
**LD 1269: An Act To Preserve
Fair Housing in Maine**



A report to the Maine Legislature's Committee on Labor and Housing
by the Maine State Housing Authority (MaineHousing)

Submitted March 1, 2022

LD 1269 - An Act to Preserve Fair Housing In Maine

Report to the Legislature

LD 1269, *An Act to Preserve Fair Housing in Maine*, (Appendix A) sought to maintain Maine’s and MaineHousing’s current commitment to Affirmatively Further Fair Housing with regard to the federal housing funds it receives. The proposal was in response to changes in federal regulations that followed changes in federal administrations.

The first part of the enacted law requires MaineHousing to:

“...ensure that any MaineHousing funding **or any state or local funding** (emphasis added) is used in a manner that will affirmatively further fair housing in this state.”

The second part asked MaineHousing to develop a plan to ensure that public funds are used to affirmatively further fair housing. The Committee also sought relevant data and information reported by local public housing authorities. The law asked MaineHousing to recommend a method by which the local authorities could submit their reports annually to the Committee. The Committee is authorized to report out legislation, if desired.

The bill’s sponsor, Rep. Talbot Ross, testified that the goal of this legislation was to ensure that in Maine, MaineHousing and local public housing authorities would continue to abide by the policy of “affirmatively furthering fair housing” in their expenditure of federal funds. In her testimony to the Committee, she said, “What we’re asking for them [to do] is to persist if and when the rules change, even if only temporarily, at the federal level.”

Federal Fair Housing Act

The policy of Affirmatively Furthering Fair Housing is a product of the Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. Chapter 45) enacted on April 11, 1968. It was enacted following the assassination of Dr. Martin Luther King, Jr. It established a policy of fair housing throughout the United States. The intent was to eliminate housing discrimination and segregated residential communities. The law prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, because of race, color, religion, or national origin.

The law obligates federal agencies to “administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of the Federal Fair Housing Act. It obligates HUD to “administer all HUD programs in a manner that *affirmatively furthers fair housing.*”

The law was amended in 1974 to prohibit discrimination based on sex, and again in 1988 to include physical and mental handicap and familial status. The 1988 amendments also strengthened the



enforcement mechanism. It provided that if a state has discrimination laws deemed by HUD to be substantively equivalent to the federal act, that state has the enforcement power. Since April 2008, the Maine Human Rights Act has consistently been deemed to be substantially equivalent and Maine's Human Rights Commission has enforced fair housing compliance in Maine.

Affirmatively Furthering Fair Housing Rule

The concept of affirmatively furthering fair housing (AFFH) evolved through a series of Executive Orders and congressionally enacted program requirements. In 1996, HUD's *Fair Housing Planning Guide* provided guidance and a framework for an Analysis of Impediments. It required recipients to:

- Conduct an analysis to identify impediments to fair housing choice within the jurisdiction (Analysis of Impediments to Fair Housing Choice)
- Take appropriate actions to overcome the effects of any impediments identified in the analysis
- Maintain records of the analysis and actions taken

The Obama Administration Rule

On July 16, 2015, HUD adopted the Affirmatively Furthering Fair Housing (AFFH) Rule. HUD adopted the Rule in response to a number of reports and lawsuits that HUD was not adequately pursuing the issue. The Rule implemented HUD's long-time interpretation of the requirement.

- "Affirmatively further fair housing" was defined as "taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with racially balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws."
- The rule defined "meaningful actions" as "significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity."
- It established a more standardized Assessment of Fair Housing that replaced the Analysis of Impediments and required recipients to certify that they would take meaningful actions to further the goals identified in their Assessment of Fair Housing. Recipients were not required to conduct the Assessment of Fair Housing until HUD provided certain HUD data and an assessment tool
- The rule tied the Assessment of Fair Housing to funding. HUD could deny funding if a recipient failed to submit an acceptable Assessment of Fair Housing with its certification to affirmatively further fair housing

On December 31, 2015, HUD published an Assessment Tool for Local Governments (CDBG entitlement communities) and extended the compliance deadline twice. HUD published an Assessment Tool for PHAs on January 13, 2017, but the PHAs did not have to use the tool until



HUD provided needed data, which it did not do. HUD also proposed an assessment tool for States on March 11, 2016, but it was never finalized.

The Trump Administration Rule

On January 5, 2018, HUD extended the AFFH submission until after October 31, 2020. On May 23, 2018, HUD suspended the 2015 AFFH rule and withdrew the Assessment Tool for Local Governments. Most recipients were required to continue submitting an Analysis of Impediments.

On January 14, 2020, HUD proposed a new rule to replace the 2015 AFFH Rule. The President did not think the proposed rule went far enough to reduce federal control over local decision-making and to lessen the regulatory burden on local governments. Subsequently, on September 8, 2020, HUD replaced the proposed rule with the “Preserving Community and Neighborhood Choice” (PCNC) Rule. This rule:

- Repealed the 2015 AFFH Rule
- Eliminated the regulatory framework that existed before the rule, including the obligation to conduct an Analysis of Impediments
- Acknowledged that affirmatively furthering fair housing requires more than simply not discriminating, that recipients have to promote fair housing, and defined “fair housing” as “housing that, among other attributes, is affordable, safe, decent, free of unlawful discrimination, and accessible as required under civil rights laws.” “Affirmatively further” was defined to mean “to take any action rationally related to promoting any attribute or attributes of fair housing.” Taking such actions would satisfy their obligation to affirmatively further fair housing

The Biden Administration Rule

On June 10, 2021, HUD published an interim rule, “Restoring Affirmatively Furthering Fair Housing Definitions and Certifications.” It repealed the PCNC Rule and reinstated the definition of “affirmatively furthering fair housing” and other definitions and the certification requirements of the 2015 AFFH Rule. It did not adopt the standardized assessment provisions of the 2015 AFFH Rule.

At the time, HUD announced that it would undertake a separate rulemaking “to improve the 2015 AFFH Rule by instituting a new fair housing planning process and framework that increases efficiency and improves outcomes for communities across the country.” In other words, HUD intends to reduce some of the administratively burdensome provisions of the 2015 AFFH Rule.



Analysis of the Rules

The short analysis of the rules is:

- The Obama rule was too burdensome, too heavy on data and analysis, and too light on results. It was 101 pages long. (We have attached a fourteen page summary in Appendix B.) It collapsed under its own bureaucratic weight and was never fully implemented. HUD estimated that complying with the rule for an average state would require 1,500 hours or 29 weeks of staff time. States believe completing the Assessment would take far more time than estimated by HUD and would require hiring outside consultants
- The Trump Rule swung the pendulum to the opposite extreme and effectively negated the Obama Rule
- The Biden Rule is a work in process. It has been started but the product is not finished

Neither the Obama Rule nor the Trump Rule enhanced or improved fair housing efforts. They became, however, proxies in the discussion about fair housing for an approach and a commitment. The Obama Rule was essentially not implemented and should not be relied on for determining any Legislative reporting requirements. The Biden administration is expected to issue rulemaking in 2022 to implement a more balanced, less burdensome approach to fair housing planning.

Current Reporting

The State of Maine receives block grant funds from the U.S. Department of Housing and Urban Development (HUD) to help address housing and community development needs. These grants include: the Community Development Block Grant (CDBG); the HOME Investment Partnership Program (HOME); the Emergency Solutions Grant (ESG); and the Housing Trust Fund (HTF). The Department of Economic and Community Development (DECD) administers the CDBG program and Maine State Housing Authority (MaineHousing) administers the HOME, HTF and ESG programs.

HUD requires Maine to complete a five year strategic plan for the use of these funds called a *Consolidated Plan for Housing and Community Development* (Consolidated Plan). The Consolidated Plan identifies the State's housing and community development needs and specifies how block grant funds will be used to address those needs. MaineHousing's certification to affirmatively further fair housing is part of the Consolidated Plan. Throughout the Obama, Trump, and Biden administrations, MaineHousing has continued to conduct and submit an Analysis of Impediments for the State of Maine. It is a review of impediments or barriers that affect the rights of fair housing choice in Maine. Although the Consolidated Plan and certification are limited to the federal block grant programs, the Analysis of Impediments addresses all housing funded by MaineHousing, not just housing funded under these programs.



The current Consolidated Plan covers the years 2020 – 2024. The *Analysis of Impediments to Affirmatively Furthering Fair Housing* was developed in consultation with a broad spectrum of stakeholders. It identified the following impediments to fair housing:

1. Lack of Affordable Housing
2. Racial, Ethnic, and Cultural Barriers
3. Community Planning and Zoning Decisions that Impede Affordable Housing
4. Lack of Availability and Access to Housing for Disabled Individuals
5. Limited access to Neighborhood Opportunities and Community Assets
6. Lack of Understanding of Fair Housing and Affirmatively Furthering Fair Housing

The Analysis of Impediments identifies actions and measurable outcomes to address the identified impediments. These include:

- Data Collection and Analysis
- Program Design
- Education and Outreach for staff, partners, and consumers
- Evaluation

The results of actions taken to address the identified impediments to fair housing are reported annually to HUD in the Consolidated Annual Performance and Evaluation Report (CAPER). The results of the 2020 AI are attached to this report as Appendix C.

Maine’s Local Public Housing Authorities

Maine has 21 local public housing authorities (PHAs). They are municipally-chartered organizations created under the authority of Maine law. There is no statutory relationship with MaineHousing or among themselves. They each have a separate relationship with HUD to administer various federal housing programs.

Maine’s PHAs are varied in both size and scope. In addition to the voucher program, most, but not all, of them own and operate public housing. About half have created affiliated housing development corporations that use MaineHousing financing to create new affordable housing projects.

Like MaineHousing, the PHAs are required by federal law to affirmatively further fair housing. Some PHAs certify that their plan is consistent with MaineHousing’s and others make a certification directly to HUD along with other annual certifications. The latter category develop their own analyses of impediments. We have included one from Westbrook Housing Authority as Appendix D.

One set of demographic data that the PHAs regularly report to HUD covers those living in PHA owned (public) housing. It is an annual report made to HUD’s Public Housing Information Center (PIC). That data is consolidated by HUD into a single table for the state. Information reported includes:



- Income Categories of tenants
- Average Annual Income of tenants
- Income sources
- Average Monthly Tenant Payments
- Family characteristics
- Race and ethnicity
- Household characteristics
- Length of stay in the apartment

Discussion

LD 1269, the Sponsor, advocates, and the Committee sought to achieve a number of things:

- “Ensure that any MaineHousing funding or any state or local funding is used in a manner that will affirmatively further fair housing in this state.” (Sponsor testimony)
- “What LD 1269 does, is have Maine insist that it will provide consistent, equal access to housing, regardless of the whims of the federal government. It says that if the federal government fails in its commitment to equity and equal access, to housing, Maine shall persevere. It says, in a plain and simple manner, ‘Maine won’t discriminate.’” (Sponsor testimony)
- Determine an appropriate report that MaineHousing could provide the Committee from its existing work that would inform the Committee about MaineHousing’s fair housing activities
- Determine an appropriate report that Maine’s local public housing authorities could provide to the Committee from their existing work that would inform the Committee about their fair housing activities

Broad Scope - Persist Regardless of Federal Law or Regulation

The only way to be certain that Maine will continue to affirmatively further fair housing if the federal regulations relax their provisions is to incorporate them into Maine law. The Maine Human Rights Act provides Maine with the same (or better) non-discrimination coverage as the federal Fair Housing Act.

Several other bills in the 130th Legislature have attempted to incorporate affirmatively furthering fair housing. LD 1269 added an obligation to affirmatively further fair housing to MaineHousing’s powers. In LD 1961, the Committee will be asked to add it to the state’s growth management statute. In LD 1673, the Committee was offered an amendment to include it in that program. The amendment to LD 1673 read:

“All state agencies, public housing authorities, the Maine State Housing Authority, and municipal governments that use state or federal money to create or rehabilitate



residential housing shall affirmatively further the purposes of the federal Fair Housing Act, 42 United States Code, Chapter 45, and the Maine Human Rights Act, Title 5, Chapter 337, sub-chapter 4.”

An alternative to approaching this in a piecemeal manner would be for the Committee to enact the requirement statewide for all those state and local agencies that are currently subject to the federal requirements.

If the Committee creates an obligation in state law, the question of enforcement naturally follows. It is challenging to create a state requirement to comply with a repealed or unenforced federal regulation without adopting the entire regime in state law. Who is going to ensure that all of the covered agencies are meeting their obligations? Who is going to define the terms and actions required? Who is going to review the reports and require corrective action if needed? The most appropriate place to put a statewide effort is in the Maine Human Rights Commission.

Narrow Scope – Reports to Committee

A narrower approach to ensure that fair housing efforts are being pursued in Maine would be to require that appropriate state and local agencies file their federal fair housing reports with the Committee for its review.

- For MaineHousing, that would be the Consolidated Annual Performance and Evaluation Report (CAPER) to HUD
- For the local public housing authorities, the correct report may vary from authority to authority
- For everyone else subject to the federal requirements, such as DECD and the municipalities that receive CDBG, HOME Partnership, ESG, and other funds, it would be a matter of working with the individual agencies to determine what reports are submitted and which would be appropriate for the Committee’s purposes

Proposed Legislation

Any proposed legislation would depend on the approach the Committee chooses to pursue. There is one change that MaineHousing requests, to correct an error (we think) in LD 1269. As passed, MaineHousing is required by law to ensure that **“any state or local funding is used in a manner that will affirmatively further fair housing in this state.”**

On a policy level, it is inappropriate for MaineHousing to be the statewide enforcement agent for fair housing requirements at all covered municipalities and state agencies. That may not have been the Committee’s intent. There was no discussion of it. The impacted agencies and municipalities did not weigh in on it. Further, the legislation did not include any funding for such an effort. On an administrative level, we are not the right agency to provide statewide enforcement.



Conclusion

LD 1269 started from a simple premise: let's make sure that Maine continues to meet the goals of the original HUD Affirmatively Furthering Fair Housing regulations even if they are subsequently repealed. It shouldn't require any extra work so it should not be too difficult. The premise, as shown above, was philosophically sound (support fair housing) and bureaucratically flawed (current reporting is not related to the rule cited at the hearing).

The committee discussion expanded the scope to include the local housing authorities. The Committee sought to remind agencies of their fair housing responsibilities and to keep the Committee informed by providing existing reports. MaineHousing was asked to prepare this report. The legislation also assigned MaineHousing to oversee furthering fair housing for all state and local funds.

We think that the issues and policies the Committee focused on are important and deserve a broader discussion than time allowed for in the Committee work session.

There are two possible approaches the Committee could take:

- The Committee could propose a comprehensive, statewide approach to affirmatively furthering fair housing
- The Committee, having reviewed all the existing reports and mechanisms in place, could recognize that there has not yet been a diminution of the federal requirements and wait to see what the Biden Administration will require

Regardless of approach, we request that the Committee report out a bill eliminating the requirement that MaineHousing enforce the affirmatively furthering fair housing requirements for every state and local agency using state and local funding.

Preparing this report has helped bring a number of the varied concerns and issues into better focus. MaineHousing is available to continue to work with the Committee as it may wish.



Appendix A

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

H.P. 929 - L.D. 1269

An Act To Preserve Fair Housing in Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4741, sub-§18, as amended by PL 2015, c. 494, Pt. B, §3, is further amended to read:

18. State designee for homeless programs. The Maine State Housing Authority is designated the coordinating agency for the State for programs dealing with homeless persons and may apply for, receive, distribute and administer federal, state and other funds on behalf of the State for homeless programs including, without limitation, the Emergency Community Services Homeless Grant Program and the programs authorized pursuant to the federal Stewart B. McKinney Homeless Assistance Act, Public Law 100-77, (1987), as amended; ~~and~~

Sec. 2. 30-A MRSA §4741, sub-§19, as enacted by PL 2015, c. 494, Pt. B, §4, is amended to read:

19. State designee for National Housing Trust Fund. The Maine State Housing Authority is designated as the entity to receive and allocate funds from the National Housing Trust Fund established by the federal Housing and Economic Recovery Act of 2008; ~~and~~

Sec. 3. 30-A MRSA §4741, sub-§20 is enacted to read:

20. Affirmatively further fair housing. The Maine State Housing Authority shall, to the extent consistent with federal law, ensure that any Maine State Housing Authority funding or any state or local funding is used in a manner that will affirmatively further fair housing in this State. For the purposes of this subsection, "affirmatively further fair housing" means to engage actively in efforts to address barriers to and create opportunities for full and equal access to housing without discrimination on the basis of race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, national origin, familial status or receipt of public assistance.

Sec. 4. Report to the Legislature. The Maine State Housing Authority shall develop a plan to ensure public funds are used to affirmatively further fair housing in this State in accordance with the Maine Revised Statutes, Title 30-A, section 4741, subsection

20 and report the development of that plan to the Joint Standing Committee on Labor and Housing by January 15, 2022. The report must include data reported by municipal housing authorities to the United States Department of Housing and Urban Development on affirmatively furthering fair housing and other reports required to be filed by municipal housing authorities. The Maine State Housing Authority shall recommend in its report a method by which municipal housing authorities may annually submit any reports and data submitted to the United States Department of Housing and Urban Development to the joint standing committee of the Legislature having jurisdiction over housing matters. The Joint Standing Committee on Labor and Housing may report out legislation based on the report to the Second Regular Session of the 130th Legislature.

Appendix B

SUMMARY OF HUD’S PROPOSED RULE CONCERNING PROGRAM PARTICIPANT’S OBLIGATION TO AFFIRMATIVELY FURTHER FAIR HOUSING

- A. Obligation to Affirmatively Further Fair Housing
 - a. Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Act) - 42 USC Section 3608(e)(5) requires that HUD programs and activities be administered in a manner affirmatively to further fair housing
 - b. HUD imposes obligation on certain program recipients, such as recipients of HOME, CDBG and ESG (Emergency Solutions Grant) and PHAs
- B. Current Requirements for Program Participants
 - a. Analysis of Impediments (AI)
 - b. Certification that will affirmatively further fair housing
- C. Reason for Proposed Rule
 - a. GAP-10-905 Report dated September 14, 2010, “HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions’ Fair Housing Plans” (<http://www.gao.gov/new.items/d10905.pdf>)
 - i. Uneven attention to and quality of the AI by local communities because of HUD’s lack of sufficient guidance and oversight
 - ii. Recommendation that HUD provide more effective guidance and technical assistance and the data necessary to develop effective fair housing plans
 - b. HUD finding that AI not integrated into participants’ planning efforts
 - c. Litigation by national fair housing advocates on the basis that entities are falsely certifying that they are affirmatively furthering fair housing in violation of the Federal False Claims Act
 - i. Westchester County – LIHTC allocator concentrating LIHTC projects in QCTs
 - ii. Texas – LIHTC allocator concentrating LIHTC projects in QCTs
 - iii. New Orleans – CDBG disaster funds maintaining existing segregated communities in rebuilding New Orleans
- D. Program Recipients Subject to Proposed Rule
 - a. States and local governments participating in HUD programs subject to the consolidated plan submission requirements under 24 CFR Part 91

- i. CDBG (including CDBG disaster)
 - ii. HOME
 - iii. ESG (Emergency Solutions Grant)
 - iv. HOPWA
 - b. PHAs subject to Sections 8 and 9 of United States Housing Act of 1937
 - c. HUD Question – extend to LIHTC program (IRS administers, not HUD)
- E. Proposed Changes
- a. Define **Affirmatively Furthering Fair Housing**, which means “*taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act. More specifically, it means taking proactive steps to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws.* For participants subject to this subpart, these ends will be accomplished primarily *by making investments with federal and other resources, instituting strategies, or taking other actions that address or mitigate fair housing issues identified in an assessment of fair housing and promoting fair housing choice* for all consistent with the policies of the Fair Housing Act.”
 - b. Assessment of Fair Housing (AFH) – new assessment and planning tool that replaces the AI
 - c. HUD provide national data and instructions on how to assess the data
 - d. Direct link between AFH and program plans – Consolidated Plan and PHA Plan – integrate fair housing in priority setting, commitment of resources (not just federal resources) and program activities
 - e. Community participation and consultation in AFH
 - f. HUD review AFH
 - g. AFH must be accepted by HUD as a condition of funding
- F. HUD-identified goals of AFFH
- a. Reduce **segregation**, which means “*geographic areas, based on the Census and other data approved by HUD, with high concentrations of persons of a particular race, color, religion, sex, familial status, national origin, or with a disability in a particular housing development, or a jurisdiction, compared to the jurisdiction or MSA as a whole resulting from fair housing determinants or other causes. For persons with disabilities, segregation includes the failure to provide housing in the most integrated setting possible.*”

- b. Promote **integration**, which means “based on the Census and other data approved by HUD that particular geographic areas within a jurisdiction do not contain high concentrations or persons of a particular race, color, religion, sex, familial status, national origin, or handicap when compared to the jurisdiction or MSA as a whole. For individuals with disabilities, integration also means that such individuals are housed in the most integrated setting appropriate. *The most integrated setting is one that enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible, consistent with the requirements of the ADA and Section 504.*”
- c. Address disparities and increase access to community assets – i.e. educational opportunities, stable employment and public transportation – among protected class members. **Disparate access to community assets** means “measurable differences in access to education, transportation, economic and other important assets in a community based on housing unit location and race, color, religion, sex, familial status, national origin or disability.”
- d. Reduce **disproportionate housing needs**, which means “the percentage of extremely low-income, low-income, moderate-income and middle-income families in a category of housing need (such as cost burden and severe cost burden defined in 24 CFR 91.5, overcrowding defined in 24 CFR 91.5 and substandard housing conditions) who are members of protected class (race, color, religion, sex, familial status, national origin or disability) is at least 10 percent higher than the percentage of persons in the category as a whole.”
- e. Advance/Promote **fair housing choice**, which means “that individuals and families have the information (available and realistic access to sufficient information regarding options), options (existence of realistic housing options) and protection (housing that can be accessed without discrimination) to live where they chose without unlawful discrimination and other barriers based on race, color, religion, sex, familial status, national origin or disability. For a person with physical disabilities, it is access to accessible housing. For a person with other disabilities in institutional and residential environments, it is housing in the most integrated setting appropriate, including disability-related services that the individual needs to live in the housing.”
- f. Concern raised – does not address preservation of existing communities if persons wish to stay in their communities

G. HUD Data

- a. Nationally uniform local and regional data and thresholds set forth in a data methodology appendix located at www.regulations.gov under docket # 5173-P-01-DM
 - i. Patterns of segregation and integration
 - 1. Dissimilarity index
 - 2. Isolation index

- ii. **Racially and ethnically concentrated areas of poverty (RCAP)**, which means “a geographic area, based on the most recent decennial Census and other data sources determined by HUD to be statistically valid, with significant concentrations of extreme poverty and minority populations”
 - iii. Access to neighborhood opportunities/community assets (education, employment, low poverty, transportation and environmental health, etc.)
 1. Poverty Index - % of families living below the poverty line and % of households receiving public assistance
 2. School Proficiency Index - % of elementary students who are proficient in math and reading according to state examinations
 3. Labor Market Engagement Index – unemployment rate, labor force participation rate and % of population over age of 25 with bachelor’s degree or higher
 4. Job Access Index – number of jobs, distance to employment centers and number of workers commuting to employment centers
 5. Health Hazards Exposure Index – distance to facilities in EPA’s Toxic Release Inventory database, volume of releases and toxicity of releases
 6. Transit Access Index – distance to nearest fixed-rail or bus rapid transit station
 - iv. **Disproportionate housing needs** (defined above)
 - v. Individuals with disabilities and available accessible units
 - vi. Families with children
 - vii. Discrimination
 - viii. PHA site location data, the distribution of housing choice vouchers and occupancy data
- b. HUD data may be supplemented by available local or regional data and information gained through community participation and consultation (in preamble to proposed rule, HUD suggests that HUD data can even be replaced if better data available at local level but not clearly provided in the proposed rule)
 - c. Concern raised – data not accurate and not useful at State level

- H. Assessment of Fair Housing (AFH)
 - a. Replaces current Analysis of Impediments
 - b. Purpose is to identify goals to affirmatively further fair housing and to inform fair housing strategies in the consolidated plan , the PHA plan and other plans
 - c. HUD provide instructions on how to prepare
 - d. Consultation and community participation requirements (summarized below)
 - e. Content (minimum requirements)
 - i. Summary of Fair Housing Issues and Capacity to Address
 - 1. Summary of **fair housing issues** (defined term, which includes the following:
 - a. local and regional **segregation** or the need to support **integrated communities** (defined above);
 - b. **racial and ethnic concentrated areas of poverty** (defined above);
 - c. **disparities in access to community assets** (defined above);
 - d. **disproportionate housing needs** (defined above);
 - e. findings or judgments of illegal discrimination or violations of fair housing or civil rights laws, regulations or guidance; and
 - f. any other condition that impedes or fails to advance **fair housing choice** (defined above).
 - 2. Assessment of compliance with fair housing and civil rights laws, regulations and guidance
 - 3. Assessment of **fair housing enforcement and fair housing outreach capacity**, which means “the ability of a jurisdiction, and organizations located in the jurisdiction, to accept complaints of violations of fair housing laws, investigate such complaints, obtain remedies, engage in fair housing testing and educate community members about fair housing laws and rights and includes any state or local agency that enforces a law substantially equivalent to the Fair Housing Act [Maine Human Rights Commission] and any organization participating in the Fair Housing Initiative Programs [Pine Tree Legal?]

- ii. Analysis of Data – Using HUD data, available local and regional data and community input, identify within the jurisdiction and region:
 - 1. **Segregation** and **integration** patterns and trends across protected classes;
 - 2. **Racial and ethnic concentrated areas of poverty** (defined above);
 - 3. **Disparities in access to community assets** (defined above) that exist across protected classes; and
 - 4. **Disproportionate housing needs** (defined above) that exist across protected classes.

- iii. Assessment of Determinants of Fair Housing Issues
 - 1. **Fair housing determinant** is “a factor that creates, contributes to or perpetuates one or more fair housing issues.”
 - 2. Assessment tool provided by HUD
 - 3. Identify “primary determinant” influencing conditions of **integration** and **segregation**, [**racial and ethnic**] **concentrations of poverty**, **disparities in access to community assets** and **disproportionate housing needs**.

- iv. Identification of Fair Housing Priorities and Goals
 - 1. Identify and prioritize **fair housing issues** (defined above) and justify prioritization
 - 2. Identify most significant **fair housing determinants** (defined above) for each priority issue
 - 3. Set and prioritize one or more goals for mitigating or addressing the identified **fair housing determinants**
 - 4. Do not have to identify strategies or funding decisions that are subject to the consolidated plan or PHA plan in the AFH – address these in the consolidated plan or PHA plan

- v. Summary of Community Participation – include a concise summary of:
 - 1. Process
 - 2. Public Comments
 - 3. Efforts made to broaden community participation
 - 4. All comments and views received
 - 5. Comments and views not accepted and the reason why

6. If PHA relying on AFH prepared by consolidated plan participant and disagrees with any aspect of AFH, a dissenting statement or submission of alternative views
- f. Submission
 - i. Precondition to acceptance of AFFH certification, which is required for approval of consolidated plan or PHA plan, because the AFH findings must be integrated into the establishment of priorities, commitment of resources (not just federal resources) and program activities in these plans
 - ii. Initial AFH at least 270 calendar days before participant's program year (i.e. before start of 3- or 5- year consolidated planning process)
 - iii. Subsequent AFHs every 5 years at least 195 calendar days before the start of the program year (i.e. before start of 3- or 5- year consolidated planning process)
 - iv. Late submission no later than period of time that allows for submission of consolidated plan no later than August 16 deadline in 24 CFR Section 91.15
 - v. Late submission result in delay in program funding
 - vi. Failure to submit result "in loss of CDBG funds" – page 86 of rule
 - g. Review
 - i. HUD review and acceptance of AFH precondition to submission of consolidated plan and PHA plan
 - ii. Acceptance only means that participant has provided the required elements of the AFH – does not mean that participant has met its obligation to affirmatively further fair housing
 - iii. Deemed accepted 60 calendar days after HUD receives the AFH unless HUD notifies participant in writing of reasons why HUD is not accepting the AFH and the actions the participant may take to address the deficiencies
 - iv. If deficient, have 45 days to revise and resubmit the AFH to HUD
 - v. Revised AFH deemed accepted after 30 calendar days of date HUD receives the revised AFH unless HUD notifies participant that not accepting revised AFH
 - h. Amendment/Revisions
 - i. AFH must be revised if significant material change in circumstances occurs that calls into question the continued validity of the AFH, including at a

minimum the following:

1. Participant in an area declared a disaster by the President
 2. Significant demographic changes
 3. Significant policy changes (zoning, housing plans or policies or development plans or policies)
 4. Significant civil rights findings
 5. HUD written notice of significant material change
 6. Others identified by participant in the consolidated plan program participant citizen participation plan (24 CFR Part 91)
- ii. Subject to community participation (below)
 - iii. Revision must be made public
 - iv. Revision must be submitted to HUD at time of revision or at time a consolidated plan or PHA plan (if PHA prepare own AFH) substantial amendment must be submitted to HUD
 1. Same review and acceptance process as AFH
 - v. If PHA rely on State or local AFH, PHA must revise PHA plan within 18 months of revision to AFH

I. Consultation

- a. State must consult with the following in developing both the AFH and consolidated plan (including specifically how the goals identified in the AFH inform the priorities and objectives of the consolidated plan):
 - i. Public and private housing providers
 1. Specific requirements for state housing agency administered public housing (to ensure PHA plan is consistent with consolidated plan) – consider of public housing needs, planned programs and activities, the AFH, strategies and actions for affirmatively furthering fair housing, PHA input on addressing fair housing issues in public housing and the Housing Choice Voucher Program and any other assistance to PHA
 - ii. Public and private agencies providing health services
 - iii. Public and private agencies providing social services (including those that focus on services for children, elderly, persons with disabilities, persons with HIV/AIDS and homeless)
 - iv. State- and regionally-based organizations that represent protected class members

- v. organizations that enforce fair housing laws, including Fair Housing Assistance Program participants (e.g. MHRC, Disability Rights Center)
- vi. organizations that receive funding under Fair Housing Initiative Program
- vii. public and private fair housing service agencies
- viii. fair housing advisory councils (include community members, advocates, fair housing experts, and housing and community development participants)
- ix. other fair housing organizations

J. Community Participation – Citizen Participation Plan

- a. Participants must adopt a citizen participant plan and follow the plan in developing both the AFH and the consolidated plan
- b. Content (specify policies and procedures for satisfying the following requirements)
 - i. Citizen Participation
 - 1. Provide for and encourage citizens (low- and moderate-income persons), residents and other interested parties to participate in developing and amending the AFH and consolidated plan and the performance of the participant
 - 2. Provide for encourage participation of statewide and regional institutions, Continuums of Care and other organizations that are affected by the programs and activities covered by the consolidated plan
 - 3. Describe State’s LEP assessment, availability of language assistance and need for translation of notices and other vital documents
 - 4. Explore alternatives to encourage participation, such as focus groups and use of the Internet
 - ii. Publish AFH Data. The participant must make HUD data and any supplemental data that will be used in developing the AFH available to the public “as soon as practical after HUD makes the data available to the State”
 - iii. Publish Information about Funding and Activities. How and when the participant will inform the public of the amount funding received by the State and the activities that may be undertaken with the funding, including the amount of funding that will benefit persons with low- and moderate-income and plans to minimize displacement and assist displaced persons, which must occur “before adoption of the AFH and the consolidated plan”

- iv. Public Hearing Requirements
 - 1. At least one public hearing to obtain public input on the AFH data and affirmatively furthering fair housing in the State's housing and community development programs before the AFH is published (see below requirement)
 - 2. At least one public hearing on housing and community development needs and proposed strategies and actions for affirmatively furthering fair housing consistent with the AFH before the consolidated plan is published (see below requirement)
 - 3. Nothing that appears to require the public hearings to be separate
 - 4. At least 2-week notice before the hearing
 - 5. Time and accessible location convenient to public with accommodations for persons with disabilities
 - 6. How LEP needs will be addressed at public hearing where a significant number of LEP persons may participate
- v. Public Comment on Proposed AFH and Consolidated Plan
 - 1. Publish summary (content and purpose) of proposed AFH And Consolidated Plan in newspapers of general circulation in State and identify where a full copy can be examined
 - 2. Make full copies available at libraries, governmental offices and public places (seems broad)
 - 3. Provide a reasonable number of free copies to citizens and groups upon request
 - 4. A minimum 30-day comment period
 - 5. Summary of comments and summary of comments not accepted and reasons therefore included in the final AFH and final consolidated plan
- vi. Amendment to AFH and Consolidated Plan
 - 1. Identify what changes in State's planned or actual activities would constitute a substantial amendment to the AFH and Consolidated Plan, including without limitation changes in the method of distribution of funds

2. Identify criteria that would trigger a significant revision to the AFH and the consolidated plan (see above)
 3. Community input on substantial amendment or significant revision including notice and 30-day period to comment (publication requirements above)
 4. Summary of comments and summary of comments not accepted and reasons therefore included in the final substantial amendment or significant revision to the AFH and consolidated plan
- vii. Public Information – provide that consolidated plan and substantial amendments, HUD-accepted AFH and significant revisions and the participant’s performance report will be available to public, including availability in alternative formats for persons with disabilities and LEP persons
 - viii. Public Access – provide reasonable and timely access to information and records relating to AFH, consolidated plan and use of assistance under programs during prior 5 years
 - ix. Complaint Process – process and procedures for handling complaints about consolidated plan and substantial amendments and AFH and significant revisions and participant’s performance report
- K. Strategic Plan
- a. Identify strategies and actions, consistent with priorities and objectives in AFH, that will affirmatively further fair housing
 - b. Identify other objectives and priorities for affirmatively furthering fair housing
- L. Action Plan
- a. Identify actions that will be taken during next year to affirmatively further fair housing
- M. Certification – participant must submit certification with consolidated plan and PHA plan that “it will affirmatively further fair housing, which means that it will take meaningful actions to further the goals identified in the AFH conducted in accordance with the requirements of 24 CFR 5.154, and that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing.”
- N. Monitoring Plan – consolidated plan must describe the procedures the participant will use to monitor actions taken to implement the plan, including strategies and actions that address fair housing issues and goals identified in the AFH

O. Recordkeeping

- a. Each consolidated plan participant and PHA preparing own AFH must keep the following records for same period of time as required to keep consolidated plan and PHA plan records:
 - i. AFH and all records and information relating to the AFH, including (a) statistical data, studies and other diagnostic tools used, (b) policies, procedures and other documents incorporated in AFH and (3) significant material changes that led to revision of AFH;
 - ii. Records showing compliance with consultation and community participation requirements, including names of organizations, summaries or transcripts of public meetings or hearings, public notices, correspondence, distribution lists, surveys and interviews
 - iii. Actions taken to affirmatively further fair housing, including the participant's strategy in AFH or plan (consolidated or PHA) and activities taken by participant to promote or support AFFH goals identified in AFH during previous 5 years
 - iv. Documentation of any finding by court or governmental entity that participant has violated any fair housing or civil rights requirements and actions taken by participant in response
 - v. Documentation of participant's efforts to ensure that housing and community development activities comply with applicable nondiscrimination and equal opportunity requirements
 - vi. If part of consortium, each member conducted own assessment or contributed to jurisdiction's assessment
 - vii. Anything else supporting AFFH certification
- b. If PHA rely on State or local AFH, maintain AFH and records reflecting actions taken to affirmatively further fair housing pursuant thereto

P. Public Housing Authorities

- a. Three AFH options
 - i. Adopt the State's AFH – incorporate every 5 years
 - ii. Conduct its own AFH – must update AFH every year
 - iii. Participate directly with and rely on AFH prepared by a consolidated plan program participant

- b. Must notify HUD of the chosen option 60 days before its AFFH certification is due
- c. If PHA is relying on other participant's AFH, PHA can change its fiscal year to fiscal/program year of the participant per 24 CFR Part 903
- d. If the PHA is relying on other participant's AFH, the PHA cannot change its fiscal year and the PHA's fiscal year start is before the participant's program/fiscal year, then PHA has 18 months after HUD accepts the AFH to modify the PHA plan to incorporate strategies and proposed actions consistent with the AFH
- e. PHA Plans
 - i. Identify strategies and actions to further goals and objectives of AFH
 - ii. Actions to de-concentrate poverty in PHA developments
 - iii. Certification that it will affirmatively further fair housing in 5-year and Annual Plan, and will be in compliance with certification if:
 - 1. Examines PHA programs
 - 2. Identifies any **fair housing issues** and **determinants**
 - 3. Reasonable addresses identified **fair housing issues** and **determinants** with available resources
 - 4. Cooperates with other jurisdictions to implement AFFH initiatives that require the PHA's involvement
 - 5. Operate programs consistent with consolidated plan
 - 6. Complies with consultation requirements for the AFH
 - 7. Maintains records – AFH and actions taken to AFFH

Q. Regional AFH

- a. 2 or more regional program participants are encouraged (not required) to collaborate and conduct a regional AFH
- b. Designate a lead entity to oversee development and submission of the AFH
- c. Participants should have same program year – can change year per 24 CFR 91.5 – but if cannot, then submission of the AFH is based on the lead entity's program year
- d. Each participant must still analyze and address local fair housing issues and determinants within in its jurisdiction
- e. Participants that have a program year start before the lead entity have 18 months after HUD accepts the AFH to modify the participant's consolidated plan to incorporate strategies and proposed actions consistent with the regional AFH
- f. The citizens, residents and other interested parties of the region covered by the AFH, not just those of the lead entity's jurisdiction, must be included in the

community participation process

- g. If public notice and comment periods differ among the participants, the longer period applies

Appendix C



MaineHousing
Maine State Housing Authority

STATE OF MAINE
ANALYSIS OF IMPEDIMENTS
TO
FAIR HOUSING CHOICE

October 2019

If you feel you have experienced discrimination
in the housing industry, please contact:

Maine Human Rights Commission
Office of the Commission
51 State House Station
Augusta, Maine 04330
Telephone: 207-624-6290
e-mail: info@mhrc.maine.gov

Boston Regional Office of FHEO
U.S Department of Housing and Urban Development
Thomas P. O'Neil, Jr. Federal Building
10 Causeway Street, Room 321
Boston, Massachusetts 02222-1092
Telephone: (617) 994-8300
Toll Free: (800) 827-5005
TTY: (800) 877-8339

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Analysis of Impediments to Fair Housing Choice (AI)

Jurisdiction: Maine

Date: October 4, 2019

Executive Summary

Overview

The State of Maine is committed to affirmatively furthering fair housing. As a recipient of federal housing funding from the U.S. Department of Housing and Urban Development (HUD), Maine is required to analyze impediments to fair housing choice and then take action to overcome identified impediments. Maine's Analysis of Impediments to Fair Housing (AI) is intended to satisfy this requirement and to ensure that barriers to full and equal access to safe, decent, affordable housing are addressed.

HUD defines impediments to fair housing choice as set forth in local, state and federal law. In Maine, impediments include:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices (direct discrimination).
- Any actions, omissions, or decisions which have the effect of restricting housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin (indirect discrimination).

The State AI is intended to:

- Serve as the substantive, logical basis for housing planning and development;
- Provide essential and detailed information to policymakers, administrative staff, housing providers, lenders, and fair housing advocates; and
- Assist in building public support for fair housing efforts.

Lead Agency

The Maine State Housing Authority (MaineHousing) is responsible for the preparation and implementation of the AI.

Consultation

Over the course of the past year, MaineHousing has held focused discussions with our partners and others about affordable housing and impediments to that housing. Below is a list of topics discussed and the organizations participating in those discussions.

1. Homeless, Hard to House Populations

- Maine's Continuum of Care
- Directors of Maine's Homeless Shelters
- Publicly funded institutions and systems of care including:
 - Domestic Violence providers

2. Affordability

- Maine Affordable Housing Coalition
- Business and Civic Leaders
- Public Housing Authorities
- Efficiency Maine
- Housing Developers

3. Community Development

- Local Governments
- Maine Municipal Association
- Maine Community Development Association
- Maine Department of Economic and Community Development
- Maine Association of Planners
- Public Housing Authorities
- Maine Chapter of the American Association of Retired Persons

4. Low Income/Special Needs Consumers

- Area Agencies on Aging
- Maine Council to End Domestic Violence

5. Protected Class Members, Fair Housing

- Maine Human Rights
- Pine Tree Legal
- Disability Rights Council
- Maine Department of Health and Human Services
- Equality Maine

6. Housing Quality

- Maine Community Action Agencies

Methodology

The methodology for the State of Maine AI included the following:

- Analysis of the Legal Framework under which Fair Housing Laws are Enforced.
- Summary of Fair Housing Data Findings and Enforcement
- Review of Demographics, Income, and the Residential Housing Market
- Identification of Impediments to Fair Housing Choice
- Development of an Action Plan

Identification of Impediments

Concerns and potential impediments:

- A concern is an issue that may create an impediment.
- An impediment has the effect of limiting the availability of housing choice on the basis of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status.

Based on the research conducted for the State of Maine AI, MaineHousing found the following potential concerns and impediments to fair housing.

1. **Lack of affordable housing.** Maine is experiencing shifts in the affordability of housing. Homeownership is becoming increasingly unaffordable while renting is becoming less affordable. As more people move to certain regions or communities in Maine, both the availability and affordability of housing in these areas are declining.
2. **Racial, ethnic and cultural barriers.** While Maine's population is predominantly white, there has been a recent increase in minority populations.
3. **Community planning and zoning decisions that impede affordable housing.** The demand for affordable housing in certain regions of the state is challenging local governments to re-examine planning and zoning policies and regulations.
4. **Lack of availability and access to housing for disabled individuals.** The need for accessible housing will continue to increase as a result of an aging population, coupled with a disability rate higher than the national rate.
5. **Limited access to neighborhood opportunities and community assets.** Changing demographics and mobility trends underscore the need for housing to be accessible to community assets.
6. **Lack of understanding of fair housing and affirmatively furthering fair housing.** Educational efforts need to continue to assist public and private entities comply with state and federal laws regarding housing discrimination.

Legal Framework

The Maine Human Rights Act (the *MHRA*) embodies the State's fair housing and accessibility laws. The MHRA is certified as substantially equivalent to Title VIII of the Civil Rights Act of 1968, as amended (the *Fair Housing Act*) pursuant to 24 CFR Part 115. The Maine Human Rights Commission (the *Commission*) administers the MHRA and, as the State's certified agency, participates in and receives funding under the Fair Housing Assistance Program to investigate and process discrimination complaints and to provide training and technical assistance under the Fair Housing Act. The MHRA is also certified as equivalent to the Americans with Disabilities Act of 1990 (*ADA*) pursuant to 28 CFR Part 36, Subpart F.

The State of Maine Analysis of Impediments to Fair Housing Choice dated February 2016 (*2016 AI*) provides a comprehensive analysis of the differences between the MHRA and federal accessibility laws. http://www.mainehousing.org/docs/default-source/policy-research/Federal-Funds/analysis-of-impediments-to-fair-housing.pdf?sfvrsn=34e4a715_9. The following is a summary of the changes in State law since then.

- **Service Animals and Assistance Animals**

Service animals and assistance animals continue to be a significant issue and source of contention among the disability community, landlords, and businesses. Disability discrimination is the largest basis for housing discrimination complaints filed with the Commission and many of these complaints involve service animals or assistance animals.

From 2008, when service animals were first addressed in State law, to 2011, the definition and protections for service animals were the same for both housing and public accommodations. A service animal was any animal that a qualified provider determined was necessary to mitigate the effects of a physical or mental disability or was individually trained to do work or perform tasks for the benefit of an individual with a physical or mental disability. In 2011, the Legislature bifurcated the definition of "service animal" and narrowed the definition for purposes of public accommodations to a "dog" that is individually trained to do work or perform tasks for the benefit of a person with a disability in order to bring the definition into line with the ADA. The term "service animal" with its historic definition was retained for purposes of housing. Defining the term "service animal" differently; for public accommodations led to confusion and increased claims of misrepresentation of service animals in public accommodations.

In 2015, several pieces of legislation were submitted to the Maine Legislature concerning service animal training and certification to address these perceived abuses. The Legislature, through Resolve Chapter 36 enacted July 27, 2015, established a task force to study training requirements, certification, the need for public education, and housing issues related to service animals. The task force report included recommendations that were implemented as follows.

- Certain statutory changes were enacted by 2015 Public Law Chapter 457, effective July 29, 2016. The term “service animal” with respect to housing was replaced with the new term “assistance animal.” The civil violation for misrepresentation of service animals and assistance animals was clarified to specifically include (1) the false certification of an animal as a service or assistance animal, (2) providing a false certification to another person, (3) fitting an animal with a harness, collar, vest or other sign that an animal is a service or assistance animal when it is not, and (4) representing an animal as a service or assistance animal when it has not completed training, and the monetary penalty was increased to \$1,000. Municipal license fee waivers were retained for both service animals and assistance animals, but a separate application form is required for each to avoid the misuse of the “service animal” waiver to permit access to public accommodations by assistance animals. The protections for pedestrians with “service animals” and the allowance for “service animals” in food stores were not extended to assistance animals.

- The task force acknowledged that a mandatory system for certifying trained service animals would violate federal law, but considered a voluntary system. Ultimately, the task force did not recommend a voluntary system, citing concerns about the lack of a statewide or national administering body, accepted standards for certification, fair testing practices, and funding which would be burdensome on persons with disabilities and the State. However, the task force recommended and the Legislature sent a letter to the State’s Congressional delegation urging the federal government to find ways to discourage and institute federal penalties for misrepresentation of service animals.

- The task force recommended a public education program and campaign on service animals and assistance animals, including a new public information officer position at the Maine Human Rights Commission to coordinate the effort, develop a website and instructional materials, and provide technical assistance. Model policies, signs, and verification forms were included in the task force report. The public information officer was not realized because of political and budgetary constraints, but the Commission developed video and informational brochures on service animals and assistance animals and posted them on the Commission’s website. The brochures along with state law and federal guidance on service animals are also posted on the State Legislature’s website. The Commission continues to provide public information and technical assistance, including a recent collaboration with MaineHousing to provide guidance to emergency shelters.

New protections for landlords were adopted by 2017 Public Law Chapter 61, effective November 1, 2017. Under the new law, landlords and their agents do not have any civil liability for personal injury, death or property damage caused by assistance animals except in cases of gross negligence, recklessness or intentional misconduct by the landlord or agent or with respect to assistance animals owned by the landlord or agent.

- **New Accessibility Standards – MUBEC and MUBC**

The State has historically required more accessible housing than federal law, including the Fair Housing Act, the ADA, and Section 504 of the Rehabilitation of Act of 1973 (*Section 504*). Continuing this tradition, the State for the first time adopted accessibility requirements as part of the State’s building and energy codes last year. Effective January 28, 2018, the State updated the Maine Uniform Building and Energy Code (*MUBEC*) and the Maine Uniform Building Code (*MUBC*) to include the 2015 International Building Code (*IBC*) and the 2015 International Existing Building Code (*IEBC*) without excluding the accessibility provisions. In previous updates of MUBEC and MUBC, the accessibility provisions of the version of the IBC and the IEBC adopted were specifically excluded.

This change is significant in several respects. Until now, private multifamily housing with 4 or more units that is newly constructed, or in the case of State law substantially rehabilitated, only had to be adaptable (features that can easily become accessible as needed) under the Fair Housing Act and the State’s equivalent requirements. In those communities subject to MUBEC or MUBC (those with a population of 4,000 or more and communities that voluntarily adopted either code), private multifamily level now must comply with accessibility requirements similar to the ADA. These requirements apply to new construction and to the repair, alteration (any level of alteration), change of occupancy, addition and relocation of existing buildings or structures. Two fundamental principles of the requirements are (1) mainstreaming (the concept that persons with disabilities should not be singled out and everyone can benefit from accessibility features, particularly aging populations), and (2) existing housing will become fully accessible over time as upgraded. Also, for the first time building code officials have enforcement authority with respect to accessibility requirements in the State.

While the change will expand the availability of accessible housing in Maine, it exacerbates a problem identified in the 2015 AI. MUBEC and MUBC do not exclude housing and facilities that are already subject to the ADA. Housing funded by MaineHousing is subject to Title II of the ADA (applies to State-assisted activities) and shelters and certain supportive facilities are subject to Title III of the ADA (public accommodations). MUBEC and MUBC add yet another layer of accessibility requirements on housing that is already subject to multiple federal and State requirements.

Most of the housing funded by MaineHousing is subject to the ADA, Section 504, and more restrictive requirements under the State’s accessibility requirements for multifamily housing (similar to the Fair Housing Act) and publicly funded housing. The 2015 AI describes the differences between the MHRA and these federal requirements, the most significant of which are set forth below.

- The term “new construction” for purposes of the accessibility requirements for multifamily housing and public housing under the MHRA, 5 M.R.S.A. §4582-C(3), was expanded in 2011 to include more than housing for first occupancy as defined under the Fair Housing Act. It also includes the reuse of formerly vacant buildings (usually historic) and other substantial rehabilitation (i.e. rehabilitation equal to 75% or more of the replacement cost of the housing). This distinction has the most impact with respect to the requirements for multifamily housing, which like the Fair Housing Act require all units to be adaptable.
- In public housing (projects with any type of public funding, such as low-income housing tax credits and government funding) with 20 or more units on a parcel of land, at least 10% of the ground level units and 10% of the upper floor units in a building with an elevator must be accessible (or must have accessible routes, accessible doors and adaptable bathrooms if alterations that do not reach the level of new construction), whereas only 5% of all units in a project must be accessible under Section 504 and the ADA.
- In 2011, the accessibility standards for multifamily housing and public housing were changed to the most current version of ANSI A117.1 as designated in the Commission’s rules, which for multifamily housing is the requirements for Type B units in ICC/ANSI A117.1 – 2009 (provides greater accessibility than the safe harbors under the Fair Housing Act), and for public housing are the requirements for Type A units in ICC/ANSI A117.1 – 2009 (similar to the federal standards for Section 504 and the ADA, but less restrictive in some cases).

The application of all of these different federal and state accessibility requirements to MaineHousing-funded housing can be complicated and confusing for developers and their design professionals. This complexity causes confusion about which requirements apply and can lead to noncompliance, which is a barrier to accessible housing. MUBEC and MUBC, which is in effect in most of the communities where MaineHousing funds housing, add another layer of complexity, particularly since there are subtle differences between the scoping requirements and accessibility standards in the ADA and those in MUBEC and MUBC.

- **Maine Human Rights Commission**

In October 2015, Governor LePage issued an executive order alleging that Maine’s business community perceived the Commission to be biased toward complainants. The executive order established a Review Panel (consisting of attorneys for respondents and complainants, a best administrative practices expert, and representatives for business, landlords, Pine Tree Legal, and the Commission) to review the structure and operation of the Commission, identify factors causing the perceptions of bias in favor of complainants, identify procedures and practices that may be unnecessarily burdensome or unfair, and issue a report with recommendations to the Governor.

The Review Panel unanimously agreed that the Commission, its commissioners and staff, are not biased or unfair toward respondents or complainants. Perceptions of bias were due, in part, to organizational and procedural inefficiencies and to misconceptions about the Commission's obligations and authority. The Commission is understaffed (5 to 6 investigators for approximately 700 complaints each year with no support staff) and has outdated technology, and the complaint process is inefficient. Common misconceptions are the Commission investigates all complaints because it believes discrimination occurred, when in fact, the Act mandates investigation of all complaints, and the Commission can order respondents to settle or pay damages when it has no statutory enforcement authority. The Commission must dismiss complaints if no reasonable grounds are found, and when reasonable grounds are found, it can only encourage settlement through mediation or conciliation, file a civil action on behalf of the complainant, or issue an order of findings (without enforcement, whether injunctive, punitive, or remunerative in nature).

Recommendations of the Review Panel included (1) engaging an organizational workflow consultant, (2) hiring more investigators and administrative support staff, (3) using intake specialists to ease the bottleneck at the intake stage by educating and assisting unrepresented parties through the process, (4) more training for commissioners and staff (particularly with respect to conducting neutral investigations), (5) upgrading computers and technology to allow for electronic filing and electronic signatures, (6) expanding the Commission's mediation program (more below), (7) modifying the Act and agreements with federal agencies to create a dual-track system to allow parties with legal representation to move through the process faster, (8) refining the process for requesting information and documentation at the complaint stage to avoid burdensome and irrelevant questions and requests, (9) community outreach program about the Commission's obligations and authority, (10) timely appointment of commissioners, and (11) funding for more staff, training, technology upgrades, and outreach.

The Commission did not receive any funding to implement the recommendations of the Review Panel. In FY 2018, the Commission still has the same number of investigators and they are responsible for both processing intakes and investigating 709 complaints. The Commission continues to be challenged by staff shortages and high turnover among investigators. There are no intake specialists or support staff for the investigators, and the Executive Director conducts most of the Commission's outreach activity in the State.

The Commission has made efforts to make the process more efficient. It developed a Third Party Neutral Mediation Program, an informal, voluntary process conducted by a neutral third party paid by the parties to help them resolve complaints. The program has grown (from 32 cases mediated in 2015 to 102 cases in 2018) because of its success, more than half of the cases resolved each year (68.75% in 2015 and 60.78% in 2018). The Commission is also proposing changes to its procedural rules this year to improve the efficiency of the complaint and investigation process.

- **Maine Human Rights Commission Complaint Process**

The Commission’s process for handling discrimination complaints under the Maine Human Rights Act is similar to HUD’s process for handling discrimination complaints under the Fair Housing Act. Because these processes are substantially equivalent, the Commission contracts with HUD and receives funding pursuant to the Fair Housing Assistance Program to investigate and process complaints under the Fair Housing Act for HUD.

The time period for submitting a complaint under the Maine Human Rights Act is 300 days, which is slightly shorter than the year under the Fair Housing Act. As part of the 2011 changes to the Maine Human Rights Act to become re-certified as substantially equivalent to the Fair Housing Act, the definition of “aggrieved person” was expanded to clarify that testers and groups representing protected classes could file complaints, not just those persons who were the subject of discrimination. Like HUD, the Commission favors resolving complaints by settlement agreement during the initial fact-finding or investigative stage before making a determination. If the complaint is not resolved, the investigator will submit an investigator’s report which includes a recommendation to the Commission as to whether there are reasonable grounds to believe that unlawful discrimination occurred. The Commission will hold a hearing to consider the recommendation and make a final decision. If the Commission does not find reasonable grounds to believe that unlawful discrimination has occurred, it shall enter an order so finding, and dismiss the complaint. If the Commission finds reasonable grounds to believe that unlawful discrimination has occurred, but finds no emergency, it will again attempt a conciliation agreement. If conciliation efforts are not successful, the Commission may file a civil action in State court seeking such relief as is appropriate, including temporary restraining orders, under the Maine Human Rights Act.

Pine Tree Legal Assistance, a nonprofit organization that provides civil legal assistance to low-income persons in Maine, also participates in and receives funding under the Fair Housing Assistance Program to operate a testing program in Maine.

- **Criminal Background Screening – Disparate Impact**

This year the Legislature considered legislation concerning the use of criminal background checks to deny housing. LD 1572, *An Act to Enact the Maine Fair Chance Housing Act*’ would:

- prohibit a landlord from inquiring about or considering a housing applicant’s criminal history until the landlord determines that the applicant has met all of the other qualifications for housing,
- require the landlord to keep all criminal history information about applicants confidential,
- permit an aggrieved person to file an action with the Commission for violations, except those by the State or any of its political subdivisions,

- for violations by private housing providers, (i) create a civil violation with a fine up to \$100 for first and second fines and investigation by the Commission for subsequent offences, (ii) permit a civil action for violation with legal or equitable relief to be determined by the court and reasonable attorney's fees and costs for an aggrieved person who prevails, and (iii) require mandatory counseling by the Commission.

The legislation was carried over to the next legislative session. The confidentiality provisions conflict with State law on criminal records with respect to certain crimes, most of them egregious in nature and not confidential to protect public safety. The Maine Real Estate Managers Association (MREMA) suggested that the legislation be used to incorporate HUD's *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* dated April 4, 2016 into State law. The guidance is federal law and the Commission does not have authority to enforce it. The Commission, MREMA, and other interested parties are working on a proposal to address these issues for the Legislature to consider next session.

- **Expanded VAWA (Violence Against Women Act) Protections**

2019 Public Law Chapter 455 expanded the documentation tenants can provide landlords to avail themselves with the State's VAWA protections to include police reports, criminal complaints, indictments, or convictions resulting from investigations or charges of sexual assault or stalking. The bill also expanded the harassment and protection from abuse laws to include harassment by telephone.

Summary of Fair Housing Data Findings

FAIR HOUSING COMPLAINTS

Basis

Disability is the most common basis for an allegation of a fair housing violation. In 2018, 48.3% of allegations were based on disability, with guide dog/support animals being the most frequently identified disability-related allegation. Disability allegations accounted for 185 housing discrimination cases considered by the Maine Human Rights Commission.

Table 1

Maine Human Rights Commission Housing Discrimination Cases						
Basis of Allegation	Year 2018		Years 2014 - 2018		City/Town	Allegations
	Count	Percent	Count	Percent		
Disability	185	48.3	1,007	53.1	Portland	281
Race/Color	38	9.9	211	11.1	South Portland	141
Familial Status	6	1.6	72	3.8	Bangor	124
Gender/Sex/Orientation	48	12.5	133	7.0	Lewiston	109
Retaliation	55	14.4	226	11.9	Auburn	92
National Origin/Ancestry	17	4.4	123	6.5	Augusta	65
Religion	6	1.6	41	2.2	Westbrook	47
Other & Source of Income	28	7.3	83	4.4	Kennebunk	44
					Old Orchard Beach	41
Total	383		1,896		Orono	41
					Total	985

Maine Human Rights Commission

Disposition

Table 2

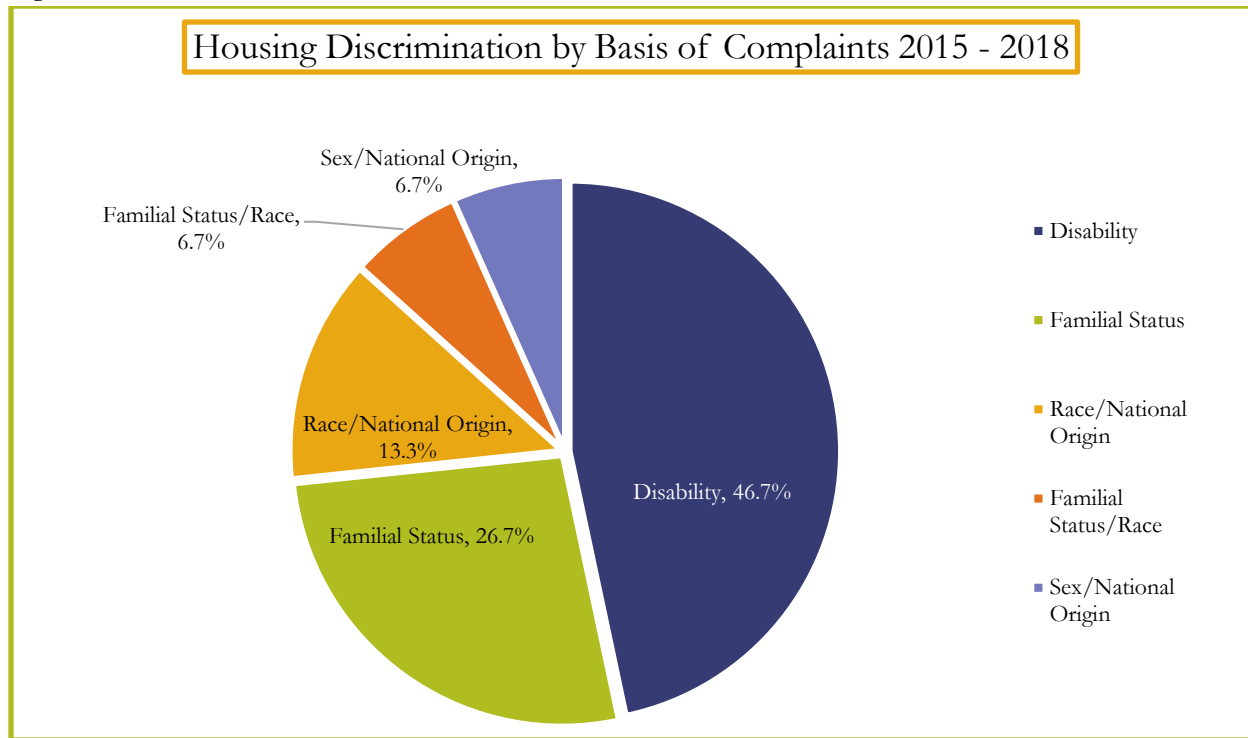
Disposition of MHRC Housing Discrimination Cases				
	2018		2014 - 2018	
	# of Cases	Percent	# of Cases	Percent
Administrative Closure	0	0.0	5	0.3
Case Settled By Legal Unit	0	0.0	86	4.5
Conciliation Failure	0	0.0	21	1.1
CP Failed To Cooperate	30	7.8	88	4.6
CP Withdrawal - No Ben.	27	7.0	93	4.9
No Cause Finding Issued	285	74.4	1,041	54.8
No Jurisdiction	21	5.5	94	4.9
Open Charge Closed By Legal Activity	0	0.0	26	1.4
Settlement With Benefits	8	2.1	233	12.3
Successful Conciliation	8	2.1	36	1.9
Withdrawal With Benefits	4	1.0	178	9.4
Total	383		1,901	

Maine Human Rights Commission

Most allegations reviewed by the Maine Human Rights Commission are disposed of with no cause for the allegation found. There were 233 cases settled with benefits from 2014 – 2018, of which only 8 were settled in 2018.

Some of the complaints brought to the Maine Human Rights Commission are the result of a fair housing testing program conducted in cooperation with Pine Tree Legal Assistance. Individuals are paid to test advertised rental properties randomly or for instances in which a landlord is suspected of discriminating. From 2015 – 2018, 514 tests were conducted; 94 provided evidence for 15 complaints filed with HUD and/or the Maine Human Rights Commission. The majority (46%) of the complaints were based on the disability of the occupant. Another 26.7% were based on the occupants' familial status. Issues of race, national origin, or color comprised 13% of the complaints. Pine Tree Legal cases result from investigations the organization initiates based on its own assessment, as well as client complaints. The results are shown in Figure 1 below.

Figure 1



PineTree Legal Assistance of Maine

Mortgage Activities

Minorities in Maine do not fare as well as whites in the pursuit of home ownership financing. Table 3 shows the distribution of loans originated and applications denied by financial institutions by race as a percent of all loans in Maine. Whites comprise 97.4% of all applications and obtain 97.8% of loan originations. Table 4 details the same data as a percentage of each race alone. With the exception of the Hawaiian/Pacific Islander population, whites have a much lower rate of denials and a higher rate of originations. Poor credit history is a prominent problem for minority applicants, followed by debt-to-income ratios as shown in Table 5.

Table 3

2017 Loan Originations and Denials by Race					
Actions	African				
	White	American	Asian	American Indian	Hawaiian/Pacific Islander
Applications	97.4%	0.7%	1.0%	0.7%	0.2%
Application Denied	96.2%	1.2%	1.1%	1.2%	0.2%
Loan Originated	97.8%	0.6%	0.9%	0.5%	0.2%

HMDA Data

Table 4

2017 Loan Denial and Origination Rates by Race					
	White	African American	Asian	American Indian	Hawaiian/Pacific Islander
Application Denied	16.2%	27.1%	17.7%	31.1%	14.9%
Loan Originated	59.9%	48.1%	53.6%	42.7%	56.4%

HMDA Data

Table 5

2017 Reasons for Denial by Race					
	White	Asian	African American or African American	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native
Lack of collateral	24.7%	16.7%	19.6%	14.3%	20.4%
Poor credit history	31.7%	22.90%	35.3%	57.1%	48.0%
Credit application incomplete	9.1%	10.4%	5.9%	14.3%	4.0%
Debt-to-income ratio too high	29.9%	37.5%	29.4%	0.0%	24.0%
Poor employment history	1.9%	8.3%	3.9%	14.3%	2.0%
Insufficient cash (down payment, closing costs)	2.6%	4.2%	5.9%	0.0%	0.0%
Mortgage insurance denied	0.2%	0.0%	0.0%	0.0%	0.0%

HMDA Data

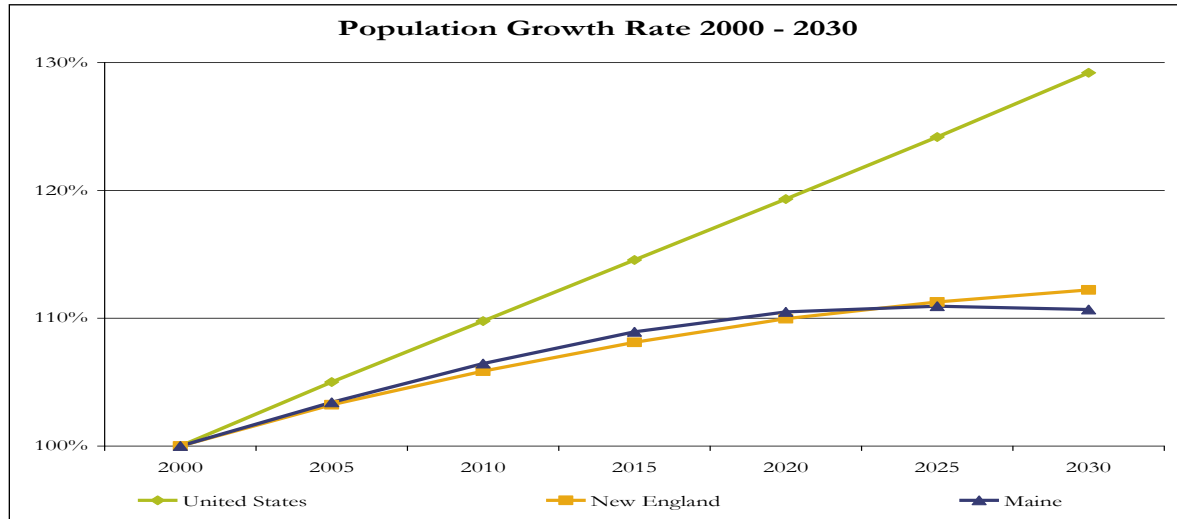
DEMOGRAPHICS, INCOME, AND THE RESIDENTIAL HOUSING MARKET

Population Trends

Maine's population is experiencing flat growth, "super" aging, and is shifting to the southeastern coastal areas of the state. The population of Maine has increased an estimated 38% since 1960. Since 2000 however, its growth has been relatively flat and is projected to remain so through 2030. The state ranked 40th in total population among the states in 2010, and dropped to 43rd in 2018. Maine is the largest state, geographically, in the New England region.

Maine's population is projected to grow a flat rate of less than a 1% through 2030. The greatest growth will be among those 65 and older, with a projected 37% gain from 2016 – 2026. Seven of Maine's 16 counties are projected to see population increases from 2016-2021, while eight are projected to increase from 2021-2026. Seven counties are projected to see cumulative increases over the ten-year period from 2016-2026.

Figure 2: Population Growth Rates and Projection, Census



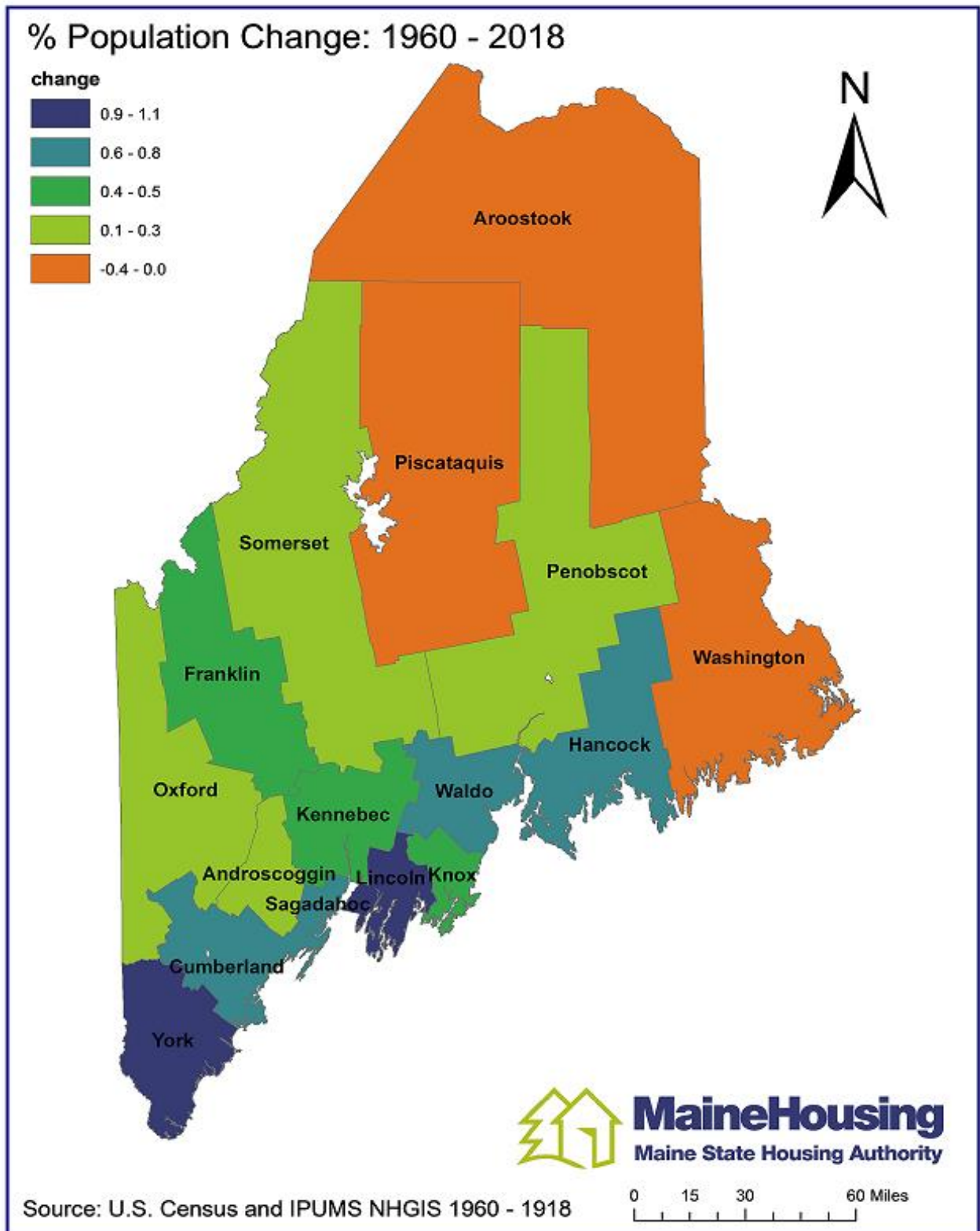
The most significant demographic change in Maine is its aging population. Maine is now considered the oldest state in the nation with a median age of 44. The older adult community is projected to comprise nearly a quarter of the total population by the middle of the next decade.

For over 50 years, Maine has seen its most significant population growth in the coastal and southern portions of the state. Of Maine’s sixteen counties, York county saw a 107% increase in population since 1960, followed by Lincoln and Waldo counties. Aroostook county saw a decrease of 36% over the same period (see table 6).

Table 6: National Historical Geographic Information System, University of Minnesota

County	1960	1970	1980	1990	2000	2010	2018	% Change 1960 - 2018
Maine	969,265	992,048	1,124,660	1,227,928	1,274,923	1,328,361	1,338,404	38.1
Androscoggin	86,312	91,279	99,657	105,259	103,793	107,702	107,679	24.8
Aroostook	106,064	92,463	91,331	86,936	73,938	71,870	67,111	-36.7
Cumberland	182,751	192,528	215,789	243,135	265,612	281,674	293,557	60.6
Franklin	20,069	22,444	27,098	29,008	29,467	30,768	29,897	49.0
Hancock	32,293	34,590	41,781	46,948	51,791	54,418	54,811	69.7
Kennebec	89,150	95,247	109,889	115,904	117,114	122,151	122,083	36.9
Knox	28,575	29,013	32,941	36,310	39,618	39,736	39,771	39.2
Lincoln	18,497	20,537	25,691	30,357	33,616	34,457	34,342	85.7
Oxford	44,345	43,457	48,968	52,602	54,755	57,833	57,618	29.9
Penobscot	126,346	125,393	137,015	146,601	144,919	153,923	151,096	19.6
Piscataquis	17,379	16,285	17,634	18,653	17,235	17,535	16,800	-3.3
Sagadahoc	22,793	23,452	28,795	33,535	35,214	35,293	35,634	56.3
Somerset	39,749	40,597	45,028	49,767	50,888	52,228	50,592	27.3
Waldo	22,632	23,328	28,414	33,018	36,280	38,786	39,694	75.4
Washington	32,908	29,859	34,963	35,308	33,941	32,856	31,490	-4.3
York	99,402	111,576	139,666	164,587	186,742	197,131	206,229	107.5

Map 1: Percentage Change for Maine Counties, 1960 – 2010



Age

Maine’s median age is 44.3 years, the oldest median age of any state in the nation, and a sharp contrast with the nationwide median of 37.8 years. The Census Bureau predicts that by 2026, Maine will be a “super aged” state, with 24% of the state’s population over 65 years. The older population in Maine is less diverse than the population 18 – 59 years old, reflecting the relative surge in the minority population beginning in the 1990s.

Figure 3: Household Change by Race and Age

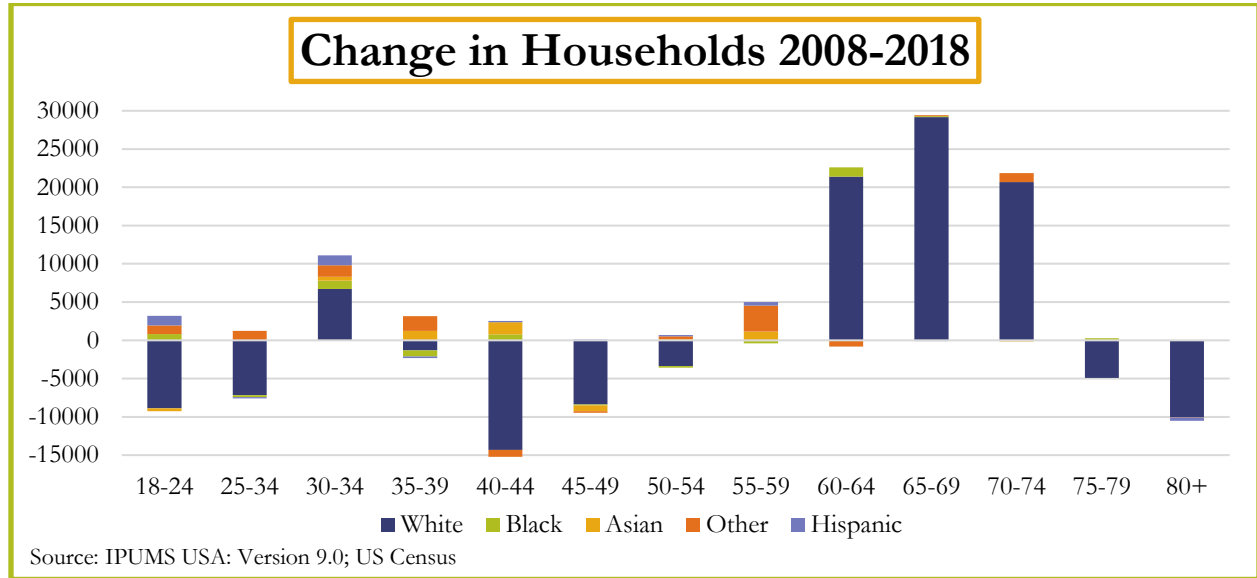


Table 7, Worker – Senior Ratio, ME DoL

Working-age to senior ratio *		
	2015	2030
United States	4.2	2.8
Androscoggin	4.1	2.8
Penobscot	4.0	2.6
Cumberland	3.9	2.4
Kennebec	3.6	2.3
York	3.5	2.0
Maine	3.4	2.2
Oxford	3.3	2.0
Somerset	3.3	2.0
Franklin	3.2	2.0
Sagadahoc	3.1	1.8
Waldo	3.1	1.9
Aroostook	2.9	1.9
Hancock	2.8	1.7
Knox	2.7	1.8
Washington	2.6	1.8
Piscataquis	2.4	1.5
Lincoln	2.2	1.3

**Age 16 to 64 divided by 65 and over.*
Sources: U.S. Census Bureau; Governor's Office of Policy and Management.

As population growth slows and continues to age, the ratio of working-age Maine residents to older, nonworking-age residents will also change.

The retirement aged population is projected to grow faster than those of working age. Maine’s population of 0 – 19, 20 – 39 and 46 – 64 years old is projected to grow at rates of -12%, 2%, and -12% respectively. The population over 65 years will grow 37%.

Today, for every person over the age of 65 in Maine, there are an estimated 3.4 working-age persons. By 2030, that ratio is expected to diminish to one senior to 2.8 workers. Maine will have to entice larger numbers of working age people to stem the current demographic tide.

Race

Maine is not, comparatively speaking, a racially diverse state. With the exception of unidentified races and native Hawaiians, other minorities in Maine increased measurably from 1990 to 2017, and these minorities now comprise 5.4 % of the state’s total population. Likewise, Maine’s white population had declined to 94.6%. Like its northern New England sister states of Vermont and New Hampshire, Maine’s black population (1.3%) and Asians (1.1%) are much fewer in numbers than the national distribution of 13% and 5% respectively.

Table 8

Maine Population By Race						
Race	1990	2000	2010	2017	Percentage Change 1990 to 2017	Percentage Change 2000 to 2017
White	1,206,956	1,236,014	1,264,971	1,258,918	4	2
Black or African American	4,959	6,760	15,707	16,906	241	150
Asian	6,588	9,111	13,571	14,807	125	63
American Indian or Alaska Native	5,901	7,098	8,568	8,212	39	16
Native Hawaiian or Pacific Islander	N/A	382	342	249	-35	-35
Some other race alone	6,287	2,911	4,261	2,967	-53	2
Two or More Races	N/A	12,647	20,941	28,102	122	122
Total State Population	1,230,691	1,274,923	1,328,361	1,330,158	8.1	4
Total Minorities*	23,735	38,909	63,390	71,240	63.9	83
Percentage Minority	1.9	3.1	4.8	5.4		

Sources: U.S. Census Bureau Summary Files DP-1 for the 1990, 2000 & 2010 Decennial Censuses; ACS 5-Year 2012 - 2017, Table B02001
 * Obtained subtracting white from total state population.

Maine has no Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs) using HUD's definition of R/ECAP, with the exception of the Penobscot Indian Island Reservation. Though the population of black and Asian people have doubled since 1990, there are no areas where this population is concentrated. The cities of Portland and Lewiston have the largest population of minorities in Maine.

Race/Ethnicity and Income

Households headed by minorities in Maine earn far less than white households with the exception being Asian households. Household income is one of several factors used to determine eligibility for housing assistance. In Maine, the median household income for Whites and Asians was higher than the state median while all other minorities were well below that median.

Minority households have both lower incomes and higher rates of poverty. The U.S. Census Bureau determines the poverty status of households by using a set of dollar value thresholds that vary by family size and composition. As shown in Table 4, blacks have the lowest median income and the highest rate of poverty.

Table 9 Median Incomes and Poverty by Race and Ethnicity

	Median Household Income	Poverty Rate (%)
Maine	\$53,024	12.9
Whites	\$53,585	12.1
Blacks	\$28,018	42.5
American Indian/Alaska Native	\$32,372	33.3
Asians	\$53,151	13.3
Hispanics	\$45,211	19.9

Source: U.S. Census Bureau 2017 ACS 5 Year 2013-2017, Tables S1903 & S1701

Incomes have not improved evenly across all races. Using the income grouping shown below in Table 10, the percentage of all households in Maine is greatest at the \$75,000 and over range. White and Asian households have similar distributions, but Asian households have the greatest percentage of households at the \$75,000 range. In contrast, nearly half of black and Indian households remain distributed in the lowest income range, a range far lower than the state median income and more in line with median renter incomes. Hispanic households have the most even distribution across income ranges. An estimated 22.9% of Maine households fall into the extremely low to low income range, an improvement from 2010 when 26% fell in that range.

Table 10 Household Income by Race 2017

	Total	\$0 - \$24,999		\$25 - \$49,999		\$50 - \$74,999		\$75,000 +	
		#	%	#	%	#	%	#	%
All Households	554,061	126,812	22.9	134,767	24.3	106,376	19.2	186,106	33.6
White	533,516	119,659	22.4	129,512	24.3	103,256	19.4	181,089	33.9
Black	4,530	2,151	47.5	1,064	23.5	601	13.3	714	15.8
Indian	3,255	1,362	41.8	777	23.9	540	16.6	576	17.7
Asian	4,227	897	21.2	1,083	25.6	559	13.2	1,688	39.9
Hispanic	5,928	1,628	27.5	1,660	28.0	1,070	18.0	1,570	26.5

Source: U.S Census ACS 5 Year 2013 -2017 Tables B19001, 1A, 1B, 1C, 1D, 1E & 1I

Income varies regionally. The median household income for Cumberland, Sagadahoc and York counties, all in the southern region of the state, was over \$60,000, and the poverty rate there was well below the state rate of 12.9%. In contrast, Aroostook, Kennebec, Oxford, Penobscot, Piscataquis, Somerset, Waldo and Washington all have poverty rates above the state rate. Aroostook, Piscataquis and Washington counties have both low median incomes and very high poverty rates. Generally, counties that have seen population increases have lower levels of poverty.

Table 11 Median Income and Poverty Rates, 2010 County

	Median Household Income	Poverty Rate (%)
Maine	\$53,024	12.9
Androscoggin	\$49,538	14.3
Aroostook	\$39,021	17.5
Cumberland	\$65,702	10.7
Franklin	\$45,541	12.4
Hancock	\$51,438	11.6
Kennebec	\$50,116	14.1
Knox	\$53,117	11.6
Lincoln	\$54,041	11.8
Oxford	\$44,582	15.2
Penobscot	\$47,886	15.9
Piscataquis	\$38,797	18.7
Sagadahoc	\$60,457	11.3
Somerset	\$41,549	17.8
Waldo	\$50,162	14.3
Washington	\$40,328	18.2
York	\$62,618	8.5

Source: U.S. Census Bureau, 2013-2017 ACS Tables S1701 & S1903)

Table 12 Household Income by Race 2017

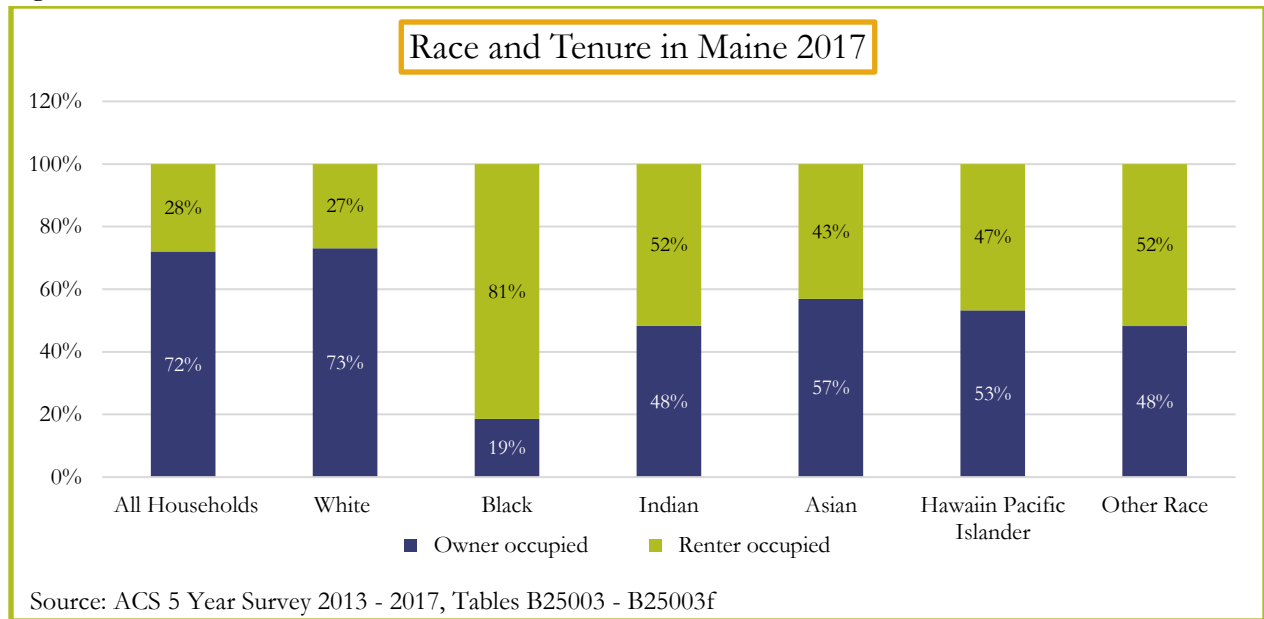
	Total	\$0 - \$24,999		\$25 - \$49,999		\$50 - \$74,999		\$75,000 +	
		#	%	#	%	#	%	#	%
All Households	554,061	126,812	22.9	134,767	24.3	106,376	19.2	186,106	33.6
White	533,516	119,659	22.4	129,512	24.3	103,256	19.4	181,089	33.9
Black	4,530	2,151	47.5	1,064	23.5	601	13.3	714	15.8
Indian	3,255	1,362	41.8	777	23.9	540	16.6	576	17.7
Asian	4,227	897	21.2	1,083	25.6	559	13.2	1,688	39.9
Hispanic	5,928	1,628	27.5	1,660	28.0	1,070	18.0	1,570	26.5

Source: U.S Census ACS 5 Year 2013 -2017 Tables B19001, 1A, 1B, 1C, 1D, 1E & 1I

Race and Tenure

Maine’s white population has the highest homeownership rate at 73%, higher than the state rate of 72% and the national rate of 64%. Homeownership is often seen as a measure of wealth and the capacity to build wealth, and generally as more conducive to building strong families and raising successful children. Among minorities in Maine, homeownership rates range from a low of 19% for black households to 57% for Asian households.

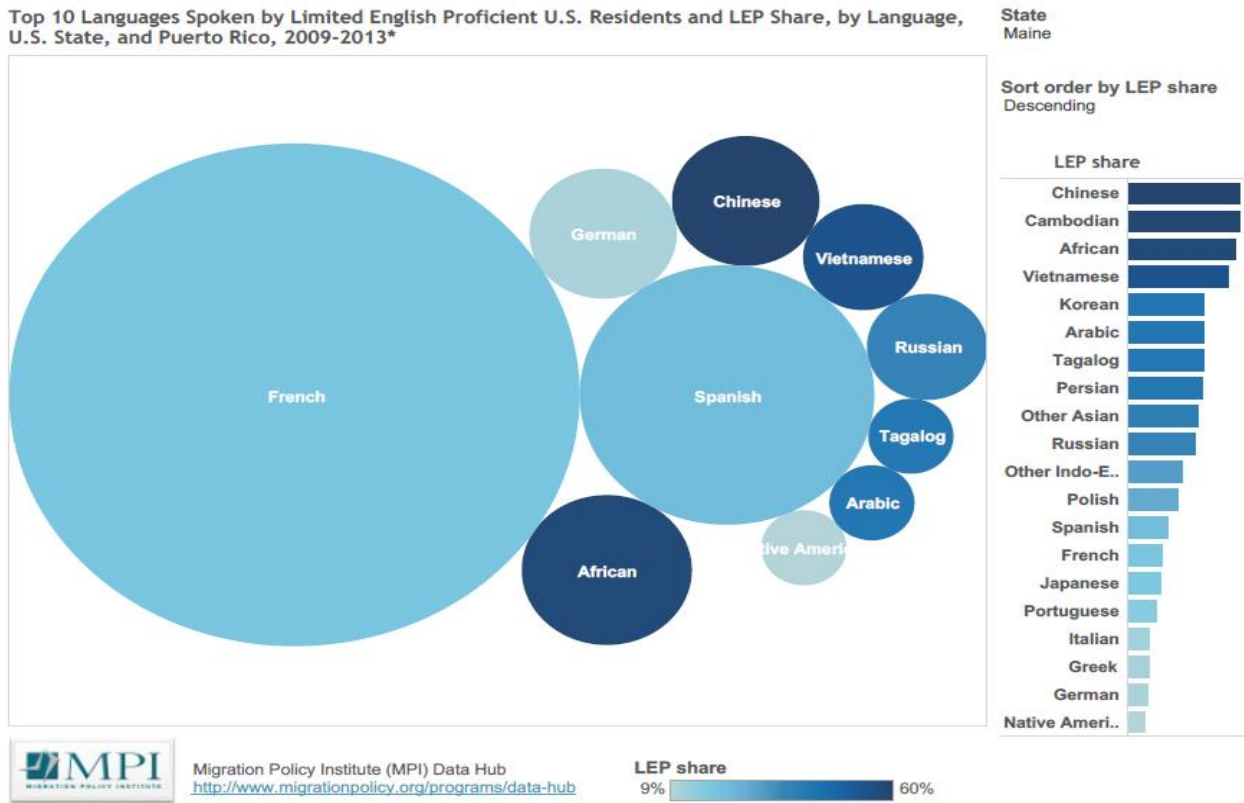
Figure 4 Race and Tenure



Language

An estimated 2% of Maine residents have Limited English Proficiency (LEP). Maine residents with LEP have difficulty reading, writing, and speaking English, as well as understanding others who speak it. LEP can impact an individual's chances to access safe affordable housing.

Figure 5 LEP



Disabilities

The State of Maine has a disabled population of 16%, or 208,646 individuals. Two thirds of Maine's disabled residents are over 65. More Maine residents with a disability have an ambulatory disability than any other type, followed by those with cognitive disabilities. Working aged adults, ages 18 – 64, have the largest share in both the cognitive and ambulatory categories.

Median Household Income

More rural, less populated counties have lower median incomes. Married-couple family households have higher median incomes than family or nonfamily households regardless of the region. The dollar amount of each family type varies by county. Married-couple family income averages 145% higher than median income across the counties, with family households earning an average 126% of median household incomes. Non-family households earn about half the median.

Table 13 below provides the median dollar amounts for household type by county. Maine's median household size is 2.34 (See figure 6).

Table 13 Median Incomes by Household Type

	Median Income			
	Households	Families	Married-couple families	Nonfamily households
Maine	\$53,024	\$67,340	\$77,431	\$30,185
Androscoggin	\$49,538	\$63,360	\$74,269	\$30,200
Aroostook	\$39,021	\$52,023	\$59,670	\$19,792
Cumberland	\$65,702	\$85,525	\$97,332	\$39,209
Franklin	\$45,541	\$57,183	\$64,882	\$25,997
Hancock	\$51,438	\$66,242	\$74,868	\$28,395
Kennebec	\$50,116	\$65,348	\$75,007	\$28,831
Knox	\$53,117	\$64,176	\$71,137	\$32,282
Lincoln	\$54,041	\$69,352	\$79,692	\$28,439
Oxford	\$44,582	\$54,970	\$63,310	\$25,628
Penobscot	\$47,886	\$61,325	\$71,298	\$25,568
Piscataquis	\$38,797	\$49,721	\$56,752	\$22,102
Sagadahoc	\$60,457	\$73,913	\$84,252	\$35,114
Somerset	\$41,549	\$54,148	\$63,989	\$20,603
Waldo	\$50,162	\$61,640	\$70,427	\$27,314
Washington	\$40,328	\$50,663	\$59,227	\$22,056
York	\$62,618	\$74,865	\$85,016	\$36,396

US Census, 2017 ACS 5 Year, Table S1901

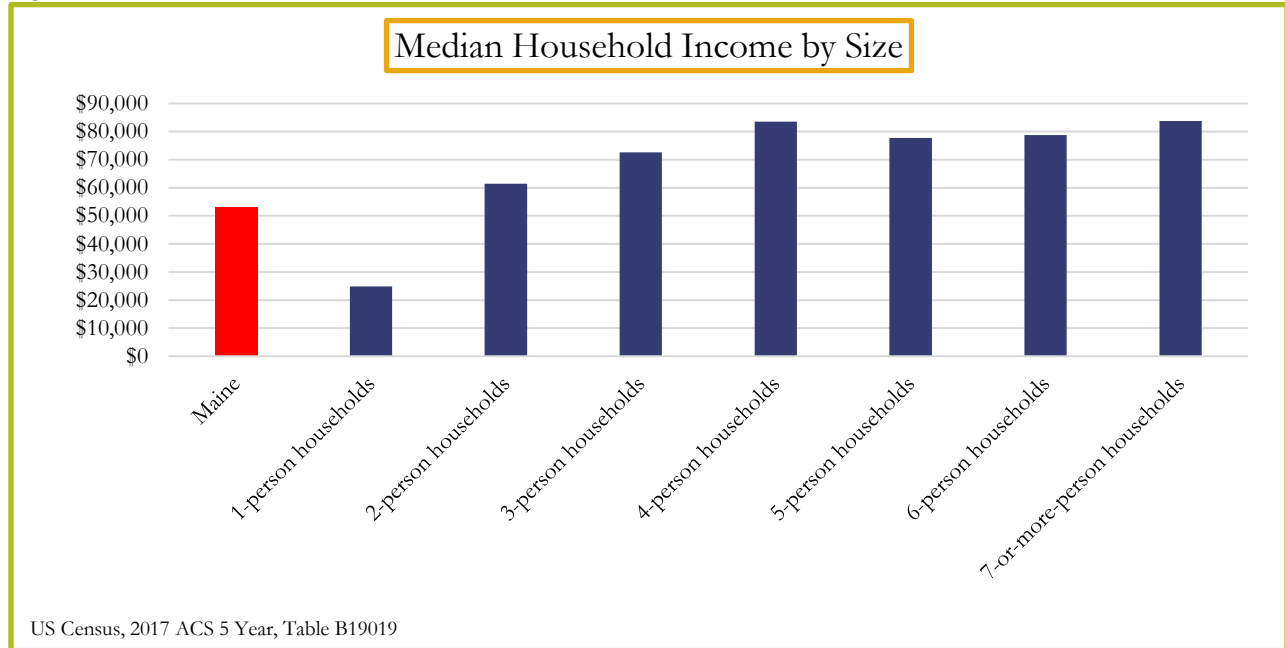
Maine has a significant number of occupied nonfamily households (the 5th highest in the nation), with 78% of them occupied by one individual earning very low median incomes.

Table 14 Occupied Households by Type and Size

	Family households	Nonfamily households
Total Households	348,315	205,746
1-person	0.0%	78.3%
2-person	52.0%	18.6%
3-person	21.7%	2.1%
4-person	17.2%	0.7%
5-person	6.0%	0.2%
6-person	2.2%	0.0%
7-or-more	0.9%	0.1%

US Census, 2017 ACS 5 Year, Table B11016

Figure 6



Purchasing

Government programs that provide low income households with low interest, down payment, and closing cost assistance are still needed. Although home sales in Maine have not reached prerecession levels, they are increasing. Conventional home purchase loans have reached their highest level since the prerecession period. Among loans requiring low to no down payments, Veterans Administration loans have increased threefold since 2008, while others have remained comparatively level over the same period. This trend reflects a continuing capacity of potential buyers to save enough to enter the market without some assistance. Overall however, the ratio of low or no downpayment loans to conventional loans has diminished 4 percentage points since 2008 after exceeding conventional loan total from 2008 through 2019.

Table 15

Loan Applications by Loan Type								
State of Maine								
HMDA Data								
Loan Type	2008	2009	2010	2011	2012	2013	2014	2017
Conventional	11,329	8,924	7,825	7,452	8,839	10,296	10,993	40,297
FHA-insured	3,416	5,021	5,066	3,933	3,940	3,156	3,009	8,812
FSA/RHS-guaranteed	1,019	3,055	2,420	2,647	3,336	4,199	4,025	3,359
VA-guaranteed	769	1,046	1,270	1,258	1,361	1,590	1,874	2,589
Total	16,533	18,046	16,581	15,290	17,476	19,241	19,901	55,057

HMDA Data

Identification of Impediments to Fair Housing Issues

Based on our research, we identified the following potential impediments or barriers to fair housing choice. Actions or steps to remediate these impediments are outlined in the following action plan.

1. Lack of Affordable Housing

- The number of affordable housing units is inadequate to meet the need of low income households.
- An estimated 17,000 applicants remain on voucher waiting lists in Maine at the local and state housing authorities combined. The average time on such lists is in excess of one year.
- Down payment and closing cost assistance is needed for home buyers.
- The failure to preserve the existing supply of affordable housing units and aging public housing developments will diminish supply. During the mid-1960s and 70s, over 4,000 units of public housing were built and are now aging. An estimated 4,658 units of LIHTC housing, or 55% of all LIHTC units, were built prior to 2001. They are now eligible for another LIHTC allocation in order to preserve their affordability and to maintain or improve their physical quality.
- A decline in resources has led to reduced production of new affordable housing and rental housing assistance.

2. Racial, Ethnic and Cultural Barriers

- Maine's minority populations have lower incomes than the majority white population.
- Minorities in Maine do not move into the mid to upper income brackets (\$50,000 or more) at a rate proportional to that of the white population.
- Though the rate of population growth among Maine's minority population has slowed from the rate seen between 2000 and 2010, it has still maintained a growth rate faster than the white population since 2010.

3. Community Planning and Zoning decisions that impede affordable housing

- Local zoning ordinances can limit the size of lots and the number of occupants in a given area.
- Limits on the number of persons in a given area can limit development of group homes designed to house people with special needs due to disabilities.
- Understanding of building codes and Fair Housing laws/requirements vary by municipality.
- Density restrictions make the addition of accessory dwelling units more difficult.

4. Lack of availability and access to housing for disabled individuals

- The proportion of Maine’s disabled population is higher than the national rate and that of all the other New England states.
- The majority of housing complaints filed with the Maine Human Rights Commission are based on allegations of disability.

5. Limited access to neighborhood opportunities and community assets

- Residents in rural areas face increased costs associated with obtaining services and products, and getting to work. Due to Maine’s geography, availability of public transportation is limited.
- Limited access to neighborhood opportunities and community assets particularly impact low income minority households located in rural Maine
- LIHTC projects are not feasible in areas facing diminished transportation options, essential services, or jobs.
- There is reluctance on the part of Section 8 program applicants to take subsidized units far from employment and services due to transportation-related costs.

6. Lack of understanding of fair housing and affirmatively furthering fair housing

- Differing federal and state accessibility requirements are complex, causing confusion among developers and design professionals, and often leading to noncompliance.
- Due to a lack of understanding, fair housing laws are not always followed. The majority of housing discrimination complaints are based on disabilities.
- Public education efforts are inadequate and may not reach all intended audiences.

MaineHousing

Analysis of Impediments to Fair Housing

Action Plan

MaineHousing submits the following action plan to address impediments identified in its Analysis of Impediments to Fair Housing.

Impediment 1: Lack of Affordable Housing			
Action	Measurable Objective	Timeline	Responsible Department
1.1 Increase the number of affordable housing units and preserve existing units	Number of affordable housing units created and preserved	Annually	DEV/AM
<i>Results:</i>			
1.2 Increase the resources available to develop affordable housing	Changes (increase/decrease) in funding available for programs	Annually	Directors
<i>Results:</i>			
1.3 Conduct data collection and analysis of affordable housing availability and needs in Maine	Publication of housing facts	Annually	CPD
Work with communities to conduct local community housing assessments upon request	Number of community housing assessment requests received and completed		
Publish housing facts and organize data to assist external partners conducting affordable housing related research			
<i>Results:</i>			

<p>1.4 Achieve deeper affordability than the statutory minimum affordability required for LIHTC and tax-exempt bond projects</p>	<p>Number of affordable units that exceed the minimum required</p> <p>Number of units with income targeting below minimum required</p> <p>Number of units that are affordable longer than minimum affordability period</p>	<p>Annually</p>	<p>DEV</p>
<p>Results:</p>			
<p>1.5 Increase homebuyer affordability</p> <p>Maintain or increase the difference between MaineHousing's lower interest rate relative to the average bank rate for low and moderate income homebuyers</p> <p>Provide down payment assistance to qualified homebuyers</p>	<p>Change in yearly differential in MaineHousing interest rate compared to market rate</p> <p>Number of buyers receiving down payment assistance</p>	<p>Annually</p>	<p>HO</p>
<p>Results:</p>			
<p>1.6 Preserve existing affordable single family homes</p> <p>Provide grants and/or no interest loans to low-income households to make repairs and improvements</p>	<p>Number of low-income households assisted</p>	<p>Annually</p>	<p>EHS</p>
<p>Results:</p>			

<p>Impediment 2. Racial, Ethnic and Cultural Barriers</p>			
<p>Action</p>	<p>Measurable Objective</p>	<p>Timeline</p>	<p>Responsible Department</p>
<p>2.1 Examine MaineHousing programs for opportunities to broaden participation</p>	<p>Summary report shared with MaineHousing program directors.</p> <p>Number of program modifications recommended.</p>	<p>Annually</p>	<p>CPD/ Innovation Team</p>
<p>Results:</p>			

Impediment 2. Racial, Ethnic and Cultural Barriers			
Action	Measurable Objective	Timeline	Responsible Department
2.2 Coordinate and fund Fair Housing Workshops for racial, ethnic and cultural communities	Number of participants	Annually	HO
<i>Results:</i>			
2.3 Fund English as a Second Language financial literacy group education and one-on-one counseling for individuals who are not proficient in the English language	Number of individuals counseled	Annually	HO
<i>Results:</i>			
2.4 Fund training of housing counselors that offer English as a Second Language financial literacy group education.	Number of training sessions offered or sponsored.	Annually	HO
<i>Results:</i>			

Impediment 3. Community Planning and Zoning Decisions that Impede Affordable Housing			
Action	Measurable Objective	Timeline	Responsible Department
3.1 Educate the public and local officials on the multiple benefits housing can bring to each and every community	Number of meetings Number of requests made and number of presentations delivered Materials Developed	On going	CPD
<i>Results:</i>			
3.2 Support affordable housing projects against NIMBY efforts (discrimination by communities or neighbors) as necessary	Number of projects experiencing NIMBYism supported by MaineHousing	Ongoing	LEGAL/CPD
<i>Results:</i>			

Impediment 4. Lack of Availability and Access to housing for disabled individuals			
Action	Measurable Objective	Timeline	Responsible Department
4.1 Create more accessible units than required by state and federal law through scoring incentives in the multifamily development programs	Number of additional accessible units created	Annually	DEV
<i>Results:</i>			
4.2 Expand accessibility in existing housing through targeted programs and funding	Number of accessible units created	Annual	EHS / CPD / AM
<i>Results:</i>			
4.3 Inform developers and landlords about accessibility requirements	Number of developers and landlords reached with information	Ongoing	AM/DEV/ HCV/EHS
<i>Results:</i>			
4.4 Continue to encourage the use of MainehousingSearch.org to identify accessible units	Number flagged for accessibility Hits on mainehousingsearch.org	Ongoing	HCV/HI/ CPD
<i>Results:</i>			
4.5 Collaborate with other state agencies to help individuals with special needs move to independent living	Number of homeward bound vouchers The number of individuals assisted with HTF and 811	Ongoing	HCV/DEV/ AM
<i>Results:</i>			

Impediment 5. Limited access to neighborhood opportunities and community assets			
Action	Measurable Objective	Timeline	Responsible Department
5.1 Utilize selection criteria in the LIHTC Qualified Allocation Plan to incent the development of affordable housing in high-opportunity areas	Number of projects awarded LIHTC that are located in high-opportunity areas	Annually	DEV
<i>Results:</i>			

Impediment 5. Limited access to neighborhood opportunities and community assets			
Action	Measurable Objective	Timeline	Responsible Department
5.2 Qualified Allocation Plan Incent development of new housing in areas with access to community assets (location in service center communities with higher need and location near public transportation, schools, employment, services and other amenities important to daily living)	Number of projects awarded LIHTC that are awarded points for smart growth concepts.	Annually	DEV
Results:			
5.3 Qualified Allocation Plan Incent development of affordable housing in areas where the differential between the maximum LIHTC rent and the market rent is higher	Number of LIHTC units awarded in areas where the market rent exceeds the LIHTC rent.	Annually	DEV
Results:			
5.4 Qualified Allocation Plan Encourage economic diversity by incenting the development of mixed-income housing in qualified census tracts	Number LIHTC of units awarded in mixed-income projects in QCTs	Annually	DEV
Results:			
5.5 Increase the use of HCV vouchers in low poverty areas	Number of new tenants leasing up in low poverty areas	Annually	HCV
Results:			

Impediment 6. Lack of Understanding of Fair Housing and Affirmatively Furthering Fair Housing			
Action	Measurable Objective	Timeline	Responsible Department
6.1 Partner with associations focused on human rights as it pertains to fair housing	Number of joint initiatives	Ongoing	HO and Program Directors
<i>Results:</i>			
6.2 Coordinate fair housing complaint resolution with partners and clients and refer fair housing complaints to appropriate agencies if necessary.	Number of fair housing interventions and/or referrals	Ongoing	Legal
<i>Results:</i>			
6.3 Continue fair housing public education programs designed to assist landlords, builders, and relevant professionals	Number of relevant professionals receiving training	Ongoing	DEV/HCV/HO/AM/HI
<i>Results:</i>			
6.4 Maintain MaineHousing's Fair Housing website page which includes information and resources about fair housing and equal access laws.	Number of website hits on the Fair Housing page.	Ongoing	CPD
<i>Results:</i>			

6.5 Provide MaineHousing's comprehensive Communications Resource Guide to employees, contractors, agents, and owners/property managers of multi-family projects	Number of guides distributed/website hits	Ongoing	LEGAL/AM/CPD
<i>Results:</i>			
6.6 Provide an internal grievance procedure for applicants and participants to file fair housing complaints about programs and services	Number of internal grievances resolved	Ongoing	LEGAL
<i>Results:</i>			

<p>6.7 Education and Outreach Distribute materials on affordable housing and fair housing at conferences, workshops, and other appropriate public venues</p>	<p>Number of people educated at Fair Housing Workshops and Trainings Number of events at which these materials are distributed Number of brochures and other materials distributed Number in attendance at the biannual conference</p>	<p>Ongoing</p>	<p>HO/ CPD</p>
<p><i>Results:</i></p>			
<p>6.8 Coordinate and fund tenant education and financial literacy training for Navigators who in turn deliver financial literacy training for individuals transitioning from homeless shelters to permanent housing</p>	<p>Number of navigators trained Number of clients trained</p>	<p>Annually</p>	<p>HI</p>
<p><i>Results:</i></p>			
<p>6.9 Provide eHomeAmerica as an on-line option for home buyer education</p>	<p>Number of participants who utilize eHomeAmerica on-line.</p>	<p>Ongoing</p>	<p>HO</p>
<p><i>Results:</i></p>			
<p>6.10 Continue to sponsor homeownership education classes that contain information about Fair Housing laws that are relevant to prospective home buyers.</p>	<p>Number of participants in home buyer education classes.</p>	<p>Ongoing</p>	<p>HO</p>
<p><i>Results:</i></p>			

MaineHousing

Analysis of Impediments to Fair Housing

2020 Results

MaineHousing submits the following action plan to address impediments identified in its Analysis of Impediments to Fair Housing.

Impediment 1: Lack of Affordable Housing			
Action	Measurable Objective	Timeline	Responsible Department
1.1 Increase the number of affordable housing units and preserve existing units	Number of affordable housing units created and preserved	Annually	DEV/AM
<i>Results:</i> In 2020, Development funded 483 new units and preserved 15 units of housing with Low Income Housing Tax Credits and Housing Trust Fund capital.			
1.2 Increase the resources available to develop affordable housing	Changes (increase/decrease) in funding available for programs	Annually	Directors
<i>Results:</i> An additional \$1,500,000 in subsidy above 2019 levels was made available for the 9% LIHTC program in 2020.			
1.3 Conduct data collection and analysis of affordable housing availability and needs in Maine	Publication of housing facts Number of community housing assessment requests received and completed	Annually	CPD
Work with communities to conduct local community housing assessments upon request			
Publish housing facts and organize data to assist external partners conducting affordable housing related research			
<i>Results:</i> Interactive Housing Facts for Homeownership (2000-2019) and Rental (2000-2020) were published using Tableau in 2020.			

<p>1.4 Achieve deeper affordability than the statutory minimum affordability required for LIHTC and tax-exempt bond projects</p>	<p>Number of affordable units that exceed the minimum required</p> <p>Number of units with income targeting below minimum required</p> <p>Number of units that are affordable longer than minimum affordability period</p>	<p>Annually</p>	<p>DEV</p>
<p>Results: 158 additional units are affordable at 50% of AMI above the amount required for Section 42 of the IRS Code. 186 additional units are affordable at 60% of AMI above the amount required by Section 42 of the IRS Code. 465 units are affordable for periods longer than required by Section 42 of the IRS Code.</p>			
<p>1.5 Increase homebuyer affordability</p> <p>Maintain or increase the difference between MaineHousing's lower interest rate relative to the average bank rate for low and moderate income homebuyers</p> <p>Provide down payment assistance to qualified homebuyers</p>	<p>Change in yearly differential in MaineHousing interest rate compared to market rate</p> <p>Number of buyers receiving down payment assistance</p>	<p>Annually</p>	<p>HO</p>
<p>Results: 898 MaineHousing borrowers utilized the Advantage down payment assistance option, representing 97% of all 2020 loans made within the MaineHousing First Home Loan program.</p>			
<p>1.6 Preserve existing affordable single family homes</p> <p>Provide grants and/or no interest loans to low-income households to make repairs and improvements</p>	<p>Number of low-income households assisted</p>	<p>Annually</p>	<p>EHS</p>
<p>Results: 283 low-income households received home repair grants through the Home Accessibility and Repair Program (HARP).</p>			

Impediment 2. Racial, Ethnic and Cultural Barriers			
Action	Measurable Objective	Timeline	Responsible Department
2.1 Examine MaineHousing programs for opportunities to broaden participation	Summary report shared with MaineHousing program directors. Number of program modifications recommended.	Annually	CPD/ Innovation Team
<i>Results:</i> One program was modified in 2020, the marketing material for First Home Loan housing counseling program.			
2.2 Coordinate and fund Fair Housing Workshops for racial, ethnic and cultural communities	Number of participants	Annually	HO
<i>Results:</i> MaineHousing did not coordinate or fund any Fair Housing Workshops in 2020 due to the COVID-19 Pandemic which caused limitations on in-person events and logistical challenges of conducting and organizing virtual trainings. MaineHousing did support Fair Housing efforts by providing funding for homebuyer education classes and housing counseling, as well as participating in online outreach opportunities and industry events.			
2.3 Fund English as a Second Language financial literacy group education and one-on-one counseling for individuals who are not proficient in the English language	Number of individuals counseled	Annually	HO
<i>Results:</i> ProsperityME (formerly Community Financial Literacy), an organization serving a large immigrant community, received \$9,308 in State Home funding from MaineHousing, which supported 3 financial capabilities classes and provided 70 hours of one-on-one housing counseling for 32 individuals. Four Directions Development Corporation, serving Maine’s Native American population, received \$7,131 in State Home funding from MaineHousing, which supported 3 in-person financial capabilities classes and 161 hours of one-on-one housing counseling services for 122 individuals.			
2.4 Fund training of housing counselors that offer English as a Second Language financial literacy group education.	Number of training sessions offered or sponsored.	Annually	HO
<i>Results:</i> MaineHousing engaged with a cohort of partner agencies to support training of financial counselors to offer English as a second language, although no funding was provided during 2020 for this initiative.			

Impediment 3. Community Planning and Zoning Decisions that Impede Affordable Housing			
Action	Measurable Objective	Timeline	Responsible Department
3.1 Educate the public and local officials on the multiple benefits housing can bring to each and every community	Number of meetings Number of requests made and number of presentations delivered Materials Developed	On going	CPD
<i>Results:</i> 7 Requests and meetings/presentations were delivered in 2020 (Augusta, Presque Isle, Bangor, Rockland, Lewiston, Biddeford, Sanford).			
3.2 Support affordable housing projects against NIMBY efforts (discrimination by communities or neighbors) as necessary	Number of projects experiencing NIMBYism supported by MaineHousing	Ongoing	LEGAL/CPD
<i>Results:</i> None			

Impediment 4. Lack of Availability and Access to housing for disabled individuals			
Action	Measurable Objective	Timeline	Responsible Department
4.1 Create more accessible units than required by state and federal law through scoring incentives in the multifamily development programs	Number of additional accessible units created	Annually	DEV
<i>Results:</i> 73 accessible units above the minimum required were funded in 2020.			
4.2 Expand accessibility in existing housing through targeted programs and funding	Number of accessible units created	Annual	EHS / CPD / AM
<i>Results:</i> 23 low-income households were provided accessibility grants through the Home Accessibility and Repair Program (HARP).			
The Subsequent Loan Program funded rehabilitation in one project that resulted in the creation of three new accessible units.			
4.3 Inform developers and landlords about accessibility requirements	Number of developers and landlords reached with information	Ongoing	AM/DEV/ HCV/EHS
<i>Results:</i> 14 landlords were informed about accessibility requirements through MaineHousing's HUD Lead Hazard Reduction – Healthy Homes grant.			
12 developers were informed of Federal, State, and Local accessibility requirements.			
4.4 Continue to encourage the use of MaineHousingSearch.org to identify accessible units	Number flagged for accessibility Hits on mainehousingsearch.org	Ongoing	HCV/HI/ CPD
<i>Results:</i> HCV – 361 HCV Briefing packets (including notices on Fair Housing and MaineHousing Search) were sent to clients.			
STEP - Use of MaineHousingSearch.org was encouraged as a resource for all Homeless Initiative clients - 106 households were given the resource directly while being given the STEP Coupon briefing.			
In 2020, 19,500 units were listed on MaineHousingSearch.org. 69,383 searches occurred with 253,108 pageviews.			
4.5 Collaborate with other state agencies to help individuals with special needs move to independent living	Number of homeward bound vouchers	Ongoing	HCV/DEV/ AM

	The number of individuals assisted with HTF and 811		
<p>Results: 10 individuals were assisted with Homeward Bound Vouchers, 13 HTF and 24 PRA811 vouchers issued.</p> <p>There were a total of 4 individuals qualifying under one of the five MaineCare waiver groups that were housed under the PRA811 program in 2020.</p> <p>A total of 9 units were created and made available in 2020 under the Housing Trust Fund Program. Those 9 units housed and served a total of 11 people.</p>			

Impediment 5. Limited access to neighborhood opportunities and community assets			
Action	Measurable Objective	Timeline	Responsible Department
5.1 Utilize selection criteria in the LIHTC Qualified Allocation Plan to incent the development of affordable housing in high-opportunity areas	Number of projects awarded LIHTC that are located in high-opportunity areas	Annually	DEV
Results: Maine's QAP awards points to projects in high-opportunity areas. Eleven tax credit projects were funded in High Opportunity Areas in 2020.			
5.2 Qualified Allocation Plan Incent development of new housing in areas with access to community assets (location in service center communities with higher need and location near public transportation, schools, employment, services and other amenities important to daily living)	Number of projects awarded LIHTC that are awarded points for smart growth concepts.	Annually	DEV
Results: Four projects (100% of 9% LIHTCs) received points for Smart Growth concepts.			
5.3 Qualified Allocation Plan Incent development of affordable housing in areas where the differential between the maximum LIHTC rent and the market rent is higher	Number of LIHTC units awarded in areas where the market rent exceeds the LIHTC rent.	Annually	DEV
Results: 217 units were funded in areas where the market rate exceeds the maximum LIHTC rent in 2020.			
5.4 Qualified Allocation Plan Encourage economic diversity by incenting the	Number LIHTC of units awarded in	Annually	DEV

Impediment 5. Limited access to neighborhood opportunities and community assets			
Action	Measurable Objective	Timeline	Responsible Department
development of mixed-income housing in qualified census tracts	mixed-income projects in QCTs		
Results: 65 units were awarded tax credits in QCTs in 2020.			
5.5 Increase the use of HCV vouchers in low poverty areas	Number of new tenants leasing up in low poverty areas	Annually	HCV
Results: Landlords in low poverty areas are offered security deposits funds up the contract rent. The security deposit program is also available to all new participants in our program increasing our lease up totals by removing the barrier for low income families to pay a security deposit. In 2020 there were 361 HCV Briefing packets.			

Impediment 6. Lack of Understanding of Fair Housing and Affirmatively Furthering Fair Housing			
Action	Measurable Objective	Timeline	Responsible Department
6.1 Partner with associations focused on human rights as it pertains to fair housing	Number of joint initiatives	Ongoing	HO and Program Directors
Results: MaineHousing annually partners with organizations hosting fair housing workshops or initiatives. The COVID-19 Pandemic in 2020 greatly limited the opportunity for in-person events for which MaineHousing could provide support or partnership.			
MaineHousing provided promotional flyers and made information materials available to both large and small multifamily property managers and owners across the state for any events.			
6.2 Coordinate fair housing complaint resolution with partners and clients and refer fair housing complaints to appropriate agencies if necessary.	Number of fair housing interventions and/or referrals	Ongoing	Legal
Results: One			
6.3 Continue fair housing public education programs designed to assist landlords, builders, and relevant professionals	Number of relevant professionals receiving training	Ongoing	DEV/HCV/HO/AM/HI
Results: Due to the limitations caused by the COVID-19 Pandemic and the challenges of organizing and conducting remote workshops, no virtual or live in-person events, programs or workshops were			

Impediment 6. Lack of Understanding of Fair Housing and Affirmatively Furthering Fair Housing			
Action	Measurable Objective	Timeline	Responsible Department
<p>held in 2020. MaineHousing continued to support any partner agencies offering housing counseling and education courses by providing fair housing information and materials.</p> <p>HCV Staff participated in a virtual Fair Housing Training on May 19, 2020.</p> <p>On 11/4/2020, Asset Management sent out Notice 2020-17 which contained a flyer for an upcoming Fair Housing training opportunity sponsored by Maine Real Estate Management Association, a group dedicated to landlords/property managers.</p>			
6.4 Maintain MaineHousing's Fair Housing website page which includes information and resources about fair housing and equal access laws.	Number of website hits on the Fair Housing page.	Ongoing	CPD
Results: 2078 hits on the Fair Housing webpage			

6.5 Provide MaineHousing's comprehensive Communications Resource Guide to employees, contractors, agents, and owners/property managers of multi-family projects	Number of guides distributed/website hits	Ongoing	LEGAL/ AM/ CPD
Results: The Communication Resource Guide is available on the MaineHousing website on the Asset Management page as a resource to partners under “resources to Assist with Equal Access”. The Guide received 3 hits in 2020.			
6.6 Provide an internal grievance procedure for applicants and participants to file fair housing complaints about programs and services	Number of internal grievances resolved	Ongoing	LEGAL
Results:			

6.7 Education and Outreach Distribute materials on affordable housing and fair housing at conferences, workshops, and other appropriate public venues	Number of people educated at Fair Housing Workshops and Trainings Number of events at which these materials are distributed	Ongoing	HO/ CPD
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	Number of brochures and other materials distributed		
	Number in attendance at the biannual conference		
Results: Due to the COVID-19 Pandemic, we limited participation to virtual meetings.			
6.8 Coordinate and fund tenant education and financial literacy training for Navigators who in turn deliver financial literacy training for individuals transitioning from homeless shelters to permanent housing	Number of navigators trained	Annually	HI
	Number of clients trained		
Results: 67 navigators trained 3818 clients given financial literacy services/training			
6.9 Provide eHomeAmerica as an on-line option for home buyer education	Number of participants who utilize eHomeAmerica on-line.	Ongoing	HO
Results: Between October 1, 2019 and September 30, 2020, 1,580 individuals completed eHomeAmerica’s homebuyer education course online and a one-hour, one-on-one post course educational session with a housing counselor.			
6.10 Continue to sponsor homeownership education classes that contain information about Fair Housing laws that are relevant to prospective home buyers.	Number of participants in home buyer education classes.	Ongoing	HO
Results: Between Oct. 1, 2019 and Sept. 30, 2020, 1,431 individuals completed an in-person or virtual homebuyer education class sponsored by MaineHousing. The hoMEworks class curriculum requires instructors to address Fair Housing and Fair Lending.			

Appendix D

ANALYSIS OF IMPEDIMENTS

WESTBROOK HOUSING AUTHORITY

20 MAY 2019

PREPARED BY: JENNIFER GORDON, OPERATIONS DIRECTOR

Westbrook Housing conducted an Analysis of Impediments to Fair Housing in the spring of 2019. Information was gathered from numerous sources and different methods were utilized to obtain the information. A Fair Housing Survey was developed and posted on the Westbrook Housing website for 60 days. Notice of the survey was sent to our voucher holders. Two public listening sessions were advertised in the local paper and held. The General Assistance Directors for Westbrook, Windham, Gorham and Scarborough were interviewed and both Pine Tree Legal Assistance and the Maine Human Rights Commission provided data. The following is what was learned from all of the stated sources.

From those who responded to our survey, we found that 70% of those who reported being discriminated against in their search for housing felt they were discriminated against on the basis of their receipt of public assistance. Almost 30% felt discriminated against due to disability or familial status.

While 80% of respondents felt they were able to find housing in an area they wanted to live, we received many responses to the barriers encountered to accessing affordable housing. The largest barrier was the high rents, especially in the city areas of Portland and Westbrook. Even for respondents with vouchers, the rents were higher than the payment standard covered. One respondent felt that in some instances, this was intentional to keep voucher holders ineligible for housing. Lack of public transportation outside the city was cited as a barrier to finding and living in affordable housing in the more rural areas. Lack of enough available assistance to make the market rates more affordable and lack of housing for the disabled whose age was under the age of 55 was also cited as barriers to accessing housing.

At the two public listening sessions it was identified by attendees that the lack of affordable housing for people with disabilities under the age of 55 is a barrier. In addition, the median price of homes in areas close to the city and within reach of public transportation was mentioned as a barrier. The high price of homes prevented people from becoming homeowners even when they had a voucher which would have resulted in the monthly cost of the home being affordable.

In interviews with the General Assistance Directors, high market rents in addition to burdensome security deposit requirements were cited as barriers to decent housing. The rental market is currently very tight so landlords can impose stricter requirements. Poor or no credit and references are barriers to decent housing in this scenario. One General Assistance Director has immigrants as the majority of the municipality's clients. The immigrant families generally have no credit or former references and if they are new immigrants, cannot yet work and do not have or have access to enough money to meet the security deposit requirements. In addition, the immigrant families generally tend to be larger families and have difficulty finding appropriately sized apartments. Due to these barriers, the

apartments available to these families tend to be substandard or barely meeting the building codes and are overcrowded for the family size.

The General Assistance Directors said that they believe that their clients are generally discriminated against on the basis of receipt of public assistance.

The Pine Tree Legal Assistance Fair Housing Initiative Program conducts testing in Maine using testers posing as potential renters. During 2017-2018, 270 Fair Housing tests were conducted in Maine with 22 of those in the Westbrook Housing Jurisdiction: Bar Mills, Buxton, Cape Elizabeth, Cumberland, Falmouth, Gray, Gorham, North Yarmouth, Old Orchard Beach, Scarborough, Standish including Sebago Lake, Steep Falls, Westbrook, Windham and Yarmouth. Four tests were conducted in Cape Elizabeth; 2 disability/assistive animal and 2 familial status. Two tests were conducted in Gorham; both national origin/race. No complaints were filed as a result of those tests. In addition, 16 tests were conducted in Westbrook; 8 national origin/race and 8 disability. Of those tests, four of the national origin/race tests were conducted because of a complaint but no complaints were filed post testing.

In addition to the testing data, Fair Housing Case data in the Jurisdiction from 4/1/2014 to 3/31/2019 was received and reviewed. During this time frame there were 38 cases total; 2 cases had no merit, 2 cases were not Fair Housing complaints, 6 were either an inquiry only or the client did not want to pursue the case, 16 cases were resolved by a reasonable accommodation being granted, 2 cases received affirmative relief, 1 received no relief and in 9 cases a complaint was filed with HUD and/or with the Maine Human Rights Commission. Of the 9 complaints filed with HUD and/or the Maine Human Rights Commission; 4 obtained affirmative relief, 2 received no relief, 1 was not a fair housing complaint, 1 was in litigation at the time the report was received and 1 was deemed other as a resolution.

Data from the Maine Human Rights Commission was received covering the timeframe of 2014-2018. The information is categorized by County and by the State. The information included the alleged basis for the complaints over the time period, the issues being complained about and the resolution of cases.

The alleged basis of complaints is the following: ancestry, color, disability, familial status, gender identity, national origin, other, race, religion, retaliation, sex, sexual orientation and source of income. In Maine for year 2014 there were 153 cases, 103 in 2015, 109 in 2016, 141 in 2017 and 177 in 2018 for a total of 683 cases. In Cumberland county those numbers were; 59 for 2014, 41 for 2015, 25 for 2016, 42 for 2017 and 86 for 2018 for a total of 253 cases or about 37% of all cases in Maine for the timeframe. The top alleged basis for the complaints in the State of Maine for the 5-year time frame was: disability at 40%, retaliation at 15%, race at 8% and national origin at 7%. The top alleged basis for the complaints in Cumberland county were: disability at 30%, retaliation and national origin both at 13% and race at 11%.

The issues that complainants identify in their filing of fair housing complaints include: advertising, benefits, discharge, eviction, exclusion, harassment, intimidation, other, prohibited medical inquiry/exam, reasonable accommodation, unfavorable references, service animal, sexual harassment and terms and conditions. In Maine for year 2014 there were 290 cases, 221 in 2015, 92 in 2016, 131 in 2017 and 175 in 2018 for a total of 909 cases. In Cumberland county those numbers were; 77 for 2014, 93 for 2015, 20 for 2016, 32 for 2017 and 58 for 2018 for a total of 280 or about 31% of all cases in Maine for the timeframe. The top issues in the State of Maine for the 5-year timeframe were: terms

and conditions at 30%, reasonable accommodation at 17%, harassment at 13% and eviction at 12%. The top issues in Cumberland county were: terms and conditions at 35%, reasonable accommodation at 14% and harassment at 12%.

The outcomes for the cases are reported by the year in which the case was filed. The outcomes reported are; administrative dismissal, finding of cause issued, finding of no cause issued, settlement with benefits, split finding case and withdrawal with benefits. In Maine for year 2014; there were 88 cases with outcomes, 72 in 2015, 68 in 2016, 88 in 2017 and 95 in 2018 for a total of 411 cases with outcomes. Sixty five percent of the cases were either administrative dismissals or findings of no cause. In Cumberland county there were 27 cases with outcomes in 2014, 28 in 2015, 18 in 2016, 24 in 2017 and 30 in 2018 for a total of 127 cases with outcomes or about 31% of all cases with outcomes in Maine. Seventy one percent of the cases in Cumberland county were either administrative dismissals or findings of no cause.



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Lauren Bustard, Maine State Housing Authority, 26 Edison Drive, Augusta, Maine 04330-6046,
Telephone Number 1-800-452-4668 (voice in state only), (207) 626-4600 (voice) or Maine Relay 711.

