

**Advancing Fair Housing in Greater Boston, Massachusetts:
Voices from the Field**

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I: Introduction

The Fair Housing Act of 1968 has been law for 55 years. Over decades, numerous judicial decisions and legislative and regulatory actions have upheld this Act. Yet, based on this study there needs to be a higher level of public knowledge about the full scope of fair housing among many residents, civic actors, and even government officials. This report has four goals: 1) To help raise public and community-based awareness about fair housing and its scope, and implications for monitoring and enforcement especially as it involves racial and ethnic minorities; 2) Broaden discussion about fair housing where fair housing advocates communicate with other community and civic voices; 3) Assist with ensuring that narratives calling for increasing the housing supply and more affordable housing is conjoined with a narrative of ‘affirmatively furthering fair housing’; and 4) Encourage greater local government attention to the history of fair housing and how institutional racism has shaped suburban White communities today.

Recently, and after this study was initiated, Governor Maura Healey submitted legislation, *The Affordable Homes Act*, to establish an Office of Fair Housing and a Fair Housing Trust Fund.¹ The authors of this Report used this key legislative development as an opportunity to report six broad recommendations that should be considered in the work of a new Office of Fair Housing and under the Executive Office of Housing and Livable Communities (EOHLC), and eight recommendations for local municipalities and community partners to advance public awareness about fair housing requirements in their cities and towns, and to strengthen the implementation, monitoring, and enforcement of fair housing in local areas.

The findings and recommendations in this report can serve as a roadmap of sorts to the people charged with developing the mission, vision, and strategic initiatives of the new office. For example, EOHLC has ongoing planning efforts involving next steps where fair housing discussions can be targeted. The proposed advisory council charged to generating a statewide housing plan every 5 years should have a strong fair housing focus. But the audience for this report also includes a wide range of community activists, organizers, and civic leaders who can link ongoing and future efforts with advancing fair housing. It is also hoped that the region’s Fair Housing Assistance Programs (FHAPs) and Fair Housing Initiatives (FIPs) operated by nonprofits will find helpful information and ideas in this report.²

¹ The Affordable Homes Act is a \$4.1 billion initiative to build 40,000 new housing units and rehabilitate or enhance 27,000 existing units, as well as to upgrade public housing maintenance. The ACT will encourage pursuit of several innovations to increase the supply of affordable housing, including ADUs; Zoning reforms; Capping costs of construction; Rent control; Property tax relief; and commuter tax deductions; for a synopsis of the Governor’s proposals under the Affordable Homes Act, see: <https://www.chapa.org/housing-news/governor-healey-files-housing-bond-bill/>; also see, *MassBudget*’s Bond Bill primer to help explain how bond bills work: <https://massbudget.org/2022/12/22/capital-budget-101/>.

² The Massachusetts Fair Housing Assistance Programs (FHAPs) include: the Massachusetts Commission Against Discrimination; the Boston Fair Housing Commission; and the Cambridge Human Rights Commission. The Fair Housing Initiatives Programs (FIPs) include Community Legal Aid; Massachusetts Fair Housing Center; and Suffolk University; SouthCoast Fair Housing; the Fair Housing Center of Greater Boston was also a FHIP, but it closed in 2016.

The report highlights the need to ensure that amplifying calls for increasing the affordable housing supply is consistently conjoined with ‘affirmatively furthering fair housing,’ not just to do the “right thing,” but to be in compliance with required federal laws and regulations. Appendix D: Select Fair Housing Case Law ³in this report indicates the kinds of cases decided by courts related to the enforcement of fair housing in municipalities across Massachusetts. Legal actions can be brought against municipalities for a host of fair housing violations, including zoning actions which contribute to segregation directly or indirectly; discrimination that is intentional, or not intentional; definition and treatment of families; unnecessary segregation of people with disabilities; unequal or inequitable access to public accommodations; discrimination based on source of income, and other triggers.⁴

Legal and policy tools have been proposed to help enforce fair housing in Massachusetts, including zoning regulations; review of discrimination in the areas of appraisals and FHA loans, ensuring legal actions against Section 8 discrimination; close monitoring of speculative real estate activities; tenant protections; rent control; public access to mitigation agreements agreed to by developers; early intervention strategies to seek fair resolution of housing discrimination complaints, and other tools that are being proposed currently. These emphasize that fair housing enforcement is not simply based on individual injury, but also involves review of societal and public and private institutional behaviors. This is explained in greater detail in Section II of this report, "What is Fair Housing and What is Affirmatively Furthering Fair Housing?"

The report intends to help discourage silos where fair housing advocates communicate only with other fair housing advocates, as fair housing involves many different facets other than housing for a community and its residents. The proposed recommendations, therefore, also aim to increase collaboration and outreach between housing advocacy groups and others working in civic and community development areas outside of housing. This is important because, as overwhelmingly mentioned in the interviews, the recommendations proposed will not be possible or sustained without solid community participation and community organizing. The latter represents the ‘glue’ linking the proposals as a holistic framework.

Five Major Fair Housing Challenges

Study participants identified five challenges inhibiting the advancement and implementation of fair housing that negatively impacted racial and ethnic groups. The EOHLC should address these issues and, if established, the new Massachusetts Office of Fair Housing:

- *Limited public and community-based awareness about the scope of fair housing and fair housing enforcement entities.*

³ These selected cases and italicized descriptions are stated verbatim from “Fair Housing Case Law” at: <https://www.mapc.org/wp-content/uploads/2018/02/Fair-Housing-Case-Law.pdf>.

⁴ Recently, HUD forced a management company in Ohio to pay \$300,000 because it ignored racial discrimination and harassment on its premises. While the management company did not engage directly in racial discrimination it was still liable for ignoring it on its premises according to fair housing laws and regulations. See, <https://www.hud.gov/sites/dfiles/FHEO/documents/Cushing%20Housing%20OPMI%20LOF%2010.26.22.pdf>.

- *Lack of ample resources for implementing, monitoring, and enforcing fair housing.*
- *Disconnect between calls to increase Massachusetts housing supply and affordable housing, with an affirmatively furthering fair housing lens.*
- *Absence of attention or actions to address the impacts of historical racial discrimination, or racial discrimination today in many cities and towns.*
- *Lack of stronger emphasis on accessible, equitable, and efficient public transportation as critical for advancing fair housing in suburban communities.*

These challenges, discussed in detail under Section III: Findings, led to proposed recommendations that will assist to “Increase municipal awareness of local impediments to fair housing choice, as well as awareness of developers, managers, and other stakeholders regarding issues impacting protected classes at the local level.”⁵

State and Municipal Recommendations

The proposed recommendations are organized by action steps that municipalities and the state might consider and initiate to expand and maximize the impacts of comprehensive fair housing enforcement. These are recommendations offered by interviewees concerning the five challenges above. It is emphasized that the recommendations for EOHL are aimed at making a new Office of Fair Housing reflect a comprehensive and well-sourced entity to advance fair housing in Massachusetts. EOHL must ensure that a new Office of Fair Housing has the resources to monitor and assess, and respond, to obstacles to advancing fair housing in the state. The proposed recommendations provide a framework to consider specific legal, zoning, and resource tools that can be used so that fair housing law is understood and implemented fully at local levels.

Six Recommendations for Massachusetts Executive Office of Housing and Livable Communities (EOHLC).

1) EOHLC can assist cities and towns in reviewing and updating existing fair housing reports. Massachusetts’ *2019 Analysis of Impediments* is comprehensive and includes important recommendations - EOHLC should plan and implement a series of workshops for appropriate representatives from municipalities to better understand the state and local Analysis of Impediments (AI) reports and its implications, including the kind of infrastructure necessary for assessment, monitoring, and enforcement. Beyond this,

⁵ See, DHCD 2019 Analysis Of Impediments To Fair Housing Choice Action Steps Chart at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:ab6ce99d-4728-3ed6-baa9-023a06a8c4c0>; also, Massachusetts Department Of Housing And Community Development, *2019 Analysis Of Impediments To Fair Housing Choice* at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:73146e42-e7a2-3961-9f77-297cd81d55ce>.

municipalities can be supported in updating fair housing plans to reflect demographic and local economic changes.

2) EOHLC must advocate for adequate resources for municipalities to elevate the importance of affirmatively furthering fair housing as a law and legal tool to fight discrimination and its intentional or unintentional effects. This also means that testing resources must be expanded and made available to municipalities and include sources of income discrimination reviews.

3) The EOHLC should work with the state's Attorney General and the Massachusetts Commission Against Discrimination to assess and strengthen the monitoring and enforcement of fair housing as a robust tool. The public should view these three public agencies working together closely to support fair housing enforcement throughout the state.

4) There is an extraordinary need to increase and enhance fair housing training and technical assistance for local municipalities and to support these efforts with strong and sustained community participation and community organizing actions.

5) The Office should highlight and reward cities and towns advancing public awareness of affirmatively further fair housing in creative ways. This 'carrot' approach can be helpful in some instances but also represents models for other cities and towns.

6) EOHLC should explore what kinds of interagency collaboration can elevate public awareness and enforcement about fair housing and result in new policy recommendations involving multi-agency partnerships.

Eight Recommendations for Municipalities and Community Partners.

1) Municipalities should ensure the review and assessment of policies and practices, both public and private, that might have adverse effects on full compliance with fair housing requirements; there is a significant need to review and amend zoning regulations that could be impeding fair housing.

2) Municipalities and local community leadership should ensure that the Community Preservation Act is implemented so that it does not intentionally or unintentionally allow it to be used as a shield to continue segregation or excuse obstacles or impediments to building affordable housing.

3) Municipal leadership and supporters seeking to advance public and community-based awareness about affirmatively furthering fair housing should appoint Blue Ribbon Commissions, or City-wide Committees charged with exploring the history and impacts of barriers to greater racial and ethnic integration of their cities and towns.

- 4) Municipalities should sponsor public education campaigns to raise local and community awareness about fair housing and its scope and to help respond to community opposition to fair housing that may be based on misinformation of local history or misperceptions about affordable housing and options, such as the Section 8 program.
- 5) Municipalities and community partners should continue exploring innovative strategies that can stabilize or reduce the cost of land, such as land banking, community land trusts, vacancy taxes, or public land acquisition for affordable housing. This should include facilitation of discussions -and debates- about local rent control given the current and continuing equitable and affordable housing crisis.
- 6) Municipalities should review private real estate practices and other actions associated with the displacement of renters, tenants, or homeowners, including predatory mortgage lending.
- 7) Municipalities can help to reduce barriers to housing assistance for vulnerable groups and protected classes by becoming more aggressive in affirmatively marketing available housing opportunities.
- 8) Municipalities should expand collaboration between local fair housing departments, nonprofit housing organizations, and public housing.

It has been observed that “A one-size-fits-all housing policy can’t serve the region’s needs – they’re too heterogeneous. But so are the needs of any municipality. Instead, policies should be tailored to housing submarkets: areas, wherever they are, with similar characteristics.”⁶ This is a crucial observation, of course, but what must remain consistent throughout the region, regardless of different kinds of housing submarkets, or strategies to increase the stock of affordable housing, is the importance of vigorous enforcement of fair housing, that is to ‘affirmatively further fair housing.’ This remains a legal and essential intersectoral policy glue in eliminating racial discrimination not only in housing but also in areas that are connected to housing and the elimination of segregation, and necessary also for reducing racial wealth gaps.⁷ The proposed recommendations above can assist the EOHLC and new Office of Fair Housing in ensuring the latter.

The next Section II explains fair housing and the meaning of “affirmatively furthering fair housing.” Section III discusses the findings organized by five significant challenges identified by interviewees and study participants. Section IV is the Conclusion and details the proposed recommendations at the state and municipal levels. This section includes a reminder of the importance of community participation in advancing fair housing.

⁶ <https://datacommon.mapc.org/gallery/2021/february>

⁷ Numerous U.S. Supreme Court and federal court decisions have upheld the “affirmatively furthering fair housing” requirement; also see, <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:ca01287e-6b1e-339a-b492-0649a1748728>.

Appendix A provides a brief methodological overview of the study. Appendix B is a list of interviewees and focus group participants. Appendix C is a list of the open-ended interview questions. Appendix D is a list of select fair housing case laws compiled by the Metropolitan Area Planning Council: this is verbatim. A bibliography shows the sources utilized for this study.

II: What is Fair Housing, and What is Affirmatively Furthering Fair Housing?

Fair Housing is defined by HUD under “The Fair Housing Act (title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–3619) as “...the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. The Fair Housing Act prohibits, among other things, discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions, because of “race, color, religion, sex, familial status, national origin, or handicap.”⁸ Regarding Massachusetts:

“The Fair Housing law protects individuals and groups based on race, color, religion, sex, familial status, national origin, or having a disability. In addition to the federal protected classes, Massachusetts Anti-Discrimination Law, Massachusetts General Laws, ch.151B, prohibits discrimination against the following protected classes: sexual orientation, marital status, ancestry, age, presence of children, veteran status or membership in the armed forces, receipt of Section 8 or other public assistance, source of income, or genetic information.”⁹

This is further explained in a state agency report:

“Discriminatory housing practices include: refusing to rent, sell, negotiate, or otherwise make unavailable or deny a dwelling; steering; discriminatory terms, conditions, or privileges or discriminatory provision of facilities or services; discriminatory statements, notices, and advertising; misrepresenting availability; blockbusting; refusing to make reasonable accommodations and/or modifications for persons with disabilities; non-compliance with federal and state accessibility design and construction requirements; discriminating in residential real-estate related transactions, credit, and brokerage services; sexual harassment; and interfering, coercing, intimidating, or threatening any person in the exercise or enjoyment of their fair housing rights. Additionally, the Massachusetts law also prohibits denial of housing and discrimination against families with children under six years of age because of the existence of lead paint.”¹⁰

Discrimination also includes disparate impacts, even if unintentional:

“Disparate impact is an important legal theory in which liability based upon a finding of discrimination may be incurred even when the discrimination was not purposeful or

⁸ See 42 U.S.C. 3601, 3604, 3605; at: <https://www.justice.gov/crt/fair-housing-act-1> also, <https://www.law.cornell.edu/uscode/text/42/chapter-45>. For a list of federal and Massachusetts fair housing laws see, *WestMetro HOME Consortium Analysis of Impediments to Fair Housing Choice* (Final April 4, 2021) at <https://www.newtonma.gov/home/showpublisheddocument/67974/637533290757270000>, pp 3 – 6; also, <https://www.hud.gov/AFFH>; also, <https://www.hud.gov/sites/dfiles/FHEO/documents/AFFH-Rule-Guidebook.pdf>.

⁹ See Mass. Gen. Laws ch.151B, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter151B>.

¹⁰ Massachusetts Department of Housing and Community Development (DHCD), *Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines*, (April 2009 and Updated May 2013), p.7; at <https://www.mass.gov/files/documents/2016/07/oj/afhmp.pdf>

intentional...Generally, under federal precedent, the disparate impact theory applies when the plaintiff is able to prove through strong statistical evidence, that a rule or policy, albeit neutral on its face, has an adverse effect on persons protected under fair housing laws. However, in the recent *Langlois v. Abington Housing Authority* case, a Massachusetts federal court recognized a disparate impact claim, absent any showing of intent, where the defendant local housing authorities failed to affirmatively further fair housing to evaluate and address such an impact.¹⁵ The court also imposed the burden on the defendant housing authority to show that its actions were the least discriminatory alternative.”¹¹

This is explained further: “Under the Obama administration, the final rule relating to housing, promulgated by the U.S. Department of Housing and Urban Development (HUD Rule 2015), requires local and state governments to assess affirmatively furthering fair housing in meaningful and expansive ways based on the Fair Housing Act of 1968. As reiterated in HUD Rule 2015”:

“Affirmatively furthering fair housing means taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act. More specifically, it means taking steps proactively to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws.”¹²

Therefore, the scope of fair housing is broad and intersectoral and calls for strategies and practices that are just as intersectional, thus ‘affirmatively furthering fair housing.’ Fair housing regulations and requirements, furthermore, are not limited to direct HUD funding:

“The Fair Housing Act extends beyond a non-discrimination mandate, requiring HUD to administer its programs and activities relating to housing and urban development in a manner that affirmatively furthers the purposes of the Fair Housing Act... While this mandate is directly imposed on HUD, HUD carries it out primarily by extending the obligation to certain recipients of HUD funding.”¹³

Numerous U.S. Supreme Court decisions and HUD’s *Fair Housing Planning Guide* (1996) describe fair housing as involving interconnected strategies and actions addressing housing discrimination and segregation.¹⁴ In February 2023 HUD issued proposed fair housing

¹¹ *Ibid.*, p.7.

¹² See, *Affirmatively Furthering Fair Housing*, 80 Fed. Reg. 42271 (July 16, 2015), <https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>; also, James Jennings, “Fair Housing and Zoning as Anti-Gentrification: The Case of Boston, Massachusetts” *Journal of Affordable Housing and Community Development* 30,1 (2021).

¹³ See, 42 U.S.C. 3608(e)(5); 30780 *Federal Register*, Vol. 86, No. 110 ,Thursday, June 10, 2021, Rules and Regulations; also, "HUDEquity508compliant.pdf" at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:ca01287e-6b1e-339a-b492-0649a1748728>

¹⁴ See, for example, *Shannon* (1970); *Trafficante* (1972); *Otero* (1973); *NAACP – Boston Branch* (1987); *Thompson* (2005); *Westchester* (2009); *Texas-Inclusive Communities* (2015); *Lamar* (2018); these decisions support the HUD

regulations and invited public comment.¹⁵The aim of the proposals is to strengthen required Assessments of AFFH and enforcement of new regulations.¹⁶

Fair Housing Planning Guide (1996) which describes how affirmatively furthering fair housing is connected to other social, economic, educational, and demographic trends and patterns in communities.

¹⁵ See, <https://www.federalregister.gov/documents/2023/02/09/2023-00625/affirmatively-furthering-fair-housing>.

¹⁶ See, https://www.hud.gov/AFFH#_What_is_AFFH?.

III: Findings – Five Major Fair Housing Challenges

This section describes five significant challenges raised by interviewees in advancing fair housing in their towns and cities.

- *Limited public and community-based awareness about the scope of fair housing and fair housing enforcement entities.*
- *Lack of ample resources for implementing, monitoring, and enforcing fair housing.*
- *Disconnect between calls to increase Massachusetts housing supply and affordable housing, with an affirmatively furthering fair housing lens.*
- *Absence of attention or actions to address the impacts of historical racial discrimination, or racial discrimination today in many cities and towns.*
- *Lack of stronger emphasis on accessible, equitable, and efficient public transportation as critical for advancing fair housing in suburban communities.*

Limited public and community-based awareness about the scope of fair housing and fair housing enforcement entities-

Public and community-based awareness of fair housing laws and requirements is limited in many places. Even in local government, there are tendencies to treat fair housing as a silo and simply a problem of overt discrimination in housing. The project team's initial review of the city and town websites related to fair housing identified that some municipalities need departments or commissions dedicated to fair housing and are instead incorporating fair housing into DEI departments. For example, in one city, fair housing is part of the Office of Diversity, Inclusion, Community; in another, it is part of the Department of Diversity, Equity, and Inclusion; in another, fair housing falls under its Planning and Economic Development Department. Another municipality includes fair housing in its DEI Office and Department of Human Services. There may be valid organizational interests or rationale for these arrangements, but this can also result in a de-prioritization of fair housing.

Some cities and towns post descriptive information about fair housing but then refer to the Massachusetts Attorney General's Office or Massachusetts Against Discrimination as places anyone with a complaint should go. In several instances, readers are encouraged to contact the Fair Housing Center of Greater Boston for relief, although this agency has been closed since 2018. In other cases, website information about Fair Housing Committees shows member vacancies over the years. Fair housing is primarily associated with public housing authorities on some city websites in the Greater Boston region.

Misunderstanding of fair housing's policy reach among the lay public was described as widespread. One interviewee proffered that awareness of fair housing issues varies significantly

by race, with white individuals often having limited understanding. "White people have little or no understanding of fair housing issues." Further, middle-class white individuals may associate fair housing with busing and desegregation: "They immediately associate it with busing and desegregation." One interviewee added that affordable housing discussions often overlook the broader context of related resource needs around healthcare, education, and public infrastructure. In some places, fair housing is an afterthought or not viewed as a severe concern beyond overt discrimination; one person noted: "No, I have not seen [this Town] take it seriously...As opposed to going through the motion. There are places in the country who have made an effort, but I have not personally seen that. People are scared of tackling fair housing because they don't quite understand it and would prefer to avoid it. They are addressing issues that are considered fair housing, but don't know if they are connected. We aren't talking to each other. Connect the dots and do a better job."

Even when people sense that something is awry in terms of fair housing regulations, there is not enough awareness about what to do about it:

"A lot of awareness in a broad sense that the housing situation is unfair in [this city], but not awareness about the specific legal or regulatory requirements around it to make it fairer. For months we have been posting to find a housing justice organizer, and it has been hard to find someone. Invest in community organizing capacity at the local level. Having conversations with people, community, and house meetings, providing food and childcare, multiple meetings at multiple times. Being able to distill conversations done to a set of priorities, objectives, etc. Campaigning that happens over time and staffed."

Another interviewee echoed this:

"People know more about it than before. The dots are not being connected. We aren't making clear that what we are talking about here is the same as redlining, clear fair housing exclusionary issues going on now. People say they are against segregation and discrimination are the same ones saying they don't want shelters in their neighborhood; break down the connections and make them clearer. Do it in a way that makes it accessible and interesting. How do we do that with every general issue? We want to talk about things that are really challenging, show them the parallels to today, which is challenging. Comic book version of the Richard Rothstein book, that version and level (most people are not going to read *The Color of Law*). The more we can have a dog and pony show of Mat Desmond, like poverty and housing displacement. "Evicted" was the only time when I saw people being evicted being shown in an empathetic light."

Where fair housing is situated in city government bureaucracy and how it is approached can be problematic. This is consistent with a focus group finding reported in the *WestMetro HOME Consortium Analysis of Impediments to Fair Housing Choice*: "Participants from every community said that their residents do not see housing as a civil rights issue and most residents

do not understand their rights regarding fair housing.”¹⁷ Related to the latter is the extent of awareness, practices, or innovations associated with “affirmatively marketing fair housing.”

An interviewee reiterates this last statement: “The items that I highlighted are the most important impediments to AFFH: the lack of availability (including location) and affordability (including location) of housing and the barriers at the local level that make it so. I also strongly believe that the lack of education at the local level about their duty to AFFH is problematic and a large barrier and weak spot in local decision-making – as well as to enforce or assist with follow-up in enforcement activities. These all combined are a perfect setup for discriminatory practices at the local level.” Another person observed: “I don’t think the awareness is high unless you’ve worked in the field or are a landlord. People assume or have the perception that discrimination against POC is common; they think housing is fair. That would be my perspective. But this is still a problem and getting back to the strategies [and] stories are the most effective way, doing a public awareness campaign, discrimination because of a disability, race, gender preference, etc. make it understandable for people to hear what is going on.”

A challenge in advancing and implementing fair housing requirements is a general misunderstanding about the scope of fair housing. Though comprehensive and intersectoral approaches to achieving fair housing have been endorsed in numerous judicial decisions since the 1960s, there still needs to be made aware that fair housing goes beyond housing discrimination. This need for more awareness is reflected in observations about community and civic activists in housing, public health, local economic development, community development, public safety, and public education.

Comments and observations made by interviewees suggest that discussions about fair housing must be expanded beyond the immediate housing advocacy sector. This is also noted in a PRRAC publication: “Local tenant organizations and racial justice activists are leading the way to expand the space for housing rights during the COVID crisis and to make the important link between housing rights and racial justice. The right to safe and secure housing, without economic exploitation, is a basic human right - and because African American and Latinx families are disproportionately subject to housing insecurity and exploitation, it is also a basic civil right.”¹⁸

Raising public awareness must go hand-in-hand with strong and consistent enforcement of fair housing, lest, according to one interviewee, “...developers might anticipate that stringent accountability measures are lacking, allowing them to prioritize financial gains over long-term quality and community well-being. This underscores the importance of oversight and regulatory frameworks to ensure all developers uphold standards that safeguard the interests of residents, particularly in affordable housing projects.”

¹⁷ <https://www.newtonma.gov/home/showpublisheddocument/67974/637533290757270000>; p.28.

¹⁸ *An Anti-Racist Agenda for State and Local Housing Agencies*, PRRAC (July 1, 2020); also see Massachusetts State Senator Lydia Edwards, “How to repair and rebuild a cracked foundation for housing justice” *The Boston Globe* (February 27, 2023).

Lack of ample resources for implementing, monitoring, and enforcing fair housing-

Over the last several years, and longer, problems have been described in assessments of fair housing in Massachusetts.¹⁹ Many study participants proffered that there needs to be more ample resources for monitoring fair housing impediments and how they should be rectified. Someone with significant experience in housing and real estate shared the following: “I don’t know of a proactive or official office of the city or state level that proactively enforces fair housing.” And “I’m unsure to what extent the city monitors, or if non-profits are doing this work.” Another comment: “I see no enforcement locally.”

Unfortunately, it is still the case, as reported by the Fair Housing Center for Greater Boston ten years ago, that fair housing is on the ‘back burner’ in many places throughout the region:

“...the FHCGB found that Fair Housing infrastructure is lacking or non-existent in many jurisdictions throughout our region. The FHCGB defines fair housing infrastructure as the presence of a fair housing committee /commission, a fair housing ordinance, a current Analysis of Impediments, and a local Disparate Impact Study.”

Further, “As a result of our research on Fair Housing infrastructure, the FHCGB found that 75% of CDBG Entitlement Cities did not have a current Analysis of Impediments, 85% of the Entitlement Towns did not have a current Analysis of Impediments and 75% of jurisdictions in the various Home Consortia did not have a Fair Housing Commission or Committee. The FHCGB is concerned that the lack of such infrastructure throughout most of our five-county region puts Fair Housing on the back burner.”²⁰

An interviewee noted that current fair housing laws and regulations are on the books. Still, they must be enforced in development and housing practices. Cities are “...challenged to follow up on housing discrimination complaints because of its reliance on MCAD (Massachusetts Commission Against Discrimination)...There is no real enforcement capacity of discrimination in fair housing, other than referrals to MCAD.” This person called for the Attorney General’s Office to take a more active role to emphasize the importance of monitoring and enforcing fair housing. There needs to be more pair testing; also, legislation, according to this same person, to “...suspend licenses by the Board of Registration of Real Estate Brokers and Salespersons, when there are judicial and administrative findings of discrimination, would ensure that those that continue to discriminate are subjected to penalties.” Before 2018 housing discrimination

¹⁹ See, for example, *Impediments to Affirmative Furthering Fair Housing Goals/Contributing Factors to Fair Housing Issues* section of the DHCD 2019 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE ACTION STEPS CHART, *ibid.*, also, "City of Boston Assessment of Fair Housing.pdf" at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:8323e111-f856-330a-a593-afbfa45307cb>; “Fair Housing and Zoning as Anti Gentrification.pdf” at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:90a98e74-7663-3e61-916b-ca47ba3a0cae>; also, PRRAC, "Affh-for-states.pdf" at: <https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:1d64de41-a336-38ff-a944-6d01ffdf1823>.

²⁰ Fair Housing Center for Greater Boston, “EOI State/Regional/Local Community-Based AFFH Technical Assistance Component, FY2014”, p.1

complaints could be lodged with the Fair Housing Center of Greater Boston, but this organization closed due to lack of funding.

It was asserted that “[...development has resulted in segregation...And the segregation in some places uses physical fences or tree fences.]” And, in this same town, “...the residents who live there are very stigmatized in the town bulletin boards comments,” for example. Development can occur frequently without fair housing reins: In one city, “No attention is paid to ways to limit discrimination or set affordability restrictions.” On the other hand, in another city that has experienced significant disinvestment and is hungry to attract capital support discourages questions about fair housing. This city is “working to bring in development. Desperation to bring in investment makes putting restrictions scary.”

In one city where this situation was especially stark, according to an observer: “There are no restrictions or procedures in place to demand developers to be in compliance with local and state housing laws when they are requesting to own/develop new properties in our city. This allows for the rich to continue to abuse and mistreat their tenants as long as they pay out fees/penalties with the law department. In the courts, its similar; landlords will prolong the process of repairs, and tenants will undergo horrible living conditions, but as long as judges see some progress is made, landlords get away with it.”

While much justifiable attention has been directed at increasing homeownership, significant concerns were raised about how renters and larger families in low-income communities are treated. As described by an interviewee: “Real estate has played a huge role in our city with displacement; we see the house flipping and the rent increases and the discriminatory rejections of Section 8 vouchers and families with children. On the development side we see the creation of hundreds of units and condos that are for singles and families with no children which is opposite of what our community consists of.” This person also described how the city’s waterfront is primarily utilized for wealthier White elderly households and industrial zones for corporations. Again, State Senator Edwards:

“Facing a displacement crisis, only made worse by the pandemic, renters need protection, predictability, and opportunities to participate in the real estate market. By enabling tenants' first right to purchase their homes upon sale or foreclosure, funding statewide access to counsel programs, expanding the Massachusetts Rental Voucher Program, and preventing eviction without just cause, we can stem the tide that pushes communities apart. Some real estate interests have begun fearmongering, especially when discussing rent stabilization, without offering solutions short of removing all restrictions and building with reckless abandon. But that does not ensure people will be able to afford to live in the units; in fact, it almost ensures that units sit empty and serve a portfolio for the superrich.”²¹

Increasing numbers of evictions were raised as a severe fair housing impediment. A review

²¹ Lydia Edwards, op cit.

and analysis of eviction trends and patterns should be undertaken to assess impacts on various groups. But this data must be disaggregated to better understand where and if eviction filings are spatially concentrated, the reason for such, and by racial and ethnic groups. Evictions should be evaluated in terms of racial and ethnic patterns. Across the country and in places like Boston there are clear indications that certain groups, such as Blacks and Latino/as are disproportionately evicted from homes.²²

The next table shows cities in the Greater Boston region reporting 50 or more evictions between January and June 2022. The table is followed by a map showing these cities, and others, in the Boston metropolitan region.

²² Nick Graetz, et al., “A comprehensive demographic profile of the US evicted population,” *Proceedings of the National Academy of Science (PNAS)*, at: <https://www.pnas.org/doi/10.1073/pnas.2305860120>.

Cities and Towns in Greater Boston by 2021 Total Population and
More than 50 Eviction Filings between January and June 2022

Municipality	2021 Total Pop	Eviction Filings Jan-Jun22 ²³
Boston	654,776	718
Lynn	100,843	227
Brockton	105,446	201
Framingham	71,265	200
Quincy	101,119	188
Lowell	113,994	166
Malden	65,074	121
Randolph	34,715	108
Lawrence	88,508	104
Revere	59,075	103
Haverhill	67,361	102
Marlborough	41,110	99
Norwood	31,441	87
Everett	48,557	80
Waltham	64,015	78
Chelsea	38,889	78
Cambridge	117,090	76
Weymouth	57,670	74
Peabody	54,119	66
Stoughton	29,132	65
Woburn	41,056	55
Braintree	38,822	55
Bridgewater	28,805	53

²³ This data is reported in The Boston Foundation and Boston Indicators, *The Greater Boston Housing Report Card 2022* at: www.tbf.org/gbhrc2022.

to deal with children running around or what have you.” Also, according to this same person, “source of income discrimination is a really big one.”

Not fully enforcing fair housing can feed misperceptions about low-income residents. As explained by an interviewee: “Everyone wants more housing that is affordable, but when we propose *affordable* projects, the neighbors almost always unanimously oppose it.” One reason for this is that “...the general public will blame the residents and not the ownership/management for improperly maintained properties. So, the low-income people carry the burden of that stigma with them.”

Disconnect between calls to increase Massachusetts housing supply and affordable housing, with an affirmatively furthering fair housing lens-

Proposals for affordable housing or increasing housing supply can lack a fair housing lens. Social and demographic changes in the population can be ignored or overlooked in terms of fair housing implications in the building of housing or other real estate activities. For example, under the MBTA Communities Act, Massachusetts is seeking to increase multi-family housing supply by overruling zoning restrictions along MBTA transportation lines, or what is referred to as MBTA communities. Adopted in 2022, fair housing or its enforcement is hardly mentioned in the new regulation.²⁴ A follow-up Advisory makes but passing reference to fair housing: “...the Advisory cautions that ‘Communities that fail to comply with the Law may be subject to civil enforcement action’ and, ‘Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws.’”²⁵

By itself, building more multi-family housing near rapid transit or commuter rails will not guarantee that such will benefit all groups of people, or those considered under protected classes. Fair housing is critical for ensuring that more multi-family housing benefits everyone and is used as an opportunity to integrate communities outside of Boston. This problem is highlighted in *The Boston Globe* Op-Ed by State Senator Lydia Edwards: “The Commonwealth’s newest MBTA zoning policy - which mandates that cities and towns with access to public transportation allow more multifamily housing - should not only require more housing but should also establish baseline affordability goals for communities that lack inclusionary zoning, strengthen fair housing laws, and expand programs that secure long-term affordability.”²⁶

This latter comment might remind one of the approaches in New Jersey where the guidepost for building multifamily housing was not necessarily accessibility to public transportation, but rather “fair share” as insisted by Elizabeth R. Lawrence, also known as the “Rosa Parks of Affordable Housing.” The activism of people like Mrs. Lawrence and others eventually led to the Mount

²⁴ <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>; the approach in determining the number of multi-family units in the MBTA communities is explained in *3A_Compliance Model_v3_2023_April*.

²⁵ [https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#what-is-the-law?-](https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#what-is-the-law?)

²⁶ Lydia Edwards, op cit.

Laurel I and II decisions where multifamily housing had to be distributed fairly among towns in this state. A significant difference between these two states of course is that fair sharing is mandated in New Jersey's state constitution.

Legislation to increase the supply of housing must emphasize fair housing to ensure that as policies and strategies are implemented some groups are not left behind. This concern was expressed by several interviewees. Absent a fair housing lens, even calls for the elimination of exclusionary zoning could have unexpected negative impacts on low-income or racial groups, a warning also highlighted by the National Alliance for Housing Justice:

“Eliminating exclusionary zoning has the potential to significantly advance racial and economic justice. Unless it is done carefully, though, tackling exclusionary zoning could fail to make any real-world impacts or could have unintended consequences, including increased displacement of low-income communities of color... it is important to protect individual households from displacement pressures that may result from zoning or land-use decisions. Prohibition on demolition, limitations on land-use conversions of manufactured home communities, anti-harassment protections, just cause eviction requirements, rent stabilization, right to counsel, source of income protections, and tenant opportunity to purchase would all help alleviate displacement.”²⁷

One respondent offered that Massachusetts should consider a much more robust approach in linking public transportation and affordable housing with affirmatively furthering fair housing: “I believe that we need more state-level pre-emption over local zoning. I think that MGL 40A 3A is a great start, but I would like to see much more in the way of legalizing a range of housing types by right, including housing minimums and parking maximums. We need a much stronger fair housing framework in MA and improved structures for enforcement with funding to address both public and private market issues. We also need local land use or development decision-making boards of all types (zoning board of appeals, planning board, board of health, conservation, historic preservation) to complete a mandatory course on fair housing to...serve on their respective boards.”

As suggested above, the call for significantly more affordable housing must have a fair housing lens, lest it inadvertently serves to perpetuate segregation in suburban cities and towns. Fair housing enforcement is critical in responding to a Massachusetts housing crisis where there is a need for greater supply to meet growing demand at affordable costs and rents for working-class people and others. Many study participants expressed concern that fair housing is rarely mentioned in strategies to increase housing supply or affordable housing. Planning and discussing housing supply and affordability should not be divorced from fair housing deliberations. Unless a solid and enforceable fair housing lens is part of the context, increasing housing supply and affordable housing by itself does not guarantee the dismantling of institutional policies or private sector practices that serve to maintain racial divisions in housing and economic domains.

²⁷ https://www.allianceforhousingjustice.org/files/ugd/dcae2b_96a6df2f85964a05a0036a63251452ce.pdf.

A related query raised by many community activists about the call for universal, affordable housing was about the narrow approach that leaves low-income and working-class residents out of the equation, in effect, for affordable housing opportunities. In other words, affordable housing to accommodate households with 80% of HUD's Area Median Income drastically differs from the household incomes of groups with incomes in lower income ranges, at \$40,000 or \$50,000. If the scope of income is overlooked by insisting that affordability is 80% of the AMI, then this could be detrimental to much lower-income groups. This is also another instance where the call for building more 'affordable housing' without a fair housing lens could point to yet more significant levels of racial or ethnic segregation. As one person warned, the call for affordable housing should not be a shield for big developers to build in ways that unintentionally perpetuate racial or class segregation.

The call for increasing affordable housing must be contextualized with an understanding of the practices that have contributed to and continue to sustain segregation, not only including zoning prohibitions against multi-family housing, but also lack of access to reliable public transportation, racially-based real estate steering practices, lack of investments in some neighborhoods, inaccessibility of services for people with physical challenges, site selection policies, discrimination and access to financial services like mortgages and equity loans, and private discrimination.

Absence of attention or actions to address the impacts of historical racial discrimination, or racial discrimination today in many cities and towns.

As reported in several studies, cities and towns in Massachusetts have a long history of racial prejudice and discrimination. It must be remembered that racism is not dead, as explained by one interviewee (but also others): "As a minority, I have experienced the difficulties of purchasing a home despite being well-educated, financially secure, and continually employed." This suggests that a history of racism and housing opportunities for everyone is still alive. Current studies as well as popular media describe continuing patterns of segregation. As summarized by an interviewee: "There is significant discrimination by race, disability, and public source of income—those with housing vouchers. Several studies have shown this to be the case, including one commissioned by Newton's Fair Housing Committee in 2005 and more recently in 2020 by Suffolk Law and The Boston Foundation...High rent levels and very low vacancy rates, combined with discriminatory patterns, make it especially difficult for voucher holders to move to the Newton." This same individual added: "Key issues affecting fair housing are incredibly low supply of affordable housing, little turnover, and very high prices. White households are twice as likely to own a home than rent an apartment, but for Black and Hispanic households, the ratio is reversed; they are twice as likely to rent than own a home. This [perpetuates] deep racial wealth disparities in Greater Boston."

A concern widely expressed was zoning as a significant tool in maintaining segregation and avoiding fair housing, but also its potential to expand the implementation of fair housing. As explained by the individual above:

“Among the most critical impediments to housing and fair housing is restrictive zoning policies. It is no surprise that few affordable housing units are built. Very little can be built as of right. Special permits are required for most development that is not single-family. Even those that are successful in obtaining special permits undergo a lengthy public review process that makes the development process extensive and increases development costs. The state’s affordable housing law, Chapter 40B, has been instrumental in the success of those projects that are able to move forward through the lengthy and often contentious process of siting and building.”

A similar comment to the previous one: “Zoning! That is a major impediment to getting multi-family rental housing built. MA has localized zoning control, so we need to have policies statewide that make it more difficult for local municipalities to make zoning unfriendly to multi-family housing. Education is another big issue to help the community understand these issues. Raise awareness of the misperceptions about affordable housing and why it wouldn’t have negative consequences in the city. People have misperceptions of diverse cultures and communities and need to learn about them.”

A concern was raised that ample information about the role of redlining practices in racially molding communities today is not adequate and sometimes only emphasized in terms of history and not contemporary practices. This oversight includes information and knowledge about a history of racial violence in reaction to Black or Latino/a mobility in some places, or inequalities in the delivery of services in the areas of housing, education, public safety, transportation, business opportunities, and the environment. An interviewee opined about places outside of Boston: “People of color and immigrants are aware they are not being treated fairly in the housing market. We hear stories all the time...landlords not wanting to rent to them because they have children, or they show up and realize they are Black, and there’s a problem. They know they are not treated well. People don’t know that what they are experiencing is against the law.” Frustratingly, “Low-income white people feel threatened when you bring up racial discrimination, but they don’t understand that their lack of access to affordable housing is connected to racial discrimination...”

This scenario can have implications for discussions about ‘opportunity neighborhoods’ in many places outside of Boston. For instance, it is proposed in some literature that a key answer to ‘concentrated poverty’ in urban areas is to use Section 8 vouchers to move families into “opportunity neighborhoods” where children would benefit from attending better schools. However, based on the experiences of interviewees, these proposals should not obscure histories -and contemporary experiences – about experiences of racism and prejudice in these very same places. Some interviewees warned about the danger of overlooking historical contexts of local institutional racism by presenting any idea in race-neutral, or post-racial context.

The acknowledgment of historical and contemporary racism and the existence of racial hierarchies is critical however, because as insisted by one person regarding the suburbs: "Discrimination in housing is still very much alive... it's subtle but very real." Fair housing can

help to uncover this history so that strategies for integration and improving life outcomes for all people can be enhanced. One person offered a related thought that an exclusive focus on opportunity neighborhoods as a tool to improve the lives of children in low-income and poverty heavy neighborhoods could indirectly limit fair housing if adequate resources for improving public schools in these places are thereby overlooked or minimized. This person noted that “...the absence of quality schools in those areas threatens homeownership and, thus, generational wealth.”

Several interviewees described discrimination against Section 8 voucher holders: “Landlord’s ability to turn Section 8 voucher folks away is a huge barrier. They are not exercising discretion in favor of tenants in Section 8 programs. This limits options for folks who need it. Need more rules around how this discretion is used.” Another interviewee:

“Discriminatory practices by landlords or property managers can restrict voucher-holders’ access to housing in certain neighborhoods. This can include refusal to accept vouchers, treating voucher holders differently during the application process, or even steering them toward specific areas.”

The discrimination can be subtle in that people with rental assistance cannot find affordable housing in specific communities: “Many areas with strong job markets, good schools, and other amenities may have limited affordable housing options, even with rental assistance. This scarcity can hinder voucher holders from moving to these areas... [for example]: A family with a housing voucher wants to move to a neighborhood with excellent schools but finds that there are very few available rental units within their voucher’s value.” Or there can be discriminatory effects: “Landlords’ unwillingness to participate in voucher programs due to administrative burden, perceived stigma, or complex program rules can limit housing options for voucher holders.”

The potential or actual displacement of residents and local businesses because of zoning and development is sometimes divorced from fair housing discussions. Though there are growing exceptions, the impacts of zoning decisions on fair housing are only considered partially, based on the interviews. Many localities disconnect zoning decisions from fair housing requirements. Municipalities need more practices to build and sustain substantial, and community-wide, engagement with fair housing issues. There are numerous investments decisions, or the planning of public transportation, for example that have are divorced from a fair housing lens.²⁸

Lack of stronger emphasis on accessible, equitable, and efficient public transportation as critical for advancing fair housing in suburban communities.

Many interviewees identified zoning and public transportation as critical components of any effective strategies to advance fair housing. Transportation plays a crucial role in the

²⁸ There are 38 topics related to fair housing that are listed in “Impediments to Affirmative Furthering Fair Housing Goals/Contributing Factors to Fair Housing Issues” in the *2019 Analysis of Impediments To Fair Housing Choice Action Steps Chart* (See Appendix C).

implementation of fair housing. An interviewee emphasized that transportation could perpetuate and exacerbate fair housing concerns, especially for those relying on city infrastructure. He pointed out that transportation can limit opportunities for individuals to live in outlying areas while still having access to transportation.: "Transportation both furthers the concern because, again, if you are reliant on... you can't have the opportunity to live in the outskirts and take care of the transportation."

Other Interviewees highlighted transportation infrastructure as a crucial factor in housing affordability. Access to reliable transportation can significantly affect housing choices, particularly for marginalized communities reliant on city infrastructure. This insight underscores the importance of well-connected public transit systems and their role in enhancing housing accessibility: "By integrating transportation and housing planning, communities can foster more inclusive, connected, and equitable living environments. It requires collaboration between housing agencies, transportation departments, community organizations, and residents to ensure that transportation becomes a tool for expanding fair housing opportunities." However, this call could be problematic unless Massachusetts invests heavily into improving public transportation infrastructure. In updating its "state of good repair measurement," for example, the MBTA updated its April 2023 estimate of \$10 billion to currently (December 2023) to \$24.5 billion.²⁹

It was also pointed out that proactive linkages between the presence of public transportation and affordable housing do not happen automatically and sometimes planning concrete connections are overlooked. Inadequate public transportation scheduling, for example, is a major problem in expanding affordable housing for low-income Black and Latino/a households: "...the siting of new development where there is no public transport...or the closest bus stop is a 15 minute walk...or where there are no bus services during Sundays,..and (!) the last bus on Saturdays runs at 4 pm" in her neighborhood. Another person: "Transportation is nothing like in DC where the metro goes within a 60-mile radius all around DC surrounding area allowing people to move between the city and where the jobs are." Another opined about the Commuter Rail which has "...limited schedules, limited routes, and is more expensive." One person was more emphatic: "Commuter rail a humiliation for the city. Even a terrible accident didn't cause improvements. It's like an unavailable resource. It's icy, metal, slippery, steep, dangerous, not accessible."

The presence of accessible and quality, and equitable, public transportation is inconsistent throughout the Greater Boston region and beyond. An observer raised the alarm about limited public transportation in her city: "...[here]... there is very limited transportation. It is not like the city where there are multiple buses, it's not affordable for them to travel around their housing. Most people in this town walk. Unless they have mass health transportation to get to their appointments." Yet, improvements in public transportation accessibility and cost are fundamental for achieving fair housing standards in the Greater Boston region: "Make it better, MBTA is aware of the challenges, fair housing, accessible housing must have a functional transportation system. Less cars, less parking, which allows for more housing, but this requires better bike paths, bus lines, trains, etc. Now there are more folks waiting longer to get on the bus,

²⁹ Colin A. Young, State House News Service (December 20, 2023); at <https://www.bizjournals.com/boston/news/2023/12/20/mbtas-capital-needs-are-near-insurmountable-sa.html>

or train. Family jobs are dependent on good transportation. Bike paths currently are not safe how they are currently designed. To promote fair housing, you can't have transportation be a point of stress to where they need to go and have a way to go home...". Transit advocates and activists are critical for advancing these kinds of issues related to fair housing as intersectoral and comprehensive.³⁰

As the stock of multifamily housing in MBTA transit communities increases it must be within a fair housing context supportive of low-income and moderate-income renters as well as small businesses in these places. This suggests that public transportation and affordable housing must not operate in silos. The organization TRANSITMATTERS has advocated for mobility hubs to enhance public transportation equity. Their report states:

“Mobility Hubs can range in size from a bus stop with a shelter and a bike rack, to a central station serving multiple rail lines and bus connections. Depending on its place in the transit system, riders, and connections, a Mobility Hub will have different elements built to serve the needs of its riders...Corner Hubs are small stops near residential or small-scale commercial areas. This Hub is often a user's first stop (when they leave home) and last stop (coming back home) on their trips. They often have only basic amenities, such as a bike rack and shelter...Neighborhood Center Hubs are larger stops at important destinations in a neighborhood. Bus lines that serve the same neighborhood usually converge at the Neighborhood Center Hub. A Neighborhood Center Hub will have more Mobility Hub elements than a Corner Hub, such as rideshare pickup/drop-off areas, fare vending machines, and neighborhood maps...Gateway Hubs connect the area around the Hub to the rest of the region via rapid transit. This includes regional (commuter) rail stations and subway stations. Gateway Hubs are the largest and contain the most amenities, such as large bicycle cages, Wi-Fi, and bicycle repair stations”³¹

Accessible, efficient, and clean public transportation must be made accommodating to connect it better to housing opportunities for new residents and families. Public transportation should not be approached in a silo but if used as a tool to facilitate affordable housing and within a fair housing context, then the points raised by a landlord with properties in two suburbs proffered are critical: we must look at “...lack of affordable housing for individuals who need supportive services; location of accessible housing; access to transportation for persons with disabilities; ...inaccessible buildings, sidewalks, pedestrian crossings, or other infrastructure.”

³⁰ Some organizations who should be included in these kinds of discussions include *T4MA* - https://www.t4ma.org/staff_leadership_2023; *TRANSIT MATTERS* - <https://transitmatters.org/team>; *Livable Streets* - <https://www.livablestreets.info/stacythompson>, and others.

³¹ TRANSITMATTERS, *Mobility Hubs Toolkit* at: <https://static1.squarespace.com/static/533b9a24e4b01d79d0ae4376/t/63c96958c36ebb0f480c903e/1674144104480/TransitMatters-Mobility+Hubs+Toolkit.pdf>, p.7

IV: Conclusion: Recommendations for Massachusetts and Municipalities

This section describes recommendations proposed by study participants for both Massachusetts and municipalities and related to advancing public awareness about fair housing.

Six Recommendations for the Executive Office of Housing and Livable Communities (EOHLC) and a new Office of Fair Housing.

1) EOHLC can assist cities and towns in reviewing and updating existing fair housing reports. The Massachusetts' *2019 Analysis of Impediments* is comprehensive and includes important recommendations - EOHLC should plan and implement a series of workshops for appropriate representatives from municipalities to better understand the state and local Analysis of Impediments (AI) reports and its implications, including the kind of infrastructure necessary for assessment, monitoring, and enforcement. Beyond this, municipalities should be supported in updating fair housing plans to reflect demographic and local economic changes.

This strategy is encouraged by HUD in a recent U.S. General Accounting Office (GAO) report. In a review of how localities were implementing, or not, fair housing across the United States, the GAO reported that HUD needed to do more to force local governments to eliminate or reduce impediments to fair housing.³² The report described some of the most cited impediments including zoning and site selection; not using neighborhood revitalization to connect municipal services to employment, housing, and transportation, including "Inadequate public services in low-and-moderate-income areas, where many African Americans, Hispanics, and people with disabilities may live..."; lending policies and practices; and informational programs. Along with these factors HUD also emphasizes the importance of providing information about fair housing at the local level: "Lack of access to information about the rights and responsibilities associated with fair housing, potentially creating an environment favorable to discriminatory practices." (See Table 3).

Many cities and towns have conducted AIs and AFHs; some are part of regions. Fair housing infrastructure that can continually assess and monitor affirmatively furthering fair housing must be expanded and made stronger, or more well-organized. Fair Housing commissions with investigatory and enforcement power should exist more prominently throughout the Greater Boston region and Massachusetts. Very importantly, fair housing must be elevated as inter-sectoral going much beyond direct discrimination. This would be similar to how Massachusetts is approaching environmental justice. The relatively new law describes specific environmental benefits to be supported actively by the Executive Office of Energy and Environmental Affairs; it describes environmental burden, as well as environmental principals that "...support protection from environmental pollution and the ability to live in and enjoy a clean and healthy environment, regardless of race, color, income, class, handicap, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief or English language proficiency., which includes: (i) the meaningful involvement of all people with respect to the

³² *HOUSING AND COMMUNITY GRANTS: HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions' Fair Housing Plans* General Accounting Office, GAO-10-905 (September 2010); see Table 3.

development, implementation and enforcement of environmental laws, regulations and policies, including climate change policies; and (ii) the equitable distribution of energy and environmental benefits and environmental burdens.”³³

2) EOHLC must advocate for adequate resources for municipalities to elevate the importance of affirmatively furthering fair housing as a law and legal tool to fight discrimination and its intentional or unintentional effects. This also means that testing resources must be expanded and made available to municipalities and include sources of income discrimination reviews.

Municipalities should be assisted in reviewing how fair housing is being monitored and enforced. A reader-friendly summary online report indicating key points and themes related to the assessment of fair housing would be a valuable tool for this purpose. This online summary should include fair housing goals established by municipalities, and if none, then describe a process for starting such an assessment. It should encourage inter-city and regional approaches to advancing fair housing to enhance reach, impact, and share resources.

A few respondents pointed to instances of racial or family discrimination related to housing that they thought were taking place. While discrimination may not always be overt, it can be hidden or shrouded with neutral-sounding excuses. For example, in one suburban town, it was observed that “Single women with children are discriminated against by landlords citing things like noise, mess & inability to make payments because they are single.” According to an interviewee, when discrimination is hidden in this way, testing becomes critical for uncovering it. A statewide fair housing testing director with investigation and enforcement powers could represent a tool to ensure that testing is robust and consistent.

Although Massachusetts was the first state to institute voucher non-discrimination legislation in 1971, there is still a need to provide education and information about prohibitions against this kind of discrimination. In a recent article, “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results Lessons from Cities and States That Have Enacted Source of Income Laws” the authors call for adequate funding and capacity for agencies tasked with enforcing voucher non-discrimination to be able to:

- Repeatedly inform HCV participants and all landlords of the law’s requirements.
- Work closely with local voucher administrators to encourage reporting of violations.
- Collect, investigate, and remedy complaints.

³³ See, <https://malegislature.gov/Bills/191/H4912/Amendments/House?pageNumber=1&direction=asc&sortColumn=AmendmentNumber&keyword=Madaro>; also see, Pierce Louis and Alexandra Skinner, “Environmental Justice Finally Legitimized in Massachusetts” Viewpoint, *Public Health Post* (October 21, 202) at; <https://www.publichealthpost.org/viewpoints/environmental-justice-massachusetts/>.

- Perform regular testing to ensure compliance; and
- Report publicly on the number of complaints and resolutions, testing results, and the overall effectiveness of the law’s implementation, and make recommendations for improvements if necessary.”³⁴

3) The EOHLC should work with the state’s Attorney General and the Massachusetts Commission Against Discrimination (MCAD) to assess and strengthen the monitoring and enforcement of fair housing as a robust tool. These three public agencies should be viewed by the public as working together closely to strengthen fair housing enforcement throughout the state.

Especially important, EOHLC should ensure that calls for increasing the supply of affordable housing are not decoupled from "affirmatively further fair housing' at the state or local level. Interestingly, in some communities, the strong adoption of a fair housing lens could lead to greater communication and trust among residents, developers, and local officials. This is because fair housing is an umbrella that serves to protect diverse groups of people. Once ‘consciousness’ about fair housing is increased, it may open doors for more honest conversations between residents and developers about the issues that concern residents and how such interacts with fair housing.

One person offered that there needs to be “greater regulation on the private sector...We are not enforcing anti-discrimination laws; it requires you to complain and prove.” This also shows the need for “Regulating the private market to ensure vulnerable people are not made more vulnerable through disinvestment and displacement.” This was echoed several times: “Enforce the laws that we have. They are not as strong as they could be, but they are strong enough to do something.” Another person made a similar call:

“We need a much stronger fair housing framework in MA and improved structures for enforcement with funding to address both public and private market issues. We also need local land use or development decision-making boards of all types (zoning board of appeals, planning board, board of health, conservation, historic preservation) to complete a mandatory course on fair housing to serve on their respective boards.”³⁵

³⁴ Alison Bell, Barbara Sard, and Becky Koepnick, “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results Lessons From Cities and States That Have Enacted Source of Income Laws” Center on Budget and Policy Priorities, Washington DC (Updated December 20, 2018), p.10; at: <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf>.

³⁵ Also see the Report’s Recommendations for Executive Action: “First, we recommend that HUD establish standards for grantees to follow in updating their AIs and the format that they should follow in preparing the documents. Second, to facilitate efforts to measure grantees’ progress in addressing identified impediments to fair housing and to help ensure transparency and accountability, we recommend, as part of the AI format, HUD require grantees to include time frames for implementing recommendations and the signatures of responsible officials. And finally, we recommend HUD require, at a minimum, that grantees submit their AIs to the department on a routine basis and that HUD staff verify the timeliness of the documents, determine whether they adhere to established

The Massachusetts Commission Against Discrimination (MCAD) was perceived by some observers as needing more capacity to enforce fair housing violations. When complaints are lodged, it can take years for resolution. Another interviewee noted that her city's "...discrimination complaint process is dependent on the MCAD which is under-resourced and unable to offer timely responses, if at all. The current timeframe for a fair housing complaint at MCAD exceeds seven years" according to this same person.³⁶

In response to this situation, another person encouraged greater "...advocacy and vigilance and efforts to legislative and having a penalty for those engaging in segregation. We've done a lot with the law, but the law has not been able to eradicate segregation and discrimination. Continue advocacy, vigilance, and pressing for an equal playing field to eradicate segregative and discriminatory policies." And another comment: MCAD..." [had a lot more power to do things in the 1980s...today it is more of a clearinghouse of rules and regulations]." Working together, the three agencies mentioned above should initiate strategies to increase information about their work and impacts in the area of fair housing.

4) There is an extraordinary need to increase and enhance fair housing training and technical assistance for local municipalities and to support these efforts with strong community participation.

HUD requires substantial community participation in its housing programs and designs. Its *Fair Housing Tool Kit*, Module 4 states as key to community participation learning "...WHO needs to be engaged in Fair Housing Planning from the community; ...WHAT are best practices for Community Participation;...HOW to reach protected class populations and organizations that advocate on their behalf." This module also examines the best practices and benefits of community participation in fair housing planning.³⁷

Fair housing training and technical assistance should be ongoing as municipalities experience demographic or economic changes and segmented to different audiences. In other words, the training and technical assistance approach should be familiar. Fair housing training and technical assistance should be tailored to developers, public housing authorities, municipal representatives, landlords, and renters. Many interviewees endorsed this approach and suggested that a "bland" or simply "PR" approach is probably ignored by many. One person emphasized that public education should target renters: "Increase training for those who own/manage properties and increase awareness to those who are primarily renters." Public hearings could be sponsored by EOHLC and municipalities to help inform the public about the importance and legal requirements of fair housing. Still, these should be tailored to increase measurable impacts.

format requirements, assess the progress that grantees are achieving in addressing identified impediments, and help ensure the consistency between the AIs and other required grantee reports, such as the CAPERs", p. 32.

³⁶ Housing discrimination complaints can also be lodged directly with HUD, but this may not have been known to some of the interviewees; see, <https://www.hud.gov/fairhousing/fileacomplaint>.

³⁷ https://www.hud.gov/program_offices/fair_housing_equal_opp/fhp_toolkit/module_4.

According to several comments there should also be support services in communities with relatively high numbers of recent immigrants and persons with limited English speaking ability. Individuals in this group might be hesitant to pursue discrimination complaints for fear of reprisals. Municipalities should sponsor public education campaigns about fair housing requirements in different languages and target new groups of people.

Local fair housing organizations have a record of informing the public about fair housing as a law. Organizations such as the *Massachusetts Fair Housing Center* and the *SouthCoast Fair Housing Center* provide information in various languages related to fair housing obligations and how to report discrimination. Local municipalities should tap these organizations as partners in strategies for advancing public awareness and training about fair housing to general and targeted audiences.³⁸

It is critical that residents who do want to see a more substantial city or town in terms of fair housing also organize to learn about and support fair housing training. Informed community organizers represent an essential watchdog function in raising and sharing concerns about affordable housing, accessible and equitable public transportation, and fair housing. The *Local Housing Solutions* initiative based at the NYU Furman Center provides a toolkit for engaging community participation in substantive ways.³⁹ Some of their steps for the latter include: “1. Embrace community input to clarify issues and strengthen solutions; 2. Engage the most affected community members from the start; 3. Listen; 4. Be transparent and set expectations about how input will be used; 5. Recognize unequal power dynamics; 6. Level the playing field; 7. Invest in process.”⁴⁰ Here, foundations could be critical partners by supporting and expanding resources for community organizing.⁴¹

5) EOHLC should highlight and reward cities and towns advancing public awareness of affirmatively further fair housing in creative ways. A ‘carrot’ approach can help share information about innovations and creativity for other cities and towns.

There are creative local initiatives that should be shared with municipalities. For example, while implementation issues are still being discussed in 2022, Boston incorporated fair housing requirements in its zoning code. In another example, the Town of Saugus has produced a model master plan where affirmatively furthering fair housing, and its history of racial inequalities are emphasized. As explained in the Master Plan, Saugus:

“...has put considerable effort into documenting and advocating for the preservation of landscapes and structures that reflect underrepresented aspects of the Town’s history, including the stories of Indigenous peoples, colonization, and slavery. In 2014, the Commission raised funds to create the Round Hill Historical Site, so named for the

³⁸ See, <http://southcoastfairhousing.org/resources/> and, <https://www.massfairhousing.org/housing-discrimination>.

³⁹ See, <https://furmancenter.org>.

⁴⁰ <https://localhousingsolutions.org/plan/engaging-the-community-in-the-development-of-a-local-housing-strategy/>.

⁴¹ Appendix C and Appendix D in this Report can be used as guides or frameworks for organizing around fair housing issues; the recommendation for municipalities “to advance public awareness about affirmatively furthering fair housing...” includes a series of specific queries that community organizers can tackle for organizing purposes.

prominent natural landmark featured on the town seal and thought to be of cultural significance for Saugus's Indigenous people. The Commission's chair, Stephen Carlson, has also documented the historically Black neighborhood near the Malden, Melrose, and Revere borders. Little of the neighborhood exists today, due to the construction of the Frank P. Bennett Highway in the 1920s and subsequent retail development through the latter half of the 20th century and early 2000s. Although most of the neighborhood's structures have long since been demolished, the Commission does have extensive photographic documentation compiled through the Historical Commission's demolition permit process."

Like Boston, Saugus adopted a goal to: "Explore zoning amendments that establish race-conscious development impact assessments and codify the Town's commitment to "affirmatively furthering fair housing."⁴² These and other municipal examples should be highlighted for other municipalities to consider in advancing fair housing.

Along this line of thought EOHLC should generate a list identifying and highlighting public-private partnerships that have kept the cost of land acquisitions for affordable housing projects reasonable and that reflect fair housing standards. It should explain best practices that municipalities should consider for these public-private partnerships. For example, it could assist municipalities in readily accessing technical assistance with more creative development approaches to building siting, service needs, and architectural designs for developing multi-generational/multi-needs housing options for families with aging elders or persons with disabilities. This could discourage siloed approaches focusing on family, vs. senior vs. persons with disabilities housing in apartment complexes.

It is also essential to link specific EOHLC goals, such as increasing homeownership with both private sector and public sector partners, as well as nonprofits who will focus on affordability and strengthening facets of fair housing. An example of such a potential partnership is the Builders of Color Coalition in Boston establishing a fellowship program for training individuals and firms of color interested in private development of inclusive and affordable housing: "The Builders of Color Coalition (BCC) Affordable Housing Developer Fellowship will convene individuals and firms of color interested in pursuing private development of inclusive and affordable housing. The program will use a case-study approach to lead participants through modules on financing, construction, and compliance."⁴³ This kind of fellowship opportunity should be expanded as partnerships with various sectors and regions.

6) EOHLC should explore what kinds of interagency collaboration can elevate public awareness and enforcement about fair housing and result in new policy recommendations involving multi-agency collaboration.

⁴² *Saugus United 2035*, p.76 and p. 245; at: https://www.saugus-ma.gov/sites/g/files/vyhlf1181f/uploads/saugus_master_plan-2022final.pdf.

⁴³ See, https://drive.google.com/file/d/1GhQsJ4uDshjPgcwHnlT1Xr2UgL_GEjU2/view.

A new Office of Fair Housing could sponsor exploratory meetings between transportation agencies (MBTA and MassDOT) and those more directly involved with housing. It might involve meetings between agencies working in public health and others around housing. Further, EOHLIC could assist state agencies in reviewing agency-based approaches to fair housing and assessing strengths and limitations. For example, transportation was continually raised as a critical tool for advancing fair housing. A continuing and close relationship between EOHLIC and MBTA, or other public transportation entities must ensure that current policies or practices are not inhibiting the scope and reach of fair housing. Given the intersectoral legal nature of fair housing, this collaboration should also involve public agencies working in the areas of public health and the environment, workforce development, economic development, public education, and other areas.

EOHLIC or a new Office of Fair Housing should assist municipalities in exploring federal resources that can be tapped to increase affordable housing and strengthen fair housing. For example, national resources should be explored to help link public transportation and affordable housing with strong fair housing enforcement. Recently, for instance, \$35 billion has been made available by The Department of Transportation’s (DOT) Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation & Improvement Financing (RRIF) programs for below-market loans to finance commercial conversions near transportation. This means that the U.S. Department of Transportation is making it easier for local transit agencies “...to transfer properties to local governments, non-profit, and for-profit developers of affordable housing at no cost, some of which could have existing commercial uses that can be converted to affordable housing.”⁴⁴

Eight Recommendations for Municipalities and Community Partners

1) Municipalities should ensure the review and assessment of policies and practices, both public and private, that might have adverse effects on full compliance with fair housing requirements; there is a significant need to review and amend zoning regulations that could be impeding fair housing.

Based on the *Massachusetts Analysis of Impediments 2019* report, there should be bi-annual reviews of policies or practices that may be inconsistent with affirmatively furthering fair housing in Massachusetts. Reviews should identify current and potential enforcement mechanisms that can be utilized to rectify policies, procedures, and practices that might tend to limit or ignore affirmatively furthering fair housing in a wide range of areas, including housing, transportation, economic development, real estate practices, and environmental justice.

Municipalities should assign to a city-wide entity or committee the responsibility for reading, reviewing, and analyzing the MASS AI 2019 report to assess it in terms of the local municipality. However, it must be noted that only a few people participating in this study were

⁴⁴ *COMMERCIAL TO RESIDENTIAL CONVERSIONS: A Guidebook to Available Federal Resources*, October 2023, Version 1, The White House, p. 4.

aware of this document. The designated entity should also consider how the contents and findings of the AI report can be more widely shared with the broader public. While state assistance is critical for more effective public education about fair housing, monitoring, and enforcement, and providing technical assistance, local leadership must also show more significant commitment to spreading the word about affirmatively furthering fair housing.

Also, municipal leadership should assess how local zoning codes and regulations may or may not violate fair housing. In 1975 a state Supreme Court found that zoning which prevents low- and moderate-income housing can be unconstitutional (See Appendix D: Select Fair Housing Case Law). Zoning has been challenged in various ways if it represents an intentional or unintentional obstacle to fair housing regulations. A focus on zoning is critical. Recent research identified nine types of zoning barriers exist to building multi-family housing in the suburbs.⁴⁵ Municipalities should assess the existence of such barriers to building multi-family housing. It is not clear that municipalities have instituted these kinds of fair housing related zoning reviews consistently over the years in Greater Boston.

The collection and analysis of data should be elevated as a basic tool for accomplishing this and other proposed recommendations. Benchmarks have to be measurable and directly related to strengthening the impacts of fair housing. Perhaps a model is provided by New Jersey which based on the Mt. Laurel II decision in 1983, legislatively adopted required benchmarks for all towns in this state:

“Towns are also required by law to follow certain rules that safeguard access to affordable housing for low-income families and communities of color. For example, half of all units must be available to families, 25% of all units must be rentals, and only 25% of all units can be age-restricted. There are also strict income restrictions on units that towns must follow—half of all units must be affordable to moderate income residents (50% - 80% AMI), half of all units must be affordable to low-income residents (below 50% AMI), and 13% of low-income units must be set aside for very low-income residents (below 30% AMI).”

Additionally, “...towns are required to affirmatively create a Housing Element and Fair Share Plan that lays out how the town intends to meet its affordable housing obligation for the current round.”⁴⁶

2) Municipalities and local community leadership should ensure that the Community Preservation Act is implemented in ways that it does not intentionally or unintentionally allow it

⁴⁵ Amy Dain, *The State of Zoning for Multi-Family Housing in Greater Boston*, Massachusetts Smart Growth Alliance (June 2019); also see A. Dain, “Zoning in the Boston suburbs is stacked against families with children: Decisions based on hundreds of local zoning laws add up to a glaring injustice overdue for redress.” *The Boston Globe* (June 12, 2023).

⁴⁶ See, <https://www.fairsharehousing.org/wp-content/uploads/2023/01/Mount-Laurel-Factsheet.pdf>; also, <https://www.fairsharehousing.org/wp-content/uploads/2022/12/FINAL-Fair-Chance-in-Housing-Toolkit-Nov-2022.pdf>.

to be used as a shield to continue segregation or excuse obstacles not to or impediments to building affordable housing.

Reference to community preservation as a cover for NIMBY-ism was mentioned several times among our interviewees. One individual pointed out that “We...hear more often the narrative of congestion and prioritization of more green space. In a city where I see new evictions and homelessness cases daily, I know that for those most vulnerable in the city would rather sleep in a secure affordable housing unit rather than a park.” Expansive projects aimed at preserving open spaces should be balanced with significant affordable housing and remove public discussions away from zero-sum limitations.

The Community Preservation Act can sometimes prevent or slow the building of affordable housing for low-income people. In one case, for example, a large church sought to convert properties it owned into affordable housing. But the city, “...Made us wait one year with assurances we would pick up from where we left off. Then after the year was up, it made us start over. We were held to a different standard than other affordable housing developers. Historic districting was an excuse used.”

In this same case, after converting the property into 7 affordable units:

“We added a state-of-the-art fire system because they told us we would need more than alarms. So, we added both alarms and sprinklers included with the state-of-the-art system...Then opponents said parking would be an issue until the church said we would allow the residents to park in the church lot...Then they said the lot was not good enough so the church repaved the lot. So many barriers were meant to make us spend more money to discourage us.”

The city’s response was criticized: “City Hall kept switching the contact persons to deal with so no continuity... One neighbor sent a letter alleging nefarious dealings must be involved. Another got petitions signed all around the adjacent blocks. It was discovered some signatures were forged because they included a church supporter’s name.” And here, too, concerns about traffic were raised to stop the housing project: “...They used the traffic patterns arguments to oppose, but a liaison pulled a study that refuted that clearly.”⁴⁷

3) Municipal leadership and supporters seeking to advance public awareness about affirmatively furthering fair housing should appoint Blue Ribbon Commissions, or city-wide committees charged with exploring the history and impacts of barriers to greater racial and ethnic integration of their cities and towns.

Policy analyst La-Brina Almeida’s *A Racist History of Federal Housing Policies*, could be used as a broad starting point, engaging local residents about how this context has impacted how their

⁴⁷ Also see, Stephanie Ebbert, “Beyond the Gilded Gate...” *The Boston Globe* (November 8, 2023); at: <https://apps.bostonglobe.com/2023/10/special-projects/spotlight-boston-housing/brookline-identity-crisis/>.

cities and towns look today.⁴⁸ Some cities, towns, and regional networks have started looking at information, but the efforts should be expanded considerably and involve substantive community participation and input. These kinds of actions will assist in raising public awareness about fair housing among older residents and newer residents, as well.

Queries explored by civic leaders and community organizers can be shared with community audiences and bundled into historical and social demographic analysis associated with housing issues. A sample of 13 preliminary queries for these entities can include:

- What explains the history and current low rates of Black and Latino/a homeownership? And does a lack of diversity in private and corporate sectors limit the nature of these kinds of discussions and debates?
- What is the history and nature of housing and mortgage discrimination against people of color in this city?
- How can zoning be used to enhance fair housing? How does zoning limit multifamily housing, and how does it impact on Black people and Latino/as, who tend to have higher 'average family size' than Whites?
- What is the relationship between rapid and significant increases in rental and property prices and the presence of Black and Latino/a residents in local places?
- What kinds of discrimination complaints have been made over the last ten years or so? And what is the state of discrimination related to the source of income where Section 8 voucher holders are denied access to housing?
- How might current public transportation inhibit the pursuit of fair housing issues in cities and towns outside of Boston? Are current plans for public transportation capital investments consistent with fair housing strategies?
- Where are multi-family developments located in the city; are they concentrated in some specific areas? How can multi-family developments be planned for locations across the city with access to transportation?
- Are certain racial and ethnic groups concentrated in some parts of the city – why? Are the social, economic, and educational characteristics associated with a particular group's concentration different from other parts of the city or town? Are LIHTCs or Section 8 voucher holders, or public housing, related to concentrations of people from certain racial or ethnic groups?
- What social, economic, or demographic changes could affect fair housing?

⁴⁸ See, [https://massbudget.org/2021/08/06/a-history-of-racist-federal-housing-policies/#:~:text=The%20Federal%20Housing%20Administration%20\(FHA,homebuyers%20in%20predominantly%20Black%20neighborhoods](https://massbudget.org/2021/08/06/a-history-of-racist-federal-housing-policies/#:~:text=The%20Federal%20Housing%20Administration%20(FHA,homebuyers%20in%20predominantly%20Black%20neighborhoods)

- What are the impacts of land use and zoning on fair housing? Occupancy codes and restrictions; proposed bedroom sizes? Decisions about the location of affordable housing?
- Is the municipality working with the financial sectors to reduce discrimination and assist in increasing homeownership rates for protected classes?
- What is the extent and quality of outreach to people of color and low-income groups about housing opportunities? How are immigrants and persons with limited English-speaking ability approached in terms of raising awareness about fair housing regulations?
- What kinds of monitoring of Airbnb and other similar companies is taking place, or not? Is there oversight and regulation of speculative housing, rent stabilization and rent increases? What practices are in place to contain or limit displacement of people of color, low-income groups, and immigrants?

4) Municipalities should sponsor public education campaigns to raise local and community awareness about fair housing and its scope, and to help respond to community opposition to fair housing that may be based on misinformation of local history or misperceptions about affordable housing and options, such as the Section 8 program.

Community opposition can represent a major obstacle to overcoming fair housing violations or remedies. As suggested by one person, however, community opposition can reflect a lack of knowledge about fair housing as a legal dynamic: “Community opposition...be very intentional and we live in a city that primarily elects liberals. I also do not see enough collaboration between city/county/state/federal agencies. Lastly, there is a huge lack of fair housing outreach and enforcement. I am also a property manager and I often get a question or comment: “will you accept my section 8 housing voucher, since many others don’t?”. I have to remind them that state law forbids anyone from not accepting housing vouchers.”

Misplaced stigma associated with low-income groups or others means that there is a need for platforms where community members can discuss their aspirations and concerns regarding housing and community development. "We need to have community conversations... People need to be able to express their aspirations and concerns." There should be emphasis "...on the importance of understanding the complexities of housing and community development from various perspectives. The dialogue underscores the need for collaboration, understanding, and flexibility to address the challenges of fair housing effectively.”

Strengthening anti-discrimination against Section 8 voucher holders requires three things: 1) Public education about Section 8 and tenants should be expanded to reduce the stigma associated with the program. Part of the general education should seek to “re-brand Section 8” so it does not have a stigma. 2) Vigorous enforcement against discrimination must be clear and consistent. And 3) Requirements to affirmatively market fair housing should be implemented consistently.

The Fair Housing Alliance of Massachusetts has developed a website with helpful information about pursuing these steps.⁴⁹

Municipalities should encourage and reward development project proposals that respect and integrate the culture and history of existing communities to guard against displacement, but that are not exclusive in terms of fair housing goals. To reduce divisiveness, which can slow anything, municipal leadership must foster collaboration and communication and create platforms for open conversations between developers, consumers, policymakers, and community members about the future of their communities and the importance of fair housing. Local government should work with public schools, institutions of higher education, a range of community partners to expand knowledge about the history of fair housing and how it touches more than just ‘protected classes.’ Such collaboration could even generate potential funding for planning and implementation. Funding opportunities could be investigated in partnership with FHAPs and FHIPs.

5) Municipalities and community partners should continue exploring innovative strategies that can stabilize or reduce the cost of land, such as land banking, community land trusts, vacancy taxes, or public land acquisition for affordable housing. This should include facilitation of discussions -and debates- about local rent control given the current and continuing equitable and affordable housing crisis.

At least one federal resource that should be explored to advance fair housing is the Section 108 Loan Program, which provides “...Community Development Block Grant (CDBG) recipients with the ability to leverage their annual grant allocation to access low-cost, flexible financing for economic development, housing, public facility, and infrastructure projects. Communities can use Section 108 guaranteed loans to either finance specific projects or to launch loan funds to finance multiple projects over several years.” Further,

“Section 108's unique flexibility and range of applications makes it one of the most potent and important public investment tools that HUD offers to state and local governments. It is often used to catalyze private economic activity in underserved areas in cities and counties across the nation or to fill a financing gap in an important community project. The program's flexible repayment terms also make it ideal for layering with other sources of community and economic development financing including, but not limited to, New Markets Tax Credits (NMTC), Low Income Housing Tax Credits (LIHTC), and Opportunity Zone equity investments.”⁵⁰

Massachusetts received a Section 108 Loan Authority for \$167,991,145 as reported for 2022. But some municipalities may not be tapping this innovative funding opportunity which can be used to expand the supply of affordable housing for protected groups.

⁴⁹ See, <https://www.mafham.org/voucher-discrimination>.

⁵⁰ See, “Current Availability of Section 108 Financing” at: https://www.hud.gov/program_offices/comm_planning/section108.

Other options were identified by interviewees and explained in the literature. Though unpopular in some circles, municipalities should continue to consider forms of rent control as a local option. The popularity of the latter may be growing given the extraordinary and continuing rise in housing costs and rents. A related idea: "...Maybe fixed-rate housing units, elderly, and handicapped are becoming homeless because their fixed income makes it hard to find a place to live. It would be great to see housing built only for people on fixed incomes. Their income is not enough to pay rent, utilities, and food. The need is just so great."

The East Boston Community Development Corporation offers a recent innovative example regarding housing affordability in the midst of rising housing costs. It shows how creative partnerships can help to maintain housing stability that is affordable for long-time residents -and this in a place where the development pressures are intense.⁵¹ The recent opening of Morton Station Village in Mattapan, Boston is another example. This is a 40-unit complex of mixed-income housing built on vacant land. A partnership among the city, the state, and a local CDC, the Caribbean Integration Community Development (CICD) guaranteed 28 units of rental housing, and 12 for homeownership for residents earning 30% to 100% of the Area Median Income (AMI). The units comprise of 1-, 2- and 3- bedroom units ensuring accessibility for families.⁵²

Many cities and towns have a lot of vacant and publicly owned land. The Affordable Housing Act calls for certain kinds of vacant properties to be placed in receivership and turned over to nonprofits for development. Some parcels should be considered to develop or rehabilitate as community land trusts. Recently, The Boston Foundation released its latest housing report for Massachusetts featuring this approach to affordable homeownership. Community land trusts, or CLTs, were highlighted as a way to keep land and housing affordable for low-income and working-class residents. It was also explained that CLTs represents a tool for the building of wealth and closing racial wealth gaps in Massachusetts. This is an ideal response for increasing affordable housing and racial integration in many suburban towns and cities.⁵³

⁵¹ <https://eastietimes.com/2023/02/08/wu-cdc-celebrate-housing-plan/>

⁵² [https://www.boston.gov/news/grand-opening-morton-station-village-mattapan-celebrated:](https://www.boston.gov/news/grand-opening-morton-station-village-mattapan-celebrated;)

Other collaborative models for these kinds of partnerships can be found on the website for Massachusetts Home Partnerships at: <https://www.mhp.net/news/2023/groundbreaking-for-affordable-units-held-at-site-of-former-rest-home>.

⁵³ Boston Indicators and The Boston Foundation, *The Greater Boston Housing Report Card 2023 with a Special Analysis of Community Land Trusts*, at: <https://www.tbf.org/-/media/tbf/reports-and-covers/2023/gbhrc2023-full-report.pdf>.

The table below shows a breakdown of types of vacant units reported as “Other Vacant,” units that are not being sold, or rented, or occupied.⁵⁴

City	Total Units	For Rent	Rented, Not Occp	For Sale Only	Sold Not Occp	For Seasonal, Recreation	For Migrant Work	Other Vacant
Arlington	874	298	94	110	0	60	0	312
Belmont	506	105	33	23	0	116	0	229
Boston	28487	7472	3437	1208	5461	4980	9	5920
Braintree	701	197	79	207	21	22	0	175
Cambridge	4189	1237	303	60	136	731	0	1722
Chelsea	597	197	82	21	39	8	0	250
Dedham	505	289	11	27	48	42	0	88
Framingham	1024	318	95	0	15	27	0	569
Haverhill	1069	345	49	79	115	27	0	454
Hingham	0	0	0	0	0	0	0	0
Hull	1322	84	0	26	0	833	0	379
Lawrence	1246	622	47	113	45	0	0	419
Lowell	1844	783	73	196	68	111	0	613
Malden	1409	245	103	132	36	167	0	726
Medford	1488	462	39	32	145	136	0	674
Melrose	280	0	0	12	69	17	0	182
Milton	454	49	0	49	68	47	0	241
Needham	298	47	0	65	86	100	0	0
Peabody	736	155	0	60	0	99	0	422
Quincy	2273	670	75	23	98	105	0	1302
Reading	263	17	91	19	46	59	0	31
Revere	1828	547	104	222	118	14	0	823
Salem	1211	183	103	79	113	133	0	600
Saugus	673	12	93	109	133	56	0	270
Somerville	2162	235	134	191	163	183	0	1256
Watertown	775	150	36	86	0	121	0	382
Weymouth	919	114	0	74	56	159	0	516
Winthrop	453	97	0	25	43	178	0	110
Woburn	856	333	94	43	55	64	0	267
Brookline	1512	215	362	106	183	380	0	266

Source: American Community Survey 5 Year Estimates, 2017 - 2021

Municipalities should aggressively approach rental units off the market as a potential resource for building affordable housing and strengthening fair housing. One person believes that “...deteriorated or abandoned properties is a huge, huge issue... and then once that home has caught fire, it's usually like nothing's ever done with it.” Another interviewed echoed a similar

⁵⁴ The census bureau categories vacant housing units as For Rent; Rented, Not Occupied; For Sale Only; Sold, not Occupied; For Seasonal, Recreation, or Occasional Use; For Migrant Workers; and Other Vacant. The Other Vacant units are vacant but not on the market or in use; see, https://www2.census.gov/programs-surveys/acs/tech_docs/subject_definitions/2020_ACSSubjectDefinitions.pdf.

observation, noting that these kinds of unattended properties are "...often owned by absentee landlords, leading to safety concerns, and negatively impacting the quality of life in the community. There also can be a lack of public investment in certain neighborhoods, resulting in poorly maintained parks, streets, and lighting. Depending on the nature and location of abandoned or distressed, off-the-market vacant units, local governments should seek to use this as a resource for cooperative housing and advancing fair housing: "Cooperative housing can be a sustainable model for affordable housing solutions."

Part of this strategy would be to review building codes for old or unused buildings that might be obstacles to rehabilitation into affordable housing. According to one study, this is a source for affordable housing that might be overlooked due to outdated building codes:

“Current policy conversations regarding the critical need to increase the availability of affordable housing rarely include discussions regarding the reuse of existing and historic buildings, including the thousands of vacant housing units on Main Streets across the United States. Recapturing these spaces has many advantages, including carbon-reduction, expanded use of existing infrastructure, and building or strengthening communities.”⁵⁵

The authors of this study conclude that “Research is needed to evaluate current code barriers and performance criteria for existing versus new buildings. Researchers must identify unique solutions adopted by jurisdictions, with the long-term goal of influencing the model code(s).”⁵⁶

6) Municipalities should review private real estate practices and other actions associated with displacement of renters or tenants, or homeowners, including predatory lending for mortgages.

There has to be continual monitoring and enforcement of fair housing on the part of the real estate and development sectors. Speculative practices are especially detrimental to maintaining genuinely affordable housing. Some approaches are emerging across Massachusetts. For instance, in 2022, Boston became the first city in the nation to impose an assessment of affirmatively furthering fair housing requirements in its zoning code directed at proposed developments encompassing 50,000 square feet or more.⁵⁷

⁵⁵ Marilyn E. Kaplan and Mike Jackson, “Hiding in Plain Sight: How Reconsideration of Codes for Existing and Historic Buildings Can Expand Affordable Housing” *Cityscape: A Journal of Policy Development and Research* 25, 2 (2023), p.403.

⁵⁶ Ibid., p. 410; also see, The Editorial Board, How to turn blighted properties into the new housing Massachusetts needs, *The Boston Globe* (November 19, 2023); at: <https://www.bostonglobe.com/2023/11/19/opinion/blight-housing-crisis/?event=event12>.

⁵⁷ See Press Release, City of Boston, Boston to Become First Major City in the Nation to Include Fair Housing Requirements in Zoning Code (Dec. 9, 2020), <https://www.boston.gov/news/boston-become-first-major-city-nation-include-fair-housing-requirements-zoning-code>.

One model for ensuring that the link between public transportation and increasing the supply of housing adheres to fair housing standards is offered by Action for Equity and its “Special Protections for Transit Corridors” initiative in Boston and the region. Their position paper states,

“Transit improvements are important to our communities because they provide access and mobility and improve air quality, etc., and many community organizations have worked hard to make such projects happen, but we recognize that additional protections/steps are needed to ensure that current community members, especially people of color and low-moderate income residents, aren’t displaced and get to benefit from the improvements. New transit stops are attracting new development, higher property values, and higher rents. Although these problems exist in all neighborhoods, transit corridors are experiencing a more rapid rate.”⁵⁸

This organization, long involved in transit and housing justice issues for the region focuses on protecting renters from unjust evictions; resisting predatory sales and flipping practices; tax abatements for landlords who keep their rents affordable; and generation of a capital pool for land trusts and non-profit organizations to purchase land in transit corridors for development; increasing late night access to safe public transit.

Data can be collected and analyzed regarding changes in residential patterns or residential mobility that development might trigger. Municipalities should use a range of tools to limit and reduce the displacement of long-time residents. For example, renters and tenants should have right of first refusal where landlords are facing foreclosures. Also, places where BIPOC communities have been in place for a long time and served as home for generations of its residents must be protected or buffered from the negative effects of speculation and displacement. Also noted earlier, speculative real estate and development activity has to be monitored; a laissez-faire approach to this activity is to be discouraged.

There are already indications that corporate landlords are buying property where they can find it at lower costs, and then flip for higher paying market rates with a few affordable units on the side. As noted in a study, “As more and more affordable homes are gobbled up by corporate landlords, prospective Black homebuyers are seeing opportunities for homeownership dry up.”⁵⁹ This problem has given rise to another potential tool:

“Over the last several years, in the wake of increasing tenant displacement and housing insecurity, almost two dozen U.S. cities and a couple of states have considered passing laws that give residents and nonprofits first dibs on buying multifamily properties... The policies—often called “right of first refusal” or tenant opportunity/community opportunity to purchase laws—serve as anti-displacement tools that can help preserve affordable homes. And so far, officials who work in places that have passed these policies say they’re working... Since 2018, five cities have passed some version of these laws,

⁵⁸ Email, Marvin Martin, *Action for Equity*, “SPZ One Pager II” (October 25, 2023).

⁵⁹ Bo McMillan and Reggie Jackson, “Corporate Landlords Profit from Segregation, at Cost of Black Homeownership and Wealth” *Shelterforce* (October 19, 2022).

according to PolicyLink, a research and advocacy organization that has been tracking these policies.”⁶⁰

Reviews of vacant units *off the market* should occur annually. Hundreds of vacant units are not for rent or sale in many cities in the Greater Boston region. Municipalities should proactively use abandoned and deteriorated properties, and public land, as a rehabilitative tool for affordable housing and enforcing fair housing requirements. This is related to a proposal by one observer, “One important tool the city and state should wield is to stop leasing or selling their land to the highest bidder and instead devote underused and industrial properties to mission-driven affordable housing developers, community development corporations, and others willing to build deed-restricted units.”⁶¹

The earlier Massachusetts Department of Housing and Community Development described criteria for evaluating project sponsors and developers regarding adherence to fair housing.⁶² This included requirements such as information and data about impacts on race, national origin, familial status, and accessibility. It included the reporting of the diversity of housing in terms of building types to ensure that larger families would be included and not be left out. Compliance with design accessibility requirements, as well as Lead Paint protocols would also be an evaluative criterion. It included reviews of discriminatory complaints filed against developers, and a plan for affirmative fair marketing of the proposed development.

7) Municipalities can help to reduce barriers to housing assistance for vulnerable groups and protected classes by becoming more aggressive in affirmatively marketing available housing opportunities.

This is a two-pronged approach: reducing bureaucratic hurdles to housing assistance and affirmatively marketing available housing opportunities in a municipality. One community leader gives an example of bureaucratic hurdles facing some vulnerable groups:

“An elderly individual eligible for a voucher faces challenges navigating the application process due to limited access to technology or difficulty understanding the requirements. It's important to note that these impediments can interact and compound, making it even more challenging for individuals and families to access housing in areas of their choice despite having rental assistance vouchers. Efforts to address these impediments often involve policy changes, advocacy, community engagement, and collaborative efforts between housing agencies, landlords, and advocacy organizations.”

⁶⁰ Padmini Raghunath, “How It’s Working: Laws That Help Tenants and Nonprofits Buy Buildings,” *Shelterforce* (September 7, 2023).

⁶¹ Tamara Roy, “Living Compact” in D. Gamble, Ed., *Idea City: How to Make Boston More Livable, Equitable, and Resilient*, University of Massachusetts Press (2023), p. 38.

⁶² Massachusetts Department of Housing and Community Development (DHCD), *Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines*, Table 4: Fair Housing Evaluation Criteria for Project Sponsors/Developers (April 2009 and Updated May 2013), p.21; at <https://www.mass.gov/files/documents/2016/07/oj/afhmp.pdf>

A second component of this recommendation calls for affirmatively marketing housing opportunities by targeting families with children, or Section 8 voucher holders. As is required for the awarding of Low-Income Housing Tax Credits in Massachusetts, concrete plans for how municipalities will ensure that others are aware of current or future opportunities for affordable housing should be clear and transparent.⁶³ Given the steep rising housing costs, part of this action means renters must be elevated for better protection against displacement. Tenants in low-income and working-class communities should also have the resources to organize policies and real estate practices that protect against displacement. Here, inclusionary zoning can be strengthened and expanded as a tool to preserve the stock of affordable housing.⁶⁴

Since Implementing Affirmative Fair Housing Marketing is a HUD requirement, municipalities should review existing marketing plans and ensure that the town or city is in compliance. Based on HUD's Handbook:

“The purpose of the AFHM requirements is to promote a condition in which individuals of similar income levels in the same housing market area have available to them a like range of choices in housing, regardless of the individual's race, color, religion, sex, handicap, familial status, or national origin. They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act and ensure positive outreach and informational efforts to those who are least likely to know about and apply for the housing in question. Each applicant for participation in housing programs of the Department of Housing and Urban Development (HUD) shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, and in advertising the availability of housing properties.”⁶⁵

If such plans are missing, then it must be made clear to all parties, including real estate professionals and developers, that they are required and enforceable; the general public should also be made aware of the legal need for these kinds of marketing plans. HUD has described situations and provided examples of where these plans are required and how they can be satisfied.

8) Municipalities should expand collaboration between fair housing entities, nonprofit housing organizations, and public housing.

There can be a host of problems associated with public housing that might violate fair housing, ranging from aging buildings and environmental injustices, services not tailored to new groups of

⁶³ See, Janelle Taylor, Robert Lindsay, and Philip Tegeler, “Building Opportunity III: Affirmatively further fair housing in Low Income Housing Tax Credit Program” *Poverty and Race Research Action Council* (PRRAC), (October 2023).

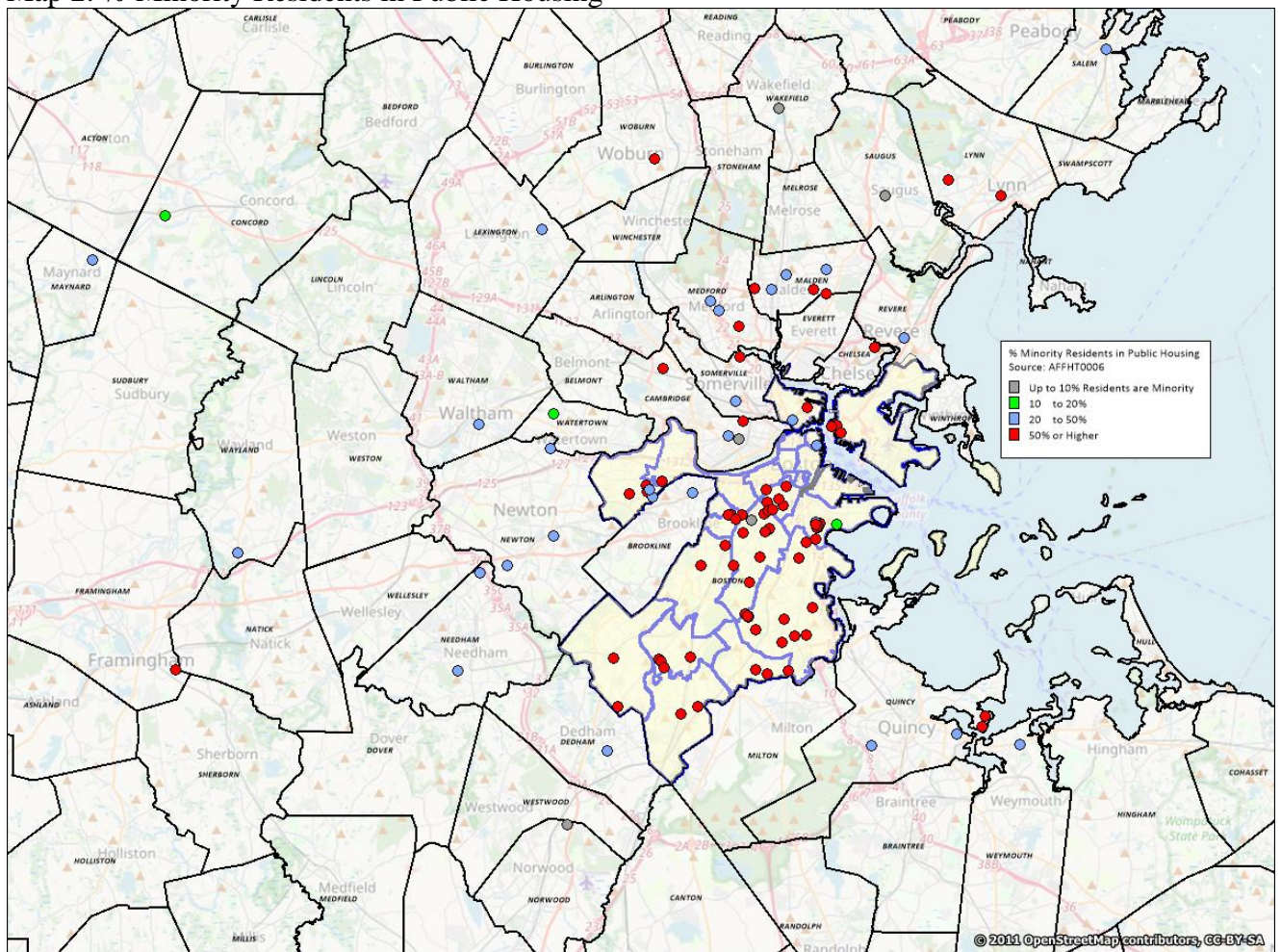
⁶⁴ See: <https://www.cambridgema.gov/CDD/housing/inclusionaryhousing>;
<https://www.newtonma.gov/home/showpublisheddocument/67974/637533290757270000>.

⁶⁵ U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity, *Implementing Affirmative Fair Housing Marketing Requirements Handbook* (8025.1), April 1993, Introduction Section 1-3; at: https://www.hud.gov/program_offices/administration/hudclips/handbooks/fheo/80251.

residents, or administrative obstacles to residents seeking access to public housing. “Affirmatively furthering fair housing” would also require local governments to review the population distribution of public housing by race and ethnicity and how it might be similar or different from other parts of the city. Part of this charge would be to assess where public housing located in terms of quality schools and accessible and equitable public transportation.

The map below shows the location of project-based public housing in the Boston metropolitan region by proportion of minority residents (Black, Latino/a, and Asian). Some places suggest visually that the proportion of minority public housing residents (as reported by HUD July 2020) might be much higher than the city’s overall minority population proportion. If this is the case, then municipalities should investigate what might explain these kinds of patterns.

Map 2: % Minority Residents in Public Housing



It is important to break down the category by Black, Latino/a, and Asian since the imbalance between these groups of public housing residents and the overall proportion in the total population might look starker.

Concluding Thoughts about Community Participation and Community Organizing as Key

We end this report with a reminder that one of the most essential themes expressed by interviewees and study participants is that community participation and community organizing are critical for advancing fair housing in the Greater Boston region. The need for more substantial and sustained community participation and organizing cuts across all the recommendations.

According to national housing justice advocates, significant policy changes and practices regarding fair housing require the “centering the voices of people most affected by systemic barriers and inequities in housing.”⁶⁶ In fact, “Community organizing creates opportunities for residents to connect with systems of power and enact change”⁶⁷. Raising awareness about fair housing can also lead to greater civic participation in communities and public housing. This also encourages low-income residents, people of color, and people living in public housing to become more vocal about their needs and to mobilize for equitable responses because they know the law, and the law is on their side. This will definitely serve to enhance the quality of life of all residents in Greater Boston and its cities and towns.

“Organizing groups have been at the forefront of efforts to advance housing justice in areas such as civil rights for people experiencing homelessness, policies to protect renters from high rents and evictions, acquiring property and land for housing, and protections against neighborhood displacement.”⁶⁸ *Action for Equity* suggests that local participation is essential for generating support for its ‘Special Protections for Transit Corridors’ proposal. They propose that a “Winning requires...A large pool of committed local leaders with the time to both build the bridges to work together and work with all the stakeholders, public and private, who are involved; Residents and experts working together to develop key policies; and Community activists and residents mobilized to join in the fight for equitable, community stabilization.”⁶⁹

These sectors and groups represent enormous resources for enhancing the intersectoral framework of fair housing. As proffered by one interviewee, “Perspectives that are not typically heard include those of tenants, those facing potential eviction or displacement, and those at risk of homelessness and facing housing instability. I also do not think we hear enough from people who work in Massachusetts and have a hard time finding a place to live closer to where they work.” Yet, these voices and intersectoral bridges are critical to strategies for advancing fair

⁶⁶ [Amy Gillman](#), [Liz Ryan Murray](#) & [Mike Koprowski](#) “Driving Change in Housing Policies With Advocacy and Organizing” *Stanford Social Innovation Review*, (Nov. 10, 2022).

⁶⁷ *Pursuing Housing Justice: Interventions for Impact*, The Urban Institute; at:

<https://www.urban.org/apps/pursuing-housing-justice-interventions-impact/community-organizing>

⁶⁸Ibid.

⁶⁹ Email correspondence with Marvin Martin, *Action for Equity*, “SPZ One Pager II” (October 25, 2023).

housing in Greater Boston. Community participation and community organizing are key dynamics that will link the recommendations as noted above and represent a space for voices that may not be at the table involving the protection and advancement of fair housing.

Community participation and organizing can lead to fair housing awareness as a potential base for greater municipal collaboration working together to increase affordable housing for everyone. This can be a formula for raising local consciousness about ‘fair share’ in the building of affordable housing within a fair housing lens. “Fair share” was mandated in the state of New Jersey based on its state constitution. Due to the efforts of community activists in that state, such as Elizabeth R. Lawrence, known as the “Rosa Parks of affordable housing,” the state’s Supreme Court declared in the Mount Laurel II (1983) decision that individual New Jersey towns were responsible for full implementation of its ‘fair share’ of affordable housing, and especially for low-income and moderate-income families.⁷⁰ This enhanced a spirit of collaboration among some towns in that state.

Local government leaders can be ‘bully pulpits’ for expanding civic dialogues and discourse about affordable housing and fair housing. Through civic and community discussions and enforcement, there is greater possibility of support for affordable housing strategies that adhere to fair housing. Municipalities should engage public and private higher education, and foundations in facilitating community participation and organization about fair housing and community development. Foundations, especially, can support long-term and flexible funding for community organizing regarding these issues. This can include community forums where residents can express their aspirations *and concerns* regarding housing and new regulations or requirements. It can also involve residents in the planning and decision-making processes for housing projects in their neighborhoods, again, within a fair housing context. Massachusetts must ensure that housing development processes are transparent and that communities are engaged as crucial partners for upcoming local projects. Enhancing an understanding of fair housing and its obligations and opportunities is critical for this to occur. The state, municipal, and community recommendations proposed in this report can serve to make this happen.

⁷⁰ <https://www.fairsharehousing.org/about/>

Appendix A: Methodology

Thirty-seven community and civic activists working in the Boston Metropolitan Region and other parts of Massachusetts were interviewed over two phases in 2023 to understand local obstacles and challenges in implementing fully fair housing regulations and activities.⁷¹

Individuals were first selected as potential interviewees and focus group participants based on news reports describing community work directly or indirectly related to fair housing issues.

A wide net was cast in identifying interviewees outside of Boston including individuals not directly involved with fair housing but familiar with various community issues in their towns and cities. Though interviewees and study participants do include a few individuals engaged in fair housing directly, most represent a pool of civic leaders and community activists in the areas of real estate, public housing, public health, environmental justice, local business development, public education, community development, architecture and design, and workforce development. These individuals have a range of professional and civic experiences and are based in cities and towns in the Greater Boston region and across Massachusetts.

The first phase of interviews was based on an open-ended interview instrument but structured by questions reflective of the literature review. Interviewees were presented with an introductory overview of impediments to fair housing as described in the Massachusetts Department of Housing and Community Development, *2019 Analysis of Impediments to Fair Housing Choice*.⁷² Specifically, the section in the latter, “Impediments to Affirmative Furthering Fair Housing Goals/Contributing Factors to Fair Housing Issues”⁷³ was utilized to build a set of related queries regarding fair housing in Massachusetts. The second phase of interviews was more open-ended and targeted around specific issues related to fair housing. A focus group composed of study team members and others was conducted in December 2023 to review initial findings and recommendations.

The project team reviewed fair housing-related reports for cities and towns and for the state of Massachusetts to explore themes and key findings relevant to the study. News accounts of fair housing and racial discrimination were reviewed. Also included was a summary and analysis of currently proposed housing bills in the Massachusetts House of Representatives and State Senate. Data collection included a review of housing-related variables reported in the 2020 decennial census and the American Community Survey. The study team utilized demographic, economic, and housing data previously collected by various organizations.⁷⁴

⁷¹ The Boston metropolitan region was used as a general target area for identifying potential community and civic activists who might provide insights about fair housing. In addition to a few interviewees who reside in Boston, interviewees included those who work on a range of community and civic issues in Abington, Arlington, Newton, Lawrence, Stoughton, Brockton, Somerville, Worcester, Holyoke, Cambridge, Belmont, Chelsea, Salem, Quincy, Sudbury, Acton, Taunton, and Lowell. See Appendix B for list of interviewees and study participants.

⁷² <https://www.mass.gov/doc/analysis-of-impediments-to-fair-housing-choice-2019/download>.

⁷³ Ibid.

⁷⁴ For example, see data and information collected by MAPC, <https://datacommon.mapc.org/gallery/2021/february>; also, housing data analyzed by The Boston Indicators at: <https://www.tbf.org/gbhrc2022>.

Appendix B: Interviewees and Study/Focus Group Participants⁷⁵

Zakiya Alake
Jessica Andors
Suezanne Bruce
Adam Chapdelaine
Norieliz Dejesus
Juan Evereteze
Joseph D. Feaster, Jr., Esq.
John Fisher
Dr. Jessie Gaeta
Jose Gonzalez
Ericka Hernandez
Cheryl Hill
Annesia Jimenez
Richard Juang, Esq.
Beatrice Kleppner
Maria Latimore
David Lee
Ana Luna
Dr. Neenah Estrella Luna
Allentza Michel
Muthoni Muriu
Dr. Carline Pignato
Gonzalo Puigbo
Jennifer Raitt
Marie-Frances Rivera
Shelby Robinson
Dr. Gloria Caballero Roca
Sally Sanchez
Ester Schlorhotz
Judge Sonja Spears
Hanalei Steinhart
Derrick A. Todd
David Turcotte
Gladys Vega
Travis Watson

⁷⁵ Two interviewees requested anonymity; several individuals insisted that they were offering personal views about advancing fair housing and not necessarily their organizations' positions; therefore, this list only includes the names of interviewees and study participants.

Appendix C: Open-End Interview Questions

In 2019 Massachusetts completed an Analysis of Impediments to Fair Housing where it identified the following 38 obstacles as impediments to Fair Housing:

- . Impediments to mobility to areas of choice (including...federal or state rental assistance vouchers)
- . Community opposition (i.e., to housing developments, including subsidized or affordable housing, multifamily housing, or housing for persons with disabilities)
- . Land use and zoning
- . Occupancy codes and restrictions
- . Lack of regional cooperation or inter-agency cooperation
- . Lack of community revitalization strategies
- . Displacement of residents due to economic pressures
- . Availability of affordable units in a range of sizes
- . Lack of affordable, accessible housing in a range of unit sizes
- . Lack of affordable in-home or community-based supportive services
- . Lack of affordable, integrated housing for individuals who need supportive services
- . Lack of assistance for housing mobility modifications
- . Lack of assistance for transitioning from institutional settings to integrated housing
- . Availability, type, frequency, and reliability of public transportation
- . Location of proficient schools and school assignment policies
- Location and type of affordable housing
- . Location of accessible housing
- . Access to financial services
- . Location of employers
- . Location of environmental health hazards
- . Deteriorated or abandoned properties
- . Lack of private investment in specific neighborhood
- . Lack of public investment in specific neighborhoods, including services or amenities
- . Access to proficient schools for persons with disabilities
- . Access to transportation for persons with disabilities
- . Inaccessible buildings, sidewalks, pedestrian crossings, or other infrastructure
- . Inaccessible government facilities or services
- . Regulatory barriers to providing housing and supportive services for persons with disabilities
- . Siting selection policies, practices, and decisions for publicly supported housing, including discretionary aspects of -Qualified Allocation Plans and other programs
- . Admissions & occupancy policies & procedures, including preferences in publicly supported housing
- . Quality of affordable housing information programs
- . Private discrimination
- . Lending discrimination
- . Source of income discrimination
- . Unresolved violations of fair housing or civil rights laws
- . Lack of local fair housing outreach or enforcement
- . Lack of local public fair housing enforcement
- . Lack of resources for fair housing agencies and organizations”

1) Overall, which of the above impediments (can be more than one) are of critical importance in your experience(s) working on housing and fair housing issues?

2) Can you provide specific examples of the impediments you identified as critically important in your experiences working on housing and fair housing? And how they are being addressed?

- 3) What are major demographic changes in your city or town over the last 10 years or so? What is your perspective on how such changes have impacted the housing challenges in your city or town, today and for the near future? Please provide some specific examples. Is this information collected systematically by city agencies? Is this kind of information being utilized for planning/programming purposes?
- 4) What kinds of fair housing issues, or impediments exist in your city or town? Is intentional or unintentional discrimination a problem? Please elaborate. Do residents have mechanisms to report discrimination, or lack of fair housing enforcement?
- 5) How does your town or city pursue the required action, “affirmatively furthering fair housing”? Please share specific examples of successful solutions as well as persisting problems. Do you think that the term “affirmatively furthering fair housing” is widely understood by political and community leaders? How can we enhance broader understanding?
- 6) Would you describe your locality as having a problem of racial segregation? Do you believe that there are communities that have been historically excluded from your city or town, and if so, then why? Have there been opportunities for residents to examine the history of segregation in their communities? Do they have opportunities to share about experiences with segregation?
- 7) What actions would you recommend reducing or eliminate segregation, or to ensure that segregation does not occur? Legislation? Policies? Practices? And what are existing policies or practices should be changed to reduce segregation?
- 8) How would you describe the differences between ‘affordable housing’ and ‘fair housing’? Are you engaged in (or aware of) any public/private partnerships to develop affordable housing that seeks to affirmatively further fair housing?
- 9) How has real estate development impacted your city or town in terms of segregation? Displacement? If yes, then how so? Is gentrification a concern in your town or city? How is it being addressed? And, particularly important, are there strategies or activities, or policies that can ensure healthy real estate development without the effects of displacing residents?
- 10) How is fair housing enforced in the sale or rental of housing units?
- 11) Are you familiar with public housing in your city or town? What are some of the challenges facing public housing, particularly with regards to providing affirmative fair housing?
- 12) Who or which entities collect and monitor information related to fair housing? How is this information utilized/shared in the planning and monitoring of fair housing programming in your community?
- 13) What kinds of resources are needed in your city or town to ensure that there is adequate capacity to monitor and enforce fair housing?
- 14) How can zoning be used as a tool to support fair housing in your town or city? What zoning changes might you recommend for your own city or town to enhance fair housing?
- 15) How can transportation be used as a tool for fair housing in your community?
- 16) The 2019 AI Assessment included action steps to affirmatively further fair housing; these primarily involved DHCD or other state agencies; see below. What are some local actions that could be included under these strategic categories?

➤ *“Invest and develop policies to increase access to opportunity areas”*

- *“Invest and preserve resources to improve opportunities for a range of households in racially/ethnically concentrated areas of poverty”*
- *“Further access to opportunity through implementation of fair housing evaluation criteria for discretionary grants and/or impose fair housing conditions on grants to assure that future practices serve the goal of affirmatively furthering fair housing”*
- *“Further access to opportunity through reduction of local barriers to housing choice”*
- *“Expand accessibility”*
- *“Increase supportive housing”*
- *“Create/expand other state interagency coordination.”*

17) How might you describe the level of public or community awareness about fair housing issues, in general? What kinds of strategies might be most effective in your area for increasing public awareness and advocacy for fair housing?

Appendix D: Select Fair Housing Case Law⁷⁶

“Mount Laurel I:1975 and Mount Laurel II:1983

Key Finding: The decisions in Mount Laurel I and Mount Laurel II represent the first time a state Supreme Court held that zoning ordinances, which make it physically and economically impossible to provide low- and moderate-income housing, were unconstitutional, according to the state constitution. The decisions also established requirements for the state of New Jersey and its municipalities to provide affordable housing opportunities.

Village of Arlington Heights v. Metro Housing Development Corporation: 1977

Key Finding: The U.S. Supreme Court established a test to determine the presence of discriminatory intent under the Fourteenth Amendment's equal protection clause. On remand the Seventh Circuit Court of Appeals held that at least under certain circumstances, a discriminatory effect alone can establish a Fair Housing violation.

Town of Huntington v. Huntington Branch: 1989

Key Finding: The court found that a municipality's restrictive zoning for multi-family housing had an unjustified disparate impact on African Americans in addition to perpetuating segregation. It was on these bases that the court determined the municipality had violated the Fair Housing Act.

NAACP, Boston Chapter v. Secretary of Housing and Urban Development: 1989

Key Finding: These court decisions established a national standard of what it means to affirmatively further fair housing; a requirement that is applicable to HUD and HUD grantees.

City of Edmonds v. Oxford House, Inc. : 1995

Key Finding: The U.S. Supreme Court found that the definition of family, prescribed in zoning, is subject to challenges by the Federal Fair Housing Act.

Olmstead, Commissioner, Georgia Department of Human Resources, et al. v. L.C.: 1999

Key Finding: The court's ruling required states to eliminate unnecessary segregation of persons with disabilities and established the principle that people with disabilities should receive benefits, services, and housing in the most integrated community setting appropriate to their individual needs.

Dews vs. Town of Sunnydale, TX: 2000

Key Finding: The court's decision reinforced the standard that municipal zoning powers can be found discriminatory under the Fair Housing Act if the jurisdiction enacts zoning measures that exclude housing for one or more protected classes.

Tsombanidis v. West Haven Fire Department: 2003

Key Finding: The court found that a municipality intentionally discriminated against a group home where the evidence showed that the residents' disability was a motivating factor in code enforcement actions, and that the municipality failed to reasonably accommodate the residents when it denied a zoning variance.

Wisconsin Community Services Inc. v. City of Milwaukee: 2006

Key Finding: The court found that the duty to make reasonable accommodations/modifications is an independent basis for liability under both the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA). This duty applies to municipal zoning.

Anti-Discrimination Center of Metro New York v. Westchester County: 2009

⁷⁶ These selected cases and italicized descriptions are stated verbatim from “Fair Housing Case Law” at: <https://www.mapc.org/wp-content/uploads/2018/02/Fair-Housing-Case-Law.pdf>. Appreciation for this most important informative tool that could be included in this Report.

Key Finding: The case reinforced the principle that affirmatively furthering fair housing includes the obligation of HUD grantees to address racial and ethnic impediments to housing choice which is distinctly separate from the exploration of impediments based on income. The eventual reallocation of funds by HUD after Westchester's failure to meet the terms of the settlement stands as an example of HUD's actions in the face of noncompliance.

[Inclusive Communities Project v. Texas Dept. of Housing and Community Affairs: 2010, 2012](#)

Key Finding: The court held a state agency administering the Low Income Tax Credit program liable under the Fair Housing Act for creating a disparate impact through project siting decisions.

[St. Bernard Parish Court Cases: 2008-2013](#)

Key Finding: The court held St. Bernard Parish responsible for a series of zoning actions taken by the Parish that had the effect of discriminating against protected classes under the Fair Housing Act.

[Mt. Holly Gardens Citizens in Action Inc. V. Township of Mount Holly: 2011](#)

Key Finding: This case called into question whether disparate impact is a violation of the Fair Housing Act (FHA), even if there is no discriminatory intent. On appeal from the U.S. Court of Appeals to the U.S. Supreme Court, the case was settled by the parties before the Supreme Court hearing was held. The settlement agreement provided some relief for current residents in exchange for allowing redevelopment of their homes.

[NAACP, Boston Chapter v. Boston Housing Authority \(BHA\): 1989](#)

Key Finding: The BHA's tenant assignment practices were found to be racially discriminatory by the court.

[Langlois v. Abington Housing Authority: 2002](#)

Key Finding: The local preference policy instituted by a group of Massachusetts housing authorities was found to have an unlawful disparate impact.

[United States of America v. The City of Agawam, Massachusetts & others: 2002](#)

Key Finding: The U.S. Supreme Court ruled that Agawam's zoning, which did not permit agricultural worker housing, was discriminatory on the basis of race, color and national origin.

[City of Worcester v. Bonaventura: 2002](#)

Key Finding: The court system affirmed the police power of municipalities to use the legal/biological concept in defining "family" in zoning matters not involving persons with a disability.

[Eileen Standerwick et al v. Zoning Board of Appeals of Andover: 2006](#)

Key Finding: The Supreme Judicial Court found that the plaintiffs, in this case, lacked standing to challenge a comprehensive permit based on the diminution of property values.

[John Boothryd & others v. Zoning Board of Appeals of Amherst & others: 2007](#)

Key Finding: The court found that a community's fulfillment of their minimum affordable housing obligation under MGL Chapter 40B did not preclude the approval of additional comprehensive permits under Chapter 40B, and the creation of affordable housing.

[Zoning Board of Appeals of Amesbury vs. Housing Appeals Committee: 2010](#)

Key Finding: The court established that the scope of local zoning boards to issue conditions on comprehensive 40B applications is limited to matters related to the siting and design of the development.

[South Middlesex Opportunity Council \(SMOC\) v. the Town of Framingham: 2010](#)

Key Finding: "Discrimination under the Fair Housing Act includes delays in issuing permits that are caused in part by discriminatory intent, even if the permits are ultimately granted."

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