



# Memorandum

**TO:** NEIGHBORHOOD SERVICES  
& EDUCATION COMMITTEE

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** ASSESSMENT OF FAIR  
HOUSING PLAN

**DATE:** October 1, 2019

Approved

Date

10-3-2019

## RECOMMENDATION

Accept the report and workplan to develop the Assessment of Fair Housing Plan.

## OUTCOME

Staff will receive input from the Neighborhood Services and Education Committee regarding the update on the federal and State fair housing obligations and the Assessment of Fair Housing Plan process. The Assessment of Fair Housing Plan (Plan) will be used to help set five-year spending priorities for the City's federal funds from the U.S. Department of Housing and Urban Development. The Plan also will be used to ensure the City complies with new State law to ensure its programs are consistent with fair housing principles, and will form a foundation for the City's next Housing Element. This will be the first time the City has conducted an in-depth analysis of residential segregation and access to opportunity. Committee members will have an opportunity to provide feedback on the community engagement approach for creation of this Plan.

## BACKGROUND

The 1968 Civil Rights Act, also known as the Fair Housing Act, was intended to reduce social inequities by prohibiting discrimination in housing. Access to housing is important because it greatly impacts a person's access to important opportunities such as high quality education, employment, transit, health care, healthy food, clean air, and parks for recreation.

The Civil Rights Act helped to reduce overt discrimination and segregation in American cities; however, lingering impacts and issues remain more than 50 years later. In San José, Black residents comprise 3% of the of general population, but represent 19% of the homeless

population.<sup>1</sup> The homeownership rate for Black households is only 36.9% and 38.7% for Latinx households, as compared to 66.8% of White households and 62.4% of Asian households.<sup>2</sup> Latinx households experience housing cost burden at a greater rate than all other race groups in San José (59.5%),<sup>3</sup> and are the most likely to live near environmental hazards.<sup>4</sup>

Cities and counties that receive entitlement funding from the U.S. Department of Housing and Urban Development (HUD) are obligated by law to reduce barriers to fair housing in observance of the 1968 Fair Housing Act. Jurisdictions must prepare an Analysis of Impediments to Fair Housing to identify fair housing needs and must provide strategies to address them. The Analysis of Impediments is also used to inform how the City spends its federal Community Development Block Grant, HOME Investment Partnership, Housing Opportunities for Persons with Aids, and Emergency Solutions Grant funds from the U.S. Department of Housing and Urban Development. San José approved its most recent Analysis of Impediments to Fair Housing Plan in April 2017.<sup>5</sup>

In 2015, HUD created a new fair housing planning process known as the Assessment of Fair Housing to replace the Analysis of Impediments. The Assessment of Fair Housing process calls for robust data analysis and extensive community engagement to inform the identification of barriers to housing and opportunity.

In 2018, the federal government made this Plan optional for use with the Consolidated Plan development. In response, the California Legislature passed Assembly Bill 686 (Santiago) in 2018. This law now requires California public agencies to administer housing and community development programs in a manner that affirmatively furthers fair housing. Agencies cannot take actions that are inconsistent with this obligation. The law states that it must be interpreted consistent with HUD's 2015 Affirmatively Furthering Fair Housing Rule. The law requires that a jurisdiction's fair housing assessment include the following:

- A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity;
- An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk;
- An assessment of the contributing factors for the fair housing issues identified above;
- An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified above, that limit or deny fair housing choice or access

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<sup>1</sup> 2019 San José Homeless Census & Survey, <http://www.sanjoseca.gov/DocumentCenter/View/85898>.

<sup>2</sup> National Equity Atlas, IPUMS - Percent owner-occupied households by race/ethnicity: San José City, CA, 2015

<sup>3</sup> Housing burden by tenure and race/ethnicity: San Jose City, CA, Renters, 2015, [https://nationalequityatlas.org/indicators/Housing\\_burden](https://nationalequityatlas.org/indicators/Housing_burden).

<sup>4</sup> USC PERE Environmental Justice Screening Method (2014); American Community Survey 5-Year Estimates Table B03002 (2010-2014).

<sup>5</sup> San José Analysis of Impediments to Fair Housing Plan (2017), <http://www.sanjoseca.gov/index.aspx?NID=1292>.

to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved; and

- Strategies and actions to implement those priorities and goals, which may include but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

In addition, the California law now further requires that a jurisdiction's State Housing Element "affirmatively further fair housing opportunities and promote housing throughout the community...for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability and other characteristics as protected by the Fair Employment and Housing Act and other state and federal laws."<sup>6</sup> The law requires that after January 1, 2021, all California jurisdictions' new Housing Elements must include a fair housing program that includes an Assessment of Fair Housing. The housing program must include an inventory of land showing that housing can be built throughout the community, including in areas of opportunity.

As currently written, State law does not require the Plan as a precondition of approval for State grants or funding. However, to the extent that fair housing analysis will be a requirement for certification of housing elements, and as certified housing elements are preconditions for funding eligibility for many State programs, there is a financial rationale to use the Plan process to meet State law obligations. The Plan prepared for the State's requirement will also satisfy HUD's requirement to complete an Analysis of Impediments.

See **Attachment A** for an overview of how the City's five-year Consolidated Plan, Assessment of Fair Housing, and Housing Element are related.

## **ANALYSIS**

This Assessment of Fair Housing will be the first time that San José studies the extent and impacts of residential segregation. The Plan will help clarify these conditions and will put forward potential solutions to alleviate disparities in access to opportunity.

HUD encourages jurisdictions to complete a regional or joint Plan because fair housing issues typically cross jurisdictional boundaries. Conducting a regional analysis may also reduce costs and result in goals that are consistent across the region potentially leading to better outcomes. For this reason, Los Angeles, San Mateo County, and other areas have conducted regional Plans. San José is collaborating with Santa Clara County, the Santa Clara County Housing Authority,

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<sup>6</sup> AB 686 (2018), California Assembly Floor Analysis, 8/23/18,  
[https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=201720180AB686](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201720180AB686)

and six other cities to complete a regional Plan. To ensure this analysis is thorough and is San José-specific, staff will conduct additional community engagement and analysis.

*Status Update on the Assessment of Fair Housing*

The Santa Clara County Office of Supportive Housing convened a working group that includes representatives from the Santa Clara County Housing Authority, six cities and the Housing Department. The working group selected two consultants; one for the 2020-2025 Consolidated Plan and the Fiscal Year 2020-2021 Annual Action Plan and one for the regional Assessment of Fair Housing. The County of Santa Clara, on behalf of the working group, issued a request for proposals as part of the selection process. The County Board of Supervisors approved the two consultants selected by the working group at its August 27, 2019, meeting. The consultants have begun initial work, and San José staff has started to gather relevant background information to inform the consultants.

*Plan Timeline*

The following timeline provides an overview of the Plan process. These dates may change based on community and consultant feedback.

**Table 1: Assessment of Fair Housing Plan Process**

<b>Activity</b>	<b>Date</b>	<b>Done</b>
Convene Housing Working Group	September 2018	✓
RFP Released	Spring 2019	✓
County Awards Contract	August 27, 2019	✓
County and City Revenue Agreements	August – October 2019	
Initial Fair Housing Analysis	August – October 2019	
Outreach	October – February 2019	
Draft Plan to Commissions & City Council Committees	Early 2020	
Draft Plan published for public comment	Spring 2020	
HUD Consolidated Plan and Assessment of Fair Housing Plan to City Council	May 2020	
HUD Consolidated Plan and Assessment of Fair Housing Plan submitted to HUD	May 2020	
Integrate Plan's Findings into next Housing Element	2021	

### *Community Engagement*

One of the key objectives of creating this Plan is to base it on a robust community process which meaningfully engages those who are most impacted by discrimination, segregation, and who struggle to access opportunities. Staff is planning for an extensive community engagement process from July 2019 – February 2020. Stakeholder engagement will include the following work from Housing Department staff and the consultant:

- Plan and facilitate an array of community engagement strategies across the County at a variety of times, locations, and formats to encourage robust and accessible public engagement;
- Convene a Plan Advisory Group comprised of individuals and organizations from various backgrounds to address impediments and receive advice on recommendations about impediments to fair housing choice;
- Develop training materials and then train and support key stakeholders who will then inform a broader set of stakeholders and residents about the Plan process and opportunities for public participation;
- Create a mechanism for receiving written comments at all stages of the Plan process;
- Conduct one-on-one and in-person stakeholder interviews;
- Convene 10-12 additional stakeholder focus groups in San José;
- Perform stakeholder interviews with government partners and other regulatory agencies and public/private partners; and
- Convene 2-3 large format community meetings in San José.

Staff will work closely with the consultant to ensure that outreach in San José is done in multiple languages. Staff will also work with local community-based organizations to help ensure feedback is gotten from community members who may not feel comfortable taking on-line surveys, or who typically would not come to City-sponsored outreach meetings.

### **EVALUATION AND FOLLOW-UP**

Future presentations to City Council committees and to the full City Council are anticipated as outlined in the timeline above. Staff will also work with Council offices to communicate with their constituents about opportunities to give input on housing needs for the Assessment of Fair Housing Plan.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's website for the October 10, 2019 Neighborhood Services and Education Committee meeting.

## **COORDINATION**

This memo has been coordinated with the City Attorney's Office.

## **COMMISSION RECOMMENDATION/INPUT**

Housing Department staff presented this update, together with an update on the development of a new Five-year Consolidated Plan, to the Housing and Community Development Commission on September 12, 2019. At the meeting, several commissioners commented on their appreciation of and interest in this fair housing work. One commissioner gave staff kudos for using a racial equity lens to develop City strategies. Another commissioner stated that institutional racism underlies our society in many ways and she was supportive of the City's work in this area. Commissioners asked questions, including about the legacy of past redlining in San José, and expressed their support for homeownership strategies to help stabilize communities. One commissioner asked whether this work could identify whether the City would pursue reparations for past injustices. Other commissioner comments included their desire for the Plan to include measurable goals, their support for meaningful community engagement in creating these plans, and their desire to be involved in giving input to this effort in different ways. The Commission did not take an official vote on this item.

## **CEQA**

Not a Project, File No. PP17-007, Preliminary direction to staff and eventual action requires approval from decision-making body.

/s/

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For questions, please contact Kristen Clements, Division Manager at (408) 535-8236.

Attachment A: Housing Reports Planning Matrix

**ATTACHMENT A**  
**Housing Reports Planning Matrix**

<b>Housing-specific Plan/Report</b>	<b>Agency Requiring</b>	<b>Frequency</b>	<b>Council Approval Applies to</b>
Five-year Consolidated Plan (Con Plan)	HUD	Every 5 years	Use of federal funds: CDBG, ESG, HOME, HOPWA
Annual Action Plan (AAP)	HUD	Annually	
Consolidated Annual Performance and Evaluation Report (CAPER)	HUD	Annually	
Assessment of Fair Housing Plan (AFH)	HUD/State	Every 5 years (with Con Plan)	Use of federal funds and use for new Housing Element cycle
Housing Element to the General Plan	State	Every 8+ years (varies)	Submission to State; certified Housing Element required for eligibility for several State funding sources
Housing Element Annual Report	State	Annually	Submission to State