

Implementing AB 686: Affirmatively Furthering Fair Housing

Guidance for Housing Elements



California Department of Housing and Community Development

Welcome & Introduction

» Opening remarks from HCD Director, Gustavo Velasquez



What is Affirmatively Furthering Fair Housing?

Assembly Bill 686 (2018) defines Affirmatively Furthering Fair Housing as, “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics”.

“The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development.”

(Gov. Code, § 8899.50, subd. (a)(1).)



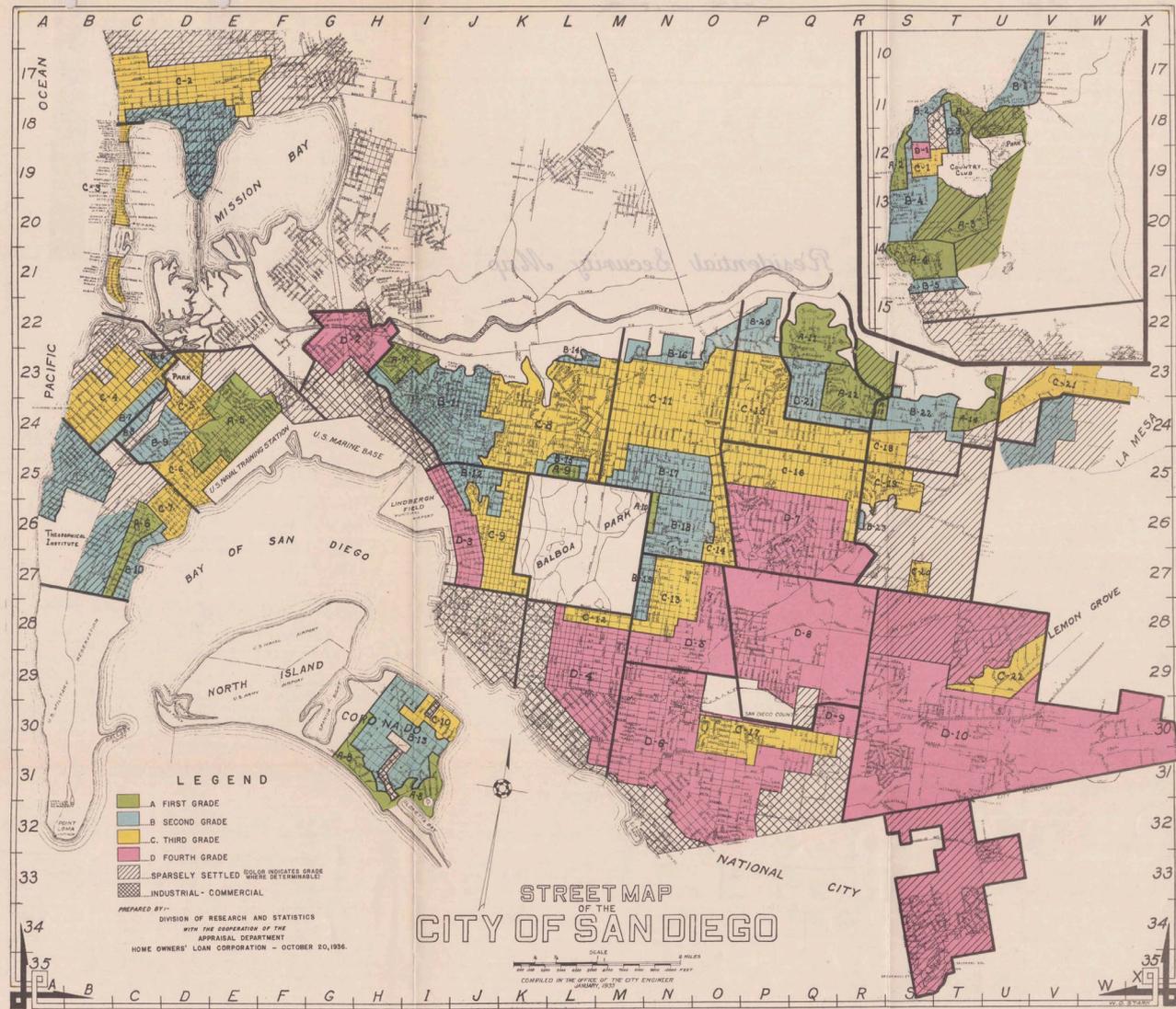
What is Affirmatively Furthering Fair Housing?

Specifically, these meaningful actions must aim to accomplish the following:

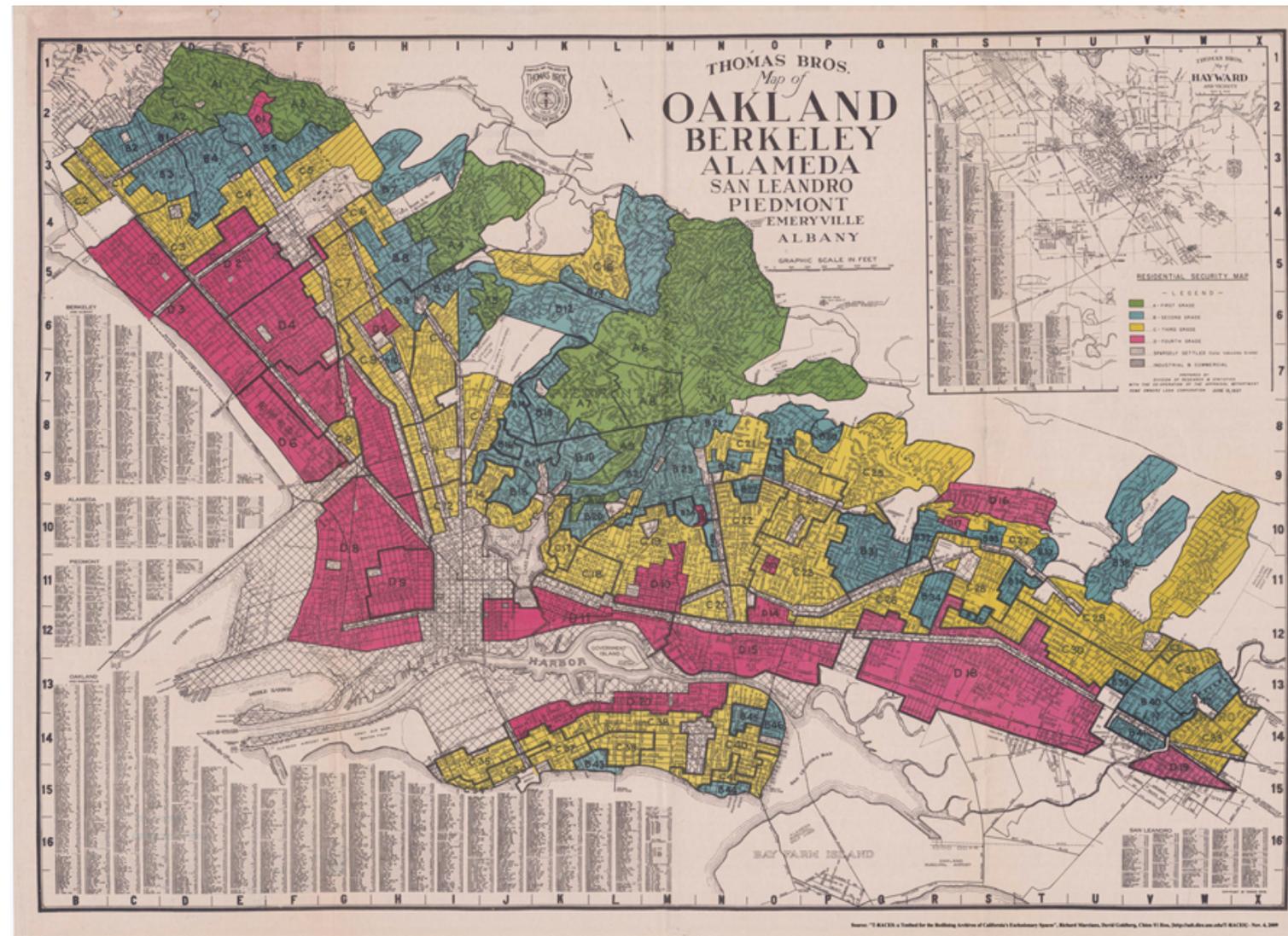
- » Address significant disparities in housing needs and in access to opportunity;
- » Replace segregated living patterns with truly integrated and balanced living patterns;
- » Transform racially and ethnically concentrated areas of poverty into areas of opportunity;
- » Foster & maintain compliance with civil rights and fair housing laws.

Background

- » **Prior to the 1960s, discriminatory land use policies, biased mortgage practices, etc. restricted people of color from accessing opportunity & fair housing choice.**
- » **Congress passed the Fair Housing Act of 1968 (FHA) to address longstanding discriminatory issues.**
 - Prohibited discrimination based on race, color, religion, and national origin.
 - Act later amended to include discrimination based on sex (1974) and disability and familial status (1988).
 - The FHA also advanced the need for AFFH.



Sources: "T-RACES: a Toolbed for the Redlining Archives of California's Exclusionary Spaces", Richard Marciano, David Goldberg, Chien-Yi Hou, (<http://alt.dice.usc.edu/T-RACES/>) - Nov. 4, 2009



Sources: "T-RACES: a Toolbed for the Redlining Archives of California's Exclusionary Spaces", Richard Marciano, David Goldberg, Chien-Yi Hou, (<http://alt.dice.usc.edu/T-RACES/>) - Nov. 4, 2009

Affirmatively Furthering Fair Housing

The Need for AFFH

- » **Despite prohibitions against housing discrimination, forces driving residential segregation persist today.**
- » **Racially explicit practices replaced by more subtle methods.**
 - These include single family & exclusionary zoning policies and placing affordable housing in low-resource neighborhoods.
 - Practices such as these continue to reinforce spatial segregation of low-income and communities of color in California.

Assembly Bill 686 (2018)

- » **Establishes an independent state mandate for all CA public agencies to adhere to AFFH, regardless of future federal actions**
 - Mandates state, local public agencies to facilitate deliberate action to explicitly address & combat disparities resulting from past patterns of segregation to foster inclusive communities. All public agencies must administer programs and activities relating to housing and community development, broadly defined, in a manner that AFFH and take no action inconsistent with AFFH.
 - Creates new requirements for housing elements due to be revised on or after January 1st, 2021.
- » **Preserves the 2015 Obama-era HUD AFFH Rule**



AB 686

Expands and protects duty to affirmatively further fair housing (AFFH) in CA

1

All public agencies required to administer programs and activities relating to housing and community development in a manner to AFFH and take no action that is materially inconsistent with this obligation.

2

New Housing Element Requirements

**Applies to housing elements due to be revised on or after January 1, 2021*



Outreach

A diligent effort must be made to equitably include all community stakeholders in the housing element public participation process.



Assessment of Fair Housing

All housing elements must include an assessment of fair housing within the housing needs section. This assessment should include an analysis of fair housing issues in the jurisdiction including existing segregation and inclusion trends and current fair housing practices.



Sites Analysis

Local jurisdictions must evaluate and address how particular sites available for development of housing will meet the needs of households at all income levels and will AFFH by replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.



Priorities, Goals, and Actions

Based on findings from the needs assessment and the site inventory analysis with respect to AFFH, local jurisdictions will assess contributing factors to fair housing barriers and adopt policies with programs that remediate identified fair housing issues and/or further promote fair housing.

New Housing Element Requirements to AFFH

Components of New HE Requirements for AFFH

1. Outreach
2. Assessment of Fair Housing (AFH)
3. Site Inventory
4. Identification & Prioritization of Contributing Factors
5. Goals and Actions/Programs



Analysis Requirements & Sources

» Patterns & Trends (Local & Regional)

- Data tables
- Maps
- Narration

» Local Data & Knowledge

» Other Relevant Factors

- History
- Demographic Trends

- Governmental Barriers or Lack of Action
- Supplemental Data Sources

» Data Sources

- US Census/ACS
- Regional data provided by COGs (not required, but recommended)
- HCD's AFFH Data Viewer (not required, but highly recommended)

1. Outreach

» Existing Housing Element Outreach Requirements

- Reach ALL economic segments of the population.
- Describe meaningful, frequent, & ongoing community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element.

» New AFFH Housing Element Outreach Requirements

- Include a summary of fair housing outreach and capacity. (Gov. Code, § 8899.50, subd. (a)(2))
- Receive public input and local knowledge on Assessment of Fair Housing

1. Outreach

» Jurisdictions should consider the following:

- Geographic barriers to participation
- Transit-accessible meetings across various locations
- Meetings scheduled outside of work hours, including evenings & weekends
- Housing element drafts made available for public viewing (both in-person & electronic options)
- Translating materials, ample time for review & comment, and avoiding overly technical language
- Housing element outreach should be aligned with the SB 1000 (2016) (Environmental Justice Element) to the extent possible, given overlapping topic areas

1. Outreach

» Examples of key stakeholders to engage with include:

- Public housing authorities (PHAs)
- Community-based organizations (CBOs)
- Housing and community development providers
- Lower income community members & households that include persons in protected classes
- Fair housing agencies
- Regional & independent living centers
- Homelessness services agencies
- Churches and community service organizations that serve ethnic/linguistic minorities



Affirmatively Furthering Fair Housing

2. Assessment of Fair Housing (AFH)

» Each of the 5 analysis areas below must have an assessment:



Fair Housing
Enforcement
& Outreach



Segregation
& Integration



Disparities in
Access to
Opportunity



Disproportionate
Housing Needs/
Displacement



Racially /
Ethnically
Concentrated
Poverty

» Each analysis must incorporate the data analysis requirements and sources (regional & local scale) discussed earlier

» Must also have a summary of fair housing issues

2. Assessment of Fair Housing (AFH) Continued

» Assessment of Fair Housing Enforcement and Outreach Capacity

- Ability to disseminate information related to fair housing and provide outreach and education
- Ability to address compliance with fair housing laws, including a discussion of any findings, lawsuits, enforcement actions, settlements, or judgements
- At an appropriate geographic level



Fair Housing
Enforcement & Outreach

2. Assessment of Fair Housing (AFH) Continued

» Assessment of Segregation and Integration Patterns and Trends

- Race
- Ethnicity
- Familial Status
- Persons with disabilities
- Income



Segregation &
Integration

2. Assessment of Fair Housing (AFH) Continued

» Assessment of Disparities in Access to Opportunity

- Indices & Individual Variables
 - Education
 - Transportation
 - Economic Development & Access to Jobs
 - A Healthy Environment
 - Any other additional relevant factors



Disparities in Access to Opportunity

2. Assessment of Fair Housing (AFH) Continued

» Assessment of Disproportionate Housing Needs, Including Displacement

- Cost Burden & Severe Cost Burden
- Overcrowding
- Substandard Housing
- Homelessness
- Displacement
 - Investment-driven
 - Disinvestment-driven
 - Disaster-driven



Disproportionate
Housing Needs, Including
Displacement

2. Assessment of Fair Housing (AFH) Continued

» Assessment of Racially/Ethnically Concentrated Areas of Poverty (R/ECAP)

- Racially/Ethnically Concentrated Areas of Poverty (R/ECAP)
- Racially Concentrated Areas of Affluence (RCAA)
- Data Considerations
 - TCAC/HCD opportunity maps high segregation & poverty layer
 - HUD R/ECAP data
 - HCD RCAA layer coming soon



Racially/Ethnically
Concentrated Areas of
Poverty

3. Site Inventory

AB 686 requires a jurisdiction to identify sites throughout the community in a manner that is consistent with its duty to AFFH

- » The jurisdiction's Assessment of Fair Housing (e.g. segregation & integration, R/ECAP, etc.) should inform the identification of sites in a manner that AFFH.
- » The site identification requirement must assess whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns. Do they transform racially and ethnically concentrated areas of poverty into areas of opportunity?
- » Analysis should not be limited to the identification of sites for lower income households but should incorporate jurisdiction's projected housing development at all income levels. It should assess the extent to which it either further entrenches or ameliorates existing patterns of segregation and/or exclusion of protected class members.

3. Site Inventory Continued

To evaluate site inventory's consistency with AFFH, it should address the following at a regional and local level for each of the fair housing issue areas (Segregation & Integration, R/ECAPs, etc.):

- » Improved Conditions
- » Exacerbated Conditions
- » Isolation of the RHNA
- » Local Data & Knowledge
- » Other Relevant Factors



Based on the analysis, the element must summarize conclusions and directly identify policies and programs needed to address identifying and making adequate sites available to accommodate RHNA in a manner that AFFH.

AFFIRMATIVELY FURTHERING FAIR HOUSING

1

Analyze patterns and trends of disparate housing needs and disproportionate access to opportunities



Outreach
Efforts

+



Assessment of
Fair Housing

+



Sites
Inventory



2

Identify and **Prioritize** significant contributing factors to fair housing choice



3



Establish strategic policies, goals, and actions to AFFH based on analysis contributing factors

4. Identify and Prioritize Contributing Factors

- » The housing element must identify and prioritize significant contributing factors to segregation, R/ECAPS, opportunity access, & disproportionate housing needs
 - Fair housing contributing factor = a factor that creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues.
 - Contributing factors should be based on all prior AFFH analyses (Outreach, AFH, Site Inventory)

4. Identify and Prioritize Contributing Factors

» Identification and evaluation of contributing factors must:

- Identify fair housing issues and significant contributing factors
- Prioritize contributing factors, giving highest priority to those factors that most limit or deny fair housing choice, access to opportunity, or negatively impact fair housing or civil rights compliance
- Discuss strategic approaches to inform and strongly connect to goals and actions. Goals and actions should stem directly from Contributing Factors

» Prioritization is important – should be a manageable list (4-6, not 50)

» Must be tailored to local conditions

5. Goals and Actions

The HE must include a schedule of actions directly related to AFFH. Together it must:

- » Reflect results of the AFFH analyses and directly address contributing factors
- » Be specific, with concrete language – words like ‘explore’, ‘consider’ and ‘study’ don’t cut it
- » Have a clear timeline with specific dates and milestones – ‘ongoing’ usually not adequate
- » Quantifiable outcomes
- » Have a beneficial/meaningful impact during the planning period - that’s the bar to overcome patterns
- » Go well beyond a continuation of past actions
- » Not take any action materially inconsistent with the obligation to AFFH

5. Goals and Actions Continued

- » **Action Areas to AFFH may include, but not limited to:**
 - Enhancing housing mobility strategies
 - Encouraging development of new affordable housing in high resource areas
 - Improving place-based strategies to encourage community conservation and revitalization, including preservation of existing affordable housing
 - Protecting existing residents from displacement
- » **Not required, but generally need a suite of programs that address each of the above action areas**
- » **The number and scale of actions will depend on the severity of the needs.**
- » **A balanced and effective approach will consider and combine each of the following tools:**
 - land use resources: planning documents such as general plans, zoning, specific plans, ordinances and procedures
 - financial resources
 - human resources: outreach, education, marketing, collaboration

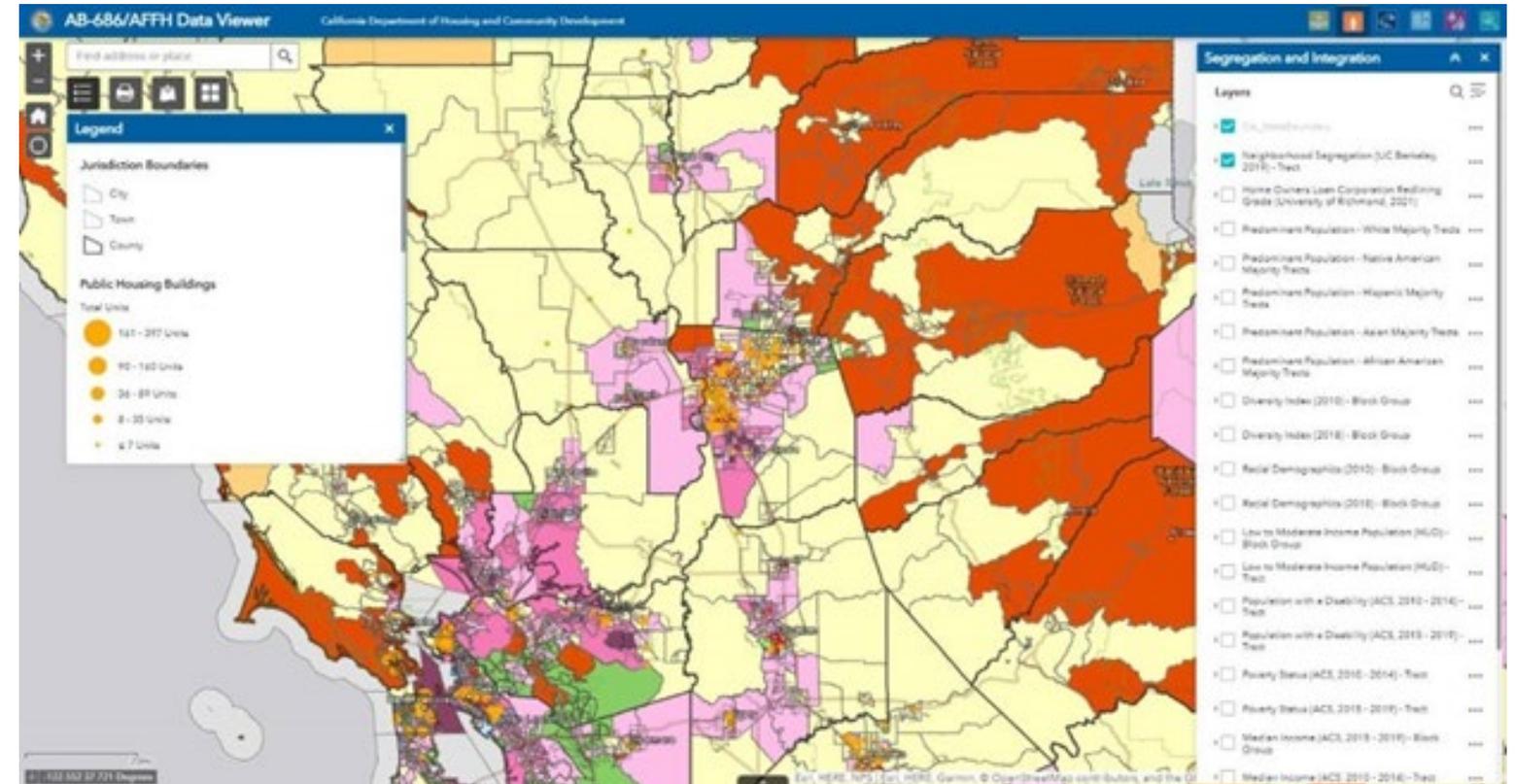
Common Mistakes & Pitfalls



- » High-quality Assessment of Fair Housing, but status-quo actions/programs
- » A local jurisdiction just refers to a county-level Analysis of Impediments to Fair Housing previously completed
- » Does not include regional comparison in analyses
- » Only analyzes patterns of low-income sites, not all sites
- » Does not ask the public to provide input on AFFH
- » Doesn't prioritize 4-5 contributing factors & connect to programs
- » High resource areas can't rely on ADUs alone
- » No data dumping! Tell the story

AFFH Data Viewer

- » Interactive Maps
- » 60+ Data layers
- » How-to Guide
- » Recommended vs. Additional Data Layers
- » Print/Export Functions
- » Feedback survey/email



Coming Soon

- » **AFFH Sample Analyses**
- » **Updates to Data Viewer**
 - New data layers
- » **Webinars**
 - ABAG workshop 6/22
 - Webinars on AFFH duties of public agencies & AFFH Data Viewer demo (TBA – later this summer)
 - Other webinars as requested



Thank you!

Please send questions to :

AFFHGuidance@hcd.ca.gov

