforts in combatting housing discrimination. It means that, unlike in most states, complainants must choose between HUD and the HRC to file a complaint. In substantially equivalent states, the state agency can accept and investigate both federal and state-based housing discrimination claims. The effects of lack of substantial equivalency are significant as evidenced in the tiny amount of housing discrimination claims filed with the HRC in contrast with complaints filed with HUD or NHLA.

6. Source-of-Income Discrimination

In New Hampshire, private housing providers may turn away a qualified renter because she or he receives public benefits or participates in a housing voucher program. Many states, including four of the New England states, have added protections based on source of income to their housing discrimination laws. This lack of source-of-income protection has several consequences. First, it limits housing choice for low-income families. It also promotes concentrations of poverty. Lastly, it allows landlords to use source-of-income as a proxy for animus based on the otherwise qualified renter’s membership in a protected class. A bill to prohibit discrimination against Housing Choice Voucher holders was introduced in the 2013 legislative season but it did not survive the process. Because many protected classes also suffer income inequality and are overrepresented in low-income echelons, lack of source-of-income protection has a greater impact on them.

7. Domestic Violence Survivor Protections in Housing

Domestic violence is a leading cause of homelessness among women, often through eviction and access denials for reasons directly related to the violence. The rise of “crime free” municipal ordinances raises these risks higher for domestic violence victims. The many federal housing discrimination cases brought on behalf of domestic violence survivors demonstrate that stronger, clearer protections are needed. VAWA has made a difference in preserving housing opportunities for survivors who are applicants and tenants of federally subsidized housing, but no such protections exist in private housing. Rhode Island is currently the only state in New England that prohibits housing discrimination based on one’s status as a victim of domestic violence. A bill to prohibit discrimination against domestic violence survivors was introduced in the 2013 legislative season but it did not survive the process.

¹⁶² 42 U.S.C. § 3616.

8. Rigid Admission Criteria for Federally Subsidized Housing Programs

Federally subsidized housing programs have the authority to develop their own admissions policies consistent with federal regulations. Rigid application of credit, criminal history, and poor landlord reference policies may have disproportionately negative affects on racial and ethnic minorities, domestic violence survivors, people with mental health disabilities, and other protected class members.

9. Lack of Housing Discrimination Protection for Transgender Persons

Although New Hampshire did amend RSA 354-A to add protections for persons who are homosexual or bi-sexual, there are no explicit protections based on gender identity. HUD has recognized that transgender persons suffer discrimination in housing and has promulgated the Equal Access Rule barring gender identity discrimination in its programs.¹⁶³ Several states, including Massachusetts, have amended their housing discrimination statutes to bar discrimination based on gender identity. New Hampshire has yet to adopt this new protection.

10. Lack of Information About Fair Housing Law and Protections

Lack of knowledge about fair housing laws continues to be an impediment even though materials and education about the topic has increased during this reporting period. This report's focus group participants reported lack of knowledge and expressed interest in learning more about their rights. More training has been scheduled. Outreach efforts have been held with NH Housing, NHLA and HUD providing multiple free or low-cost training programs throughout the state.

F. REPORT ON PROGRESS ON IMPEDIMENTS IDENTIFIED IN 2010 UPDATE

The 2010 Update identified eleven impediments.¹⁶⁴ This section provides a progress report.

Impediment 1: Lack of Affordable Housing

This factor continues to be one of the most significant impediments facing our state and as discussed, has a deep impact on families with children (particularly for single parent households headed by women), racial and ethnic minorities, persons with disabilities and others. Several new initiatives were implemented over this time period to address housing affordability and access to opportunity areas. NHHFA has worked for many years providing technical assistance to municipalities in order to create affordable housing opportunities. The New Hampshire

¹⁶³ See Equal Access Rule, *supra* Note 101.

¹⁶⁴ *Analysis of Impediments to Fair Housing in New Hampshire: 2010 Update*, New Hampshire Housing Finance Authority (2010), pp. 90-100.

legislature enacted the Work Force Housing statute which specifically requires municipalities to allow development of housing affordable to households of all income levels.

NHHFA's history of addressing affordable housing barriers was a significant factor in the award of the Community Planning Grant (CPG). The CPG involved all of the state's Regional Planning Commissions (RPC) to develop innovative affordable housing strategies appropriate for their individual regions. In addition, each RPC was required to complete an assessment of fair housing obstacles within their communities.

Progress Report on Recommendations

a. Continue following Consolidated Plan Strategies

NHHFA has continued to follow its Consolidated Plan with an emphasis on furthering fair housing principles by creating affordable housing opportunities for families throughout New Hampshire, particularly in those areas which offer better economic opportunity and higher quality of life standards. Objectives are achieved through scoring incentives, legislative advocacy, and collaborations with state and local entities throughout the state.

b. Continue to Convene an Annual Statewide Summit

NHHFA continues to host an annual state-wide conference for all stakeholders that promotes affordable housing opportunities. In addition, it routinely sponsors training on fair housing topics often in conjunction with HUD, NHLA or other partners.

c. Continue Aggressive Oversight of Actions Taken Under Affirmative Fair Housing Marketing Plan

NHHFA policies promote marketing strategies that are designed to reach eligible populations, including members of protected classes. Through the administration of its Housing Choice Voucher Program, contracts with developers and oversight of HUD-funded affordable housing developments throughout the state, NHHFA has the ability to ensure aggressive fair housing marketing plans for a large proportion of affordable housing programs within the state. In addition, each Consolidated Annual Performance Evaluation Report includes a progress report on AFFH.

d. Conduct Statewide Housing Needs Study

NHHFA submitted the Housing Needs in New Hampshire 2014 three part report to the Governor, Executive Council, Senate President and Speaker of the House in January 2015 as part of the Biennial Housing Plan required by RSA 207-C:47. This plan identifies the housing needs of low and middle income households.

Impediment 2: Source-of-Income Discrimination

a. Consider supporting legislation to prohibit source-of-income discrimination

In 2013, proposed legislation that would have amended RSA 354-A to include a prohibition on discrimination against housing voucher holders was filed. The legislation was unsuccessful but may be proposed again sometime in the future.

b. Consider incorporating prohibitions against source-of-income discrimination within housing contracts with private developers not otherwise covered.

This recommendation has not been implemented with private developers but it should be noted that operators of LIHTC properties may not discriminate based on income source.

Impediment 3: Discrimination Against DV Survivors

a. Consider supporting legislation to prohibit discrimination against DV survivors

In 2013, legislation was submitted that would have amended RSA 354-A to include a prohibition on discrimination against DV survivors. The legislation was unsuccessful.

b. Assess training needs on VAWA and state law protections for DV survivors

Training on VAWA was held in May 2013. VAWA obligations is a topic generally incorporated into fair housing trainings provided by NHLA and NHHFA.

Impediment 4: Municipalities that Discourage Multifamily Development Using Local Land Use Controls

a. Review of efficacy and municipal compliance with Workforce Housing Law

NHHFA issued a progress report on the law in October 2010 when the law had been in effect for less than a year. No further official assessments have been published. During this time period, NHHFA oversaw a comprehensive HUD-funded Community Planning Grant (CPG) designed to promote the creation of affordable housing opportunities throughout the state. The CPG program was focused on municipal and regional planning departments. It encouraged use of the Workforce Housing Law and demonstrated successful and creative housing solutions that maintained a community's essence while providing more affordable housing. It also incorporated a requirement that the regional planning commissions develop a Fair Housing Equity Assessment. The fair housing initiative included a state-wide conference, training sessions with each regional planning commission, and publication of a fair housing guidebook for municipal and regional planners. Lastly, in 2014 NHHFA applied for HUD Section 811 funding to increase housing opportunities for persons with serious mental illness. In 2015, NHHFA received notice that its proposal had been approved and granted.

Impediment 5: Non-compliant Age-restricted Housing Claiming Exemptions from Age and Familial Status Discrimination

a. Identify non-compliant housing developments

No non-compliant housing developments were uncovered during this reporting period. NHLA has been reviewing access to mobile home parks by families with children during its current grant period (which ends in 2016).

b. Provide training for developers, municipalities, and mobile home parks

NHHFA and NHLA provided training for mobile home park owners and co-op members in May of 2014.

Impediment 6: Lack of Quantitative Data on the Prevalence of Discriminatory Housing Practices in State and the Effects on Various Protected Classes

a. Create a strategic plan to determine priorities and methodology to acquire information

AI Updates remain the best, most cost effective method to assess fair housing data and resources and identify priorities.

Impediment 7: Disparate Treatment for LEP Individuals in Housing with Federal Subsidies

a. Requirements that subgrantees of CDFA and NHHFA maintain and provide copies of language access plans

NHHFA has a checklist system for ensuring that subgrantee's language access plans are included in the submission of documents. CDFA information available on its website.

b. Technical Assistance

NHHFA's language access plan is available on its website and is used as a model by many housing providers.

Impediment 8: Lending Practices

a. Initiate more detailed analysis of lending practices

HMDA and other data were analyzed for the 2015 Update indicating disparate results based on race and ethnicity. More analysis may be undertaken and NHHFA is planning a conference on this topic.

Impediment 9: Lack of Periodic Data Collection and Oversight of Progress on Elimination of Impediments

- a. Begin periodic data review of progress on addressing impediments by incorporating into the ConPlan process

Many of the issues identified as impediments are addressed in the Consolidated Plan and the Consolidated Annual Performance Evaluation Reports (CAPERs).

Impediment 10: Lack of “Substantial Equivalency” with HUD

- a. Ascertain status of state application and pursue equivalency

In 2013, a bill, supported by the New Hampshire Commission for Human Rights, was introduced to amend RSA 354-A in order to address its lack of “substantial equivalency” with the federal Fair Housing Act. The bill passed the House and was sent to the Senate where, with the support of the Human Rights Commission, it was deemed inexpedient to legislate. The Commission determined that it needed more time to work on the proposed changes. No further action has been taken.

Impediment 11: Lack of Knowledge/Information about Fair Housing Law and Protections

- a. Target renters and homebuyers for training and information

NHHFA includes fair housing information and pamphlets in packets for Housing Choice Voucher program recipients and in its homebuyer programs. In addition, NHHFA provides fair housing training to New Hampshire residents often in conjunction with HUD, NHLA and other partners. The CDFA website provides links to fair housing information. NHLA has provided fair housing training statewide to tenants, homeowners, landlords and other housing professionals and social service providers.

PART V: CONCLUSIONS AND RECOMMENDATIONS

During this update period, several things occurred that have affirmatively furthered fair housing within New Hampshire. The economy is in recovery. The unemployment rate has declined and remains below the national average. Residential foreclosures have also slowed and mortgage lenders are starting to increase lending to consumers. Although in-migration to New Hampshire has slowed, the state continues to offer newcomers and current residents great opportunities. Although small in number, racial and ethnic minorities are settling in the state at rates higher than any other groups.

Although New Hampshire boasts a low poverty rate, income inequality has increased. Many residents remain unable to access safe, affordable housing. In addition, many live precariously burdened by the costs of housing, paying a large proportion of their income toward shelter and leaving little for other needs. Living wage opportunities are decreasing, requiring workers with limited skills to work two or three jobs to try to make ends meet. Loss of a job can easily send a family tumbling toward homelessness.

The shrinkage of mixed income neighborhoods and communities across the nation and in New Hampshire has been fueled by local land use controls. It has been challenging to increase affordable housing in opportunity areas. New Hampshire has taken several steps to address this with some particularly positive developments over the past five years.

NHHFA housing planning and policy looks to the future. The state's demographics are shifting and the older population is growing. The policy has been to support the development of low-income housing opportunities throughout the state, prioritizing housing for families. In order to promote de-concentration of low-income housing and to refocus municipal preferences for elderly housing, NHHFA has developed a scoring system that promotes these objectives.

In addition, the Workforce Housing Law has now been in effect for five years. This statute requires every municipality in New Hampshire to create "reasonable and realistic" opportunities for the development of multi-family housing. Many communities have taken up the challenge of the new law and amended their ordinances to allow development of attractive and innovative housing that maintains and often enhances the character of the city or town.

In order to further promote the development of such housing opportunities, NHHFA, in partnership with multiple other agencies, applied for and was awarded a HUD Community Challenge Planning Grant. The purpose of the grant was to foster the growth of sustainable communities and supported work with them to create and/or implement local regulations toward that goal. An integral part of the initiative was the participation of all nine of the state's regional planning commissions. Each planning commission was required to create a Fair Housing Equity Assessment in order to ensure that fair housing principles were embedded within the planning initiatives.

However, appropriate housing resources for older residents are also an objective. For some projects, developers will receive more points if their projects provide services as well as housing. Multi-generational developments that reintegrate older persons back into multi-family housing and apartment configuration that include 2 bedroom units in senior and disabled housing are two examples of addressing some of the unintended consequences of earlier housing models.

Settlement of the *Amanda D.* case has fueled the creation of more housing opportunities for persons with serious mental illness. The recent award to NHHFA of an eight million dollar HUD grant for supportive housing opportunities for those with severe and persistent mental illness will continue to ensure opportunities for one of the state's most vulnerable populations.

There is still much work to be done. As a whole, protected class groups continue to endure disparities in access to housing as they do in other aspects of their lives including income, wages and employment opportunities; educational opportunities; and safety.

The fact that racial and ethnic minorities are persistently and disproportionately poorer than their White counterparts means that access to affordable housing is a disproportionately greater need. The ability to move to opportunity areas is crucial. Disparities in lending practices based on race, ethnicity, and sex affect accessibility to homeownership and the health and diversity of neighborhoods. HMDA data analysis has revealed the possibility of race and ethnicity-based lending disparities that may indicate discriminatory practices. In New Hampshire, Latinos in particular, have encountered significantly higher rates of mortgage lending denials than their Non-Latino counterparts.

Families with children face challenges moving to communities that use zoning and other controls to suppress housing opportunities that disfavor this protected class. The proliferation and lack of oversight of age-restricted housing further diminishes access.

Lack of source-of-income protections in the state's Law Against Discrimination creates an obstacle for many for movement into opportunity areas and makes the elimination of poverty concentration more difficult.

The failure of federally funded housing and housing service providers to make available information and services in languages other than English is an impediment that has an impact on access to housing and housing related services, as well as an obstacle to LEP tenants' abilities to communicate, understand and comply with the housing providers' rules and regulations.

Domestic violence victims, the vast majority of whom are women, suffer disparate treatment because of their status as victims. VAWA protections in federally funded housing have had a profound effect on enabling victims to access and retain housing. New Hampshire's amendment to its eviction statute to prohibit eviction of a domestic survivor solely because of her status as a victim has incorporated some protections into private housing. HUD's Conciliation Agreement with the City of Berlin caused the city to amend a troubling ordinance that requires landlords to evict tenants for excessive police and other emergency responses to their homes.

Persons with disabilities and families with children seem to suffer the most overt kinds of discrimination. For persons with disabilities, it is often difficult to obtain accommodations and modifications without legal advocacy. In addition, lack of oversight of accessibility features in new and rehabilitated properties affects opportunities for those with physical disabilities.

The recent economic recession has had a great impact on poor families, increasing the need for affordable housing. Rigid admissions criteria for access to publicly-supported housing makes access even more difficult, particularly for domestic violence victims, applicants with mental health issues and other protected class members.

HUD now prohibits gender identity discrimination in its housing programs but the State of New Hampshire has yet to add this protection to RSA 354-A.

The lack of substantial equivalency means that our state does not have the opportunity to increase enforcement of housing discrimination laws through the receipt of HUD funding. The small number of housing discrimination cases filed with the HRC underscores the value of federal funding.

Despite the fact that community education and outreach continues to be a priority for NHLA, the one entity in New Hampshire that receives funding to enforce fair housing law, lack of awareness of housing discrimination laws and protections continues to be an impediment.

Effective and accurate measurement and evaluation of “opportunity metrics” in New Hampshire is challenging because of its small, more rural population. ACS data is more difficult to assess for rural communities. Census tracts do not match up with neighborhoods nor do zip codes. In New Hampshire, there are no concentrations of either poverty or racial or ethnic populations that meet the HUD definitions. In addition, because the total population of racial and ethnic minorities is less than 10% of the state’s population, the sample sizes are very tiny and margins of error often so large as to make the data meaningless.

The RECAP analysis was helpful in illustrating the difficulty of applying methods designed for more populous states and cities where the recommended data is available and can be appropriately applied. The analysis shows, as expected that there are dissimilar proportions of races in urban vs. rural areas, but the concept of dispersing the concentrations to “opportunity” areas is difficult to fathom if most of the state is considered an opportunity area and lacks public transportation, proximity to shopping and jobs and affordable housing (on a much larger scale than that provided by public entities). The analysis also shows that by developing new affordable housing in an urban area, one runs the risk of perpetuating or reinforcing the concentration of low income minority households. Somewhat paradoxically, it also shows that the development of affordable housing in less urban and rural setting can be directly responsible for the creation of concentrations of low income minority households.

While NHHFA and CDFA work closely with local governments, there are a number of challenges for states in their efforts to affirmatively further fair housing principles. Many decisions affecting AFFH are made at the local level. Entitlement communities enter into independent contracts with HUD. State housing policies and goals may often be counterpoints to local government objectives. Local Public Housing Authorities create their own plans and objectives independent of state housing objectives.

Fortunately, the benefit of being a small state is that communication and cooperation between and among entities is not as unwieldy. We look forward to a thorough review of the new AFFH regulation and its guidance for states as well as local governments and for rural regions as well as urban ones.

<u>Impediment</u>	<u>Action</u>	<u>Responsible Agency</u>	<u>Time Frame</u>
1. Lack of Affordable Housing	<ul style="list-style-type: none"> a. Continue Following ConPlan Strategies b. Continue to convene annual statewide summit to promote new and additional affordable housing strategies c. Continue oversight of actions taken under Affirmative Marketing Plan 	<ul style="list-style-type: none"> a. CDFA & NHHFA b. NHHFA c. NHHFA 	<ul style="list-style-type: none"> a.Ongoing b.Annually c.Ongoing
2. Source-of-Income Discrimination	Continue to monitor opportunities to support legislation	NHHFA & CDFA	Ongoing
3. Discrimination Against DV Survivors	Continue to monitor opportunities to support legislation	NHHFA & CDFA	Ongoing

4. Municipal Ordinances	Conduct Review of Efficacy of Workforce Housing Law compliance and CPG outcomes	CDFA, NHHFA & Other Partners	Within 5 years
5. Age-restricted Housing	Develop Plan to Assess Impact and Prevalence	CDFA, NHHFA	Within 5 Years
6. Noncompliance with LEP	Develop Plan to Assess Impact and Prevalence	CDFA, NHHFA	Within 5 Years
7. Lending Practices	Convene a Summit of Stakeholders	CDFA, NHHFA	Within Next 2 years
8. Lack of Substantial Equivalency	Continue to monitor opportunities to support legislation	HRC/HUD	Ongoing
9. No Gender Identity Protections	Monitor opportunities to support legislation	HRC	Ongoing
10. Lack of Knowledge About Fair Housing Laws	Provide outreach and training opportunities	CDFA, NHHFA, HRC	Ongoing

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PART VI

APPENDICES

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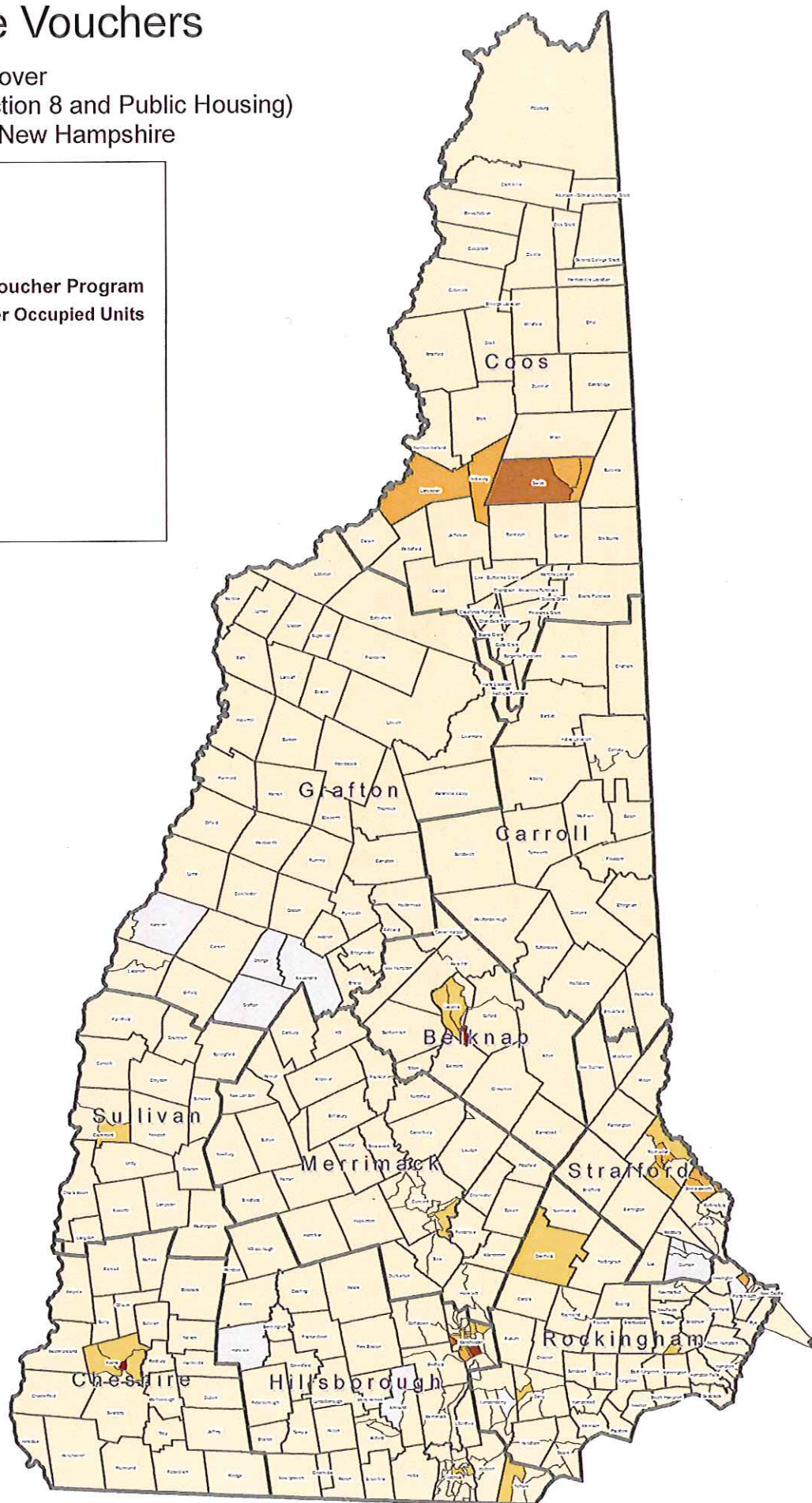
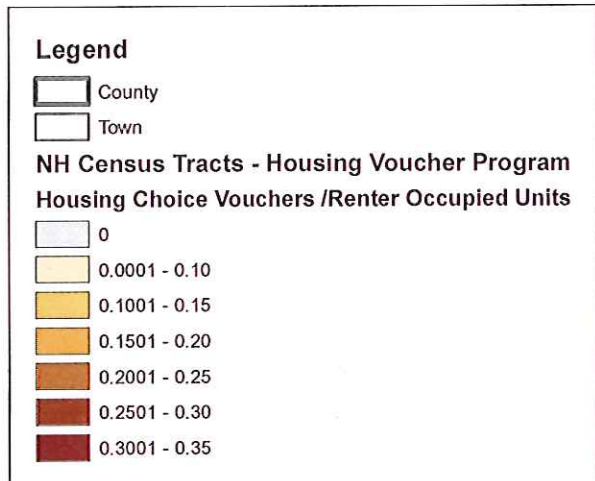
APPENDIX

A

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Housing Choice Vouchers

Housing Choice Vouchers over
Renter Occupied (less Section 8 and Public Housing)
by Census Tract (2012) in New Hampshire



Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>

Renter Occupied

Total Count of Renter Occupied
(less Section 8 and Public Housing) (2012)
New Hampshire

Legend

County

Town

NH Census Tracts -

Renter Occupied Units

39.00 - 250.00

250.01 - 500.00

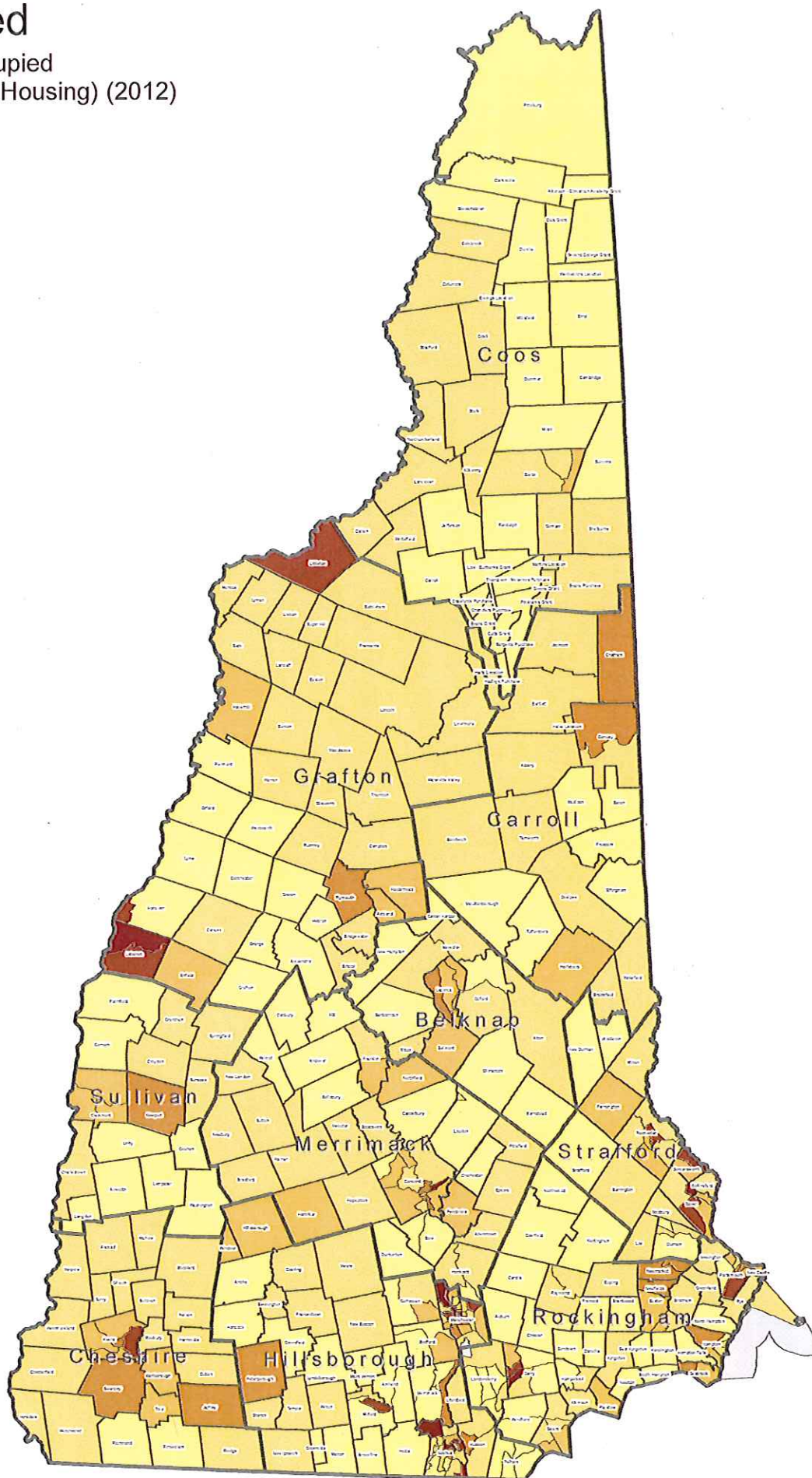
500.01 - 750.00

750.01 - 1000.00

1000.01 - 1500.00

1500.01 - 2194.00

0



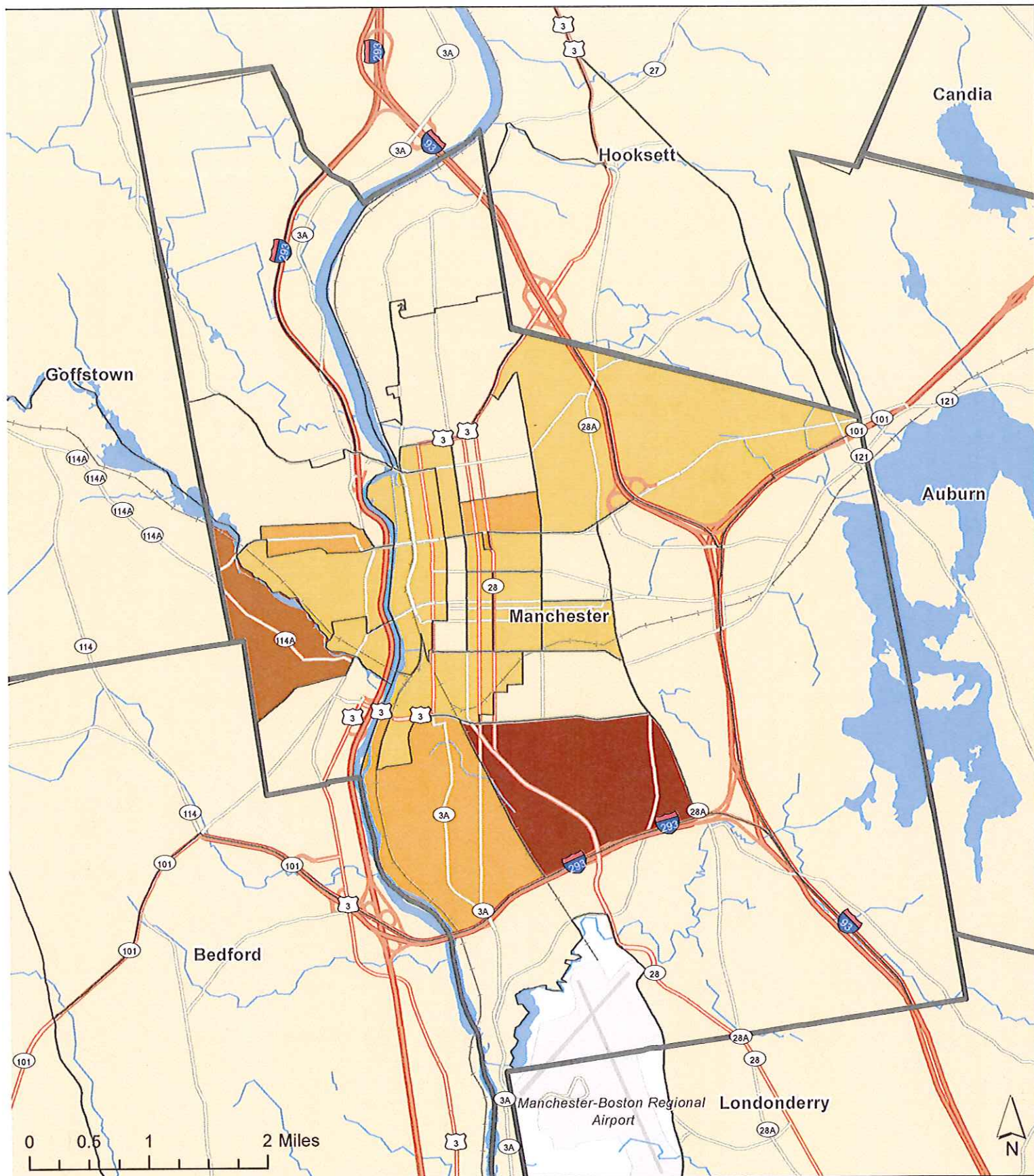
Data Source:

2012 HUD Data summarized to 2010 Census Geographies,
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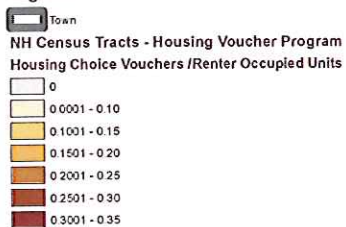
APPENDIX

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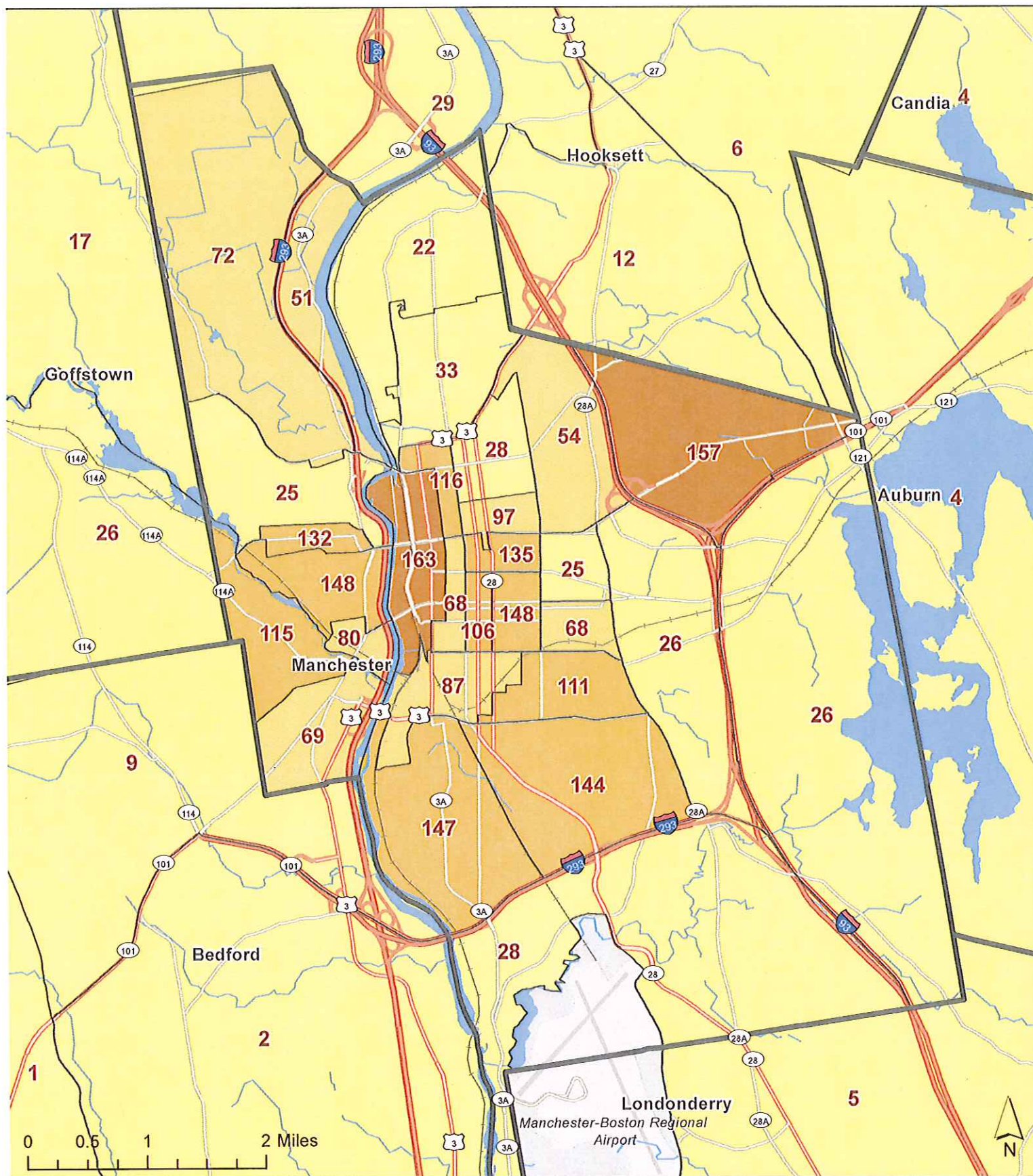
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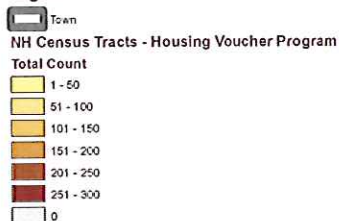
Housing Choice Vouchers

Housing Choice Vouchers over Renter Occupied housing
(less Section 8 and Public Housing) by Census Tract (2012)
Manchester, New Hampshire

Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>



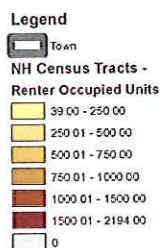
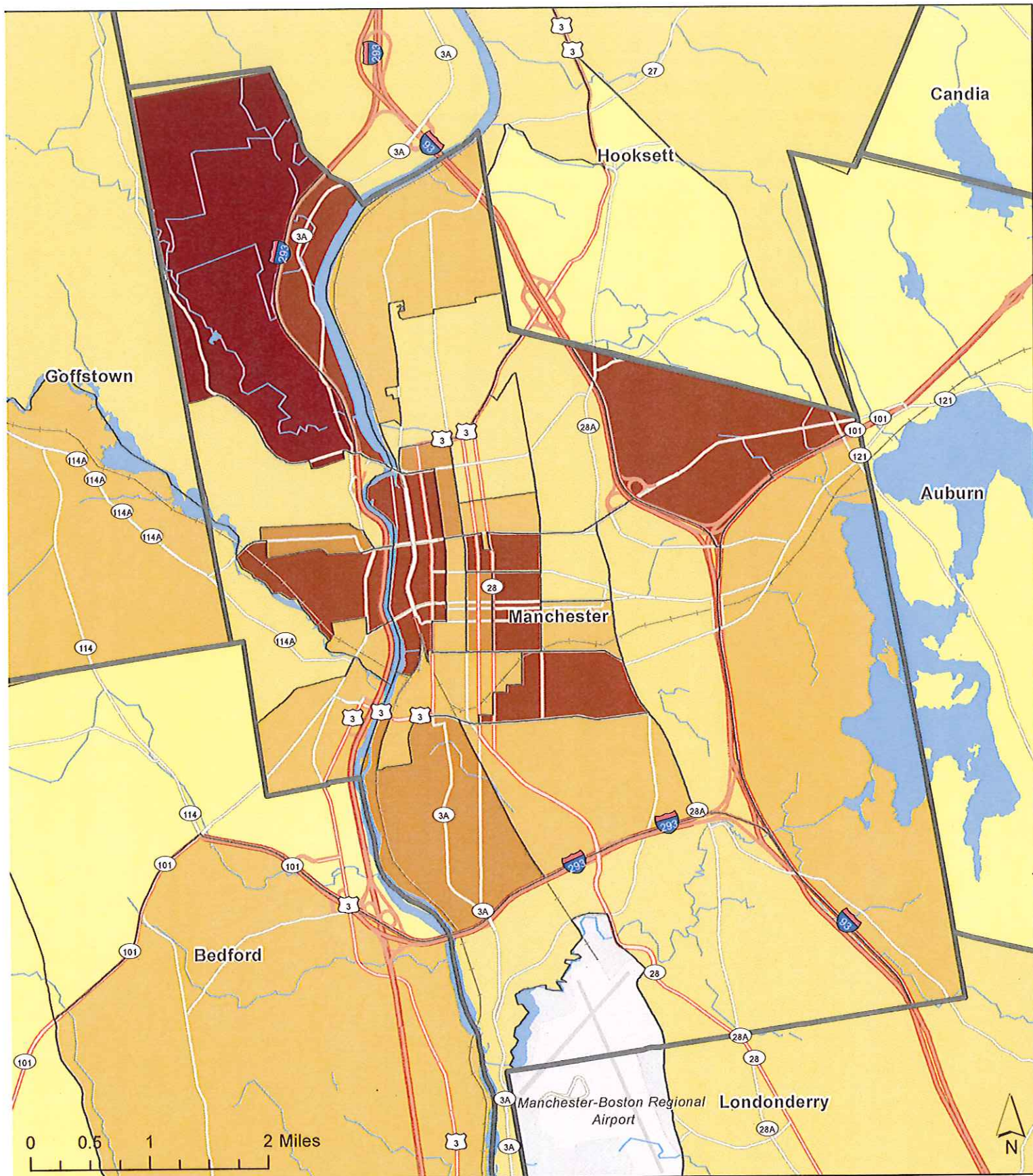
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Housing Choice Vouchers

Total Count by Census Tract (2012)
Manchester, New Hampshire

Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>



Total Count of Renter Occupied
(less Section 8 and Public Housing) (2012)
Manchester, New Hampshire

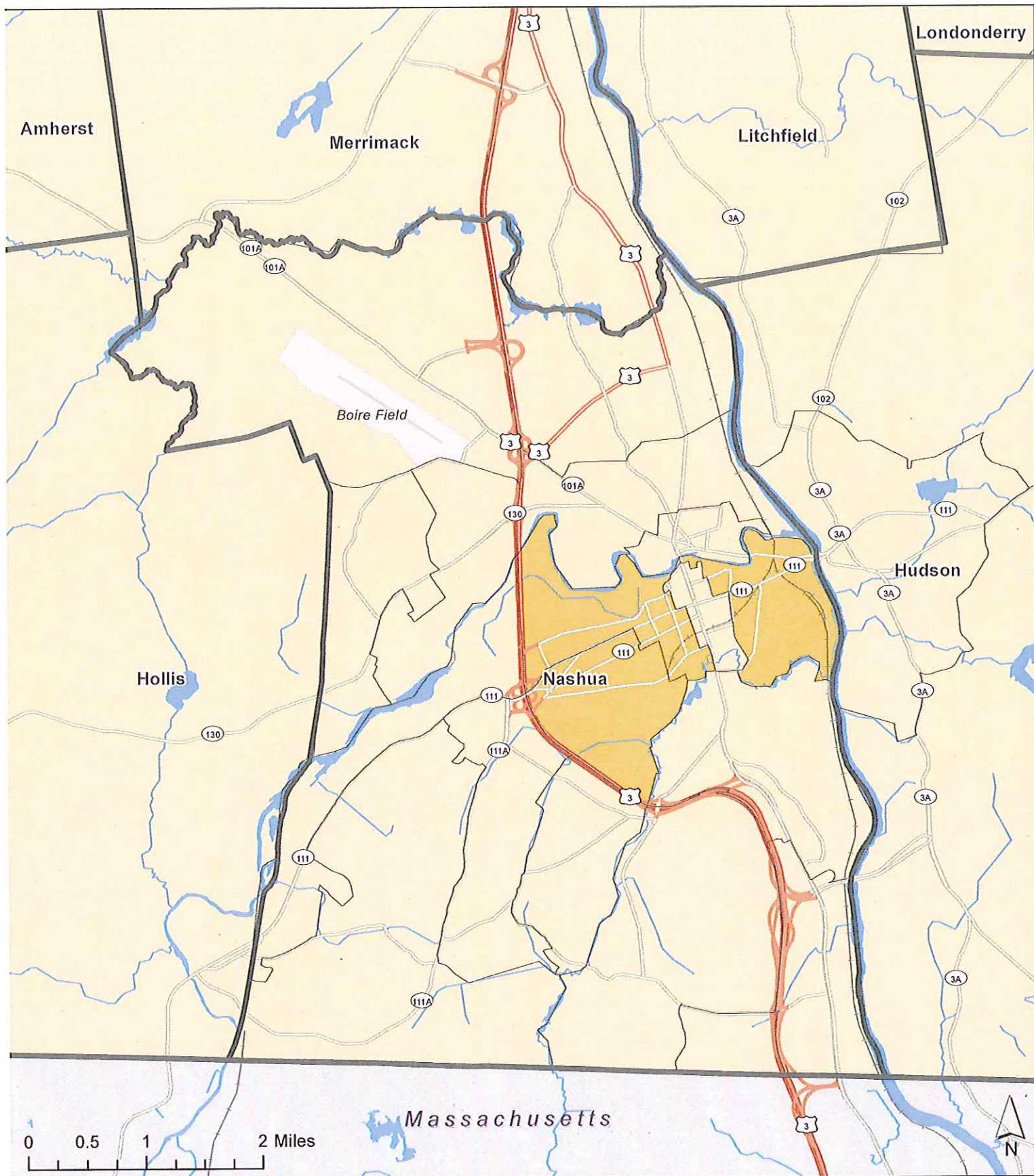
Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>

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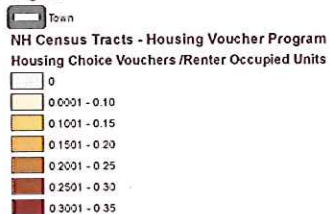
APPENDIX

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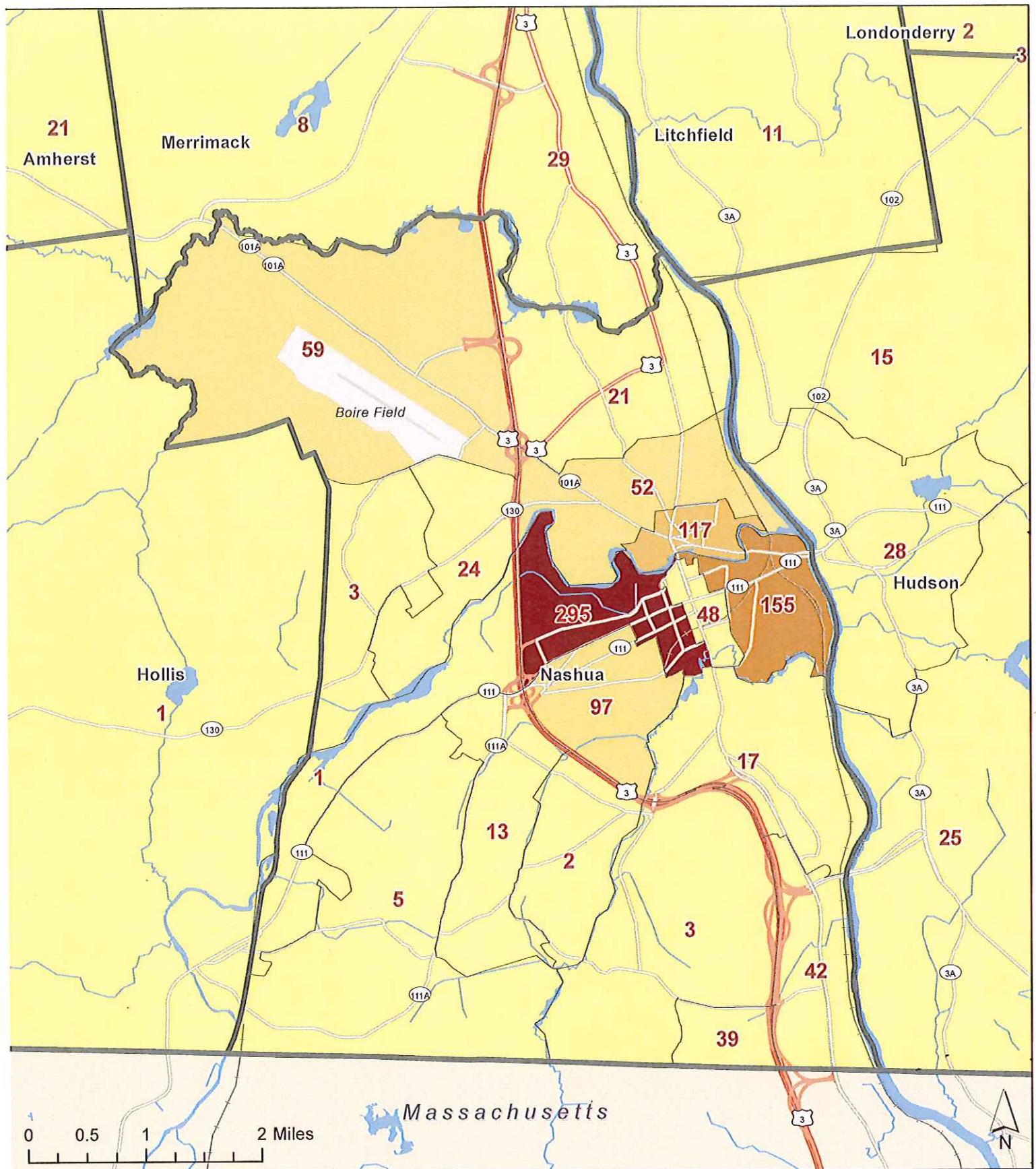
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Housing Choice Vouchers

Housing Choice Vouchers over Renter Occupied housing
(less Section 8 and Public Housing) by Census Tract (2012)
Nashua, New Hampshire

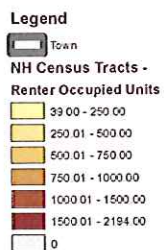
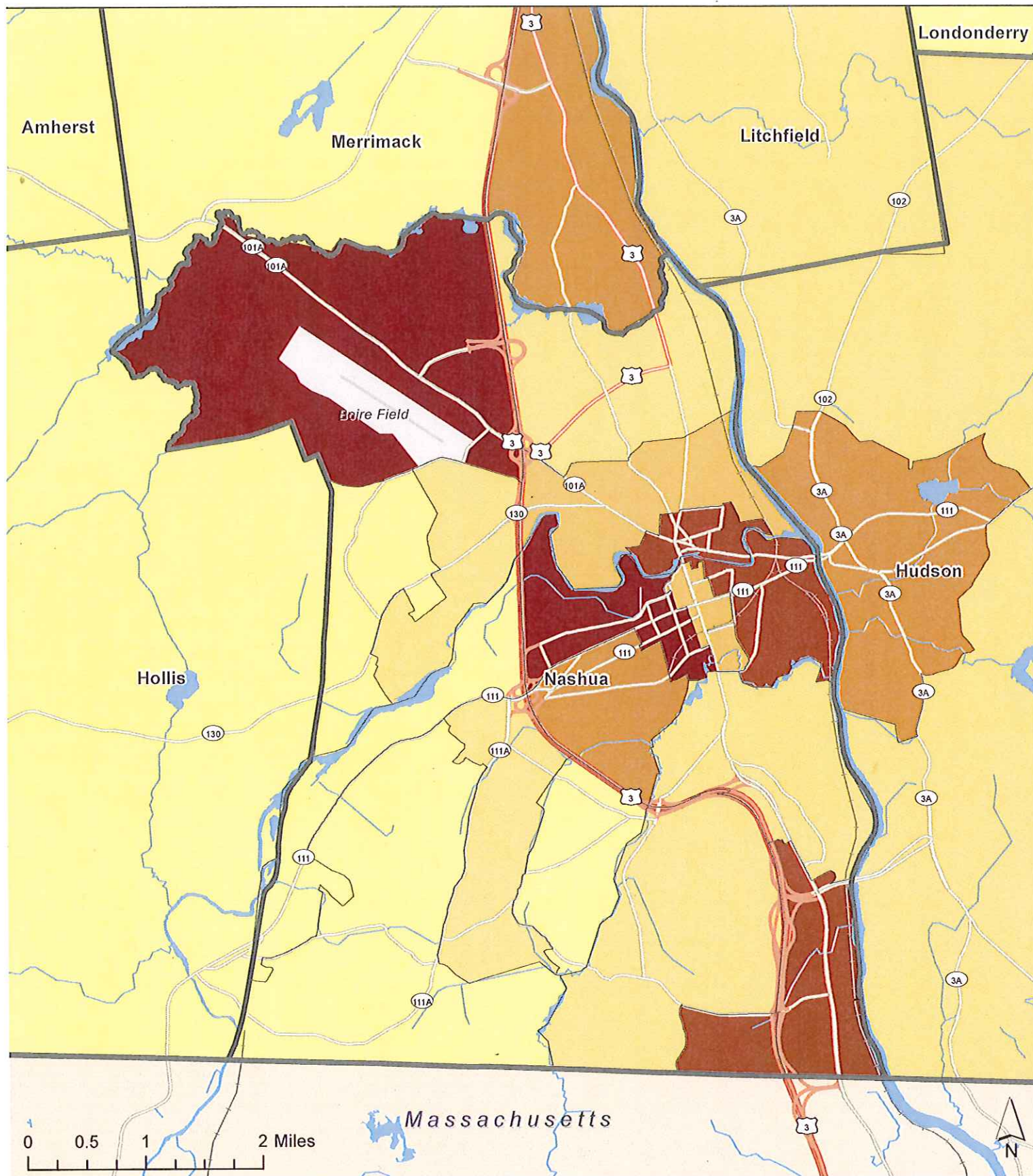
Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>



Housing Choice Vouchers

Total Count by Census Tract (2012)
Nashua, New Hampshire

Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>



Total Count of Renter Occupied
(less Section 8 and Public Housing) (2012)
Nashua, New Hampshire

Data Source:
2012 HUD Data summarized to 2010 Census Geographies,
<http://www.huduser.org/portal/datasets/picture/yearlydata.html>

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APPENDIX

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RECAP * result2 Cross tabulation

			result2		Total
			loan originated	loan denied or other adverse	
RECAP	Non RE CAP area	Count	41194	18658	59852
		Expected Count	41173.5	18678.5	59852.0
		% within RECAP	.7	.3	1.0
	RE CAP area	Count	395	209	604
		Expected Count	415.5	188.5	604.0
		% within RECAP	.7	.3	1.0
Total	Count	41589	18867	60456	
	Expected Count	41589.0	18867.0	60456.0	
	% within RECAP	.7	.3	1.0	

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	3.275	1	.070	.077	.039
Continuity Correction b	3.117	1	.077		
Likelihood Ratio	3.215	1	.073		
Fisher's Exact Test					
Linear-by-Linear Association	3.275	1	.070		
N of Valid Cases	60456				

Manchester area * result2 Cross tabulation

			result2		Total
			loan originated	loan denied or other adverse	
Manchester area	Manchester	Count	2757	1145	3902
		Expected Count	2803.5	1098.5	3902.0
		% within Manchester area	.7	.3	1.0
	Manchester Collar Towns	Count	4693	1774	6467
		Expected Count	4646.5	1820.5	6467.0
		% within Manchester area	.7	.3	1.0
	Total	Count	7450	2919	10369
		Expected Count	7450.0	2919.0	10369.0
		% within Manchester area	.7	.3	1.0

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	4.400	1	.036	.036	.019
Continuity Correction b	4.306	1	.038		
Likelihood Ratio	4.386	1	.036		
Fisher's Exact Test					
Linear-by-Linear Association	4.400	1	.036		
N of Valid Cases	10369				

Sample Binary Logistic Reg. Results on Likelihood of Denial

Covariate Variables in the Equation

		B	Sig.
Step 1a	Income2	-.154	.000
	Applicant Sex	-.029	.595
	Ethnicity2	-.404	.008
	Manchester area	-.045	.383
	Loan type	.009	.848
	Constant	.340	.297

		B	Sig.
Step 1a	Income2	-.181	.000
	Applicant Sex	.037	.091
	Ethnicity2	-.315	.000
	Loan type	-.002	.908
	RECAP	.148	.147
	Constant	.096	.623

		B	Sig.
Step 1a	Income2	-.181	.000
	Applicant Sex	.037	.091
	Ethnicity2	-.321	.000
	Loan type	-.002	.897
	Constant	.257	.108

		B	Sig.
Step 1a	Ethnicity2	-.316	.000
	Applicant Sex	.023	.310
	Income2	-.179	.000
	RECAP	.180	.089
	Loan type	-.004	.813
	Black White	.206	.093
	Constant	-.135	.574

*The only regression analyses actually considered had high Hosmer and Lemehow goodness of fit

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APPENDIX

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HUD > Press Room > Press Releases > 2014 > HUDNo_14-089

HUD No. 14-089

Elena Gaona

(202) 708-0685

<http://www.hud.gov/news/index.cfm>

FOR RELEASE

Wednesday

July 23, 2014

**HUD AND NEW HAMPSHIRE LANDLORDS SETTLE
ALLEGATIONS OF
DISCRIMINATION AGAINST DOMESTIC VIOLENCE
VICTIM**

WASHINGTON— The U.S. Department of Housing and Urban Development (HUD) announced today agreements with the owners and managers of two Berlin, New Hampshire properties, settling allegations that they engaged in housing discrimination when they refused to rent to a woman who was a victim of domestic violence.

The Fair Housing Act makes it unlawful to discriminate in the sale or rental of housing because of race, color, national origin, religion, sex, disability, or familial status.

"No woman should be denied housing based on her status as a domestic violence survivor," said Gustavo Velasquez, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "HUD remains committed to ensuring and promoting fair housing opportunities for women and men alike."

The agreement is the result of two complaints filed by a woman with HUD in December 2013. In the first complaint, the woman alleged that TKB Properties and the New England Family Housing Management Organization refused to renew her lease because of police visits responding to her domestic violence-related 911 calls. The second complaint arose when the woman was searching for another home after her lease was not renewed, alleging that landlord Michael Warren refused to rent her an apartment based on the previous domestic violence-related police visits.

Under the terms of agreement ~~one~~ and agreement ~~two~~, the woman will receive \$13,550 from the three respondents. The landlords have agreed to participate in fair housing training and undergo monitoring by HUD. TKB Properties and New England Family Housing also will revise their

policies and leases for all HUD-subsidized properties to comply with the Violence Against Women Act and [HUD's regulations providing protection for victims of domestic violence](#) in public and federally-funded housing.

The woman was represented by New Hampshire Legal Assistance, which receives funding through HUD's Fair Housing Initiatives Program to assist people who believe they have been victims of housing discrimination.

Persons who believe they have experienced discrimination may file a complaint by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 (voice) or (800) 927-9275 (TTY). Housing discrimination complaints may also be filed at www.hud.gov/fairhousing or by downloading HUD's free housing discrimination mobile application, which can be accessed through Apple devices, such as the iPhone, iPad, and iPod Touch.

###

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination; and transform the way HUD does business. More information about HUD and its programs is available on the Internet at www.hud.gov and <http://espanol.hud.gov>. You can also follow HUD on twitter @HUDGov, on facebook at www.facebook.com/HUD, or sign up for news alerts on [HUD's Email List](#).

APPENDIX

F

HUD > Press Room > Press Releases > 2015 > HUDNo_15-022

Share 117 Tweet 11 Share 132

HUD No. 15-022

Elena Gaona

(202) 708-0685

FOR RELEASE

Thursday

February 19, 2015

**HUD AND CITY OF BERLIN, NEW HAMPSHIRE, SETTLE
ALLEGATIONS OF HOUSING
DISCRIMINATION AGAINST VICTIMS OF DOMESTIC
VIOLENCE**

WASHINGTON– The U.S. Department of Housing and Urban Development (HUD) announced today that it has reached a Conciliation Agreement with the city of Berlin, New Hampshire. The agreement settles allegations that the municipality violated the Fair Housing Act when it enacted an ordinance requiring landlords to evict tenants cited three or more times for “disorderly action,” including domestic violence incidents.

The Fair Housing Act makes it unlawful to evict an individual because of race, color, national origin, religion, sex, disability, or familial status.

“When landlords evict victims of domestic violence, they victimize those individuals a second time,” said Gustavo Velasquez, HUD’s Assistant Secretary for Fair Housing and Equal Opportunity. “HUD is committed to educating cities about their obligation to uphold laws that protect fair housing rights.”

The agreement is the result of a complaint initiated under the authority of HUD Secretary Julián Castro alleging that the city of Berlin discriminated against women when it enacted an ordinance requiring landlords to evict tenants cited by police three or more times for “disorderly action” or risk being fined and/or losing their rental license. The ordinance made no exception for victims of domestic violence, which are overwhelmingly women and who needed police assistance.

Under the terms of the Conciliation Agreement, Berlin will amend its ordinance to include language stating that the “...ordinance is not intended to be used against victims of reported incidents of domestic violence.” The city will also modify its definition of “disorderly action” to state that “disorderly action” will not include the actions of victims of reported domestic violence incidents.

In addition, the city will post the Conciliation Agreement on its web site, host and publicize an activity to raise

awareness of domestic violence, and provide fair housing training to the mayor, councilmembers, city manager, chief of police, and all other city employees who interact with victims of crime or abuse.

Federally funded housing providers also must comply with the Violence Against Women Act and HUD regulations that provide protection for victims of domestic violence.

Persons who believe they have experienced discrimination may file a complaint by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 (voice) or (800) 927-9275 (TTY). Housing discrimination complaints may also be filed at www.hud.gov/fairhousing or by downloading HUD's free housing discrimination mobile application, which can be accessed through Apple devices, such as the iPhone, iPad, and iPod Touch.

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APPENDIX

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FACT SHEET

New Hampshire Hospital (NHH)

New Hampshire Hospital is the only state-operated psychiatric hospital in New Hampshire. Many people are institutionalized at NHH for prolonged periods of time. New Hampshire's 2011 data indicates that approximately 45% of individuals in NHH had been there for longer than 30 days, and 16% *for more than a year*. In addition, thousands of persons are admitted and readmitted to NHH over and over again. There were over 1,800 adult admissions to NHH in 2010, nearly 800 of which were readmissions of individuals who had been at NHH within the previous 180 days. Over 17% of adults discharged from NHH in 2010 were readmitted within 30 days of discharge, and 35% were readmitted within 180 days. New Hampshire's staggeringly high readmission rates highlight the state's failure to provide sufficient services to enable individuals with mental illness to remain in their communities.

For most of these individuals, NHH provides little more than custodial care. They suffer a loss of autonomy and choice, have no contact with their non-disabled peers, except for paid staff, and lack privacy in their living and sleeping arrangements. Their most basic rights are curtailed.

The Glenciff Home

Glenciff is a state-operated, 120-bed nursing facility, located in Benton, an isolated town in Northern New Hampshire. Persons institutionalized there experience most of the same deprivations and rights restrictions as class members at NHH. The facility's remote location makes it difficult for many family members or friends to visit their loved ones.

Few individuals ever return to the community from Glenciff. Between 2005 and 2010, there were a total of 13 discharges: 11 were to NHH or other facilities, and only 2 returned to their homes. In recent years, more people have died at Glenciff than have returned to the community. Younger individuals are being placed in this nursing facility. In 2010, 28% were in their 40s or 50s.

The State's Commitment to Provide Community-Based Mental Health Services

New Hampshire was once a leader in the delivery of community services to individuals with disabilities. A 1982 New Hampshire Study Committee on Mental and Developmental Disabilities declared that "the traditional concept of the 'State Hospital' is obsolete" and recognized that "the development of community-based services have made it possible for people with chronic or severe mental illness to receive care near their homes." In 1986, the New Hampshire Legislature passed the Mental Health Services System law, N.H. RSA 135-C, making it the policy of the State to provide mental health care that is within each person's own community, is directed at promoting independence, and is the "[l]east restrictive to" the person's freedom and participation in the community. N.H. RSA 135-C:1, 15. Regulations implementing the statute require that services must "promote community integration and participation." He-M 401.10(h). Other regulations mandate that Community Mental Health Centers "strive to provide all services ... in each consumer's own community, and in a manner which promotes the personal self-sufficiency, dignity and maximum community participation of each consumer," He-M 403.06(j), and that individuals receiving mental health services have a right to services that promote full participation in community living. He-M 309.06(a)(3); He-M 311.06(a)(6).

By the late 1980s, New Hampshire was recognized by the National Institute of Mental Health for its leadership in providing services in community settings. But the State's commitment was short-lived. The availability of community services began to decrease and institutionalization began to rise. From 1989 to 2010, annual admissions to NHH increased by 150% from approximately 900 to about 2,300.

The State's Acknowledgement of Its Failure to Honor Its Commitment

NH Department of Health & Human Services, New Hampshire Hospital, Bureau of Behavioral Health, and The Community Behavioral Health Association issued a report, *Addressing the Critical Mental Health Needs of NH's*

Citizens, A Strategy for Restoration, in August 2008. It portrayed a system in crisis, marked by an ever-increasing number of admissions to NHH and the continued unavailability of community services, leading to needless institutionalization. As the task force explained, “many individuals are admitted to New Hampshire Hospital because they have not been able to access sufficient [community] services in a timely manner (a “front door problem”) and remain there, unable to be discharged, because of a lack of viable community based alternatives (a “back door problem”).”

The current DHHS Commissioner, Nicholas Toumpas, acknowledged that “NH’s mental health care system is failing and the consequence of these failures is being realized across the community. The impacts of the broken system are seen in the stress it is putting on local law enforcement, hospital emergency rooms, the court system and county jails, and, most importantly, in the harm under-treated mental health conditions cause NH citizens and their families.”

The US Department of Justice's Investigation of the State's Mental Health System

The U.S. Department of Justice conducted an investigation of NH's mental health system and issued its findings in April 2011. The United States concluded that New Hampshire is violating the Americans with Disabilities Act and *Olmstead v. L.C.*, 527 U.S. 581(1999) by failing to provide services to individuals with serious mental illness, like plaintiffs and the plaintiff class, in the most integrated setting appropriate to their needs. The United States found that this failure “has led to the needless and prolonged institutionalization of individuals with disabilities...” and that the “systemic failures in the State’s system place qualified individuals with disabilities at risk of unnecessary institutionalization now and going forward.”

The Goals of this Case: Expanded Community-Based Mental Health Services

This case seeks to compel the State to develop an array of clinically effective community mental health services that have been proven to help persons with serious mental illness recover and become productive citizens again. These services have been heralded by national professional associations and designated as best-practices by the federal mental health agency. They have been implemented in many other states and proven to be cost-effective alternatives to expensive institutionalization. These services include:

Mobile Crisis Service: a short-term intervention that is available to individuals in their homes and in the community around the clock on a 24/7 basis. It is designed to prevent unnecessary admissions to psychiatric hospitals, nursing facilities, emergency rooms, homeless shelters, and jails.

Assertive Community Treatment (ACT): a long-term intervention, delivered by a multi-disciplinary team of professionals. The team is available around the clock and provides a wide range of flexible services, including outreach, intensive case management, medication management, and psychosocial rehabilitation. ACT teams are mobile, providing services in individuals’ homes and in other community settings. ACT is a proven method of preventing psychiatric hospitalizations and nursing home stays, as well as needless visits and admissions to emergency rooms, homeless shelters, and jails.

Supportive Housing: a treatment intervention in which individuals are provided with their own apartments along with the services they need to be successful tenants and members of the community. Individuals in supportive housing have access to an array of services, including social skills training, medication management, and medical treatment. Supportive housing services have proven to be very successful at helping persons with serious mental illness continue to live in the community.

Supported Employment: helps individuals with disabilities, including serious mental illness, find and maintain competitive employment at job sites in the community where they are integrated with their non-disabled peers and earn at least minimum wage. In addition to being therapeutic and reducing the risk of institutionalization, supported employment enables individuals to earn money to support a household and their participation in community activities.