

PLANNING COMMUNITIES OF OPPORTUNITY:

WHY TWO KEY 2015 FEDERAL HOUSING
DECISIONS MATTER

KAPA SPRING CONFERENCE 2016
BOWLING GREEN, KY – MAY 19, 2016

PRESENTERS

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“a child’s course in life should not be determined by the zip code he’s born in, but by the strength of his work ethic and the scope of his dreams”

Barack Obama 2013

NEIGHBORHOOD EFFECTS IN 21ST CENTURY

1. Considerable **social inequality** between neighborhoods
2. Factors are connected in that **concentrated disadvantage** often coincides with the geographic **isolation** of racial minority and immigrant groups.
3. Crime and health-related problems tend to be bundled w/ neighborhoods and are **predicted** by concentration of poverty, racial isolation, single-parent families, housing instability.
4. Indicators at upper end (affluence, occupational attainment, etc.) tend to be clustered geographically.

Sampson, Robert. 2012. *Great American City: Chicago and the Enduring Neighborhood Effect*. University of Chicago Press.

REPORTED QUALITIES OF A GOOD NEIGHBORHOOD



Proximity to amenities and services



Safety



Proximity to schools or school bus stops



Quiet, tranquil, or calm atmosphere



Accessibility to transit



Street lights



Walkability



Sidewalks



Sense of community among neighbors



Well-kept properties

BIG HOUSING/COMMUNITY CHALLENGES

- Nationally, there are 3,800 census tracts where more than 40 percent of the population is below the poverty line— **70 percent** of those are also predominantly minority.
- Fair market rents > minimum wage
- median HH income has dropped for both homeowners and renters since 2008 (Massey 2015); Cost-burdened homeowners and renters remain high
- In 98 of the 100 largest metros, more than three-quarters of households with incomes below \$15,000, and more than half of those with incomes between \$15,000 and \$29,999, were housing cost burdened in 2013. (JCHS 2015).
- In 2013, 11.2 million renters with incomes this low competed for 7.3 million affordable units, leaving a shortfall of 3.9 million.

Joint Center For Housing Studies Of Harvard University. 2015. "The State Of The Nation's Housing." Available at http://www.jchs.harvard.edu/research/state_nations_housing

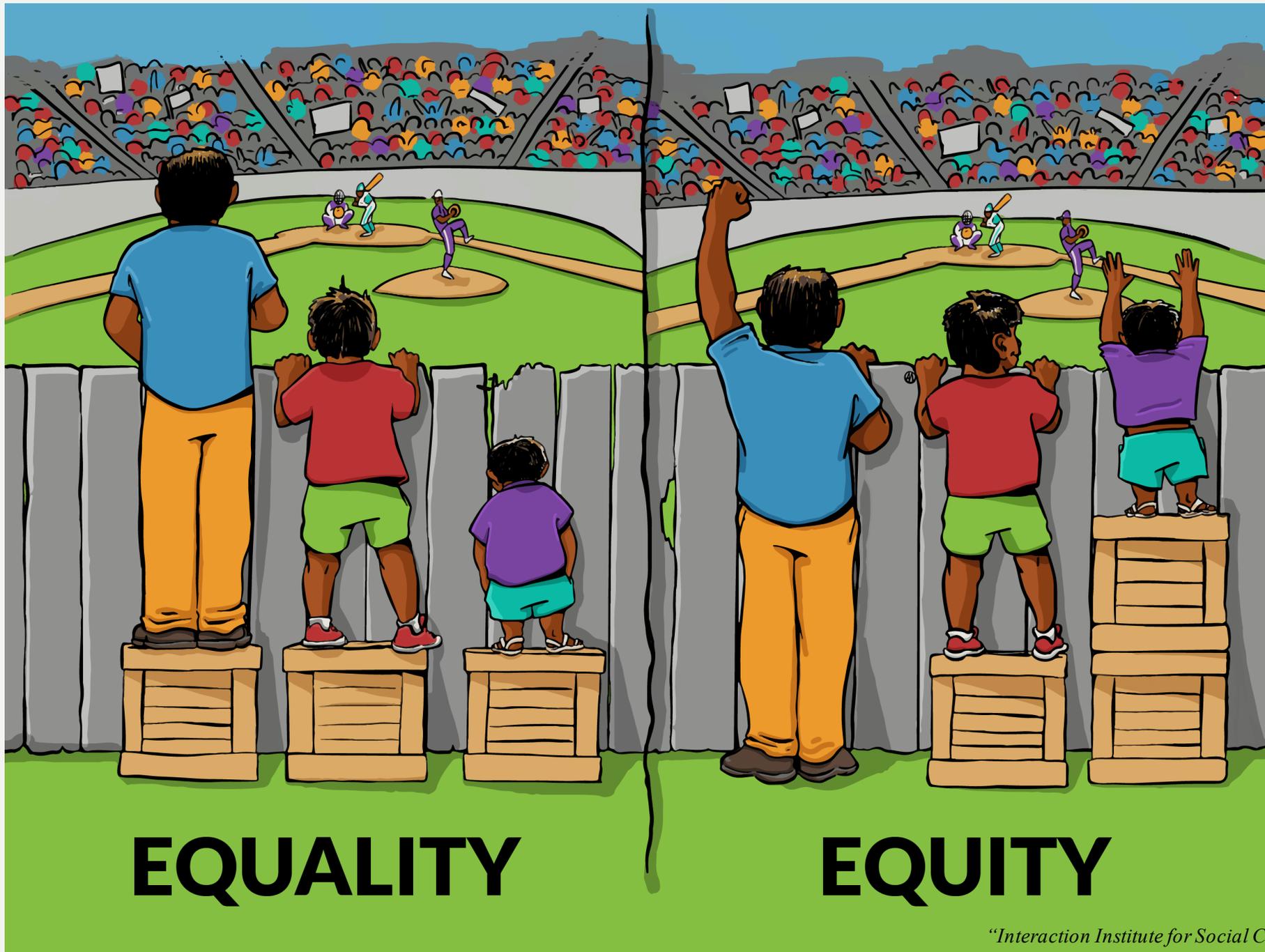
Massey, Douglas S. 2015. "The Legacy of the 1968 Fair Housing Act." Sociological Forum, Special Issue: Commemorating the Fiftieth Anniversary of the Civil Rights Laws Volume 30, Issue Supplement S1, pages 571–588.

KEY DECISIONS IN 2015



Source: Chris Geidner, BuzzFeed.com

- *United States Supreme Court decision Texas Department of Housing and Community Affairs et al. V. Inclusive Communities Project, Inc., et al.*—decided June 25, 2015
- U.S. Department of Housing and Urban Development's (HUD) Final Rule on Affirmatively Furthering Fair Housing (AFFH)



1968 FAIR HOUSING ACT



PURPOSE OF SESSION

- Key implications of two critical Federal legal actions occurring in 2015 that will affect local action that supports the requirements of the Fair Housing Act.
- HUD ruling and United States Supreme Court decision.
- Guide communities on how they can proceed with defensible action that satisfies the requirements under HUD rules and Fair Housing Act specifications.
- Overview of planning process
- inform participants and attendees about how they must consider and identify potential legal liabilities in their own communities and to be knowledgeable of their role in affirmatively furthering fair housing.

PRESENTATION OUTLINE

1. Introductions, Topic Intro and Presentation Overview
2. Overview of Key Elements of AFFH ruling and Supreme Court ruling
3. Discussion of what is at stake for Kentucky communities
4. Introduction to available tools for planners
5. Discussion of how communities can proactively align programs, policies and plans with AFFH ruling
6. Brief overview of what steps Louisville and Lexington have taken to address fair and affordable housing issues (in relation to AFFH)
7. Conclusion and Questions

AFFH PURPOSE

- To improve fair housing choice for all through fair housing planning, strategies, and actions.
- Provide clearer standards.
- Provide greater technical assistance by HUD.
- Ensure stronger accountability systems governing fair housing planning, strategies, and actions.
- Assess issues related to fair housing choice and identify fair housing goals that will inform housing and community development policy and investment planning.

FAIR HOUSING DEFINED

HUD DEFINITION:

“individuals and families having the information, options, and protection to live where they choose without unlawful discrimination and other barriers related to race, color, religion, sex, familial status, national origin or handicap.”

- There exists within the definition of fair housing choice three concepts of choice:
 - ACTUAL CHOICE – the existence of *realistic* housing options
 - PROTECTED CHOICE – housing that can be *accessed without discrimination*
 - ENABLED CHOICE – the availability and realistic access to sufficient *information* regarding options so that choice is informed

WHAT IS HUD REQUIRING?

- Participants create and develop an Assessment of Fair Housing (AFH), submit the AFH for review by HUD
- Incorporate the AFH into the Public Housing Assessment (PHA) and Consolidated Plans.

LIMITED EFFECTIVENESS OF FORMER PROCESS (AI)

- There not being any review by HUD of AIs
- HUD did not provide information or inform participants of the AI process
- There was no clear connection between the AI and *community planning efforts*.
- Failed to *incorporate leading innovations in sound planning practice* and not effectively using limited public resources to affirmatively further fair housing.

WHY ACTION NOW ON THE RULE?

- HUD has also envisioned this proposed to rule to address the “legacy of segregation and factors related to locational choice that have been influenced by race, national origin, disability and other protected classes.”

EXPECTED HUD RULE OUTCOMES/OBJECTIVES

1. Replacing the Analysis of Impediments (AI) with an Assessment of Fair Housing (AFH), which will use regional and nation benchmarks and data tools to facilitate the measurements of trends and changes over time.
2. HUD will provide data that program participants must consider in their AFHs.
3. There will be an incorporation of explicit fair housing plans into existing planning processes.
4. Encouraging and addressing regional approaches to fair housing issues
5. An integral component of the AFH will be the required inclusion of community participation.
6. Establish an approach to AFFH that requires a coordinated effort to combat illegal housing discrimination.

Id. 43711.

WHO IS AFFECTED BY THE RULE?

- Anyone who receives federal monies from HUD must create policies that ensure that affirmatively fair housing occurs.
- These groups are (1) Public Housing Agencies (PHA) and (2) Local governments and States that receive HUD funds through the following programs:
 - Community Development Block Grants (CDBG)
 - HOME Investment Partnerships (HOME)
 - Emergency Solutions Grants (ESG)
 - Housing Opportunities for Persons With AIDS (HOPWA)

WHAT IS THE ASSESSMENT OF FAIR HOUSING (AFH)?

New **tool** and document that participants will develop that will fulfill the statutory requirements of AFFH.

Report, that must provide an assessment of the elements and factors that cause or maintain four major situations that impact and limit housing choice in violation of the Fair Housing Act.

WHAT IS THE ASSESSMENT OF FAIR HOUSING (AFH)? (CONT.)

These four situations are:

1. Disparity in terms of access to community assets
2. Segregation
3. Racially or ethnically concentrated areas of poverty and
4. Disproportionate housing needs.

The AFH will also provide goals that the jurisdictions will undertake to correct these situations. The AFH will also be incorporated into the PHA Plan and Consolidated plan.



INTRODUCTION TO AVAILABLE TOOLS FOR PLANNERS

WHY DOES IT MATTER TO PLANNERS?

- **Specific Policy Position #1 B: Barriers to Housing Opportunity.**
- “Planners should **identify** and **reform** planning policies and zoning regulations at the state and local levels that are **barriers** to the creation of **affordable housing**, may exclude supportive housing, and are noncompliant with the **Fair Housing Act**, as amended.”

APA Policy Guide on Housing, Adopted by the Board of Directors, April 23, 2006



American Planning Association
Making Great Communities Happen

GUIDING PRINCIPLES

Data: What is going on here? Where do racial and income disparities exist?



Deliberation: How did we get here? What does this data mean?



Decision Making: How might this new information inform indicator development, new investments or planning decisions?

AFH PLANNING PROCESS

Ensure community participation throughout the fair housing planning process

Assess fair housing issues

Identify significant contributing factors

Prioritize contributing factors

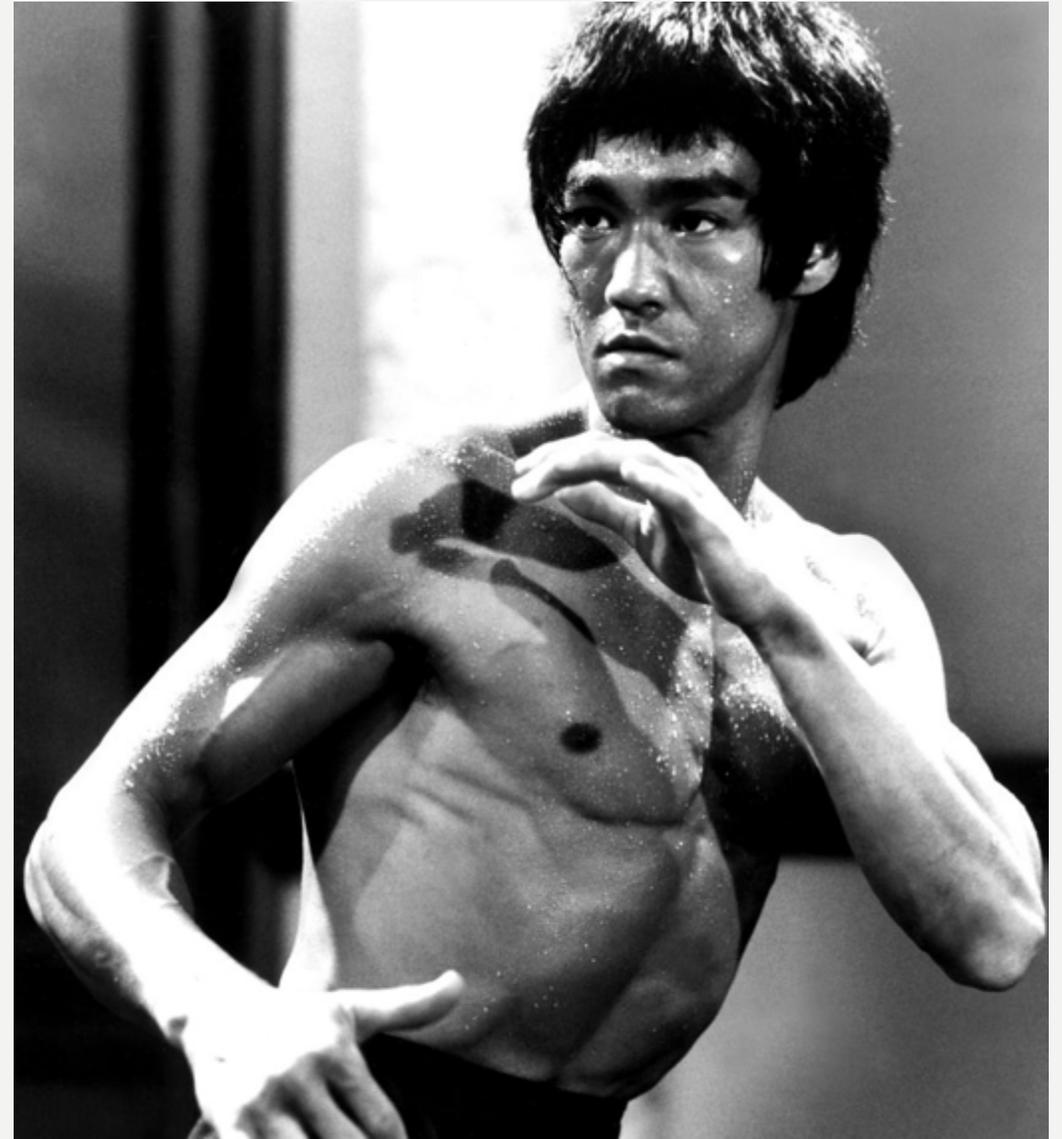
Set fair housing goals to overcome the prioritized contributing factors and related fair housing issues

Take meaningful actions to ultimately affirmatively further fair housing

MEANINGFUL ACTION?

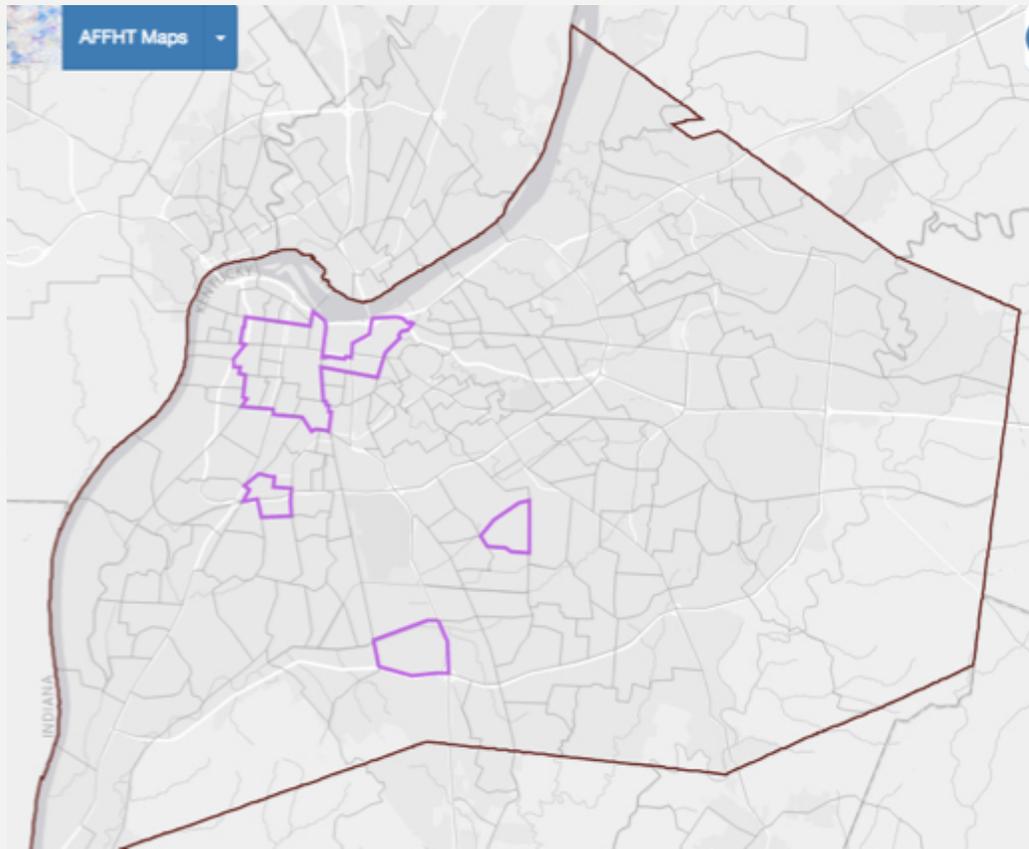
“means significant actions that are **designed** and can be reasonably expected to achieve a material positive **change** that affirmatively furthers fair housing by, for example, **increasing** fair housing **choice** or **decreasing disparities** in access to opportunity.”

See 24 C.F.R. § 5.152.



TWO KEY MEASURES REQUIRED BY AFH

Racially/ethnically concentrated areas of poverty (RCAPs/ECAPs)



Dissimilarity Index: Measuring Residential Segregation (>55 high)

Table 3 - Racial/Ethnic Dissimilarity Trends

| | (Louisville, KY CDBG, HOME, ESG) Jurisdiction | | |
|-----------------------------------|---|--------------|--------------|
| Racial/Ethnic Dissimilarity Index | 1990 | 2000 | 2010 |
| Non-White/White | 66.06 | 56.04 | 50.21 |
| Black/White | 70.64 | 63.98 | 58.71 |
| Hispanic/White | 22.81 | 33.00 | 41.74 |
| Asian or Pacific Islander/White | 35.56 | 35.90 | 41.81 |

AFFH TOOL : MAPPING (STEP 1)

Affirmatively Furthering Fair Housing Tool

Step 1: Pick your state.

KY

Step 2: Pick your jurisdiction

- Hopkinsville (CDBG)
- Lexington-Fayette (CDBG, HOME, ESG)
- Louisville (CDBG, HOME, ESG)**
- Owensboro (CDBG, HOME)

Region: **Louisville/Jefferson County, KY-IN**

Jurisdiction | Region

Choose a Map

US DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

POWERED BY esri

Esri, HERE, DeLorme, NGA, USGS

Gulf of Alaska

Labrador Sea

Atlantic Ocean

Caribbean Sea

COSTA RICA

AFFH TOOL : MAPPING (STEP 2)

Affirmatively Furthering Fair Housing Tool

Choose a Map :

- Map 1 - Race/Ethnicity
- Map 2 - Race/Ethnicity Trends
- Map 3 - National Origin
- Map 4 - LEP
- Map 5 - Publicly Supported Housing and Race/Ethnicity
- Map 6 - Housing Choice Vouchers and Race/Ethnicity
- Map 7 - Housing Burden and Race/Ethnicity
- Map 8 - Housing Burden and National Origin
- Map 9 - Demographics and School Proficiency
- Map 10 - Demographics and Job Proximity
- Map 11 - Demographics and Labor Market
- Map 12 - Demographics and Transit Trips

Back Go to Map

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

POWERED BY esri

HERE, DeLorme, NGA, USGS

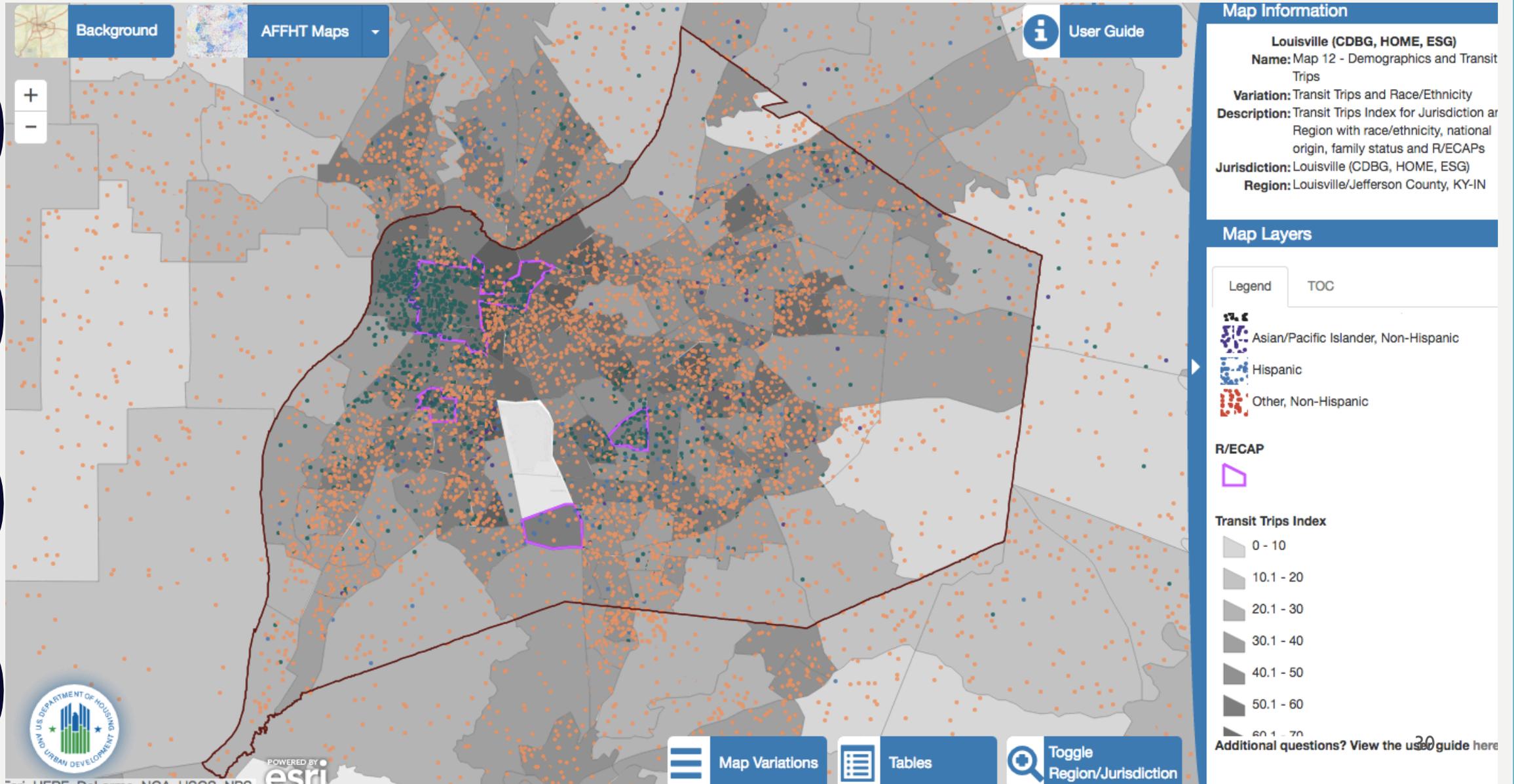
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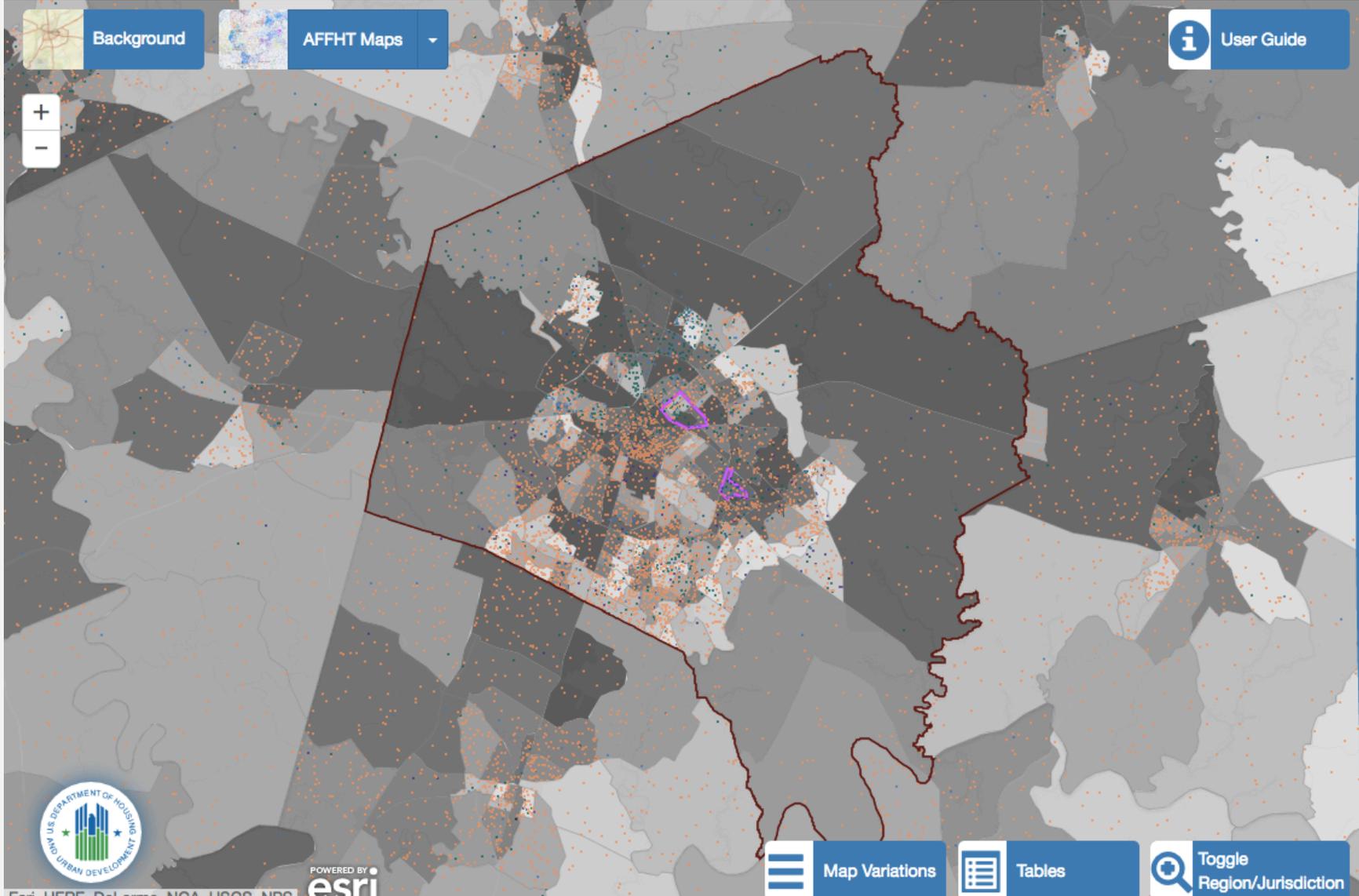
Caribbean Sea

COSTA RICA

Atlantic Ocean

MAP: DEMOGRAPHICS AND TRANSIT TRIPS





Map Information

Lexington-Fayette (CDBG, HOME, ESG)
Name: Map 10 - Demographics and Job Proximity
Variation: Job Proximity and Race/Ethnicity
Description: Jobs Proximity Index for Jurisdiction and Region with race/ethnicity, national origin, family status and R/ECAPs
Jurisdiction: Lexington-Fayette (CDBG, HOME, ESG)
 Region: Lexington-Fayette, KY

Map Layers

Legend TOC

Dot Value: 1 dot = 30

- Demographics 2010**
 1 Dot = 30 People
- White, Non-Hispanic
 - Black, Non-Hispanic
 - Native American, Non-Hispanic
 - Asian/Pacific Islander, Non-Hispanic
 - Hispanic
 - Other, Non-Hispanic

R/ECAP

Jobs Proximity Index
 0 - 10

Additional questions? [View the user guide here.](#)



POWERED BY **esri**

Map Variations

Tables

Toggle Region/Jurisdiction

AFH TOOL

B. General Issues

i. Segregation/Integration

1. Analysis

- a. Describe and compare segregation levels in the jurisdiction and region. Identify the racial/ethnic groups that experience the highest levels of segregation.
- b. Explain how these segregation levels have changed over time (since 1990).
- c. Identify areas with relatively high segregation and integration by race/ethnicity, national origin, or LEP group, and indicate the predominant groups living in each area.
- d. Consider and describe the location of owner and renter occupied housing in determining whether such housing is located in segregated or integrated areas.
- e. Discuss how patterns of segregation have changed over time (since 1990).
- f. Discuss whether there are any demographic trends, policies, or practices that could lead to higher segregation in the jurisdiction in the future.

GOAL SETTING

| <u>Goal</u> | <u>Contributing Factors</u> | <u>Fair Housing Issues</u> | <u>Metrics, Milestones, and Timeframe for Achievement</u> | <u>Responsible Program Participant(s)</u> |
|--------------------|-----------------------------|----------------------------|---|---|
| | | | | |
| Discussion: | | | | |

MINIMUM INFORMATION IN AFH?

- To pass review by HUD the AFH must consist of the following components:
 - Summary of fair housing issues and capacity to address
 - Analysis of data
 - Assessment of determinants to fair housing issues
 - Identification of fair housing priorities and general goals
 - Summary of community participation

ANALYSIS OF DATA

- HUD will be providing data to the participants that they must use in the AFH. This data will be nationally uniform.
- **Local and regional data on:**
 - Patterns of integration and segregation
 - Racially and ethnically concentrated areas of poverty
 - Access to community assets in the areas of: education, employment, low-poverty, transportation, and environmental health
 - Disproportionate housing needs
 - Individuals with disabilities and families with children
 - Discrimination
 - Summary of Community Participation

WHAT WILL TOOL MEASURE?

Local and regional patterns of integration and segregation (over time)

Racially and ethnically concentrated areas of poverty

Access to education, employment, low-poverty neighborhoods, transportation and environmental health

Disproportionate housing needs

Individuals with disabilities and families with children

Limited English proficiency

Broader regional geographic assessment



**ALIGNMENT WITH
PROGRAMS,
POLICIES AND PLANS
WITH AFFH RULING**

WHY DOES AFH MATTER TO PLANNERS?

Strengthens effort:

- Contains **data** that HUD will provide to its participants.
- HUD is also clarifying the **goals** and requirements of the **AFH process** and **integrating the AFH into the PHA Plan, Consolidated Plan** and other **future planning documents** like PHA Capital Fund, transportation and education plans.

WHO SUBMITS AFH?

- Public Housing Agencies and Local governments and States that receive HUD funds through the following programs will have to submit an AFH for review by HUD. These programs are:
 - Community Development Block Grants (CDBG)
 - HOME Investment Partnerships (HOME)
 - Emergency Solutions Grants (ESG)
 - Housing Opportunities for Persons With AIDS (HOPWA)

WHAT KENTUCKY CITIES ARE AFFECTED?

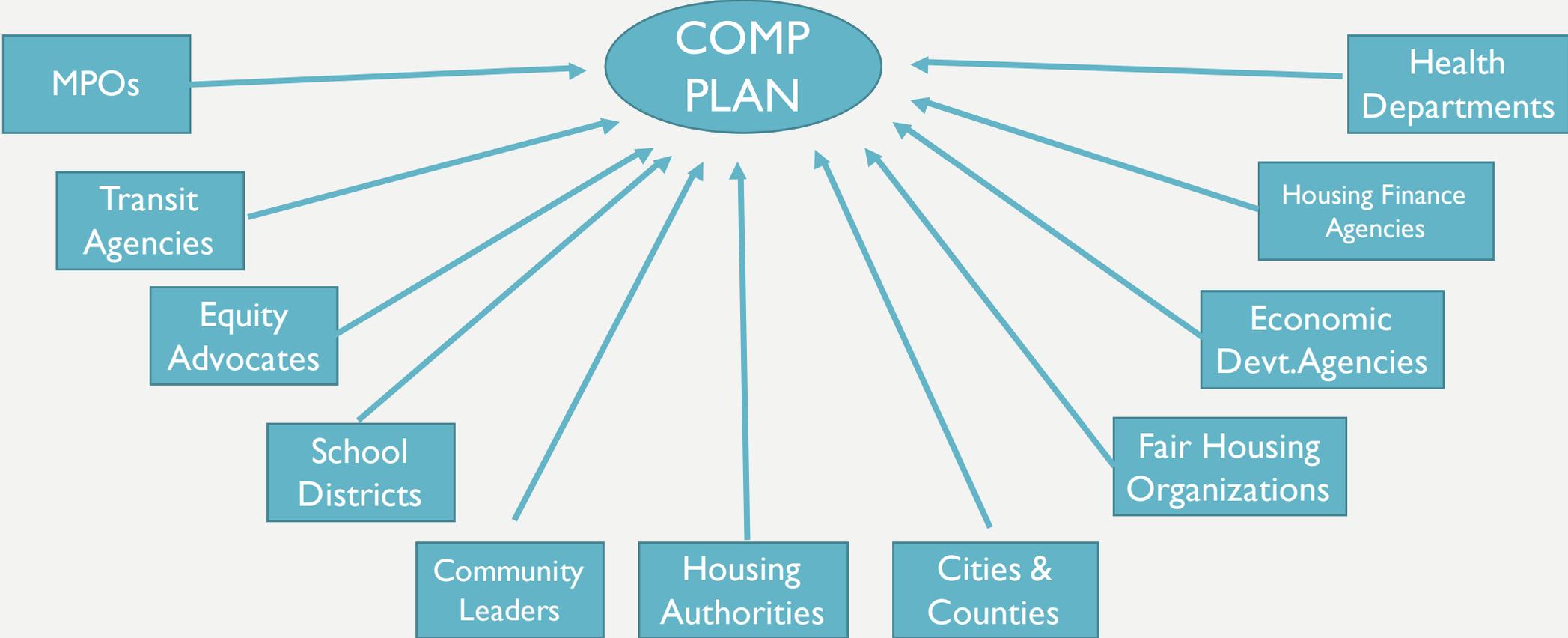


An aerial photograph of a suburban neighborhood. The houses are arranged in a grid pattern with green lawns and trees. The text "WHAT IS THE ROLE OF THE COMPREHENSIVE PLAN?" is overlaid in large white letters at the top. A street name "Alfresco Pl" is visible in the lower left.

WHAT IS THE ROLE OF THE COMPREHENSIVE PLAN?

Alfresco Pl

WHY DOES THIS MATTER?



WHAT MUST AFH ADDRESS?

- The AFH must address the following issues which HUD views as core issues that need to be solved to eliminate housing discrimination:
 - Integration and segregation
 - Concentrations of poverty
 - Disparities in access to community assets
 - Disproportionate housing needs based upon race, color, religion, sex, familial status, national origin or handicap.

CONTRIBUTING FACTORS DESCRIPTIONS - EXAMPLE

Access to proficient schools for persons with disabilities

Individuals with disabilities may face unique barriers to accessing proficient schools. In some jurisdictions, some school facilities may not be accessible or may only be partially accessible to individuals with different types of disabilities (often these are schools built before the enactment of the ADA or the Rehabilitation Act of 1973). In general, a fully accessible building is a building that complies with all of the ADA's requirements and has no barriers to entry for persons with mobility impairments. It enables students and parents with physical or sensory disabilities to access and use all areas of the building and facilities to the same extent as students and parents without disabilities, enabling students with disabilities to attend classes and interact with students without disabilities to the fullest extent. In contrast, a partially accessible building allows for persons with mobility impairments to enter and exit the building, access all relevant programs, and have use of at least one restroom, but the entire building is not accessible and students or parents with disabilities may not access areas of the facility to the same extent as students and parents without disabilities. In addition, in some instances school policies steer individuals with certain types of disabilities to certain facilities or certain programs or certain programs do not accommodate the disability-related needs of certain students.



**STEPS TAKEN BY LOUISVILLE
AND LEXINGTON HAVE TAKEN
TO PREPARE FOR NEW RULE**

LEXINGTON, KY



Source: Lexington Herald Leader

LOUISVILLE, KY

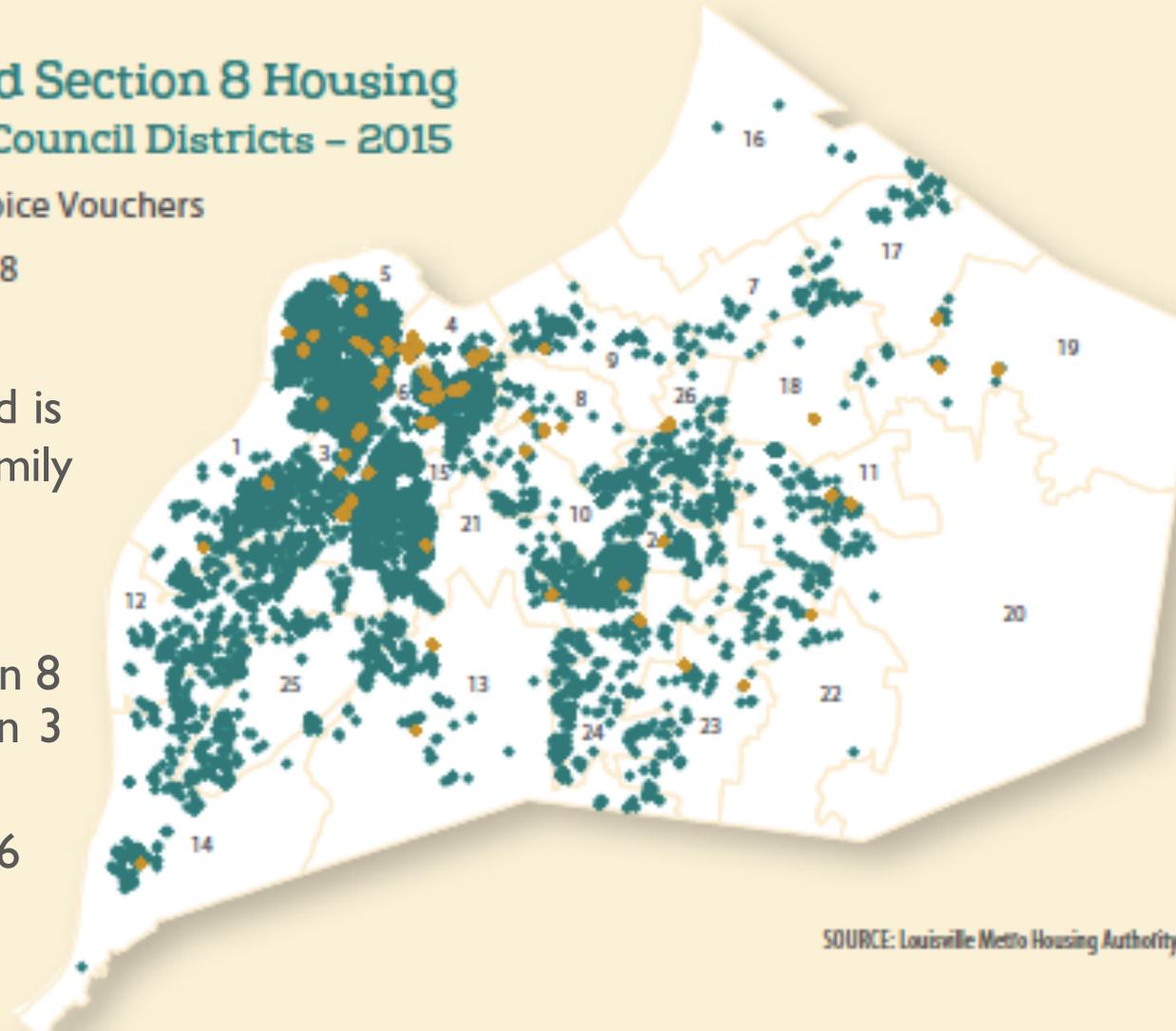


CHALLENGES

Map 2: Subsidized Section 8 Housing by Louisville Metro Council Districts - 2015

- Section 8 Housing Choice Vouchers
- Project-Based Section 8

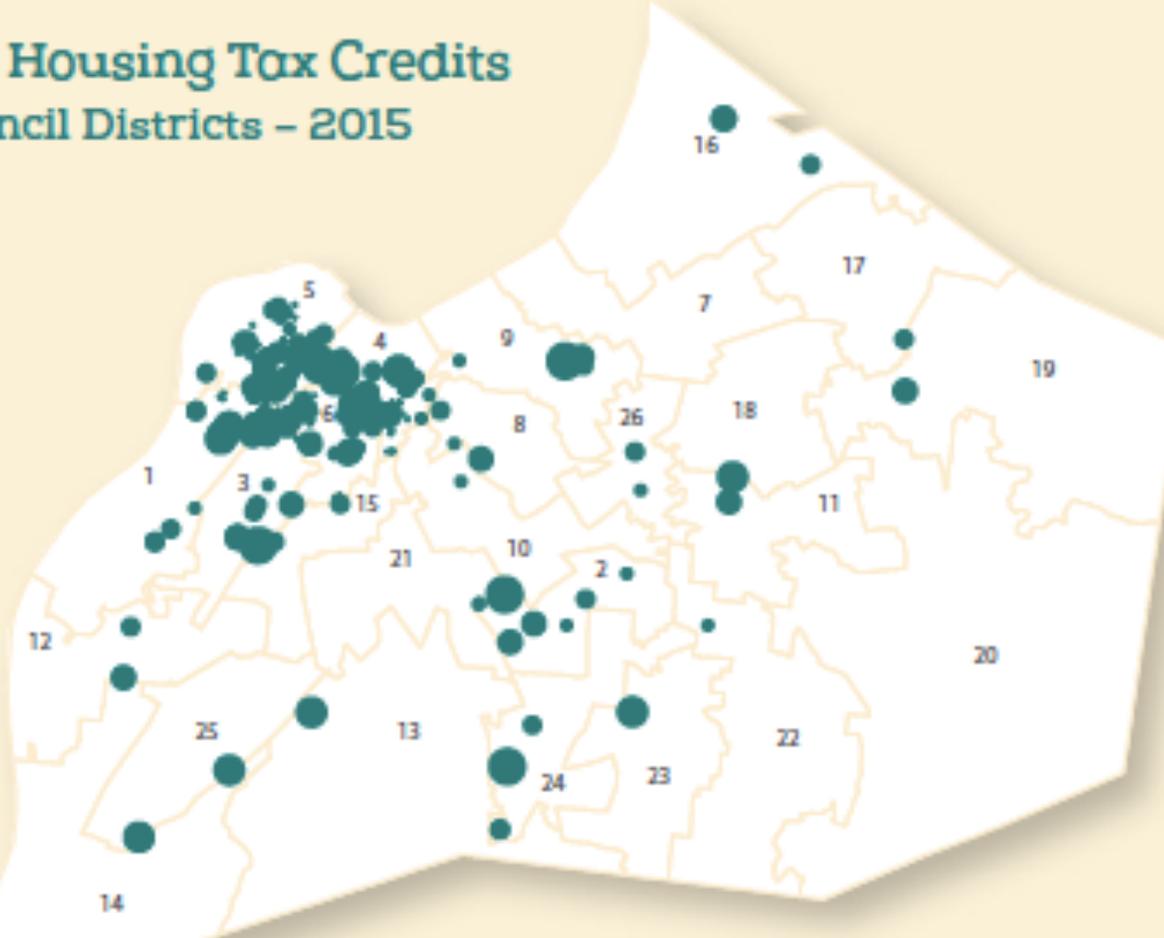
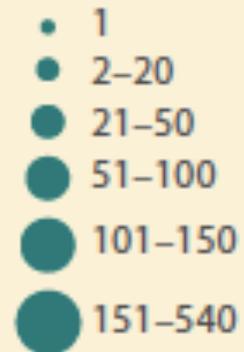
- Over **70%** of land is zoned for single-family detached homes.
- **48%** of public housing and Section 8 housing units within 3 council districts
- 70% located in 7/26 districts



SOURCE: Louisville Metro Housing Authority

Map 3: Low-Income Housing Tax Credits by Louisville Metro Council Districts - 2015

Housing Units (#)



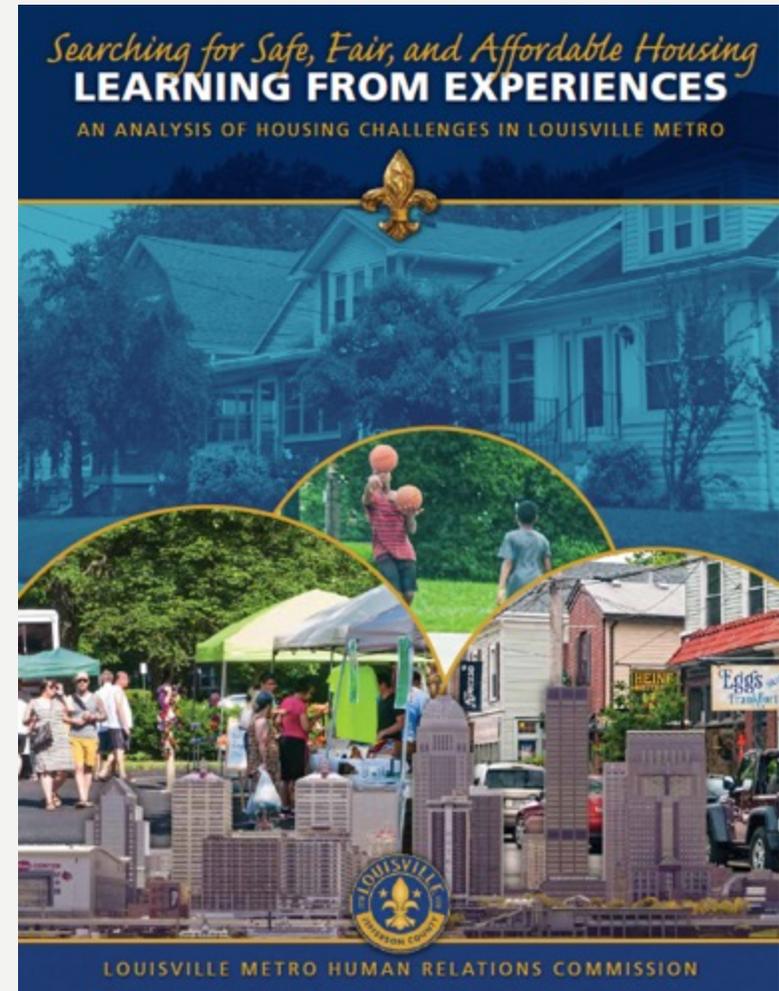
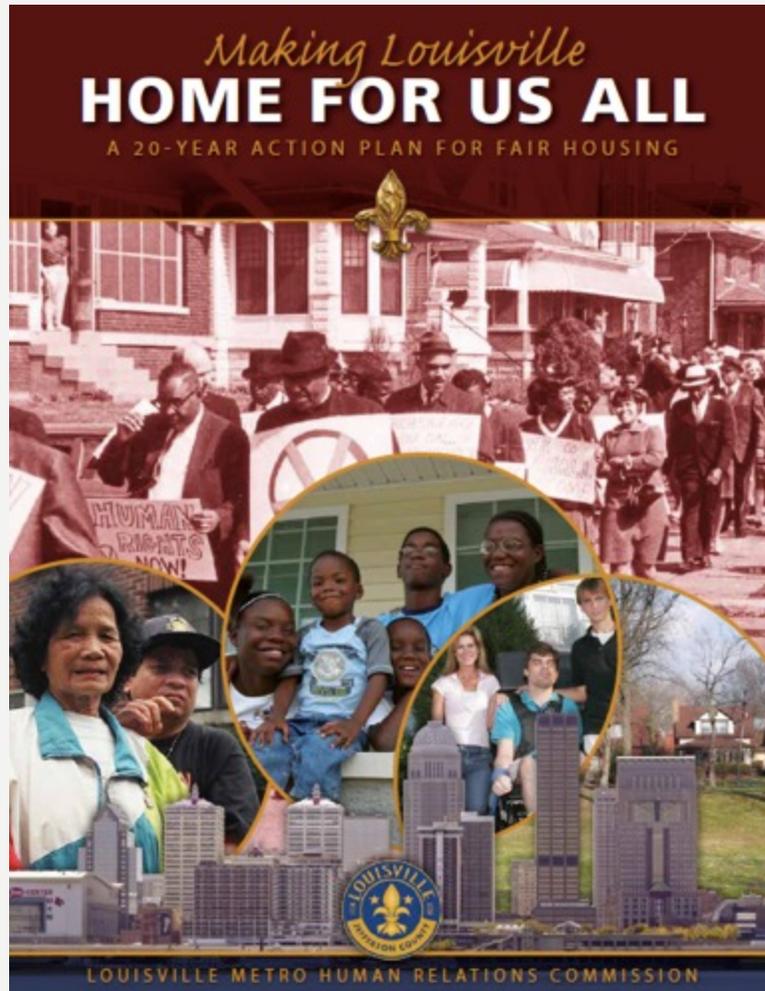
58% of
LIHTC sites
limited to 4
districts.

SOURCE: Kentucky Housing Corporation

SUCCESS AND PROGRESS

- Louisville Metro Human Relations Commission
 - 20-year Action Plan
 - “Searching for Safe, Fair, and Affordable Housing: Learning from Experiences, An Analysis of Housing Challenges in Louisville Metro”
 - Louisville Metro’s 2015 Analysis of Impediments
- Revision of Land Development Code
- Louisville CARES program
- Louisville Affordable Housing Trust Fund

LOUISVILLE METRO HUMAN RELATIONS COMMISSION





CLOSING AND QUESTIONS

KEY RESOURCES

- The HUD Exchange (ONE STOP SHOP):
- <https://www.hudexchange.info/programs/affh/>
 - AFFH Final Rule
 - Assessment of Fair Housing Tool (aka the “AFH Template”)
 - AFFH Guidebook:
 - Links to the AFFH-T and the AFFH-UI
 - AFFH Data Documentation and raw data downloads
- HUD’s eGIS Storefront at <http://egis.hud.gov> hosts:
 - HUD's geospatial datasets, application programming interfaces (APIs), and web-based GIS
- The Opportunity Project at <http://opportunity.census.gov>

QUESTIONS

- How many of your communities are impacted by this decision (produce CP and AI/AFH)?
- How much of a difference do you think these rules will make for your communities?
- Are there actions you know about from your own communities that have started the progress to meeting the new rules?
- What do you recognize as the key barriers in your communities?