Ann Arbor
Analysis of Impediments to Fair Housing

Fair Housing Center of Southeastern Michigan

September 2005

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Executive Summary

Housing discrimination remains a serious issue in Ann Arbor. This report analyzes census, housing market, and other data from the City of Ann Arbor, and makes recommendations on local public policy, including housing accessibility, new construction, zoning definitions, banking practices, and local civil rights protections, among others. Fair housing testing, advice, advocacy and community education also have their place in a comprehensive approach to reducing impediments to fair housing. As outlined in this report, there is much that local jurisdictions can still do to improve equal housing opportunity.

This report was prepared by the Fair Housing Center of Southeastern Michigan at the request of the City of Ann Arbor. The Fair Housing Center of Southeastern Michigan is a private non-profit organization working to investigate and resolve complaints of illegal housing discrimination.
Part 1: Introduction and Demographics

This report was prepared on behalf of the City of Ann Arbor. The Fair Housing Center of Southeastern Michigan (FHC-Southeast) is a private non-profit organization working to investigate and resolve complaints of illegal housing discrimination.

Ann Arbor requested this report as a result of U.S. Department of Housing & Urban Development regulations that pertain to the receipt of federal Community Development Block Grant (CDBG). Any discussion of impediments to fair housing focuses on discrimination and should not be confused with a full-scale discussion of housing affordability. The Federal Fair Housing Act bars discrimination in housing based on race, color, religion, national origin, familial status (families with children), and disability. Michigan’s Elliot-Larsen Civil Rights Act protects those categories and adds marital status and age as protected categories.

In preparation for this report FHC-Southeast staff reviewed public policies including Zoning Ordinances, Master Land Use Plans, Building Codes, and meeting minutes from the Zoning Board of Appeals, Building Board of Appeals, Housing Board of Appeals, Planning Commission, Historic District Commission, and Housing Policy Board, among others.

For this report we focus on fair housing complaints and investigations in the period from January 1, 1998 - December 31, 2004. Litigation Logs cover all lawsuits filed and/or settled since 1992, when FHC-Southeast (formerly the Fair Housing Center of Washtenaw County) opened. Demographic data comes from 1990 and 2000 U.S. census data.

The Fair Housing Center would like to thank all of the city planners, clerks, supervisors and secretarial/administrative staff who patiently answered our questions and shared information with us. Any mistakes in this report, however, are the errors of the Fair Housing Center, and not of those staff who assisted us.
Demographics

In the last ten years, Washtenaw County's population has grown by over 14%, from 282,937 individuals to 322,895 individuals. In contrast, during this same time period, the City of Ann Arbor’s population grew by only 4.0%, from 109,592 to 114,024. At the same time, both the city and the county have increased in diversity, as can be seen in the data that follows.\(^1\)

The City of Ann Arbor’s population represents more than 1/3 of the county’s population. As a result, certain attributes of the city, and the influence of the University of Michigan, directly affect county-wide demographics. Of particular note, the large student body at the University of Michigan helps lower the county's median age; decrease the city's percentage of family households; and affect income statistics. Ann Arbor’s Latino and Asian populations are growing rapidly.\(^2\) Approximately 55% of Ann Arbor’s population is renters; and Ann Arbor remains one of the most expensive rental housing markets in the Midwest. While the rest of the county’s population increased by 14.1% between 1990 and 2000, the City of Ann Arbor’s population increased by only 4.0%.

---

\(^1\) The U.S. Census Bureau cautions that race data from the 1990 and 2000 censuses are not directly comparable.

\(^2\) In all pie charts using census data, the Hispanic/Latino category refers to Hispanics or Latinos of any race, and all other racial categories are of respondents who indicated that they were “not of Hispanic origin.” In 2000, for the first time, respondents were able to choose more than one race.
## City of Ann Arbor Census Data
### Population Comparison Between City Geographic Planning Areas
#### 2000 U.S. Census

<table>
<thead>
<tr>
<th></th>
<th>Northeast</th>
<th>South</th>
<th>Central</th>
<th>West</th>
<th>City Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ann Arbor City Population*</td>
<td>31,130</td>
<td>27,099</td>
<td>33,550</td>
<td>22,245</td>
<td>114,024</td>
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<td>% of total Population</td>
<td>27.3%</td>
<td>23.8%</td>
<td>29.4%</td>
<td>19.5%</td>
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<tr>
<td>Race</td>
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<td>1,864</td>
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<td>10,070</td>
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<td>109</td>
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<td>Asian or Pacific Islander</td>
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<td>Other</td>
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<td>990</td>
<td>586</td>
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<td>Race in Percent</td>
<td></td>
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<tr>
<td>White</td>
<td>65.5%</td>
<td>72.6%</td>
<td>78.8%</td>
<td>83.8%</td>
<td>74.7%</td>
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<td>Black</td>
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<td>12.9%</td>
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<td>8.8%</td>
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<td>American Indian, Eskimo or Aleut</td>
<td>0.2%</td>
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<td>0.2%</td>
<td>0.3%</td>
</tr>
<tr>
<td>Asian or Pacific Islander</td>
<td>21.2%</td>
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<td>3.5%</td>
<td>11.9%</td>
</tr>
<tr>
<td>Native Hawaiian/Other Pacific Islander</td>
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<td>0.1%</td>
<td>0.0%</td>
<td>0.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Other</td>
<td>1.2%</td>
<td>1.2%</td>
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<td>1.2%</td>
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<tr>
<td>Multiple Race</td>
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<td>3.6%</td>
<td>3.0%</td>
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<td>3.1%</td>
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<td>Hispanic Origin</td>
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<td></td>
<td>944</td>
<td>964</td>
<td>1300</td>
<td>606</td>
<td>3814</td>
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<tr>
<td>Percent</td>
<td>3.0%</td>
<td>3.6%</td>
<td>3.9%</td>
<td>2.7%</td>
<td>3.3%</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Under 5</td>
<td>2,040</td>
<td>1,826</td>
<td>545</td>
<td>1,333</td>
<td>5,829</td>
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<td>5 to 17</td>
<td>4,329</td>
<td>4,087</td>
<td>1,210</td>
<td>3,739</td>
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<tr>
<td>18 to 21</td>
<td>3,172</td>
<td>1,087</td>
<td>16,053</td>
<td>659</td>
<td>21,011</td>
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<td>22 to 29</td>
<td>5,805</td>
<td>4,565</td>
<td>8,313</td>
<td>2,480</td>
<td>21,289</td>
</tr>
<tr>
<td>30 to 39</td>
<td>5,204</td>
<td>5,100</td>
<td>2,866</td>
<td>3,804</td>
<td>17,169</td>
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<tr>
<td>40 to 49</td>
<td>3,893</td>
<td>4,121</td>
<td>1,876</td>
<td>4,076</td>
<td>14,244</td>
</tr>
<tr>
<td>50 to 64</td>
<td>3,987</td>
<td>3,760</td>
<td>1,646</td>
<td>3,431</td>
<td>13,199</td>
</tr>
<tr>
<td>65 and Up</td>
<td>2,700</td>
<td>2,553</td>
<td>1,041</td>
<td>2,723</td>
<td>9,312</td>
</tr>
<tr>
<td>Age by Percent</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 5</td>
<td>6.5%</td>
<td>6.7%</td>
<td>1.6%</td>
<td>6.0%</td>
<td>5.0%</td>
</tr>
<tr>
<td>5 to 17</td>
<td>14.0%</td>
<td>15.0%</td>
<td>3.6%</td>
<td>16.8%</td>
<td>11.8%</td>
</tr>
<tr>
<td>18 to 21</td>
<td>10.0%</td>
<td>4.0%</td>
<td>47.8%</td>
<td>3.0%</td>
<td>18.2%</td>
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<td>22 to 29</td>
<td>18.3%</td>
<td>16.8%</td>
<td>24.8%</td>
<td>11.0%</td>
<td>18.4%</td>
</tr>
<tr>
<td>30 to 39</td>
<td>16.5%</td>
<td>18.8%</td>
<td>8.5%</td>
<td>17.0%</td>
<td>14.8%</td>
</tr>
<tr>
<td>40 to 49</td>
<td>12.6%</td>
<td>15.2%</td>
<td>5.6%</td>
<td>18.4%</td>
<td>12.3%</td>
</tr>
<tr>
<td>50 to 64</td>
<td>13.2%</td>
<td>13.9%</td>
<td>4.9%</td>
<td>15.5%</td>
<td>11.4%</td>
</tr>
<tr>
<td>65 and Up</td>
<td>9.0%</td>
<td>9.5%</td>
<td>3.1%</td>
<td>12.3%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Total Households</td>
<td>12,502</td>
<td>12,446</td>
<td>10,990</td>
<td>9,755</td>
<td>45,693</td>
</tr>
<tr>
<td>Average Household Size</td>
<td>2.49</td>
<td>2.18</td>
<td>3.05</td>
<td>2.28</td>
<td>2.5</td>
</tr>
</tbody>
</table>

* Excludes township population within City boundary.
<table>
<thead>
<tr>
<th>Name</th>
<th>Washtenaw County</th>
<th>City of Ann Arbor</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000 Population</td>
<td>322,895</td>
<td>114,024</td>
</tr>
<tr>
<td>1990 Population</td>
<td>282,937</td>
<td>109,592</td>
</tr>
<tr>
<td>Percent of County population, 2000</td>
<td>100.00%</td>
<td>35.3%</td>
</tr>
<tr>
<td>Percent of County population, 1990</td>
<td>100.00%</td>
<td>38.7%</td>
</tr>
<tr>
<td>% change, 1990-2000</td>
<td>14.1%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Median age (2000)</td>
<td>31.3</td>
<td>28.1</td>
</tr>
<tr>
<td>% family households</td>
<td>58.8%</td>
<td>47.5%</td>
</tr>
<tr>
<td>% family households w/children</td>
<td>29.2%</td>
<td>23.0%</td>
</tr>
<tr>
<td>% female householder, no husband, with children</td>
<td>5.7%</td>
<td>4.4%</td>
</tr>
<tr>
<td>Owner/renter ratio</td>
<td>59.7/40.3</td>
<td>45.3/54.7</td>
</tr>
<tr>
<td>Owner/Renter ratio calculation</td>
<td>1.5</td>
<td>0.8</td>
</tr>
<tr>
<td>% married</td>
<td>47.8%</td>
<td>38.5%</td>
</tr>
<tr>
<td>% foreign-born</td>
<td>10.3%</td>
<td>16.6%</td>
</tr>
<tr>
<td>% speaking another language at home</td>
<td>13.2%</td>
<td>20.1%</td>
</tr>
<tr>
<td>% with disability, 21-64 y.o.</td>
<td>12.9%</td>
<td>10.3%</td>
</tr>
<tr>
<td>% with disability, 65+</td>
<td>36.9%</td>
<td>34.0%</td>
</tr>
<tr>
<td>Median Household Income</td>
<td>$51,990</td>
<td>$46,299</td>
</tr>
<tr>
<td>Median family income</td>
<td>$70,393</td>
<td>$71,293</td>
</tr>
<tr>
<td>Difference (household vs. family income)</td>
<td>$18,403</td>
<td>$24,994</td>
</tr>
<tr>
<td>Percent difference (household vs. family income)</td>
<td>26.1%</td>
<td>35.1%</td>
</tr>
<tr>
<td>Poverty status (individuals)</td>
<td>11.1%</td>
<td>16.6%</td>
</tr>
<tr>
<td>Poverty status (families)</td>
<td>5.1%</td>
<td>4.6%</td>
</tr>
<tr>
<td>Poverty status (female-headed hhl ds.)</td>
<td>18.3%</td>
<td>12.1%</td>
</tr>
<tr>
<td>Owner costs &gt; 35%</td>
<td>12.9%</td>
<td>13.3%</td>
</tr>
<tr>
<td>Renter costs &gt; 35%</td>
<td>33.2%</td>
<td>37.9%</td>
</tr>
<tr>
<td>Median house value</td>
<td>$174,300</td>
<td>$181,400</td>
</tr>
<tr>
<td>Median rent</td>
<td>$687</td>
<td>$742</td>
</tr>
<tr>
<td>Housing stock 1980+</td>
<td>31.5%</td>
<td>19.7%</td>
</tr>
<tr>
<td>Housing stock 1960-1979</td>
<td>37.2%</td>
<td>43.0%</td>
</tr>
<tr>
<td>Housing stock pre-1960</td>
<td>31.4%</td>
<td>37.2%</td>
</tr>
</tbody>
</table>

Table 1: City of Ann Arbor Census Data, Comparison Across Geographic Areas and Comparison with Washtenaw County. Highlighted numbers identify the geographic area with the largest proportion of a category.
Washtenaw County Racial Makeup (1990)

- White: 82.3%
- Black: 11.1%
- Hispanic origin: 2.0%
- Asian or Pacific Islander: 4.1%
- Other race: 0.1%
- American Indian, Eskimo, or Aleut: 0.3%

Figure 1: Washtenaw County Racial Makeup (1990), U.S. Census

Washtenaw County Racial Makeup (2000)

- White: 75.9%
- Black/African-American: 12.2%
- Hispanic/Latino: 2.7%
- Pacific Islander: 0.0%
- Other race alone: 0.3%
- 2+ races: 2.3%
- American Indian: 0.3%
- Asian: 6.3%

Figure 2: Washtenaw County Racial Makeup (2000), U.S. Census
Ann Arbor Racial Makeup (1990)

- White: 80.4%
- Other race: 0.2%
- Hispanic origin: 2.6%
- American Indian, Eskimo, Aleut: 0.3%
- Black: 8.9%
- Asian/Pacific Islander: 7.6%

City of Ann Arbor Racial Makeup (2000)

- White alone: 72.77%
- Other race alone: 0.3%
- Two or more races: 2.71%
- Asian alone: 11.87%
- Native Hawaiian/Pacific Islander alone: 0.0%
- American Indian/Alaska Native alone: 0.3%
- Black or African American alone: 8.69%
- Hispanic or Latino: 3.3%

Figure 3: City of Ann Arbor Racial Makeup, 1990, U.S. Census 1990

Figure 4: City of Ann Arbor Racial Makeup, 2000, U.S. Census 2000
Figure 5: Measures of Poverty Status and Housing Affordability for Washtenaw County and the City of Ann Arbor, U.S. Census 2000

Figure 6: Percent foreign-born and percent speaking another language at home in Washtenaw County and the City of Ann Arbor, U.S. Census 2000.
According to the U.S. Census, in Washtenaw County in 2000, median household income was $51,990, median family income was $70,393, and 5.1% of families reported their income as below the poverty level. In the City of Ann Arbor in 2000, median household income was $46,299, and median family income was $71,293. Compared to individuals in the County, individuals in the City of Ann Arbor were more likely to report living in poverty, but families were less likely to report living in poverty. This is likely due to the number of students in the City of Ann Arbor, as well as an expensive housing market that pushes poor families out of the city and into less expensive housing markets.

The county was subject to a housing boom in the last decade, with 25,224 new units of housing built (19.3% of the current housing). This is a 58% increase in the amount of housing built compared to the previous decade. Nearly 30% of these homes are large homes with 8 or more rooms (45%, 7+ rooms). Thus, it is not surprising that the median home price, in 2000 dollars, increased by 42.9%, to $174,300, over 1990. Despite this, the percentage of homeowners in the county increased from 55.3% to 59.7%, in all likelihood due in large part to falling interest rates.

It is generally accepted that, as a measure of housing affordability, renters and homeowners should not pay more than 1/3 of their household income on housing costs. According to the 2000 Census, 12.9% of homeowners and 33.2% of renters in the county are spending more than 35% of their household income on housing costs, while 13.3% of homeowners and 37.9% of renters in Ann Arbor are spending more than 35% of their household income on housing costs. As noted elsewhere in this report, affordability of housing and the number of rental units are indirectly related to fair housing issues, but not directly related. Median rent, however, is strongly affected by both the rental market. The percent of housing stock built between 1980 and 1999 (Figure 8) is a good relative indicator of the pace of development, as well as the age of the housing stock.

The influence of the University of Michigan plays a role, too, in the diversity of the City of Ann Arbor’s residents. In 2000, 16.6% of City of Ann Arbor residents said that they were foreign-born, and over 20% speak a language other than English at home. Despite the diversity of the area, African-American, Latino, and Asian populations are concentrated in certain parts of the city, as can be seen in the appendix.

The number of people with disabilities in the City of Ann Arbor and the entire county are relatively similar. Approximately one-quarter of all Fair Housing Center complaints are disability-related.

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3 People in manufactured housing generally own their homes and rent the land; for the purposes of census data they are considered homeowners.

4 The data in this table is drawn from the 2000 U.S. Census, which uses the following definition for disability: A long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business.

5 The Fair Housing Center defines disability using the definition for “handicapped” found in the Fair Housing Act as amended March 12, 1989. “Handicap” means, with respect to a person - (1) a physical or mental impairment which substantially limits one or more of such person’s major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction.
A discussion of manufactured home communities is outside of the scope of this study. In fact, there is only one manufactured housing community within the City of Ann Arbor (Sunnyside Park, on Packard Road), although there are several within the Ann Arbor Public Schools boundaries. Much of the discussion found in this report is relevant to residents of manufactured housing communities, and the Fair Housing Center has received many complaints from residents or would-be residents of these communities. These include rental, financing, and sales complaints; and involve cases of race, familial status, and disability.

Table 2: Disability Status of Civilian Non-institutionalized Population (U.S. Census 2000)

<table>
<thead>
<tr>
<th>Ages</th>
<th>Washtenaw County</th>
<th>City of Ann Arbor</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-10</td>
<td>7.1%</td>
<td>6.6%</td>
</tr>
<tr>
<td>21-64</td>
<td>12.9%</td>
<td>10.3%</td>
</tr>
<tr>
<td>65+</td>
<td>36.9%</td>
<td>34.0%</td>
</tr>
</tbody>
</table>

*to a controlled substance (as defined in section 802 of title 21). “Handicap” and “disability” are considered legally equivalent.*
Part 2: Locations of Fair Housing Complaints: The Relationship Between Fair Housing and Affordable Housing

As soon as the issue of "fair housing" is raised, many people assume that affordable housing is directly related. This is not necessarily the case. In theory, there is no relationship between the two because fair housing addresses the question of discrimination in housing, while affordable housing addresses the question of affordability. Thus, one might expect that the number of fair housing complaints would be (on a per capita basis) roughly equivalent from one area to the next. Yet this is not the case either.

The table below compares fair housing complaint data in the City of Ann Arbor to Washtenaw County as a whole, and to Ypsilanti and Pittsfield townships (the second and third largest jurisdictions in the county), as well as the City of Ypsilanti. From 1998 to 2004 the Fair Housing Center received a total of 933 fair housing complaints, with 809 coming from Washtenaw County, and 306 from Ann Arbor. The rate of complaints in Ann Arbor is very comparable to the rate in Washtenaw County overall, and is significantly lower than the rate for the City of Ypsilanti. The location of a fair housing complaint is based on the address of the property that is the subject of the complaint/investigation. In the case of discrimination in mortgage lending, the location is tied to either the location of the loan office, or the location of the property to be purchased.

<table>
<thead>
<tr>
<th>Property Location</th>
<th>Population Size</th>
<th>Median Household Income</th>
<th>% of population that is African-American, Asian or Latino</th>
<th>% of Residents who are renters</th>
<th># of Complaints</th>
<th>Complaints/1000 people</th>
<th>% of all Washtenaw County Complaint Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Ann Arbor</td>
<td>114,024</td>
<td>$46,299</td>
<td>24%</td>
<td>54.7%</td>
<td>306</td>
<td>2.68/1000</td>
<td>49%</td>
</tr>
<tr>
<td>Pittsfield Twp.</td>
<td>30,167</td>
<td>$61,262</td>
<td>28.3%</td>
<td>44.0%</td>
<td>80</td>
<td>2.67/1000</td>
<td>11%</td>
</tr>
<tr>
<td>City of Ypsilanti</td>
<td>22,362</td>
<td>$28,610</td>
<td>36.3%</td>
<td>67.1%</td>
<td>128</td>
<td>5.8/1000</td>
<td>16.5%</td>
</tr>
<tr>
<td>Ypsilanti Twp.</td>
<td>49,182</td>
<td>$46,460</td>
<td>30.3%</td>
<td>40.2%</td>
<td>181</td>
<td>3.7/1000</td>
<td>21%</td>
</tr>
<tr>
<td>Washtenaw County</td>
<td>322,895</td>
<td>$51,990</td>
<td>21.3%</td>
<td>40.3%</td>
<td>809</td>
<td>2.5/1000</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 3: Fair Housing Center Complaints, 1998-2002 (Fair Housing Center Report)
Although it is not highlighted in the data presented here, the Fair Housing Center receives many more complaints from women than from men. 

As can be seen by the above figures, there is some overlap between issues of affordable housing and fair housing. At least in part, this is related to demographics. Lower-income groups disproportionately include people with disabilities, Latino and African-American populations, single-headed households with children, and senior citizens.

In addition, people of the same income, of different races, tend to live in different locations. As a result, discrimination complaints may come from particular areas more than from other areas. This may be related to issues of subsidized and affordable housing, as well as to decisions of individual landlords, banks, and jurisdictions.

It is noteworthy that fair housing centers get the largest numbers of complaints from rental housing, which tends to be multi-family housing. Multi-family housing is denser development, and perhaps even more importantly, turnover plays an important role in discrimination. Put simply, renters move more frequently than homeowners. Every time a member of a protected class (say, for example, an African-American woman) applies to move into a new apartment, there is another opportunity for the applicant to be discriminated against.

In addition, in real estate transactions, licensed realtors (who know fair housing law and could lose their licenses if they don’t follow it) are involved the majority of the time. Also, while sellers end the relationship with a buyer at the time of the sale, landlords just begin that relationship.

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6 Although it is not highlighted in the data presented here, the Fair Housing Center receives many more complaints from women than from men.
### Table 4: City of Ann Arbor Complaints Received by the Fair Housing Center, 1998-2004, by Basis of Complaint (Fair Housing Center Report)

<table>
<thead>
<tr>
<th>Basis for Complaint 7</th>
<th>Number of Complaints</th>
<th>% of Complaint Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td>95</td>
<td>31%</td>
</tr>
<tr>
<td>Physical Disability</td>
<td>73</td>
<td>24%</td>
</tr>
<tr>
<td>Mental/Emot. Disability</td>
<td>45</td>
<td>15%</td>
</tr>
<tr>
<td>Familial Status</td>
<td>44</td>
<td>14%</td>
</tr>
<tr>
<td>Sex</td>
<td>38</td>
<td>12%</td>
</tr>
<tr>
<td>National Origin</td>
<td>32</td>
<td>10%</td>
</tr>
<tr>
<td>Religion</td>
<td>6</td>
<td>2%</td>
</tr>
<tr>
<td>Age</td>
<td>26</td>
<td>8%</td>
</tr>
<tr>
<td>Marital Status</td>
<td>19</td>
<td>6%</td>
</tr>
<tr>
<td>Income Source</td>
<td>13</td>
<td>4%</td>
</tr>
<tr>
<td>Student Status</td>
<td>8</td>
<td>3%</td>
</tr>
<tr>
<td>Sexual Orientation</td>
<td>7</td>
<td>2%</td>
</tr>
</tbody>
</table>

Tables 4 and 5 show the basis for fair housing complaints made to the Fair Housing Center from the City of Ann Arbor. One complaint may have more than one basis. Age and marital status are not covered by the Federal Fair Housing Act, but are included in the Michigan Elliott-Larsen Civil Rights Act. Source of income and sexual orientation are covered in City of Ann Arbor ordinances.

The most common complaints to the Fair Housing Center of Southeastern Michigan are discrimination based on race, disability and familial status. Each of these groups is more likely to be looking for housing in areas where housing is more affordable, and at the same time, they are groups that are protected by federal and state fair housing law.

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7 Complaints may have more than one basis.
City of Ann Arbor Complaints by Property Type
Received by the Fair Housing Center 1998-2004
Total=306 Complaints

<table>
<thead>
<tr>
<th>Complaints by Property Type</th>
<th># of Ann Arbor Complaints</th>
<th>% of Ann Arbor Complaint Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rental</td>
<td>262</td>
<td>86%</td>
</tr>
<tr>
<td>Co-op</td>
<td>26</td>
<td>8%</td>
</tr>
<tr>
<td>Condominium</td>
<td>7</td>
<td>2%</td>
</tr>
<tr>
<td>Mortgage Loan</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>Sales</td>
<td>2</td>
<td>1%</td>
</tr>
<tr>
<td>Other</td>
<td>7</td>
<td>2%</td>
</tr>
<tr>
<td>Total</td>
<td>306</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 5: City of Ann Arbor Complaints Received by the Fair Housing Center, 1998-2004, by Property Type (Fair Housing Center Report).

As a result, on a per capita basis, there are more discrimination complaints from renters than from homeowners, and more discrimination complaints in areas where housing is more affordable, than in areas where it is less affordable. It is also worth noting that complaints from women outnumber complaints from men by approximately a 3 to 1 ratio.

In fact, complaints may be primarily received from a few apartment complexes. Even within the City of Ann Arbor, which appears to have a diverse population, the population appears to be heavily segregated by race/ethnicity, as can be seen in the maps in the Appendix. Although it is the role of the Analysis of Impediments study to primarily focus on discrimination that may be facilitated by the role of governmental regulations and actions—any discussion of fair housing must necessarily have some discussion of issues raised primarily by renters, particularly lower-income renters.
**Subsidized Housing**

Subsidies are available from the federal, state, and local levels to allow owners of rental units to make apartments more affordable. These subsidies run through a variety of programs. Some of them focus on apartments for the elderly and/or people with disabilities, while others focus on “family” units, which are available to anyone.

The lists below are based on data from the Michigan State Housing Development Authority, and do not include all subsidized housing. For instance, local nonprofits such as Avalon Housing and the Washtenaw Affordable Housing Coalition offer subsidized units that use local subsidies, and Habitat for Humanity subsidizes the costs of homebuying.

<table>
<thead>
<tr>
<th>State and Federal Subsidized Housing in the City of Ann Arbor</th>
<th>Subsidy Program</th>
<th>No. Units—Elderly &amp; Disabled</th>
<th>No. Units—Family</th>
<th>Bedrooms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ann Arbor Housing Commission</strong></td>
<td>Public Housing: 162</td>
<td>0</td>
<td>162</td>
<td>1 BR—41 2 BR—36 3 BR—42 4 BR—43</td>
</tr>
<tr>
<td><strong>Public Housing Sites</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Arbordale Apartments</strong></td>
<td>LIHTC: 39</td>
<td>0</td>
<td>39</td>
<td>1 BR—34 2 BR—5</td>
</tr>
<tr>
<td><strong>Arrowwood Hills Cooperative</strong></td>
<td>Total: 350</td>
<td>0</td>
<td>350</td>
<td>1 BR—46 2 BR—178 3 BR—118 4 BR—8</td>
</tr>
<tr>
<td><strong>Baker Commons</strong></td>
<td>Public Housing: 64</td>
<td>64</td>
<td>0</td>
<td>1 BR—64</td>
</tr>
<tr>
<td><strong>Colonial Square Cooperative</strong></td>
<td>Section 221(d): 427</td>
<td>0</td>
<td>427</td>
<td>1 BR—33 2 BR—276 3 BR—84 4 BR—34</td>
</tr>
<tr>
<td><strong>Courthouse Square</strong></td>
<td>LIHTC: 115</td>
<td>115</td>
<td>0</td>
<td>1 BR—93 2 BR—22</td>
</tr>
<tr>
<td><strong>Cranbrook Towers</strong></td>
<td>Section 8: 200</td>
<td>200</td>
<td>0</td>
<td>1 BR—180 2 BR—20</td>
</tr>
<tr>
<td><strong>Forest Hills Cooperative</strong></td>
<td>Total: 306</td>
<td>0</td>
<td>306</td>
<td>1 BR—30 2 BR—182 3 BR—94</td>
</tr>
<tr>
<td><strong>Homestead Commons</strong></td>
<td>Total: 112 MSHDA: 22</td>
<td>0</td>
<td>112</td>
<td>1 BR—21 2 BR—77 3 BR—14</td>
</tr>
<tr>
<td><strong>Lurie Terrace</strong></td>
<td>Total: 142</td>
<td>142</td>
<td>0</td>
<td>Eff—51 1 BR—83 2 BR—8</td>
</tr>
<tr>
<td><strong>Mill Creek Village</strong></td>
<td>Total: 178</td>
<td>9</td>
<td>168</td>
<td>1 BR—30 2 BR—112 3 BR—35</td>
</tr>
<tr>
<td>Name</td>
<td>Subsidy Program</td>
<td>No. Units—Elderly &amp; Disabled</td>
<td>No. Units—Family</td>
<td>Bedrooms</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-----------------------------</td>
<td>------------------------------</td>
<td>------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Miller Manor</td>
<td>Public Housing: 104</td>
<td>104</td>
<td>0</td>
<td>1 BR—101</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 BR—3</td>
</tr>
<tr>
<td>Parkway Meadows</td>
<td>Section 8: 351</td>
<td>211</td>
<td>140</td>
<td>1 BR—207</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2 BR—108</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 BR—36</td>
</tr>
<tr>
<td>Pine Lake Village Cooperative</td>
<td>Total: 129</td>
<td>0</td>
<td>129</td>
<td>1 BR—18</td>
</tr>
<tr>
<td></td>
<td>Section 236: 15</td>
<td></td>
<td></td>
<td>2 BR—62</td>
</tr>
<tr>
<td></td>
<td>Section 8: 114</td>
<td></td>
<td></td>
<td>3 BR—41</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4 BR—8</td>
</tr>
<tr>
<td>Sequoia Place Elderly</td>
<td>Total: 56</td>
<td>56</td>
<td>0</td>
<td>1 BR—55</td>
</tr>
<tr>
<td></td>
<td>Section 202: 56</td>
<td></td>
<td></td>
<td>2 BR—1</td>
</tr>
<tr>
<td>University Townhouse</td>
<td>Section 221(d.3): 611</td>
<td>0</td>
<td>611</td>
<td>1 BR—59</td>
</tr>
<tr>
<td>Cooperative</td>
<td></td>
<td></td>
<td></td>
<td>2 BR—378</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3 BR—174</td>
</tr>
<tr>
<td>TOTAL</td>
<td>3354</td>
<td>901</td>
<td>2444</td>
<td></td>
</tr>
</tbody>
</table>

*Table 6: List of Subsidized Housing, based on Michigan State Housing Development Authority, Directory of Subsidized Housing, 2005.*
Section 8 “Housing Choice Vouchers” and Implications for the City of Ann Arbor

There are two types of Section 8 subsidized housing. Site-based Section 8 attaches the voucher to the location, so that a tenant moving into a particular apartment receives a Section 8 subsidy. Tenant-based Section 8, known as “Housing Choice Vouchers,” gives the subsidy to a particular tenant, who can move into any apartment that meets their criteria. The federal government then pays the lion’s share of the rent. Site-based Section 8 can be designated for the elderly/people with disabilities, or for family units. The table below shows the total number of site-based Section 8 vouchers that are located in the City of Ann Arbor.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Elderly/Disability Units</th>
<th>Family Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Ann Arbor</td>
<td>901</td>
<td>2444</td>
</tr>
</tbody>
</table>

*Table 7: Site-based Section 8 Vouchers in the City of Ann Arbor. Data based on MSHDA Directory of Subsidized Housing. 2005.*

Housing Choice Vouchers can be used in any location. Currently they are allocated locally by the Ann Arbor Housing Commission (over 1200 vouchers) the Ypsilanti Housing Commission (200 vouchers), and the Plymouth Housing Commission. The analysis below is provided by data from the Ann Arbor Housing Commission and Ypsilanti Housing Commission.

Because of research that shows that low-income families do better when they live outside of high-poverty areas, HUD regulations require that housing commission employees inform new voucher recipients that they will be better off if they can find housing outside of high poverty areas. High poverty areas are those census tracts in which more than 50% of the households have an income below $15,000. Housing Choice Vouchers can be used anywhere, and the maps that follow reflect county-wide demographics.

---

8 We were unable to obtain data from the Plymouth Housing Commission, and about 20% of the addresses were not able to be properly coded and mapped.

9 The maps below are found on the MSHDA websites. We included the City of Ann Arbor locations separately, and all county locations (save for one location that is connected with a corrections facility and is an artifact of census data) on a county-wide map.
Figure 8: Central Ann Arbor. Much of this area is rented by University of Michigan students. Source: MSHDA Expanding Housing Opportunities web site.

Figure 9: City of Ann Arbor Northeast. This is primarily University of Michigan property, with much of University of Michigan Family Housing. Source: MSHDA Expanding Housing Opportunities web site.
In the Ann Arbor Housing Commission data, as in Census data, Hispanic is an ethnicity, and recipients are also identified by race. In the Ypsilanti Housing Commission data, race data is identified, but ethnicity is not, so there is no information regarding Hispanic recipients.

### Housing Choice Voucher Use by Race/Ethnicity

<table>
<thead>
<tr>
<th></th>
<th>Total Housing Choice Vouchers currently being used</th>
<th>Number used by African-American recipients</th>
<th>Number used by white recipients</th>
<th>Number used by Asian, Hispanic, and Native American recipients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ann Arbor Housing Commission</td>
<td>1214</td>
<td>896+4 Af. Am./Hispanic</td>
<td>285+10 White/Hispanic</td>
<td>Asian=11, Amer. Ind./Pac. Islander=5, Hispanic=11, Asian=2, American Indian=0, Hispanic=not identified</td>
</tr>
<tr>
<td>Ypsilanti Housing Commission</td>
<td>199</td>
<td>171</td>
<td>26</td>
<td></td>
</tr>
</tbody>
</table>

Table 8: Housing Choice Voucher Use by Race, 2004. Data provided by Ann Arbor and Ypsilanti Housing Commissions.

As can be seen in the maps that follow, many Housing Choice Voucher recipients do, indeed, use these vouchers in the high-poverty areas delineated above. Although Housing Choice Vouchers are intended to make housing affordable, there are caps on how much can be spent, based on unit size. Thus, it is unclear to what extent the high prices of housing in certain areas of the County may prevent people from using Section 8 Housing Choice Vouchers in those areas.

As can also be seen in the maps that follow, the locations of recipients’ housing choices vary based on the race of the occupant. If all things were equal, one would expect an even distribution of housing locations for people of different races. Given that they are not evenly distributed, the question must be raised: Is discrimination a factor in the use of Section 8 Housing Choice Vouchers? For instance, in some areas, will a landlord accept a white Housing Choice Voucher recipient, but not an African-American Housing Choice Voucher recipient? This question is worthy of further investigation and testing.

**Source of Income Recommendation:**

The City of Ann Arbor is to be commended for including Source of Income as a protection by ordinance, including the right to private action. The City of Ann Arbor should continue to advertise that discrimination based on Source of Income is illegal in the City of Ann Arbor.

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10 In the Ann Arbor Housing Commission data, as in Census data, Hispanic is an ethnicity, and recipients are also identified by race. In the Ypsilanti Housing Commission data, race data is identified, but ethnicity is not, so there is no information regarding Hispanic recipients.
Ann Arbor and Ypsilanti Housing Commissions Section 8 Housing Vouchers In Use and MSHDA Avoidance Areas, Washtenaw County, MI

Figure 10: Ann Arbor and Ypsilanti Housing Commissions Section 8 Housing Vouchers in Use and MSHDA Avoidance Areas
Ann Arbor and Ypsilanti Housing Commission
Section 8 Vouchers in Use for White Families and Individuals (2004)
Ann Arbor and Ypsilanti Housing Commission
Section 8 Vouchers in Use for African American Families and Individuals (2004)
The Community Reinvestment Act and Investment

The Fair Housing Center did not investigate the most recent mortgage lending, small business loans, or Community Reinvestment Act data for Ann Arbor. In general, this data is collected at the Metropolitan Statistical Area census level, and for the Ann Arbor area this MSA includes Washtenaw, Livingston, and Lenawee counties.

In 1991, and again in 1996, the Fair Housing Center completed an analysis of racial discrimination in residential lending decisions. Loan Denied II, the report that uses 1993 data, states that

“although Washtenaw County had lower denial rates than the national average, the overall disparity ratio between whites and African-Americans was identical. This difference in loan denial rates between African-American and white applicants is sometimes attributed to the fact that African-Americans, as a group, are poorer than whites. However, disparity in loan denials between African-Americans and whites is present at all income levels, and actually increases as income rises. In fact, in 1993, the rejection rate for upper-income African-Americans (10.3%) was significantly closer to that for low-income whites (13.6%) than to the rejection rate experienced by upper-income whites (2.8%). (Fair Housing Center, 1996, p. 1)

The Fair Housing Act is based on the right to equal treatment in obtaining housing. A 2000 report by the Federal Reserve Bank of Chicago found that “Considering that the Ann Arbor MSA has over 30 percent of its tracts and 29 percent of its population in low- and moderate-income census tracts, a 15 percent share of loans in these areas seems disproportionately low compared to higher income tracts,” and that in “minority census tracts” (tracts having more than 50 percent minority population according to the census) “lending activity in those tracts remained relatively low. (p. 58)”

An October 2004 report by the National Community Reinvestment Coalition, “Inequalities in Small Business Lending by Income and Race of Neighborhood,” revealed “striking disparities in small business lending by race and income of neighborhood” (p. 4). Their research included the Ann Arbor PMSA, and found results in the Ann Arbor PMSA that were similar to those nationwide. Other recent national reports have found similar trends in home mortgage lending. Given that the Community Reinvestment Act was designed to mitigate against redlining (the refusal to lend within certain areas) and to encourage investment in low and moderate-income and predominantly minority areas, these results are discouraging. For instance, recent national testing by the National Community Reinvestment Coalition found “many instances of discriminatory and abusive lending practices” among subprime lenders.
Community Reinvestment Act and Jurisdictional Banking Choices

As detailed above, the Community Reinvestment Act works to encourage banks to invest in underserved areas, and to be community-minded in other ways. Annually, banks are required to report their actions, and they are regularly evaluated as to their compliance with the Community Reinvestment Act. Individual banks can be researched through the FFIEC web site, www.ffiec.gov.

Banking Choice Recommendations:
The City of Ann Arbor has a relatively large budget, including investments. Much of the City’s money is invested in various ways, and some funds are kept in banks. The City should investigate its banks’ banking practices, and either choose banks based on their community-mindedness, or encourage its current bank to invest significantly in the Ann Arbor community. Any investigation of a bank should include its CRA record, but should not be limited to that alone. The City should not place its funds in any bank that has received less than a CRA rating of Satisfactory, and a rating of Outstanding is preferable.
Part 3: City Government: Boards, Commissions, Staff

Overview

The City of Ann Arbor is large and complex, with many boards and commissions whose decisions can create or remove impediments to fair housing. Staff and City Council may also have an effect on both fair and affordable housing. These boards and commissions include, but are not limited to, the Building Board of Appeals, Housing Board of Appeals, Historic District Commission, Housing Policy Board, Planning Commission, and the Zoning Board of Appeals.

In assessing fair housing practices, the tone is set not only by governmental units' ordinances, but also by their implementation by city boards, in particular the planning commission and zoning board of appeals. For instance, although a jurisdiction can decide to completely exclude houses of worship as a special or conditional use from a particular type of zoning, once houses of worship are included, all of them must be treated similarly. In other words, the church and the mosque must receive the same treatment. In the same vein, private and parochial schools, senior housing, supportive housing, and group home applications offer a window into whether the decision-making processes of planning commissions and zoning board of appeals treat all people equally. In the case of private homeowners, are people of all races and national origins treated equally when requesting variances? In order to assess this information, it is essential to look at planning and zoning documents. The question is not only whether the townships’ ordinances are fair, but also whether they are applied fairly.

The population of Ann Arbor is increasing in diversity. As can be seen from the maps in the Appendix and the data in the Part 1, compared with ten or twenty years ago, there are more Asians, more Latinos, and more African-Americans. There are more single-headed households, more senior citizens, and new and emerging definitions of "family." In the next twenty years, the population is expected to diversify even more. It may become important to translate key documents into other languages, such as Spanish, Chinese, Japanese, and Arabic.

- The City of Ann Arbor has done an excellent job of providing all residents with access to parkland. Public parks are critical to the idea that every person in the city has access to equal recreational resources. For this reason, the Fair Housing Center recommends that if private parkland is part of a PUD or other planning process, access to the park by all residents should in some way be codified.

- The City of Ann Arbor has done an excellent job in documenting its housing policy, statement in the human services policy about protecting fair housing rights, and its local ordinance protecting housing discrimination based on source of income. In addition, the City of Ann Arbor has a Housing Policy Board and a Human Rights Commission. Some relevant documents are excerpted below.

- The City of Ann Arbor is to be commended for offering a domestic partnership ordinance, as well as domestic partnership benefits to employees. (A September 27,
2005 court ruling held that domestic partnership benefits are allowed despite recent changes in state law around marriage.

Chapter 112 Non-discrimination Ordinance

9:150. Intent.
It is the intent of the city that no person be denied to equal protection of the laws; nor shall any person be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived race, color, religion, national origin, sex, age, height, weight, condition of pregnancy, marital status, physical or mental limitation, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status. As used herein, "perceived" refers to the perception of the person who acts, and not to the perception of the person for or against whom the action is taken.
Nothing herein contained shall be construed to prohibit any affirmative action laws passed by any level of government.
(Ord. No. 4-78, 3-13-78; Ord. No. 10-99, § 1, 3-1-99)

Ann Arbor Housing Policy Excerpt

Ann Arbor Housing Policy
POLICY PRINCIPLES

I. To assure that equitable access exists in all housing options regardless of a person's race, color, religion, national origin, age, condition of pregnancy, marital status, physical/mental condition, source of income, family responsibility, family definition, educational association, or sexual orientation.
II. To encourage the involvement of public, private, and non-profit entities in housing ownership, management, and development issues.
III. To provide an adequate supply of decent, safe, and affordable housing within a variety of structure and ownership types.
IV. To preserve and maintain the city's existing housing stock.
V. To promote neighborhood development and redevelopment with adequate public facilities and services.
VI. To encourage and assist those who seek homeownership to own the housing that they occupy.
VII. To promote the active and effective administration of the Housing Policy.
VIII. To assure that programs, incentives, or any actions associated with the implementation of the housing policy should not lead to the loss of affordable housing.
IX. To prioritize the implementation of the housing policy of those projects which address the problems of those most in need, including low and moderate income persons, people with disabilities, and seniors.
Human Services Investment Outcomes
The City of Ann Arbor is seeking to invest in programs and services that achieve the identified community outcomes in the five categories listed below for extremely low, very low and lower income City of Ann Arbor residents. The Community Development Department is also seeking proposals for specific services as described below.

**Investment Outcome I:** The supply of affordable housing will be increased or preserved.

**Investment Outcome II:** Housing stability will be increased.
A. The onset of homelessness will be prevented and the incidence will be reduced. Skills and resources needed to access and remain housed will be gained.
B. The negative aspects of being homeless will be reduced. Homeless will have access to meals and shelter.
C. Fair housing rights will be protected.
1:221. [Human rights commission--Created; appointment; term; compensation.]

There is hereby created a human rights commission. It shall be composed of 9 members, to be appointed by the mayor with the approval of the city council and shall be responsible directly to the mayor and city council. The commission shall select 1 of its members as chairperson. Members shall serve staggered 3-year terms. The term as chairperson shall be for 1 year with no limit on the number of times a member may be reappointed as chairperson. Members, including the chairperson, shall serve without compensation.

(Ord. No. 68-69, 1-19-70; Ord. No. 28-78, 6-19-78; Ord. No. 74-92, § 1, 10-5-92)

1:222. [Same--Duties.]
The commission shall:

(a) Make periodic public reports and recommendations to the city council and city administrator on ways to improve city government programs and ordinances designed to eliminate discrimination or to remove the effects of past discrimination;

(b) Investigate, study, hold hearings and make recommendations to city council regarding complaints from any class or group protected under the human rights ordinance;

(c) Review and make recommendations to city council on the affirmative action programs of persons or firms conducting business with the city;

(d) Research, formulate and carry out programs of community education with the objective of discouraging and eliminating racial tensions, and prejudice or discrimination against any groups of persons;

(e) Advise and communicate with federal and state agencies regarding their human rights and affirmative action programs for the purpose of making recommendations to city council on more effective coordination of federal, state and city programs.

(Ord. No. 68-69, 1-19-70; Ord. No. 28-78, 6-19-78)

In this section, we discuss a few broad areas of general concern: board/commission actions, conditional use permits, new construction, and zoning ordinance definitions. In the section that follows, we discuss litigation.

**Board and Commission Actions**

It appears that the level of understanding of the requirements of board/commission members varies from committee to committee and individual to individual. In particular, board & commission members often wondered (in public, as noted in various City of Ann Arbor minutes) whether they were required to permit something because it appeared to be allowed by the zoning ordinance. In some cases, different boards/commissions came to different understandings. [One example is the different decisions made over the siting of a homeless shelter downtown, with one board wanting to retain its own lawyer in opposition to the decisions of city management!]

A case in point is the development of the old Olga’s site at the corner of State St. and Washington. A developer first proposed a one-story building, which met all ordinances but was rejected for being too small. The developer then proposed a very tall building, which met all ordinances but was rejected for being too tall. An ensuing lawsuit ended with an agreement that
the developer could build the taller building. Although this may seem tangentially related to civil rights law, if the developer had been Asian, Middle Eastern, or African-American, she or he might have concluded that she or he was being refused because of his or her race, national origin, or religion. In the case of the homeless shelter siting, was the opposition from certain boards and commissions based on opposition to people who receive certain sources of income, or to people with disabilities? If the City sends a clear message to boards and commissions that it is their obligation to follow ordinances, and not their personal inclinations, it will improve the climate for fair housing and civil rights in this City. In addition, it will have the added benefit of protecting the city from future litigation.

**Boards and Commissions Recommendation #1:**

Although we were not able to obtain data on the racial/ethnic makeup of every board and commission, a perusal of some of the committees suggests that the City’s boards and commissions do not accurately reflect the makeup of the City’s population in terms of race, national origin, disability, and religion. Every effort should be made to ensure that candidates for city boards and commissions are drawn from all sectors of the city’s population.

**Boards and Commissions Recommendation #2:**

It is the opinion of the Fair Housing Center that if members of commissions and boards do not allow items that are permitted by city ordinances, they not only place themselves at risk of general litigation on planning issues, but they also place the City at risk of being sued over fair housing, accessibility, or other civil rights issues. Without the city having clear guidelines, an applicant may be able to allege that his or her rights are being violated because of race, religion, national origin, or other protected status.

The Fair Housing Center recommends that the City communicate clear guidelines to members of the Planning Commission, Zoning Board of Appeals, and other boards and commissions. In addition, the Fair Housing Center recommends that the City ensure the ongoing education of board and commission members regarding fair housing and civil rights law. These appointees are, in general, volunteers, and they change over time as appointments expire. They deserve the best support and education possible.

**Conditional Use Permits**

Conditional use permits, used to site many types of development, are an important tool used by municipalities to control zoning in their communities. Every conditional use permit needs to go through the planning process, and conditional use permits are often used for the siting of churches, group homes, and schools, among others. In many cases, the organizations requesting the siting are religious organizations or non-profit organizations that work with people with disabilities or senior citizens. Frequently, people choose to live near their congregations and schools.
In recent years, within the boundaries of Washtenaw County, several lawsuits have been brought regarding the planning/zoning process under both RLUIPA (the Religious Land Use and Institutionalized Persons Act) and the Civil Rights Act, including at least one case involving RLUIPA within the City of Ann Arbor. Many other cases had the potential for litigation. Generally, concerns are raised over zoning denials related to religious institutions, senior housing, housing for people with disabilities, and schools.

At least one church, in the past five years, began a lawsuit after being turned down for a conditional use permit. Religion is a protected status under fair housing law, and people tend to want to live near their houses of worship. The settlement of the lawsuit allowed the permitting to go forward.

**Planning Process Recommendation:**

Staff and elected officials must work to ensure that the planning process is free of bias. The planning process should proceed without bias so that a planning commission would not approve majority white churches but deny a majority African-American church, or approve a private preparatory school but deny a private parochial school, unless there are defensible zoning reasons to do so.

Given the proliferation of private, parochial, and charter schools in Washtenaw County, the City of Ann Arbor should be using clear standards to assess these requests. Given that members of commissions are volunteers, they deserve support and training in understanding their obligations under fair housing, civil rights, and zoning law.

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11 The Religious Land Use and Institutionalized Persons Act (“RLUIPA”) says that “No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution-- (A) is in furtherance of a compelling governmental interest; and (B) is the least restrictive means of furthering that compelling governmental interest.” 42 U.S.C. § 2000cc. Protection of land use as religious exercise
Although Scio Township is not part of the City of Ann Arbor, the boxed report on an FHC-aided lawsuit illustrates the role of planning and zoning decisions in fair housing.

$35,000 Settles Church’s Race Discrimination Lawsuit Against Scio Township

Ann Arbor’s Fountain Church of God in Christ has accepted $35,000 to settle their race discrimination suit against Scio Township, the Scio Township Planning Commission and the Scio Township Board of Trustees.

In late 1994, Fountain Church of God in Christ, an African-American church, attempted to purchase land zoned A-1 (agricultural) and have a conditional use permit issued in order to build a new church at the corner of West Delhi and Miller Roads. In February 1995, on a 4-3 vote, and against the advice of their planning consultant, the Planning Commission denied the conditional use permit to Fountain COGIC. This decision was upheld by the Scio Township Board of Trustees. An investigation conducted by the FHC found that Fountain Church was at that time the only house of worship to be denied a conditional use permit by the Scio Township Planning Commission since 1978.

The Planning Commission cited "incompatibility" with the surrounding neighborhood as its reason for denial of the conditional use permit. However, land-use expert, Charles Leman of Villican-Leman, wrote in his land-use analysis that "It is our opinion the Fountain Church site is suitable for a church... Of the six church sites which have been approved, a number exhibit many of the same characteristics as the Fountain Church site... adequate site size exists to provide a harmonious relationship through proper landscaping and screening of the church property."

The Church Board of Deacons believed they were denied a special conditional use permit because of the race of the church membership. Church member and realtor Mrs. Alvin Rimson claimed to have lost the commission associated with the sale of the land, a commission that she planned to donate to the church. Mrs. Rimson contacted the FHC in 1995.

Fountain COGIC was then located on Fountain Street in Ann Arbor, Michigan. Having outgrown their building, the church was looking for new space. After being denied the conditional use permit by Scio Township, they subsequently found a larger building on West Stadium in Ann Arbor near Pioneer High School.

According to Township documents, the Township's own planning consultant held that the tangible issues were resolvable, and believed that the church could be compatible with the zoning and neighborhood. Several other churches approved by the Township were asked to address problems related to landscaping, noise, traffic, and drainage.

FHC Cooperating Attorney Benjamin Whitfield, Jr. filed suit on behalf of Fountain Church of God in Christ in Federal District Court. The suit alleged violations of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, the Civil Rights Acts of 1866 and 1871, and the Michigan Elliott-Larsen Civil Rights Act. The case was assigned to Judge Avern L. Cohn.

Fair Housing Center Newsletter, November 2000
**New Construction**

Over 1100 multi-family units with 5 or more units in a structure were built between 1990 and 2000 in Washtenaw County. Multi-family units (4 or more units in a structure) built for first occupancy after March 13, 1991 are required to meet specific accessibility guidelines in compliance with the Federal Fair Housing Amendments Act. These guidelines include minimum doorway widths, usable bathrooms and kitchens and a clear accessible path into and through the units. Building departments are accustomed to enforcing building codes, but are not currently prepared to highlight or point out Fair Housing Act requirements. There have been many incidents in the last ten years in which multi-family structures have met building codes but not fair housing law. In 2000, the lawsuit WACA/FHC v. Oakridge, in which developers in Ypsilanti Township did not comply with the Fair Housing Act’s accessibility guidelines, resulted in a $15,000 settlement as well as a requirement for retrofitting (see story below).

Between 1991 and 2003, 40 “large housing projects” were approved in the City of Ann Arbor and (as of June 2003) 5 were pending. These “large housing projects” represent over 2500 units of housing, of which at least 20% (and likely more) meet the criteria for multi-family unit accessibility.

In cases where the Federal Fair Housing Amendments Act apply, prospective residents and advocacy groups have standing to sue both the architect and the developer for violations of the federal Fair Housing Amendments Act of 1988. A frequent complaint of developers and architects is that the local building and planning departments approved their plans. While it may not be the legal responsibility of building, zoning, or planning departments to identify fair housing act violations, it is helpful to both developers and would-be residents if jurisdictions make these requirements known.

The Fair Housing Act, the State of Michigan Building Code, and the U.S. Department of Housing and Urban Development each have requirements about accessibility in multi-family housing. Some requirements are attached to the project funding source, others apply to nearly all multi-family housing.

The Fair Housing Act (FHAA) establishes seven design and construction requirements for covered multifamily housing completed for first occupancy on or after March 13, 1991. Briefly, buildings covered by these requirements include buildings with four or more units if the building has one or more elevators, or the ground floor units in other buildings with four or more units. FHAA requirements are not to be confused with fully accessible/barrier free design requirements set out by the State of Michigan.

The Michigan State Building Code covers multi-family dwellings with more than two units (R-2 buildings), including boarding houses, shelters and other buildings for non-transient residents. If there are four and more units in a building, units are required to be adaptable (Type B units). Adaptable means they are minimally accessible and could easily be made fully accessible. Ideally Type B units can be altered to become barrier free units. In a building with more than 20 units, then at least 2%, and not less than one unit must be fully accessible (Type A unit). Fully accessible is the same as barrier free.

For new HUD-funded construction projects with five or more units, 5% of the units (at least one unit) must meet full accessibility requirements set out by the Uniform Federal Accessibility Standards. This standard focuses on wheelchair accessibility. Another 2% of the units (at least one) must be accessible for those with visual or hearing impairments. Units may be
accessible only to those with hearing impairment, only to those with visual impairments or some of each.

It is easier and better to build to meet accessibility requirements than to retrofit; truly, when it comes to making things accessible, “an ounce of prevention is worth a pound of cure.”

**Promoting Accessibility Through Building Codes Recommendation:**

Federal Fair Housing Act Accessibility Guidelines for new construction of multi-family dwellings should be made available from local building departments. In addition, while localities are not at this time responsible for enforcement, they should consider ways to make the law more clear to those going through the multi-family building process. We recommend that building department staff place warnings on permits and applications that state, “This project may be subject to building accessibility requirements set out by the federal Fair Housing Amendments Act of 1988.” The US Department of Justice concurs, suggesting that incorporation of fair housing and ADA requirements into building codes would improve compliance with these laws (see box below).

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**Promoting Accessibility Through Building Codes**

According to the U.S. Department of Justice, “The Civil Rights Division of the U.S. Department of Justice recognizes that barriers in the built environment pose a serious impediment to the full integration of people with disabilities into society. Federal law has attempted to address the lack of accessibility in certain residential buildings through the design and construction requirements of the Fair Housing Act and in commercial and public properties through the design and construction requirements of the Americans with Disabilities Act... Most states or localities in this country have adopted building codes to govern construction within their jurisdictions. These building codes are enforced by local or state code officials. The Civil Rights Division believes that incorporation of the design and construction requirements of the Fair Housing Act and the Americans with Disabilities Act into building codes represents an opportunity to enhance compliance with these federal laws.” (US Department of Justice, U.S. Department of Justice, Civil Rights Division: Promoting Accessibility Through Building Codes.)
New Development Lawsuit: WACA/FHC v Oakridge (located in Ypsilanti Township)

The Washtenaw Association for Community Advocacy (WACA) and the Fair Housing Center of Washtenaw County (FHC) have accepted $15,000 to settle a lawsuit against Oakridge Apartments in Ypsilanti Township. The suit, which also individually named developers Julie A. Fielek and Charles Chatfield, engineer John W. Adams, and architect Joseph E. Sojkowski, alleged violations of the Federal Fair Housing Amendments Act of 1989. The terms of the agreement includes a commitment by the developers to, at the request of tenants, retrofit each of their first-floor units for wheelchair access. An FHC investigation conducted while Oakridge was still under construction revealed that the Holmes Road complex had a two-inch threshold leading into ground floor apartments and the leasing office, and insufficient space/design in the bathrooms and doorways. According to the Fair Housing Act, all multi-family housing built for first occupancy after March 13, 1991, must adhere to seven design requirements regarding wheelchair accessibility for ground floor units and units on other floors reachable by elevator. The Fair Housing Act establishes the following seven requirements:

Accessible Building Entrance on an Accessible Route
Accessible and Usable Public and Common Use Areas
Usable Doors
Accessible Route Into and Through the Covered Dwelling
Light Switches, Electrical Outlets, Thermostats and Other Environment Controls in Accessible Locations
Reinforced Walls for Grab Bars
Usable Kitchens and Bathrooms

The Washtenaw Association for Community Advocacy is a non-profit advocacy group for people with disabilities and their families. The suit was filed after meetings with Oakridge failed to resolve the complaint. WACA and FHC were represented by Paul A. Callam of Cooper & Walinski. The case was assigned to Judge Patrick J. Duggan in Federal court. The settlement was $15,000 and a commitment to retrofit first-floor units for wheelchair access at the request of tenants.

Fair Housing Center newsletter, November 2000
Zoning Definitions

Despite the fact that definitions comprise several pages of the City’s zoning ordinance, in the past several years these definitions have clearly been inadequate in several cases. In addition, the default—that the planning/zoning staff, or the zoning board of appeals, relies on a general dictionary definition, is also clearly inadequate for specialized uses. For instance, issues may arise regarding senior housing or housing for people with disabilities. Given that the population is aging, this issue is likely to continue and perhaps expand. An assisted care facility that serves one meal a day, for instance, is neither a nursing home nor a typical apartment complex. The apartments may not have full kitchens, as most meals may be prepared in a communal kitchen; and yet full-scale nursing care is not available. In order to appropriately address these kinds of situations, planning commissions must have access to good definitions, and not be forced to rely on generalized dictionaries.

Zoning Definitions Recommendation:
Definitions are a critical piece of a zoning ordinance. Zoning definitions that address the kind of facilities in which senior citizens and people with disabilities live should be reviewed and revised, as necessary, to ensure that: 1) they are compatible with civil rights laws (including FHAA and the Elliott-Larsen Civil Rights Act), state law, and the Americans with Disabilities Act; and 2) they are respectful of the populations served.

Zoning ordinance definitions have a direct impact on how welcoming a community is to a wide range of people. Definitions can be used to include or exclude groups, and can be used to force organizations working with people with disabilities to go through the conditional use permit process.

In particular, the definition of a family may include or exclude certain populations. The city's current family definition is problematic and needs to be revised. According to the Coalition to Preserve the Fair Housing Act, good family definitions treat both functional and traditional families equally, and do not set occupancy limitations. Rather, they use the building code to set occupancy limitations. According to the Local Officials Guide to Fair Housing, published by the Coalition to Preserve the Fair Housing Act and the National League of Cities, “a zoning ordinance may violate the FHA if it defines family units or maximum occupancy differently for related or unrelated people” (p. 6). This understanding is based on a Supreme Court decision, The City of Edmonds v. Oxford House, Inc.

Family Definitions Recommendation:
Family definitions in zoning ordinances should include functional families as well as relationships such as adoption and foster care. Whether they identify traditional families and functional families in two different sub-definitions or in a single definition (as below), the families must be treated equally. So, for instance, occupancy limitations should not be placed only on the functional family. It is best if the definition does not address occupancy limitations, but rather, the building code sets the occupancy limitations.

The City of Ann Arbor definition, as currently written, is overly complex and does not meet best practices for fair housing and needs to be revised. The Fair Housing Center of

12 For a full discussion of Family Definitions, the Fair Housing Center suggests the Local Officials Guide to Fair Housing, by Cameron Whitman and Susan Parnas.
Southeastern Michigan recommends using building code occupancy standards and applying them to occupancy limitations.

**Family Definition Excerpt**

(16) Family. An individual or group of individuals occupying a dwelling unit as a single housekeeping unit in accordance with the standards of section 5:7.

**Minimum Living Space Excerpt**

(1) Minimum living space.
(a) Every dwelling unit except efficiencies, shall have at least 225 square feet of habitable room area. Every dwelling unit shall have at least 1 common room of 120 square feet for 1-bedroom apartments, 135 square feet for a 2-bedroom apartment, and 150 square feet for 3 or more bedroom apartments. Kitchen and dining areas, if provided as separate areas, shall have a minimum habitable room area of 35 and 50 feet respectively.
(b) Sleeping rooms, except efficiencies, used by 1 person shall contain at least 70 square feet of habitable room area.
(c) Every sleeping room used by more than 1 person contains 50 square feet of habitable area for each occupant or 40 square feet for each occupant under 12 years of age.
(d) In a rooming unit, every room occupied for sleeping purposes shall contain the following minimum habitable room area:
   One person: 80 square feet.
   More than 1 person: 80 square feet, plus 50 square feet for each additional person.
(e) If a written lease specifies the number of bedrooms in the units, the furniture or living style of residents shall not affect the approval of a dwelling for occupancy so long as no room is occupied as a sleeping room unless the room complies with the smoke detector and exit requirements of this chapter.
Residential Occupancy Excerpt


(1) Intent.
This section is intended to reasonably regulate the number of persons who can live in a residential dwelling unit. The city finds that occupancy limits are needed to provide density control; preserve and enhance residential neighborhoods as stable, quiet places for citizens to live and raise children; protect safety and welfare; and maintain property values. Such limits are also needed to insure that there are adequate public and private facilities including adequate offstreet parking, utilities, and adequate lot size to accommodate the residents of each dwelling unit without impairing the character of the neighborhood. The city also finds there are a number of residential living arrangements other than the traditional biological family arrangement. This section is intended also to accommodate those alternative living arrangements.

(2) A dwelling unit may not be occupied by more persons than 1 of the following family living arrangements:
   (a) One or more persons related by blood, marriage, adoption or guardianship living as a single housekeeping unit, in all districts.
   (b) Four persons plus their offspring living as a single housekeeping unit, in all districts.
   (c) Six persons living as a single housekeeping unit in R4 districts.
   (d) A functional family living as a single housekeeping unit which has received a special exception use permit pursuant to section 5:104.

(3) In this section, offspring means descendants, including natural offspring, adopted children, foster child and legal wards.

(4) In this section, functional family means a group of people plus their offspring, having a relationship which is functionally equivalent to a family. The relationship must be of a permanent and distinct character with a demonstrable and recognizable bond characteristic of a cohesive unit. Functional family does not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary.

(5) In addition to the standards of section 5:104, a permit for a functional family is subject to the following standards and regulations:
   (a) It must meet the definition of this section.
   (b) Two offstreet parking spaces must be provided. Additional parking spaces may be required by the planning commission if any of the following conditions are met:
      i. The property is located more than 300 feet from a bus stop.
      ii. Street parking available for visitor parking is limited.
      iii. The petitioner intends to park more than 2 vehicles regularly on the site and there is limited area available for tandem parking in a driveway.
Student Status, Age, Marital Status and Familial Status: The Case of Private Dormitories

The federal government makes discrimination based on familial status illegal. The State of Michigan makes discrimination based on age and marital status illegal. The City of Ann Arbor makes discrimination based on student status and source of income illegal. Given the large number of students in the City of Ann Arbor, this is an important issue.

The City recently agreed to allow construction of a “private dormitory” near the University of Michigan campus. This housing has no legal affiliation with the University of Michigan or its housing system. It mirrors a trend around the country to construct “private dormitories.” Although this property is not yet built, Fair Housing Centers around the country have received complaints that this housing is not available to students with children, or to non-students.

At the time of this writing, this “private dormitory” has not yet been built. Therefore, it remains to be seen whether there will be any discrimination. This is, however, a situation that should be watched carefully.

Protected Status and Zoning Decision Recommendation:
The City of Ann Arbor should communicate to all developers that they are expected to follow all federal, state, and local ordinances regarding fair housing and civil rights. This is especially critical in cases where it appears that there is a possibility that fair housing law could be violated.
Part 4: Overview of Complaints, Testing, Litigation, and Patterns

Legal Issues and Litigation in the City of Ann Arbor

This FHC-Southeast review of legal issues and litigation in the City of Ann Arbor involves both litigations filed by fair housing complainants against individuals or corporations owning property within the City, and legal issues that relate to the City of Ann Arbor’s direct actions. The City of Ann Arbor has an entire legal department, and many litigations relate to either the city planning process and/or civil rights issues.

At the end of this section is a list of litigations filed by fair housing complainants against individuals or companies who own property within the City of Ann Arbor. In addition to these litigations, it is important to take a broader look at litigations that relate to people’s “protected status,” including race, religion, national origin, disability, familial status and sex.

Although the Fair Housing Center requested a list of litigation related to planning, zoning, or protected status against the City of Ann Arbor, we did not receive one from the city. Thus, the litigation highlighted below does not represent all relevant litigation. While many of these issues cross boundaries of protected status, others relate to particular “protected status” issues. In addition, these issues relate to the actions of many different departments, including planning and zoning, parks and recreation, building, and the police department.

Disability Rights Issues

Two relatively recent cases highlight the ways in which the City of Ann Arbor has not shown a complete commitment to accessibility of the city to people with disabilities.

♦ Sidewalk Renovations

The City of Ann Arbor was recently sued by the Center for Independent Living for not following the ADA regarding curb-cut design. A partial settlement, in which the City agreed to do a review of curb cuts going back 13 years, was announced in June of 2005 (see Ann Arbor News article, below).

City Departments Recommendation:
This case highlights the need for the City to ensure that all city departments are following civil rights and disability rights law. More training may be needed.

♦ Ann Arbor Housing Commission

Although the Ann Arbor Housing Commission operates semi-independently of the City, the City does appoint the Housing Commission members. Thus, it is noteworthy that at least one complaint to the Fair Housing Center ended up with a lawsuit against the Ann Arbor Housing Commission. In this case, related to a reasonable accommodation of a disability, Paul Harbrecht, who has a hearing impairment, requested an amplifier for the buzzer/intercom system of his apartment at Baker Commons. When his request was ignored, Mr. Harbrecht
asked the Fair Housing Center to help. Fair Housing Center staff made another request for a reasonable accommodation, which was denied. Subsequent to the filing of a case in Washtenaw County Circuit Court, the case was settled for $2,500 and the installation of the amplifier.

**Ann Arbor Housing Commission recommendation:**
*This case highlights is the need for the City of Ann Arbor to ensure that Ann Arbor Housing Commission staff and commissioners are aware of the requirements of fair housing law. More training may be required.*
Ann Arbor News: Curb Ramp Lawsuit Partially Settled

Accessibility to disabled at issue in federal case

By Liz Cobbs, News Staff Reporter

The city of Ann Arbor may replace some curb ramps that do not comply with Americans with Disabilities Act standards, following a partial settlement of a federal lawsuit brought by an advocacy organization.

Because the Ann Arbor Center for Independent Living's lawsuit is pending and a review of curb ramps will go back 13 years, it is not immediately known how many curb ramps are to be replaced and how much it will ultimately cost the city to replace them.

The center claimed in its August 2004 lawsuit, assigned to U.S. District Judge John Corbett O'Meara in Detroit, that the city has failed to build curb ramps according to federal and state accessibility guidelines and standards. The lawsuit alleges the city's failure has resulted in unsafe sidewalks and intersections for people using wheelchairs, who are sometimes forced to travel in the streets.

Among the issues still to be resolved is reaching an agreement with the Downtown Development Authority over fixing curb ramps downtown, said the center's attorney, J. Mark Finnegan of Ann Arbor.

Assistant City Attorney Abigail Elias said it is the city's policy not to comment on pending litigation. In addition, Elias said, "the first consent decree and partial settlement speaks for itself."

The consent decree and partial settlement is the document that details the partial resolution of the lawsuit. The document will be in effect over the next three years. The city stated in the document that by agreeing to the partial settlement, it is not admitting liability or waiving any defenses it might have to the lawsuit.

According to the document, the city will give the center's attorneys a list of construction, alteration and resurfacing projects for 2005 and list intersections of streets, roadways, highways, sidewalks and paths that will be altered or resurfaced.

By the end of the year, the city will give plaintiffs' attorneys a list stating whether curb ramps at intersections that were part of construction, alteration or resurfacing projects done from March 1, 1992, through Dec. 31, 1997, meet ADA standards. The city will also state which nonconforming curb ramps it intends to replace and which ones it intends to leave in place, the document said.

The consent decree also calls for the city to provide the same type of list by Dec. 31, 2006, for projects done from Jan. 1, 1998, through Dec. 31, 2004.

Before filing the lawsuit, representatives from the Ann Arbor Center for Independent Living approached the city about its claims that the city built curb ramps that do not meet ADA standards.

In an August 2003 letter that is now an exhibit in the lawsuit, City Administrator Roger Fraser wrote to the center's president and CEO, James Magyar, that the curb ramps complied with all applicable regulations and guidelines. A follow-up letter written by Elias in October 2003 said the city followed the Uniform Federal Accessibility Standards rather than the ADA guidelines for its sidewalks and curb ramps.

Source: Ann Arbor News (Ann Arbor, MI), 4/11/05
Issues of Race or Race Discrimination

Over the past ten years, racial incidents involving City of Ann Arbor departments have occurred more than once. For instance:

♦ Swimming While Black: A case involving a Parks Department supervisor who accused a group of black children (and not the white children present at the time) of theft at a local swimming pool. (See article below.)

♦ DNA Case: A case involving the Police Department in which African-American men had their DNA taken based on a very sketchy description of a serial rapist. (Shelton v. Ann Arbor Police Department, 1997).

♦ Concern about racial profiling of African-American, Middle Eastern, and Latino drivers by the Ann Arbor Police Department.

In light of the complaints made by African-Americans and others regarding racial profiling, the City of Ann Arbor Police Department is to be commended for taking the step of asking an outside consultant to review whether or not there was evidence of racial profiling. The review concluded that in most parts of the City, there is no evidence of racial profiling at stops. It did not assess post-stop racial profiling. The Fair Housing Center has excerpted the recommendations of the Lamberth Consulting report below (2004). They are in agreement with our focus on civil rights law.

Diligent management of racial profiling issues includes continued measurement and maintenance of programs. We have provided the following list of recommendations for the AAPD to consider as they continue to address this important issue.

1. We recommend that the AAPD continue to monitor those two locations where the Odds Ratios were slightly high, i.e., at Hubbard & Huron Parkway and Stadium & Washtenaw.

2. We recommend that the AAPD continue their racial profiling data collection program until they have enough stops of Hispanics and Middle Easterners to analyze adequately.

3. The science of analyzing racial profiling activity has advanced since the inception of this study to include an emphasis on post-stop activity. While out of scope for this study, the AAPD should consider the collection and data analysis of post-stop activity.

4. We recommend that the department continue the procedures instituted in January of 2003 to assure recording of racial profiling stop data. This allows for a more thorough audit of police stops.

5. We recommend that the AAPD consider providing officers training that is specifically designed to target racial profiling, including information that informs officers about when they can and cannot use race, behavioral profiling, what the hit rates for searching Black and Hispanic motorists are and other subjects that are specifically targeted to helping officers deal with the proper and improper use of race in policing.

6. We recommend that the AAPD continue to work with community groups to achieve a better understanding of the needs of the department by the community and of the needs of the community by the department.
Civil Rights Groups Deplore “Swimming While Black” Incident at Ann Arbor Pool

August 28, 2000: ACLU Press Release

ANN ARBOR, MI - The American Civil Liberties Union, the NAACP and other civil rights leaders are speaking out at rally this weekend protesting the unjustified search and detention of six African-American youth at a public pool here.

"Swimming While Black' is not a crime," said Michigan ACLU Legal Director Michael J. Steinberg, who is advising the families of the children. "This ugly incident illustrates the extent to which racial profiling has pervaded our society. It is not limited to traffic stops or shopping malls; it can happen anytime and anywhere."

On July 20, 2000, a white patron at the Veterans Memorial Pool reported that his pager and cell phone were missing. In reaction, the pool manager singled out the only African American patrons at the pool as suspects.

Three African-American boys and three African-American girls were preparing to leave the pool after an afternoon of swimming, when the pool manager approached one of boys in the locker room and demanded that he shake out his clothes and open up his shirt.

Although there were several white boys in the locker room, the manager did not require that they shake out their belongings. When the young man exited the locker room to join his friends in the lobby, the pool manager asked all six of the youths to remain in the lobby until the police arrived. The pool manager also stationed pool staff at the lobby exit.

When an Ann Arbor police officer arrived, the man who lost his cell phone proceeded to ask the children to empty their bags one-by-one. Given the presence of the pool manager and the police officer, the children did not believe that they had any choice but to comply. Nothing was found.

"It was very embarrassing," said Freddie Anderson, one of the boys who was detained. "White people in the lobby were watching us while we were being searched. We were being treated like criminals even though we had done nothing wrong."

The pool manager failed to call any of the parents to ask permission to search the children and to apologize for detaining the children.

In response to the incident, city officials issued a personal apology to the families and promised that some unspecified disciplinary action would be taken against the Veterans Pool manager. The city also offered $100 in coupons for use at Parks and Recreation facilities, which the families declined.

"We commend the City for recognizing that a wrong was committed in this case and for taking the families' complaint seriously," said Dr. Harry J. Williams, President of the Ann Arbor NAACP. "However, the City could be doing so much more to make sure that incidents like this do not happen."

"Racial sensitivity training has been erratic, the City has refused to implement the affirmative action plan developed by the Human Rights Office, and past discrimination complaints against the Parks and Recreation Department have not been addressed appropriately," Dr. Williams said.

Joe Dulin, principal of Roberto Clemente High School in Ann Arbor, an organizer of the community protest, agreed. "From the womb to the tomb, we have racial profiling of African-Americans," he said.
Fair Housing Complaints to Federal and State Agencies (HUD and MDCR)

Between 1998 and 2004, there were 13 fair housing complaints made to the Department of Housing and Urban Development (HUD) and an estimated 15 filed with the Michigan Department of Civil Rights. The tables below list each Ann Arbor based complaint made to these state and federal agencies.

During this same period, the complaints taken by the Fair Housing Center (306) outnumbered the complaints given to MDCR and HUD by a factor of more than 20:1. The result of the MDCR complaints was one case with a $700 award. Of the Ann Arbor-based fair housing complaints taken during this same time period, Fair Housing Center had 8 cases resulting in total settlements of $168,500. In addition, the Fair Housing Center advocated for numerous complainants with disabilities, resulting in many reasonable accommodations. Of the complaints made to HUD, one is pending and two other list “withdrawn by complainant after resolution,” meaning that the results are not published but there was some kind of settlement.

<table>
<thead>
<tr>
<th>Date Filed</th>
<th>Basis</th>
<th>Transaction Type</th>
<th>Property Type</th>
<th>Type of Allegation</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>8/15/00</td>
<td>National Origin, Disability,</td>
<td>not listed</td>
<td>Multi-family 5+</td>
<td>Discriminatory terms and condition, privileges, or services</td>
<td>Complaint withdrawn by complainant after resolution</td>
</tr>
<tr>
<td>8/15/00</td>
<td>National Origin, Disability,</td>
<td>not listed</td>
<td>Multi-family 5+</td>
<td>Failure to make a reasonable accommodation</td>
<td>Complaint withdrawn by complainant after resolution</td>
</tr>
<tr>
<td>4/13/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Senior Housing</td>
<td>Discriminatory refusal to negotiate for rental</td>
<td>No cause determination</td>
</tr>
<tr>
<td>4/26/01</td>
<td>Race, Disability</td>
<td>Rental</td>
<td>Multi-family 5+</td>
<td>Discriminatory refusal to rent and negotiate for rental</td>
<td>Complaint withdrawn by complainant without resolution</td>
</tr>
<tr>
<td>5/10/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+</td>
<td>Discriminatory refusal to rent and negotiate for rental</td>
<td>Dismissed for lack of jurisdiction</td>
</tr>
<tr>
<td>7/19/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Coop- erative</td>
<td>Discrimination in services and facilities related to renting</td>
<td>No cause determination</td>
</tr>
<tr>
<td>Date</td>
<td>Type</td>
<td>Category</td>
<td>Discrimination</td>
<td>Outcome</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>---------------</td>
<td>-------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>-----------------------------------</td>
<td></td>
</tr>
<tr>
<td>10/17/01</td>
<td>National Origin</td>
<td>Rental</td>
<td>Discriminatory refusal to rent and negotiate for rental</td>
<td>No cause determination</td>
<td></td>
</tr>
<tr>
<td>11/26/02</td>
<td>National Origin</td>
<td>Rental</td>
<td>Discriminatory refusal to rent</td>
<td>Not listed</td>
<td></td>
</tr>
<tr>
<td>12/5/2003</td>
<td>National Origin</td>
<td>Purchase</td>
<td>Discrimination in terms, conditions, privileges relating to sale</td>
<td>No cause determination</td>
<td></td>
</tr>
<tr>
<td>3/26/2004</td>
<td>Disability</td>
<td>Other</td>
<td>Discrimination in terms, conditions, privileges relating to sale; Otherwise deny or make housing available; Failure to permit reasonable modification</td>
<td>Complainant failed to cooperate</td>
<td></td>
</tr>
<tr>
<td>5/20/2004</td>
<td>National Origin</td>
<td>Purchase</td>
<td>Discriminatory refusal to sell</td>
<td>No cause determination</td>
<td></td>
</tr>
<tr>
<td>9/21/2004</td>
<td>Familial Status</td>
<td>Rental</td>
<td>Discriminatory refusal to rent</td>
<td>No cause determination</td>
<td></td>
</tr>
<tr>
<td>11/10/2004</td>
<td>Sex</td>
<td>Rental</td>
<td>Discriminatory refusal to rent and negotiate for rental</td>
<td>Pending</td>
<td></td>
</tr>
</tbody>
</table>

Table 9: Fair Housing Complaints to HUD, 1998-2004
City of Ann Arbor Housing Discrimination Complaints Filed with the Michigan Department of Civil Rights, 1998-2002 (No Ann Arbor Housing Complaints Listed for 1998,1999)

<table>
<thead>
<tr>
<th>Date Filed</th>
<th>Basis</th>
<th>Transaction Type</th>
<th>Property Type</th>
<th>Type of Allegation</th>
<th>Status/Award</th>
<th>Award Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/10/00</td>
<td>Other</td>
<td>Shelter</td>
<td>Shelter</td>
<td>None listed</td>
<td>Closed, 11/11/00 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>8/30/00</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Cooperative</td>
<td>Failure to rent</td>
<td>Closed, 1/18/01 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>5/03/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Senior Housing</td>
<td>Failure to rent</td>
<td>Closed, 7/31/01 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>5/24/01</td>
<td>Race, Disability</td>
<td>Rental</td>
<td>Multi-family 5+, Cooperative</td>
<td>Failure to rent</td>
<td>Closed, 8/31/01 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>6/04/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Cooperative</td>
<td>Terms and conditions</td>
<td>Closed, 2/26/02 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>10/02/01</td>
<td>Race, Disability</td>
<td>Rental</td>
<td>Multi-family 5+</td>
<td>Failure to rent</td>
<td>Closed, 10/31/01 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>12/13/01</td>
<td>National Origin</td>
<td>Rental</td>
<td>Multi-family 5+, Cooperative</td>
<td>Failure to rent</td>
<td>Closed, 3/19/02 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>12/19/01</td>
<td>Race</td>
<td>Rental</td>
<td>Multi-family 5+, Senior Housing</td>
<td>Eviction</td>
<td>Closed, 5/20/02 $700.00</td>
<td>$700</td>
</tr>
<tr>
<td>1/23/02</td>
<td>Not listed</td>
<td>Not Listed</td>
<td>Real Estate Firm</td>
<td>None listed</td>
<td>Closed, 2/08/02 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>1/31/02</td>
<td>National Origin</td>
<td>Rental</td>
<td>Multi-family 5+</td>
<td>Failure to rent</td>
<td>Closed, 3/8/2002 $0.00</td>
<td>0</td>
</tr>
<tr>
<td>11/13/02</td>
<td>Physical Disability</td>
<td>Not Listed</td>
<td>Bank</td>
<td>Other terms and conditions</td>
<td>Closed, 11/20/2002</td>
<td>0</td>
</tr>
<tr>
<td>2/07/02</td>
<td>National Origin</td>
<td>Rental</td>
<td>Not listed</td>
<td>Eviction, Other Terms and Conditions</td>
<td>Closed, Claimant withdrew, 10/28/2002</td>
<td>0</td>
</tr>
<tr>
<td>6/30/2003</td>
<td>Race, Familial Status</td>
<td>Rental</td>
<td>Not listed</td>
<td>Terms and Conditions</td>
<td>Closed, adjusted, claimant withdrew</td>
<td>Adjusted</td>
</tr>
<tr>
<td>12/02/03</td>
<td>National Origin</td>
<td>Purchase</td>
<td>Real Estate Firm, Purchaser</td>
<td>Purchase Offer Denied</td>
<td>Closed, No Probable Cause, 3/31/02</td>
<td>0</td>
</tr>
<tr>
<td>Date</td>
<td>Category</td>
<td>Reason</td>
<td>Recommendation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>-------------------</td>
<td>-----------------------------</td>
<td>----------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9/29/04</td>
<td>Familial Status</td>
<td>Rental</td>
<td>Multi-family 5+ Cooperative</td>
<td>Failure to Rent</td>
<td>Closed, no probably cause, 1/20/05</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Category</th>
<th>Reason</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/25/04</td>
<td>Race</td>
<td>Rental</td>
<td>Not listed</td>
</tr>
</tbody>
</table>

**TOTAL=16**
Race=8
Disability=3
National Origin=3
Familial Status=2
Other/Not Listed=2

<table>
<thead>
<tr>
<th>Reason</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discriminatory Eviction</td>
<td>2</td>
</tr>
<tr>
<td>Discriminatory Failure to Rent</td>
<td>7</td>
</tr>
<tr>
<td>Discriminatory Terms and Conditions</td>
<td>5</td>
</tr>
<tr>
<td>Purchase Offer Denied</td>
<td>1</td>
</tr>
<tr>
<td>None Listed</td>
<td>2</td>
</tr>
<tr>
<td>$0</td>
<td>8</td>
</tr>
<tr>
<td>$700</td>
<td>1</td>
</tr>
<tr>
<td>Adjusted, non-disclosed</td>
<td>1</td>
</tr>
</tbody>
</table>

**Table 10: Fair Housing Complaints to MDCR, 1998-2004**
<table>
<thead>
<tr>
<th>#91-07</th>
<th>Fogel and Daniels v University Townhouses Cooperative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gretchen Fogel and Carla Daniels were denied the opportunity to apply jointly for a two-bedroom unit because they were not related by blood or law. Cooperating Attorney Helen Gallagher filed suit claiming discrimination based on sex, marital status and sexual orientation.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Settlement: Non-Disclosed, includes moving expenses</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W92-46</th>
<th>Helm v Mancharian</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cheryl Helm filed suit against the owner of Stimson Apartments claiming discrimination based on familial status. Helm said she was denied an apartment because she has a son.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Settlement: $17,500</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W92-56</th>
<th>Worthy v Briar Cove</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Worthys, an African American family, accused Briar Cove of discrimination based on race. FHC testing supported their claim.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Settlement: Non-Disclosed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W93-11</th>
<th>Wilcox v Eberbach</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Wilcoxes claim they were denied the opportunity to move into a duplex because the existing neighbors did not want to live next door to children.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Settlement: $1,000 from existing tenant, Non-Disclosed from owner</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W93-38</th>
<th>Runyon v West</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hillary Runyon filed suit against the Wests claiming discrimination based on familial status. Runyon told the FHC she was denied a unit for herself and two children because, according to the owner, the unit was too small for her family. Testing showed the owner's willingness to rent to a group of three adults.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Settlement: Non-disclosed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W93-83</th>
<th>D. Johnson v Stadium Apartments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debra Johnson sued Stadium Apartments for familial status discrimination. Johnson planned to rent a two-bedroom unit for herself and three children. Testing and a witness statement support the claim.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Status: Withdrawn</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>#W93-111</th>
<th>Krohn v Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Susan Krohn sued Ken Land, claiming that he refused to accommodate her disability.</td>
<td></td>
</tr>
<tr>
<td>Court: State</td>
<td></td>
</tr>
<tr>
<td>Status: Non-disclosed</td>
<td></td>
</tr>
<tr>
<td>#W94-52</td>
<td>Brannan v Pine Valley</td>
</tr>
<tr>
<td>---------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Phyllis Brannan worked with FHC Cooperating Attorneys Jonathan Rose and Jonathan Weber to file suit against Pine Valley Apartments. The suit claims violation of the Michigan Handicapper's Civil Rights Act (now the Michigan Persons with Disabilities Civil Rights Act). Brannan claims that Pine Valley refused to repaint her unit one room at a time to accommodate her disability.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
| **Settlement:** $10,000 |

<table>
<thead>
<tr>
<th>#W94-61</th>
<th>Harbor v Nam</th>
</tr>
</thead>
<tbody>
<tr>
<td>After the birth of their third child, the Harbors received an eviction notice. The notice stated that because their new baby was a boy, they would have to move out, and had the baby been a girl (like their two older children) they might have made an exception for them to stay. FHC Cooperating Attorneys Jonathan Rose and Jonathan Weber filed the suit.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
| **Settlement:** $6,000 |

<table>
<thead>
<tr>
<th>#W94-98</th>
<th>Morrison v Ticknor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melanie Morrison, a woman with a visual impairment contacted the FHC with a complaint of discrimination based on disability and on sex. Morrison contacted the FHC to say she was denied the opportunity to rent a house because of her disability and sex.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
| **Settlement:** $12,000 |

<table>
<thead>
<tr>
<th>#W95-10</th>
<th>Schiller v McKinley</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Schillers, a couple with three children, were denied housing at McKinley-owned Meadowbrook Village apartments because Meadowbrook has a two person per bedroom limit. The Schillers told the FHC that the bedrooms at this complex were unusually large. FHC investigation concluded that one of the two bedrooms was large enough for three people.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
| **Settlement:** Non-disclosed |

<table>
<thead>
<tr>
<th>#W95-21</th>
<th>Tankson v Arbor Apartments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sarah Tankson is an African-American woman with a disability. The FHC took a complaint on Tankson's case when Arbor Apartments staff stated that they did not take SSI, Tankson's source of income. Tankson also reported being treated rudely in the Arbor Apartment's offices. FHC testing and a statement from a witness support Tankson's claim of discrimination based on race and disability.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
| **Settlement:** $5,000 |

<table>
<thead>
<tr>
<th>#W95-139</th>
<th>Pryor v Woodland Meadows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carol Pryor contacted the FHC when her landlord charged her over $2,000 after she moved from her three-bedroom townhouse. Pryor told the FHC she was forced to move because Woodland Meadows failed to install a railing on the stairs to accommodate her disability.</td>
<td></td>
</tr>
</tbody>
</table>
| **Court:** State  
<p>| <strong>Settlement:</strong> Non-disclosed |</p>
<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
</tr>
</thead>
</table>
| #W96-99 | Schwabb v Pattengill Condominiums. Cooperating Attorney Richard McHugh and co-counsel Michael Gatti, from Legal Services of Southeastern Michigan, defended Alissa Schwabb in the eviction proceedings and filed a counter claim in Washtenaw County Circuit Court alleging violations of the Federal Fair Housing Act and the Michigan Elliott-Larsen Civil Rights Act. The complex is managed by Charles Reinhart Company. Schwabb sued Reinhart along with the Pattengill Condominium Association Board President, a Board member and a resident.  
**Court:** State  
**Settlement:** $5,000 |
| #W98-27 | Ewen v Wilson White. Refusing to count her student loan as income in their rent calculations, Wilson White denied UM student, Jamie Ewen an off-campus apartment. Ewen came to the FHC and then filed suit in state court under the City of Ann Arbor Human Rights Ordinance. Believed to be the first case filed under the Ann Arbor city ordinance since city council voted to grant the right to private action, this case was filed by Attorney Nick Roumel from University of Michigan Student Legal Services.  
**Court:** State  
**Settlement:** $1,500 |
| #W00-61 | Herring v Ludwig. Sean Herring told the FHC he was refused an apartment reserved for "graduate students only." The UM undergraduate contacted the FHC for an investigation of age discrimination. FHC testing found that the Ludwigs were willing to show the apartment to older undergraduates (in their 30's and older) while undergraduates in their 20's were told about the graduate student only policy and not invited to see the unit.  
**Court:** State  
**Settlement:** $500 |
| #W00-114 | Harbrecht v Ann Arbor Housing Commission. Paul Harbrecht has a hearing impairment and requested an amplifier for the buzzer/intercom system of his apartment at Baker Commons. When no amplifier was installed Mr. Harbrecht asked the FHC to help. In November of 2000 FHC staff made another request for reasonable accommodation. Ericka M. Jackson of Sommers, Schwartz, Silver & Schwartz filed on behalf of Mr. Harbrecht in Washtenaw County Circuit Court, the case was assigned to Judge David S. Swartz. The amplifier was installed after Mr. Harbrecht filed suit.  
**Court:** State  
**Settlement:** $2,500+ installation of an amplifier |
| #W00-121 | Azizuddin v Arrowwood Hills Cooperative. Single parent Saphira Azizuddin contacted the FHC to report that she was denied an application for one-bedroom townhouse because she planned to share the unit with her child. Testing supported this claim. FHC Cooperating Attorney Eric Spector filed on behalf of Ms. Azizuddin in U.S. Federal District Court, the case was assigned to Judge Bernard A. Friedman.  
**Court:** Federal  
**Settlement:** $12,500 |
<table>
<thead>
<tr>
<th>Case Number</th>
<th>Party</th>
<th>Case Details</th>
</tr>
</thead>
</table>
| #W00-131    | Moody and Stowe vs Frey | Two men, Shannon Moody and Robert Stowe, accepted $20,000 to settle their sex discrimination suit against Roland and Joan Frey of Ann Arbor. According to the suit, Roland and Joan Frey refused to rent their Potter Street apartment to two men. Moody and Stowe contacted the Fair Housing Center to report the incident. Male and female testers were used to support the claim of discrimination based on gender. Stowe and Moody initially asked FHC staff to resolve the case without litigation. The Frey's, through their attorney, offered the men $100.00 to settle the case.Filed in Federal District Court, by Fair Housing Center Cooperating Attorney Steve Tomkowiak, the case was assigned to Judge George Caram Steeh.  
  **Court:** Federal  
  **Settlement:** $20,000 |
| #W03-102    | Russman vs Merritt | Pregnant with her first child, Pamela Russman told the FHC she was denied the right to look at an apartment because she was expecting a baby. Testing supported her claim of discrimination based on familial status. Filed by FHC Cooperating Attorney Denise M. Heberle of Heberle & Finnegan, the case was assigned to Judge Lawrence P. Zatkoff.  
  **Court:** Federal  
  **Settlement:** $7,500 |
| #W04-14     | Frye vs Parkway Meadows | Carol Frye has a disability. When she could no longer manage without a wheelchair, she made a written request to Keystone Management for a ramp to the entrance of her apartment. Her request was denied. FHC staff made a second request for reasonable accommodation in writing. No ramp was provided. FHC Cooperating Attorney J. Mark Finnegan of Heberle & Finnegan, filed the case on behalf of Ms. Frye. The case was assigned to Judge John Feikens.  
  **Court:** Federal  
  **Settlement:** $112,000 |

Total disclosed settlements: $213,000 + installation of an amplifier

**Estimate of non-disclosed settlements:** $73,200

**Total Conciliations:** $18,200 + reasonable accommodations

**Total Ann Arbor Settlements:** $304,400, not including conciliations

**TOTAL FHC SETTLEMENTS (all locations):** $974,242

*Table II: City of Ann Arbor Fair Housing Center Litigation Log, 1991-2005*
Part 5: Summary

Impediments to Fair Housing in the City of Ann Arbor

Based on our study of fair housing complaint activity, race discrimination in the rental housing market remains the biggest impediment to fair housing choice. Another major impediment is the refusal of property owners/managers to make reasonable accommodations for people with physical and mental/emotional disabilities.

Families with children also face housing discrimination at a comparatively high rate. It should be noted that race, disability, and familial status are the most common forms of discrimination reported to the U.S. Department of Housing and Urban Development (HUD), and to private fair housing groups around the country.

Fair Housing Enforcement and Testing

The Fair Housing Center recommends strong enforcement of the Fair Housing Act as the best way to remove impediments to housing choice based on race, disability and familial status. In the case of discrimination based on race, color, religion, national origin and familial status, enforcement of the Fair Housing Act depends mainly on testing.

The U.S. Supreme Court (Havens v. Coleman) recognizes testing as one of the only ways to uncover illegal housing bias. The independent evidence that comes from testing is often the difference between winning and losing a fair housing claim. The Fair Housing Center of Southeastern Michigan is the only agency providing testing services in the City of Ann Arbor. As can be seen by examining results within the City of Ann Arbor, in most cases, testing evidence is critical to the resolution of a case. For instance, at least ten of the 21 fair housing lawsuits filed through the Fair Housing Center’s complaint process required testing. The other cases involved disabilities and/or policies which the defendants admitted having. For instance, in Ewen vs. Wilson White, the company refused to count Jamie Ewen’s student loan as income in their rent calculations. This case is believed to be the first case filed under the City of Ann Arbor ordinance since the right to private action was granted.

Fair Housing Enforcement and Disability Cases

According to the Fair Housing Act, it is illegal for anyone to discriminate based on disability. In cases related to disability, often the “facts” are not in dispute. For instance, a complainant with mobility problems may have asked a landlord for a reserved parking space near his or her unit. Both the landlord and the complainant may agree that the landlord was asked, and refused, to allow a reserved parking space. Thus, testing, which provides “facts,” may be less useful than advice and advocacy.

According to the Fair Housing Act, it is illegal to refuse “to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford…persons [with disabilities] equal opportunity to use and enjoy a dwelling.” (FHA, quoted in HUD/DOJ Statement). Courts have applied this
aspect of the law to property owners, housing managers, homeowners, condominium associations, lenders, real estate agents, and brokerage services.

Thus, in these types of cases, the role of the Fair Housing Center is often to first advocate for the legal rights of the person with the disability. The following are examples of reasonable accommodations gained for disabled complainants, without the need for litigation:

- A woman with an emotional disability needed a therapeutic pet, but her apartment complex had a no-pets policy. FHC staff obtained permission for the service animal as a reasonable accommodation.

- A family with a child suffering from asthma needed to install a wall air conditioner to ease the child's breathing. When the landlord said no, FHC staff wrote asking for the accommodation. The air conditioner was then installed by the tenant without fear of retaliation by the landlord.

- A disabled woman who needed her own reserved parking space was refused by the landlord. FHC advocacy led to the designation of a reserved parking space.

- A disabled woman living on the second floor of her apartment complex needed to move to a first floor unit. Her requests were refused until FHC staff took action on her behalf.

- A senior with a disability living in a two-bedroom asked, as reasonable accommodation of his disability, to stay in his barrier-free two-bedroom unit. The owners of the HUD-subsidized apartment complex were insisting that he move to a non-accessible one-bedroom to prevent under-occupancy of the unit. FHC staff researched the issue and wrote a letter asking for the accommodation, with copies of the relevant HUD regulations. The accommodation was granted.

Since the majority of disability-related complaints involve failure to make a reasonable accommodation, disability complaint enforcement relies on a high level of advocacy and advice. For instance, in Ann Arbor litigations, all of the disability complaints are based on refusals to make a reasonable accommodation. Many more cases, however, were able to be resolved without a lawsuit but with the intervention and advocacy of Fair Housing Center staff.

**Fair Housing Enforcement and Zoning Issues**

Zoning ordinances play numerous roles for a jurisdiction. They regulate many aspects of development, and allow jurisdictions some measure of control over siting decisions in their township. As has been highlighted throughout this document, their use has fair housing implications. These primarily fall into the following areas.
Equal application and interpretation of zoning ordinances: If conditional use permits or zoning variances are required of schools, houses of worship, assisted living facilities, are the rules applied and variances granted equally to all types of schools, houses of worship, assisted living facilities? Does the Zoning Board of Appeals respond to variance requests in an equivalent manner, or is it harder for some types of individuals or organizations to get variances?

Exclusionary vs. inclusionary zoning: Is the intention of the zoning ordinance to include or exclude certain types of people? Numerous courts have applied the “reasonable accommodation” aspect of fair housing law to state and local governments, most often related to exclusionary zoning and land-use decisions. Jurisdictions need to review their zoning ordinances for zoning that potentially affects people with disabilities and people of color in particular. Parts of the ordinance that may have a disparate impact on people with disabilities and people of color should be reviewed and revised. This can include zoning issues around family definitions, minimum house sizes and minimum lot sizes. If affordable housing is significantly limited to certain areas of a jurisdiction, then this may be considered to have a disparate impact on people of color. Definitions used in zoning ordinances can also be exclusionary. It is far better to move toward inclusionary zoning. Although the City of Ann Arbor has made significant strides through its nondiscrimination ordinances policies, the City could improve its zoning definitions and its implementation of its current ordinances.

New Construction and New Parks: Master Plans, Planning Departments, and Building Departments each affect new construction and parkland acquisition in different ways. In general, planning and building departments should encourage accessible construction and public access to recreational lands.

The Role of the City of Ann Arbor

The City of Ann Arbor has provided consistent funding for fair housing services since 1993. The Fair Housing Center provides the City with fair housing services, including testing and fair housing research. In addition, using other funds when they are available, the Fair Housing Center provides advocacy for City of Ann Arbor residents who have disabilities (mainly in an effort to gain reasonable accommodations), as well as education and outreach.

The City of Ann Arbor can provide leadership to affirmatively further fair housing. FHC recommends the following actions related to planning, zoning, and building issues:

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13 See, for example, The NIMBY Report, August, 2004, which highlights a Georgia lawsuit that alleges that increasing minimum lot sizes amounts to intentional discrimination by limiting affordable housing options.
Provide training for local officials on fair housing law as it pertains to building codes, zoning, planning and land-use.

Create materials for the building department to aid builders/developers in compliance with Fair Housing Amendments Act accessibility requirements.

Conduct a periodic review of all local regulations pertaining to building codes, zoning, planning and land-use.

Provide basic training for Building, Planning, and Zoning staff and commissioners on the accessibility requirements written into the Fair Housing Amendments Act.

Work to involve members of the disability rights community in building, planning and zoning decisions/issues.

Work to have a better representation on citizen committees of the diversity of the City’s population.

Have a list of fair housing experts available to consult with the City on zoning, planning, and land-use issues.

Expect commissioners to following the Zoning Ordinance and enforce it evenly.

In 2000-2001 HUD commissioned a study "How Much Do We Know: Public Awareness of the Nation's Fair Housing Laws." Prepared by the Urban Institute, the study polled 1000 adults on their knowledge and support of fair housing law. The vast majority, 80%, know it is illegal to restrict the sale of a home to white buyers. Just over half those surveyed know that it is illegal to oppose the construction of a wheelchair ramp, and only 38% know that families with children are covered by fair housing law.

Clearly, community education is critical, and the City of Ann Arbor has a significant role to play.

The City of Ann Arbor can include community education around fair housing laws in seminars related to building and development, through inserts in newsletters published by the various jurisdictions, and by placing relevant links on their web sites.

The City of Ann Arbor can work to educate planning and zoning staff so that they can answer people’s questions appropriately.

The City of Ann Arbor should ensure that volunteers serving on boards and commissions are trained regarding fair housing and civil rights law.
The City of Ann Arbor should ensure that the Ann Arbor Housing Commission staff and commissioners are adequately trained on fair housing issues.

The City of Ann Arbor should assess translation-related needs, and address them as needed.

The City of Ann Arbor should continue its pursuit of publicly-owned parkland.

In addition to community education and technical assistance, the City of Ann Arbor should continue its support of testing activities.

The City of Ann Arbor should continue to contract with the Fair Housing Center of Southeastern Michigan to support fair housing investigation and testing activities within the county.

The City of Ann Arbor should consider contracting with the Fair Housing Center of Southeastern Michigan to do testing, or mystery shopping, of the planning/zoning/building department. This would identify any potential problems in the treatment of protected classes. For instance, if a white person and a black person both request information on building a new home, are they given the same information?

Finally, the City of Ann Arbor controls a significant amount of money.

The City of Ann Arbor should encourage the banks in which it invests to invest in the community.

The City of Ann Arbor should ensure that any banks in which it invests have minimal CRA ratings of Satisfactory, and preferably of Outstanding.

The City of Ann Arbor is an area of great diversity, which has demonstrated its interest in fair housing and affordable housing. Still, there is much that can and should be done, in the coming years, to remove impediments to fair housing and to ensure civil rights for all residents.
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Appendix

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Map 1.     Percent African American, Ann Arbor, 1990
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Map 9.     Rental housing as a percent of total occupied housing, Ann Arbor, 1990
Map 10.    Rental housing as a percent of total occupied housing, Ann Arbor, 2000
Map 11.    MSHDA avoidance areas for Washtenaw County, 2000
Map 13.    Percent African American, Washtenaw County, 2000
Percent African American by Census Block
Ann Arbor, MI. 1990

Legend

Percent African American
- 0% - 2%
- 2.01% - 5%
- 5.01% - 10%
- 10.01% - 25%
- 25.01% - 50%
- 50.01% - 100%
- Blocks With No Pop. Or Incomplete Information

University of Michigan
Other Washtenaw
Water
Major Roads

Fair Housing Center of Southeastern Michigan, 2005
% African American
By Census Block
Ann Arbor, MI, 2000

Legend
Percent African American
- 0% - 2%
- 2.01% - 5%
- 5.01% - 10%
- 10.01% - 25%
- 25.01% - 50%
- 50.01% - 100%

Legend:
- University of Michigan
- Other Washtenaw County
- No Pop. or Incomplete Information
- Major Roads
- Water

Source: U.S. Census, SF1, 2000
Percent Hispanic
By Census Block
Ann Arbor, MI, 2000

Legend
Percent Hispanic
- 0% - 2%
- 2.01% - 6%
- 5.01% - 10%
- 10.01% - 25%
- 25.01% - 50%
- 50.01% - 100%

University of Michigan
Other Washtenaw County
No Pop. or Incomplete Information
Major Roads
Water

Fair Housing Center of Southeastern Michigan, 2005
Source: U.S. Census, SF1, 2000

City of Ann Arbor Analysis of Impediments to Fair Housing
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Ann Arbor and Ypsilanti Housing Commissions Section 8 Housing Vouchers In Use and MSHDA Avoidance Areas, Washtenaw County, MI

City of Ann Arbor Analysis of Impediments to Fair Housing 79
Percent African American by Census Block
Washtenaw County, 1990