

Chapter 13: Impediments to Fair Housing Choice

HCD produced the Final 2020 AI as required by HUD for all CPD funding recipients. This analysis serves as the foundation for HCD and the state's fair housing planning work, to expand housing choice and access to opportunity for all Californians, with a focus on members of protected classes. The Final 2020 AI details impediments to fair housing choice and action steps to address those impediments over the next five years.

To effectively combat housing discrimination and affirmatively further fair housing, HCD has identified a multi-pronged approach that includes recommendations and action steps to address the 10 impediments to fair housing choice identified through the 2020 AI process. The recommendations and action steps will inform HCD's efforts to affirmatively further fair housing; to promote inclusive communities, further housing choice, and address community disparities through HCD's programs, policies, and operations. HCD's AFFH efforts will also follow guidance from state fair housing law, including AB 686 (2018). Some of these actions are within HCD's authority, while others will require on-going, collaborative work with state and local entities.

****Note: Actions with an asterisk address more than one impediment to fair housing choice.***

1. Impediment #1: Supply and Production of Affordable Homes

Inadequate supply and production of affordable homes available to lower-income households and persons in protected classes.

Recommendations and Action Steps:

- Maintain and expand resources available for the production and preservation of rental housing for households earning less than 30 percent AMI. *
- Maintain and expand technical assistance on state laws and strategies that promote zoning for a variety of housing types, including multifamily housing, low-barrier navigation centers, group homes, supportive housing, and accessible units affordable to lower-income households.
- Develop and deliver technical assistance on recently enhanced statutory requirements related to planning and zoning for affordable homes, including broad sixth cycle housing element support and specific guidance on [AB 686](#), [SB 330](#), [SB 35](#), [AB 2162](#), [AB 1397](#), and [SB 166](#).
- Identify state surplus and excess local public land suitable for housing development, connect available land with affordable housing developers ([AB 1486](#) and [Executive Order N-06-19](#)).
- Explore potential to move to guideline authority on the Emergency Solutions Grant Program, the HOME Program and other HCD funding

- programs to provide staff with flexibility to integrate evidence-based solutions and respond to evolving housing needs and policy priorities.
- Encourage housing supply strategies that implement state and local government requirements to Affirmatively Further Fair Housing under [AB 686](#).
 - Encourage greater community engagement in local governments adoption of housing elements, particularly the identification of sites for the housing element. Increase technical assistance and depth of review related to housing element sites to confirm sites are affirmatively furthering fair housing and meet other legal mandates (under [AB 1397](#) and [AB 686](#)) for projected income levels.*

2. **Impediment #2: Housing Preservation**

Vulnerable supply of affordable homes threatens housing options for lower-income households and persons in protected classes.

Recommendations and Action Steps:

- Maintain and expand resources available for the production and preservation of subsidized rental housing for households earning less than 30 percent AMI. *
- Help to preserve Naturally Occurring Affordable Housing, such as mobilehome parks.
- Support the conversion of hotel/motel/other non-housing to affordable housing.
- Support Preservation Notice law ([AB 1521](#) and Government Code Sections [65863.10](#), [65863.11](#), and [65863.13](#)) by providing technical assistance to owners, residents, affected public entities, and qualified entities interested in preservation purchases. Continue notifying owners of non-compliant preservation notices and providing technical assistance to support preservation transactions.
- Convene a task force of state housing entities to review and align asset management and monitoring requirements to simplify reporting requirements and ensure sponsors are aware of and following preservation noticing requirements.
- Continue expanding the Affordable Housing Preservation Database with additional local and state data to identify affordable properties that are at risk and should be targeted for preservation.
- Evaluate opportunities within HCD's funding and planning programs to increase incentives for the preservation of at-risk affordable housing.

3. **Impediment #3: Housing Instability and Homelessness**

Unequal access to supportive services, shelter, and affordable housing opportunities increases housing instability and risk of homelessness for protected classes. The Coronavirus pandemic has exacerbated existing inequalities and vulnerabilities.

Recommendations and Action Steps:

- Continue statewide response to the novel Coronavirus, including protections from evictions, housing solutions for those experiencing homelessness, and prevention of further foreclosure and evictions as at-risk households navigate economic recovery, transitioning to permanent housing, and generally support post-pandemic community and economic recovery.
- Through Project Homekey, HCD will administer funds to preserve and acquire homes that can be used as permanent and affordable housing.
- Support efforts of the California Homeless Coordinating and Financing Council to develop a Homeless Data Integration System. This database will be utilized to make data-driven policy decisions aimed at preventing and ending homelessness.
- Provide technical assistance on [AB 2162](#), which requires supportive housing developments, that meet certain criteria, to be allowed by-right.
- Prevent cycles of homelessness from the beginning by encouraging creation of local emergency housing funds that support a variety of rental subsidies and assistance to households at risk of eviction or losing their home due to temporary financial shocks.
- Encourage local and regional governments to identify emergency shelter sites for unhoused persons, particularly during extreme weather conditions and other disaster and emergency situations.
- Amplify the California Department of Fair Employment and Housing's education efforts on new fair housing protections for persons experiencing homelessness, including acceptance of assistance animals and equal access for LGBTQIA+ persons.
- Encourage Continuums of Care and service providers to allow people with disabilities who decline to share detailed personal or medical information to still have access to local Coordinated Entry Systems.
- Explore various data strategy options to monitor evictions.

4. **Impediment #4: Fair Housing Education and Enforcement**

Limited community awareness of fair housing protections and enforcement resources.

Recommendations and Action Steps:

- Amplify the California Department of Fair Employment and Housing’s education efforts on their new fair housing regulations.
- In partnership with DFEH, provide HCD program and policy staff, and project sponsors, with fair housing training, including equity, implicit bias, tenant selection best practices, and accessibility requirements and best practices.
- Develop a working group across housing agencies to provide aligned tenant selection guidance to program users in light of DFEH’s new regulations and trainings on source of income, reasonable accommodations, harassment, retaliation, criminal background, use of masked eviction records, protections for survivors of domestic violence, language access issues, immigration status (including undocumented persons) and equitable tenant selection strategies to prevent disparate impact on protected classes.
- Explore developing a formal process for state housing entities to handle complaints related to fair housing laws and VAWA protections.
- Analyze the state’s affordable housing portfolio and protected class membership of persons living in affordable housing.
- Ensure that state housing programs provide meaningful access to persons with Limited English Proficiency. Review HCD’s language access plan, be more deliberate with making multilingual and accessible communications available.
- Encourage AFFH, implicit bias, and accessibility trainings for local building inspectors and code enforcement.
- Support the increase of fair housing testing to identify housing discrimination.
- Continue to collaborate with other state agencies on outreach efforts to homebuyers and homeowners to discuss fair lending issues.

Impediment #5: Tenant Protections and Anti-Displacement

Lack of uniform enforcement and adequate anti-displacement protections have left protected classes more vulnerable to displacement.

Recommendations and Action Steps:

- Support efforts to provide sustainable, ongoing legal assistance to California renters and homeowners facing eviction through local nonprofit organizations ([SB 113](#)).

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- Support the California Department of Real Estate's efforts to update the [Department of Consumer Affairs' Guide to Residential Tenants' and Landlords' Rights and Responsibilities](#).
- Support efforts to keep people housed by preventing foreclosures through California Housing Finance Agency's [Keep Your Home California program](#).
- Support education efforts on housing protections and resources for survivors of domestic and sexual violence, for example the [Violence Against Women Reauthorization Act of 2013](#) (VAWA), [HUD's final rule on the Implementation of VAWA in HUD programs](#), and [HUD guidance on nuisance and crime-free ordinances that may violate victims' rights under the Fair Housing Act](#).
- Promote the [California Victims' Compensation Fund](#) as a resource for survivors.
- Review programs to ensure compliance with state and federal relocation laws. Support other state housing entities in ensuring their programs do not contribute to displacement.
- Compare eviction protections provided by state and federal housing programs and assess if modifications to HCD's program protections are recommended.
- Review due process protections, including hearing and grievance procedures, for entities participating in state housing programs. Seek to provide due process protections before terminating services or tenancy.

Impediment #6: Disparities in Housing Quality and Infrastructure

Lower-income households, rural communities, and persons in protected classes, are disproportionately experiencing severe housing problems, a lack of adequate housing options, and disparities in infrastructure.

Recommendations and Action Steps:

- Develop partnerships with and provide technical assistance to other state department and community development entities responsible for non-housing community investments (schools, economic development, parks and gardens, public health programming, climate adaptation, etc.) and infrastructure (water, transit, public utilities, internet, etc.) on their Affirmatively Furthering Fair Housing obligations and need for investments in under resourced communities.*
- Promote place-based investments in areas that have experienced historical inequity and under investment, including rural communities with infrastructure disparities, segregated concentrated areas of poverty, and communities of color that have experienced historic disinvestment. *

- Explore potential expansion of eligible uses for the Mobilehome Park Rehabilitation and Resident Ownership Program to address code violations, accessibility, and habitability issues.
- Seek to conduct mobilehome park code enforcement to benefit residents, while complying with state laws.
- Any mobilehome code enforcement efforts need to include considerations of tenant safety, as well as potential displacement.
- Explore potential mobilehome relocation benefits and opportunities to safely and inexpensively upgrade and legalize illegal units.
- Analyze potential benefits of rental inspection programs and remediation funds as tools to facilitate habitability in the rental housing stock and prevent displacement.

Impediment #7: Climate and Environmental Vulnerabilities

Lower-income households and protected classes are often disproportionately impacted by climate change, environmental injustice, or unsustainable land use and development practices.

Recommendations and Action Steps:

- Develop partnerships with and provide technical assistance to other state department and community development entities responsible for non-housing community investments (schools, economic development, parks and gardens, public health programming, climate adaptation, etc.) and infrastructure (water, transit, public utilities, internet, etc.) on their Affirmatively Furthering Fair Housing obligations and need for investments in under resourced communities.*
- Promote affordable and accessible housing opportunities in communities with greater resources, functioning infrastructure, less pollution exposure, climate change mitigation policies, access to transit and active transportation mobility choices such as walking and biking, jobs, high-performing schools, open space, and other community needs linked to long term positive outcomes for residents.*
- Encourage cross sector collaborations on program guideline development and grant reviews. Incorporate housing, equity, and affirmatively furthering fair housing principles throughout transportation, climate, adaptation, energy, natural resource, and sustainability programs.
- Explore adding adoption or update of Environment Justice plans as an eligible use in planning grant programs.
- Explore cost and benefits of low interest loan programs to make housing more climate resilient.

Impediment #8: Historic and Lasting Impact of Segregation

Despite the repeal of explicitly racist and discriminatory housing laws, there remains a lasting legacy of segregation and resource disparities. Housing choice is often limited for persons of protected classes, including communities of color, to segregated concentrated areas of poverty.

Recommendations and Action Steps:

- Develop partnerships with and provide technical assistance to other state department and community development entities responsible for non-housing community investments (schools, economic development, parks and gardens, public health programming, climate adaptation, etc.) and infrastructure (water, transit, public utilities, internet, etc.) on their Affirmatively Furthering Fair Housing obligations and need for investments in under resourced communities.*
- Promote place-based investments in areas that have experienced historical inequity and under investment, including rural communities with infrastructure disparities, segregated concentrated areas of poverty, and communities of color that have experienced historic disinvestment. *
- Research and lift up best practices for community investment without displacement.
- Utilize AB 72 enforcement authority as a strategy to ensure compliance with state affordable housing laws.
- Recognize where jurisdictions act to perpetuate existing patterns of segregation, refer to DFEH.
- Utilize HCD's racial equity plan, developed in cooperation with the Government Alliance for Racial Equity (GARE), to fully integrate racial equity into all of HCD's practices, policies, and programs.

Impediment #9: Local Resistance and Exclusionary Land Use Policies Constrain Access to Opportunity

Denying, preventing, or rendering infeasible multifamily housing development, alternative housing strategies, and affordable housing limits access for lower-income households, protected classes, and persons experiencing homelessness.

Recommendations and Action Steps:

- Continue to analyze HCD's funding programs to assess, review, and seek opportunities to more affirmatively further fair housing. Partner with other agencies, such as California Housing Finance Agency, Tax Credit Allocation Committee, and California Debt Limit Allocation Committee to share lessons learned and support them in completing similar analysis.
- Promote affordable and accessible housing opportunities in communities with greater resources, functioning infrastructure, less pollution exposure,

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climate change mitigation policies, access to transit and active transportation mobility choices such as walking and biking, jobs, high-performing schools, open space, and other community needs linked to long term positive outcomes for residents.*

- Continue partnership with councils of government to improve Regional Housing Need Allocations (RHNA) under [AB 1771](#), which requires RHNA to further all five statutory objectives including: 1) increasing housing supply and a mix of housing types, tenure, and affordability in an equitable manner, 2) promoting infill development and socioeconomic equity, protecting environmental and agricultural resources, and encouraging efficient development patterns, 3) promoting jobs-housing fit, 4) balancing disproportionate household income distributions, and 5) affirmatively further fair housing.
- Encourage greater community engagement in the housing element, particularly the identification of sites for the housing element. Increase technical assistance and depth of review related to housing element sites to confirm sites are affirmatively furthering fair housing and meet other legal mandates (under [AB 1397](#) and [AB 686](#)) for projected income levels.*
- Conduct statewide training on the requirements of AB 686.
- In partnership with DFEH and HUD, continue to provide guidance and, as necessary, accountability and enforcement, on the fair housing implications of local ordinances, zoning requirements, building codes, and development standards.
- Continue to enforce Housing Element Law, the Housing Accountability Act, Density Bonus Law, and other laws to discourage local land use policies and implementation from acting as barriers to housing opportunities for lower-income residents and protected classes.
- Explore the creation of an anonymous complaint mechanism for parties reporting potential housing law violations under [AB 72](#) in order to protect complainants from potential retaliation.
- Promote education and additional research on how restrictions on multifamily housing, such as limited multifamily zoning, and height and density limitations, impact inclusive communities.
- Explore opportunities to use small area Fair Market Rents or updated market studies to provide voucher holders access to higher rent areas and increase voucher utilization rates.

Impediment #10: Insufficient Accessible Housing Stock

Lack of adequate accessible housing options, compared to the need, limits housing choice for people with disabilities.

Recommendations and Action Steps:

- Revise HCD regulations and guidance for all programs to clarify the legally required accessibility requirements in HCD funded activities.
- Improve compliance with state and federal building codes related to the number of accessible units in HCD funded activities through monitoring and technical assistance.
- Partner with Public Housing Authorities and other subsidized housing providers to provide trainings on reasonable accommodations for people with disabilities.
- Evaluate HCD's programs to assist persons transitioning from institutional settings to community-based settings.
- Partner with DFEH to provide trainings to entities participating in state housing programs on reasonable accommodations and modifications.
- Further integrated housing options for persons with disabilities. Require accessible units to be distributed throughout projects and sites (to the maximum extent feasible) and available in a range of sizes and amenities.*
- Research and lift up strategies to increase the utilization of accessible units by individuals with disabilities who need the accessibility features of the units.
- Analyze programs and eligible expenses, seek to allow, where possible, accessibility modifications as an eligible expense.
- Evaluate and develop a plan to increase the percentage of mobility and sensory accessible units across state housing programs (from 2 percent and 5 percent to 4 percent and 10 percent) in new construction developments.