



U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Office of Fair Housing and Equal Opportunity  
Chicago Regional Office – Region V  
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77 West Jackson Boulevard – Room 2101  
Chicago, Illinois 60604-3507

APR 09 2018<sup>1</sup>

**VIA EMAIL AND UPS DELIVERY SERVICE**

The Honorable L. Brooks Patterson  
Oakland County Executive  
c/o Karry Rieth, Manager, Community & Home Improvement Division  
250 Elizabeth Lake Road, Suite 1900  
Pontiac, Michigan 48341

**SUBJECT:** Letter of Findings of Noncompliance  
Civil Rights Compliance Review of Oakland County, Michigan  
Title VI Review Number: 05-17-R004-6  
Section 109 Review Number: 05-17-R001-9

Dear Mr. Patterson:

On July 5, 2017, The United States Department of Housing and Urban Development (“HUD” or the “Department”), Office of Fair Housing and Equal Opportunity (“FHEO”), initiated a compliance review to determine if Oakland County is administering its Community Development Block Grant (“CDBG”) and HOME Investment Partnerships (“HOME”) programs in accordance with applicable civil rights related certifications and requirements. Specifically, the review addressed whether Oakland County is carrying out its HUD-funded CDBG and HOME programs<sup>1</sup> in a manner as to ensure that no person is denied the benefits of HUD assistance on the basis of race or national origin.<sup>2</sup> The review was conducted pursuant to the following legal authorities and civil rights statutes.

**Applicable Law**

**CDBG Equal Opportunity and Fair Housing Review Criteria**, contained at 24 CFR 570.904, provides for the review of CDBG recipients for equal opportunity in the administration of programs and activities funded in whole or in part with block grant funds<sup>3</sup> and fair housing in the

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<sup>1</sup> Although the findings discussed in this letter are limited to the County’s CDBG- and HOME-funded programs, FHEO’s investigation looked at housing and urban development-related policies and programs in the County more broadly, including LIHTC, zoning, and PHA programs.

<sup>2</sup> Applicable civil rights statutes and program regulations impose an obligation not to discriminate that extends beyond the bases of race and ethnicity but this review is limited to these two protected classes.

<sup>3</sup> 24 CFR 570.904(b) grants HUD the authority to determine whether “there has been a deprivation of services, benefits, or participation in any program or activity funded in whole or in part with block grant funds by a recipient to any person within the meaning of section 109.”

recipient's administration of all housing and urban development programs and activities<sup>4</sup> where there is "evidence that a policy, practice, standard or method of administration, although neutral on its face, operates to deny or affect adversely in a significantly disparate way the provision of [...] services, benefits or participation to persons" of a protected characteristic.

**Title VI of the Civil Rights Act of 1964** ("Title VI")<sup>5</sup> and the Department's regulations implementing that Act at 24 CFR Part 1. Title VI prohibits discrimination on the ground of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title VI provides that "... no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.

**Section 109 of the Housing and Community Development Act of 1974** ("Section 109")<sup>6</sup> and the Department's regulations implementing the Act at 24 CFR Parts 6 and 570.602. Section 109 prohibits discrimination on the basis of race, color, religion, sex or national origin in any program or activity funded in whole or in part with community development funds from HUD. 24 CFR 6.11(b) of the Department's regulations implementing Section 109 authorizes HUD to conduct periodic reviews of recipients' compliance with the nondiscrimination requirements of Section 109.

As a recipient of CDBG funds, the program participant certifies to comply with federal civil rights laws and civil rights related program requirements in the operation and administration of said funds.<sup>7</sup> The HOME program also requires recipients to administer program funds in compliance with federal civil rights laws.<sup>8</sup>

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<sup>4</sup> 24 CFR 570.904(c)(2) grants HUD the authority to determine whether a recipient "has administered all programs and activities related to housing and urban development in accordance with § 570.601(a)(2), which sets forth the grantee's responsibility to affirmatively further fair housing."

<sup>5</sup> 42 U.S.C. Section 2000 et seq.

<sup>6</sup> 42 U.S.C. Section 5301 et seq.

<sup>7</sup> 24 CFR 91.225(b)(6) requires CDBG recipients to certify "that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations."

<sup>8</sup> 24 CFR § 92.202

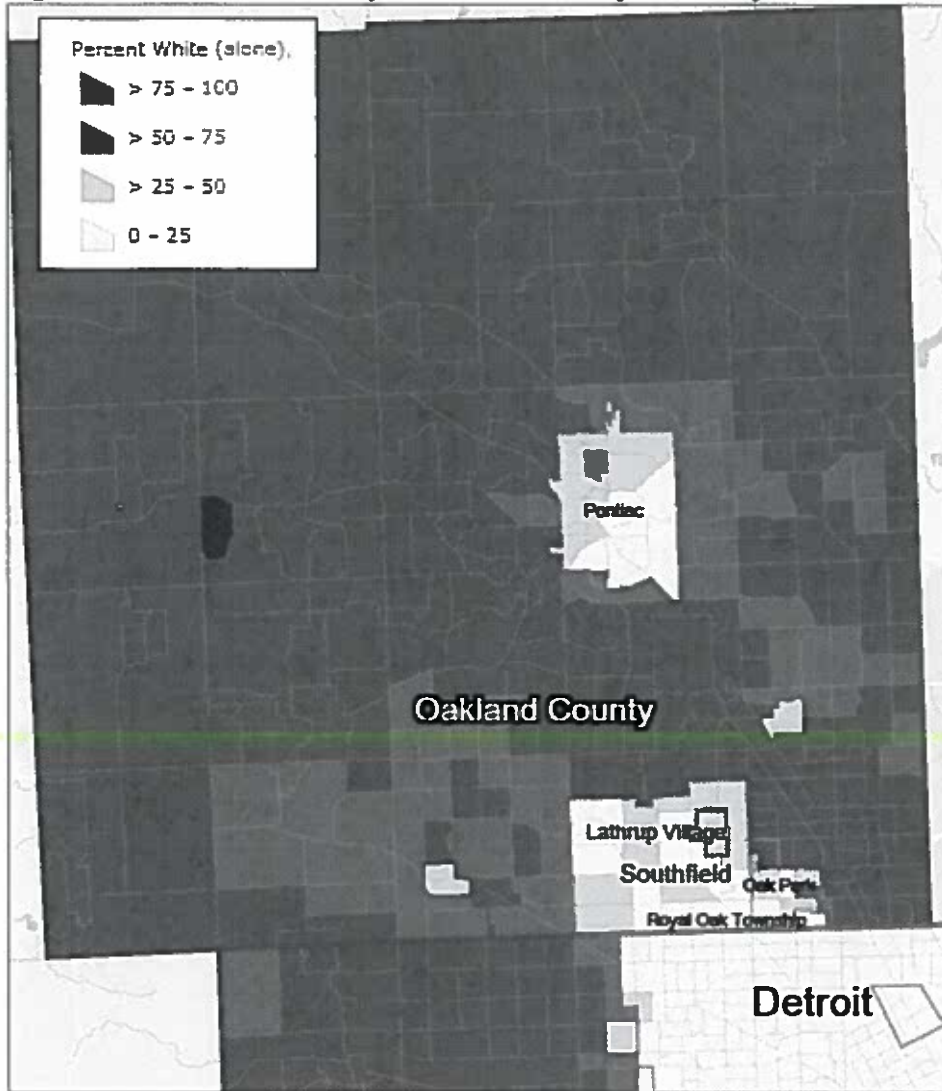
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## A. BACKGROUND

### 1) DEMOGRAPHICS

Oakland County (the “County”) is a large, suburban area in the highly-segregated Detroit metropolitan region.<sup>9</sup> The County is the second-most populous in Michigan, and as the state’s wealthiest,<sup>10</sup> it stands in stark contrast to neighboring Detroit.

*Figure A-1: Oakland County and northern Wayne County<sup>11</sup>*



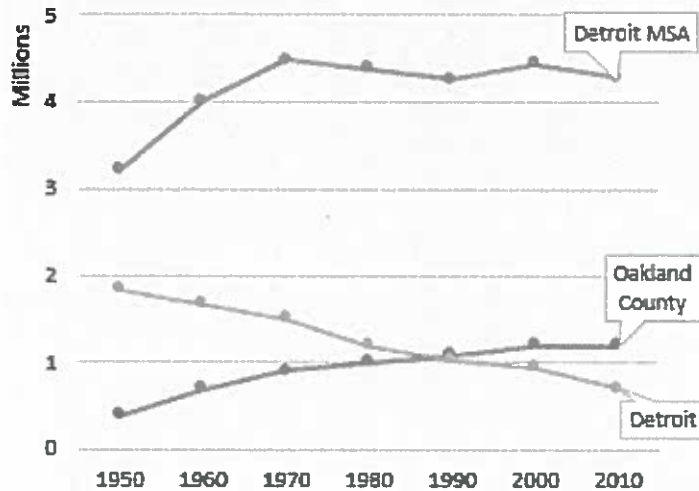
<sup>9</sup> See discussion in Section C.

<sup>10</sup> 2012-2016 ACS 5-year estimates, Tables B19013, B19113, and B19301. The County’s median family income of \$90,234 and per capita income of \$38,992 are the highest in the state. Its median household income of \$69,850 is the second highest in Michigan.

<sup>11</sup> ACS 1-year estimates (2016), Table B03002: Hispanic or Latino Origin by Race

As shown in Figure A-2, the County grew rapidly after WWII. This growth was matched by Detroit’s well-documented contraction: while the region’s population is only 7% larger than it was in 1960, the County has grown by over 70%.<sup>12</sup> In recent decades, the County has continued to add households and jobs while Detroit and the metropolitan region experienced stasis or decline.<sup>13</sup>

**Figure A-2: Detroit-region population growth<sup>14</sup>**



The relocation of people and jobs from Detroit to Oakland County continues to this day, although at a less dramatic pace.<sup>15</sup> Oakland County remains intimately tied to Wayne County and the City of Detroit through significant movement across 8-Mile Road for employment – most of the jobs in Oakland County are held by people residing outside the County, and the largest group of in-commuters come from Wayne County<sup>16</sup> – and for education.<sup>17</sup>

The County itself is highly segregated by race and ethnicity as well. As seen in Figures A-1 and A-3, minority households – black households in particular – are concentrated in Pontiac, the County seat, and near the Detroit border. In its Consolidated Plan (“ConPlan”), the County identifies five areas of minority concentration: the majority-black jurisdictions of Pontiac, Lathrup Village, Royal Oak Township, Oak Park, and Southfield.<sup>18</sup>

<sup>12</sup> Population figures from 1960-2010 Decennial Censuses.

<sup>13</sup> AFFH-T tabulations of Decennial Census data show that, since 1990, the County’s population has grown by 15%, while the CBSA has experienced net growth of less than 1%. The County was responsible for 60% of the region’s population growth between 1990-2000 and experienced growth as the region overall shrank between 2000-2010.

<sup>14</sup> Decennial Census

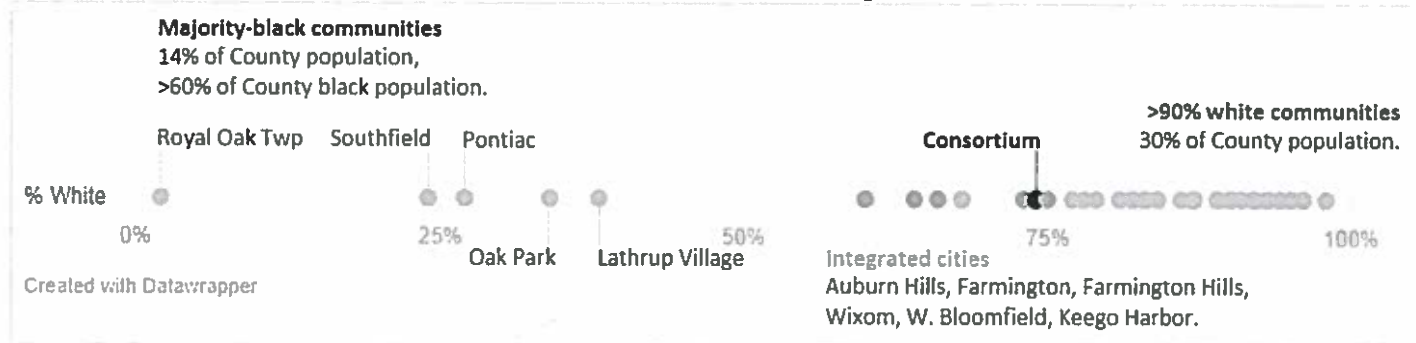
<sup>15</sup> Oakland County is the top destination for households moving out of Wayne County, and almost half of in-state moves to Oakland Co. came from Wayne Co. 2011-15, 2006-10 ACS, County-to-County Migration Flows

<sup>16</sup> Census LEHD, 2015

<sup>17</sup> Michigan’s permissive school choice policies allow for a significant influx of students into the County’s southern towns: <http://www.bridgemi.com/detroit-journalism-cooperative/school-choice-metro-detroits-new-white-flight>.

<sup>18</sup> Oakland County, PY 2016-2020 Consolidated Plan [hereinafter ConPlan], *NA-30 Disproportionately Greater Need*, p. 118, available at:

**Figure A-3: Oakland County municipalities, by % white, non-Hispanic<sup>19</sup>**



**2) USE OF CDBG AND HOME RESOURCES**

To understand the County’s methodology for allocating CDBG and HOME resources in its jurisdiction, team members reviewed County planning documents and interviewed Karry Rieth, Manager of the County’s Community & Home Improvement Division. The Department also reviewed supplemental documentation from local stakeholders and spoke with the County Treasurer, with developers who had attempted to build affordable housing in the County, and with the Office of Community Planning and Development (“CPD”) in HUD’s Detroit Field Office.

**Figure A-4: CDBG and HOME grants to Oakland County<sup>20</sup>**

	CDBG	HOME	Total
<b>Cumulative, 1989-2017</b>	<b>\$ 131,350,653</b>	<b>\$ 39,843,089</b>	<b>\$ 171,193,742</b>
<b>Average annual grant, 2013-17</b>	<b>\$ 5,069,749</b>	<b>\$ 2,052,205</b>	<b>\$ 7,121,954</b>

**CDBG**

Fifty-three communities, including the city of Pontiac,<sup>21</sup> participate in the County’s CDBG program. CDBG funds may be used for a wide-range of activities meant to benefit low- and moderate-income (“LMI”) households, defined by HUD as those earning no more than 80 percent of the median family income for the area.<sup>22</sup> Eligible uses for activities benefitting LMI persons or predominately LMI areas include economic development programs, investments in public infrastructure and facilities, and a variety of housing activities.<sup>23</sup>

The County focuses its CDBG funds on assistance to homeowners. The County-wide Home Improvement Program (“HIP”), which funds home rehabilitation projects for LMI homeowners, receives one-third of the County’s and Pontiac’s CDBG entitlements, after administrative expenses

[https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_Consolidated%20Plan%20Oakland%20County%20PY%202016-2020%20Full%20Report%20FINAL%20Web.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_Consolidated%20Plan%20Oakland%20County%20PY%202016-2020%20Full%20Report%20FINAL%20Web.pdf)

<sup>19</sup> 2012-2016 ACS 5-year estimates, Table B03002: Hispanic or Latino Origin by Race

<sup>20</sup> IDIS Report PR01: HUD Grants and Program Income. Excludes grants to entitlement jurisdictions in the County.

<sup>21</sup> CDBG Joint Agreement between Pontiac and Oakland County.

<sup>22</sup> 24 CFR 570.3. Income Limits available at [https://www.huduser.gov/portal/datasets/il.html#2017\\_data](https://www.huduser.gov/portal/datasets/il.html#2017_data).

<sup>23</sup> 24 CFR 570.201, 208



are deducted. Pontiac receives what remains of its CDBG entitlement, and the County splits the remaining Urban County CDBG funds among participating municipalities.<sup>24</sup>

The County allows its municipal sub-recipients discretion over their use of these funds, with some limits. As shown in Figure A-5, the County’s CDBG Application Guide excludes from its list of eligible activities several that are allowed by HUD’s CDBG regulations.<sup>25</sup> Among the activities not allowed by the County are “homebuyer assistance” and “rental subsidies.”

**Figure A-5: Eligible CDBG housing activities, HUD vs. Oakland County<sup>26</sup>**

Eligible CDBG housing activity (CDBG Matrix Code)	Listed by County as an eligible activity
Emergency housing payments to prevent homelessness (05Q) <sup>27</sup>	Yes
Homebuyer assistance (05R, 13)	No
Rental subsidies (05S)	No
Housing counseling (05U)	Yes
Housing construction <sup>28</sup> (12)	No
Rehab – single-unit residential (14A)	Yes <sup>29</sup>
Rehab – multi-unit residential (14B)	No
Rehab of housing units owned/operated by a PHA (14C)	No
Rehab of housing owned by a public entity, non-PHA (14D)	Yes
Energy efficiency improvements (14F)	No
Acquisition of property to be rehabilitated for housing (14G)	No
Lead hazards testing/abatement (14J)	No
Housing services in support of the HOME Program (14H)	No

## HOME

The County joins the four independent municipal CDBG entitlement jurisdictions within its borders – Farmington Hills, Royal Oak (city), Southfield, and Waterford Township – to form the

<sup>24</sup> ConPlan, *SP-10 Geographic Priorities*, p. 238. See discussion in section B.3.

<sup>25</sup> PY18 Eligible Projects, p. 7,

[https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_CDBG\\_Application\\_GUIDE.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_CDBG_Application_GUIDE.pdf).

<sup>26</sup> CDBG Matrix Code Definitions, <https://www.hudexchange.info/resources/documents/Matrix-Code-Definitions.pdf>

<sup>27</sup> Assistance must not last for more than three months.

<sup>28</sup> Must be carried out by CBDOs. 24 CFR 570.204(a).

<sup>29</sup> Limited to owner-occupied homes, see Oakland County’s Home Improvement Program application, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_hiploanapp.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_hiploanapp.pdf).

Oakland County HOME Consortium. Nearly 100% of the County’s population lives in a jurisdiction participating in the Consortium.<sup>30</sup>

The HOME program is more targeted than CDBG, with a focus on housing. HOME funds are meant to ensure an adequate supply of affordable housing, with a primary focus on renters.<sup>31</sup> HOME funds may be used to build or rehabilitate rental housing, to provide home purchase assistance to new homebuyers, or to provide rehabilitation assistance to eligible homeowners.<sup>32</sup> HOME funds may also be used to provide tenant-based rental assistance.<sup>33</sup> All assisted households must be LMI, earning no more than 80 percent of the area’s median family income, and HOME rental projects have increased affordability requirements depending on their size.<sup>34</sup>

**Figure A-6: HOME-funded activities, by category, 2010-2014<sup>35</sup>**

	Oakland Co. Consortium	Michigan HOME grantees	All HOME grantees
<b>Rental</b>	<b>0%</b>	<b>57%</b>	<b>61%</b>
<b>Homebuyer</b>	<b>3%</b>	<b>28%</b>	<b>25%</b>
<b>Homeowner</b>	<b>97%</b>	<b>15%</b>	<b>14%</b>

Figure A-6 shows how HOME grantees used their funds between 2010 and 2014. Expenditures nationwide and across Michigan were consistent with the program’s prioritization of assistance to renters. Conversely, the County prioritized assistance to existing homeowners, by dedicating all its HOME funds to the Consortium-wide Home Improvement Program (“HIP”), after deducting administrative expenses and the mandatory set-aside for Community Housing Development Organizations (“CHDOs”).<sup>36</sup>

HOME program regulations permit CHDOs to carry out a wide range of activities to benefit renter households, including the construction, acquisition, or rehabilitation of rental housing.<sup>37</sup> The County, however, appears to limit CHDOs receiving Consortium funds to carrying-out activities

<sup>30</sup> Oakland County, Community Development Block Grants. Three small jurisdictions – the City of Lake Angelus, Novi Township, and the Village of Bingham Farms do not participate in the CDBG or HOME programs but may be eligible to receive federal grants through the State of Michigan. See 2017 Draft Annual Action Plan, [http://www.michigan.gov/documents/mshda/MSHDA-DraftActionPlanforPublicComment-2017\\_578429\\_7.pdf](http://www.michigan.gov/documents/mshda/MSHDA-DraftActionPlanforPublicComment-2017_578429_7.pdf).

<sup>31</sup> See e.g., Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625 (11/28/90), Section 202, available at <https://www.gpo.gov/fdsys/pkg/STATUTE-104/pdf/STATUTE-104-Pg4079.pdf>.

<sup>32</sup> 24 CFR 92.205.

<sup>33</sup> 24 CFR 92.209. See also, <https://www.hudexchange.info/programs/home/topics/tenant-based-rental-assistance/#policy-guidance>

<sup>34</sup> 24 CFR 92.216. In HOME rental projects, at least 90% of benefiting households must have incomes at or below 60% of the HUD-adjusted median family income for the area. In projects with at least five assisted units, at least 20% of the units must be occupied by households with incomes at or below 50% of the median.

<sup>35</sup> Enterprise Community Partners, *The HOME Investment Partnerships Program's Impact*, pp. 53-4 (citing HUD data), <https://www.enterprisecommunity.org/download?fid=4037&nid=3419>.

<sup>36</sup> 24 CFR 92.300

<sup>37</sup> 24 CFR 92.208



for homebuyers.<sup>38</sup> As a result of these policies, between 1994, when the County began participating in the HOME program, and 2015, Consortium HOME funds were used to finance only one rental unit and no tenant-based rental assistance.<sup>39</sup>

### County's analysis of housing needs

The County's use of CDBG and HOME funds is not consistent with much of the discussion of housing needs in its Consolidated Plan ("ConPlan") and related documents. Homeowners, the primary focus of the County's CDBG- and HOME-funded housing assistance, are discussed as needing assistance because of the County's aging housing stock<sup>40</sup> and the continuing effects of the foreclosure crisis.<sup>41</sup> Renters' housing assistance needs are discussed as well, yet these needs are not addressed by the County's CDBG- and HOME-funded programs.<sup>42</sup>

For example, the County notes that the "need for rental assistance was emphasized at the Housing and Homelessness Focus Groups and in public comments during the ConPlan citizen participation and consultation process" and that "renters [...] face challenges in locating affordable housing," in part because of high rental costs. The County also notes that funding is needed to rehabilitate rental properties, from "multi-unit properties with less than 11 units," to larger, older developments that are "predominate among the existing affordable rental market."

The County's planning documents indicate that CDBG and HOME resources are needed to meet renters' housing needs. Recognizing that the "production of new affordable rental housing is difficult due to high land costs," the County states there is a need for "scattered site project-based development" that can "assure affordability, stimulate development and attract matching funds." CHDOs have asked the County to consider funding tenant based rental assistance ("TBRA") to address needs unmet by Public Housing Authority ("PHA") programs, because rents in the County often "exceed local Fair Market Rents (FMR)" and "waiting lists for Section 8 vouchers are long and rarely open."

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<sup>38</sup> Oakland County, Home Investment Partnerships Program for Home Buyers, <https://www.oakgov.com/advantageoakland/communities/Pages/HOME.aspx>; 2017 AAP, p. 37, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY%202017%20Annual%20Action%20Plan.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202017%20Annual%20Action%20Plan.pdf).

<sup>39</sup> CPD Cross Program Funding Matrix for Oakland County, [https://www.hudexchange.info/resource/reportmanagement/published/CPD\\_Funding\\_Grantee\\_Matrix\\_OAKL-MI\\_MI\\_20171017.pdf](https://www.hudexchange.info/resource/reportmanagement/published/CPD_Funding_Grantee_Matrix_OAKL-MI_MI_20171017.pdf). The County uses 33% of CDBG and 75% of HOME allocations to fund a County-wide home improvement program, and the remaining 67% of CDBG funds are allocated to municipalities on a formula basis. ConPlan, *SP-10 Geographic Priorities*, pp. 237-39.

<sup>40</sup> See, e.g., ConPlan, *SP-25 Priority Needs*, pp. 244-45, 248-49, where the County notes that more than half of its housing stock was built prior to 1980.

<sup>41</sup> See, e.g., 2015 CAPER, p. 5, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY%202015%20CAPER.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202015%20CAPER.pdf).

<sup>42</sup> The following examples and quotations are from the following County planning documents: 2016 CAPER, pp. 28-9, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY2016CAPER.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY2016CAPER.pdf); 2017 AAP, p. 53, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY%202017%20Annual%20Action%20Plan.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202017%20Annual%20Action%20Plan.pdf).

Despite recognizing the need, the County does not place a high priority on housing assistance to renters. The County established HOME rental assistance as priority needs 17 and 18, justifying this by stating “the low priority level [is] due to funding constraints” and offering no explanation of other resources or actions to address these needs other than “OCCHI housing counselors are on a list serve and are aware when any local voucher program waiting list opens so appropriate referral can be made” and a “list of subsidized housing within the County is also maintained.”<sup>43</sup>

While recognizing the need for TBRA, the County explains that it “did not implement a rental rehab program” and that “single-family homeowner rehabilitation has been identified as the priority need” due to “limited HOME funds and the County's desire to maximize its return on investment.”<sup>44</sup> The County does state that it “submitted a substantial amendment to the PY 2011-2015 ConPlan to include the opportunity for a CHDO Rental Housing Program,” without explaining why it does not appear to have been funded or included in the current ConPlan.<sup>45</sup> Despite discussing rehabilitation needs in the County's rental housing stock, the Consortium-wide HIP program is for owner-occupied single-family homes only,<sup>46</sup> and, as discussed above, municipal sub-recipients are not allowed to fund rehab programs targeting rentals or multifamily buildings.

FHEO considered PHAs and other resources besides CDBG- and HOME-funded programs that might be meeting renters' housing needs. This investigation was unable to identify substantial resources meeting these needs. For example, the County has seen very little low-income housing tax credit (“LIHTC”) activity. Between 2010 and 2016, the County had 15% of all new housing units permitted in the state of Michigan,<sup>47</sup> but only 6% of the state's new LIHTC affordable rental units.<sup>48</sup> Those LIHTC units were found in fifteen projects, of which only seven were open to family households.

## B. FINDINGS

### 1) EXCLUSION OF MINORITY HOUSEHOLDS FROM FEDERALLY-FUNDED HOUSING ASSISTANCE

As discussed in the previous section, almost all CDBG and HOME-funded housing assistance in Oakland County targets existing homeowners. This is the result of County policies: the only

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<sup>43</sup> 2017 AAP, p. 53,

[https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY%202017%20Annual%20Action%20Plan.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202017%20Annual%20Action%20Plan.pdf)

<sup>44</sup> 2016 CAPER, p. 28, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY2016CAPER.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY2016CAPER.pdf)

<sup>45</sup> 2016 CAPER, p. 28, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_PY2016CAPER.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY2016CAPER.pdf)

<sup>46</sup> Home Improvement Program application,

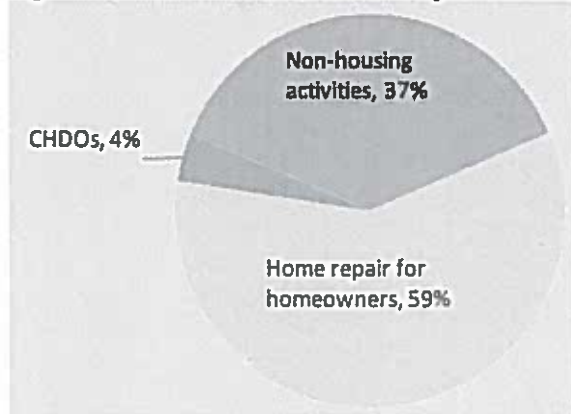
[https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_hiploanapp.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_hiploanapp.pdf)

<sup>47</sup> Census Building Permits Survey, <https://www.census.gov/construction/bps/>. Between 2010 and 2016, 100,335 new privately-owned housing units were authorized in Michigan. Approximately 15,000 were in Oakland County, with a slight variation in the total between new units reported and Census' estimates with imputation. For reference, the County had 12.5% of the state's occupied housing units in 2010.

<sup>48</sup> MSHDA, Prior Year LIHTC Allocations by Credit Year, [http://www.michigan.gov/mshda/0,4641,7-141-5587\\_5601-37847--00.html](http://www.michigan.gov/mshda/0,4641,7-141-5587_5601-37847--00.html). MSHDA made 297 awards to projects with a total of 23,084 LIHTC units from 2010 to 2016. 15 of those awards were to projects in Oakland County, for 1,528 LIHTC units.

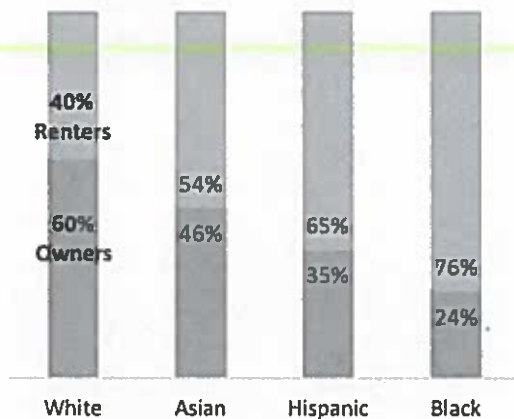
housing program managed by the County is a Consortium-wide housing assistance program for homeowners, the County bars municipal sub-recipients from using funds for programs benefitting renters or first-time homebuyers, and the County restricts CHDOs from carrying out eligible rental housing activities. Figure B-1 shows how HOME and CDBG funds were used in 2015.

**Figure B-1: HOME- and CDBG-funded activities in the Consortium, 2015<sup>49</sup>**



By not funding housing assistance programs that benefit renters, the County is excluding non-white households from participating in HUD-funded housing programs. While most income-eligible, or LMI,<sup>50</sup> white households are homeowners, and thus eligible to apply for homeowner rehabilitation funds, the majority of income-eligible black, Hispanic, and Asian households are renters, as shown in Figure B-2.

**Figure B-2: Housing tenure (homeowner or renter) among LMI households, by race/ethnicity<sup>51</sup>**



Of households eligible for CDBG- and HOME-funded housing assistance, over 75 percent of black households, 65 percent of Hispanic households, and more than half of Asian households are renters. The County’s choice to use its CDBG- and HOME-funds for housing assistance to

<sup>49</sup> Includes \$8 million in HOME and CDBG (County and Pontiac) funds committed to activities during PY15, as reported in IDIS.

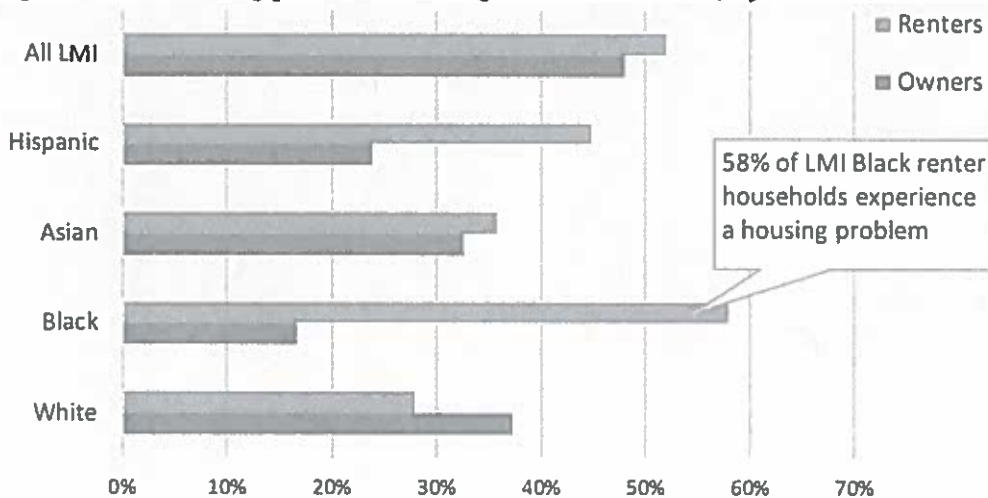
<sup>50</sup> See discussion above, in section A.2.

<sup>51</sup> CHAS 2010-2014

homeowners renders these households ineligible for assistance, therefore denying minority households the opportunity to benefit from federally-funded programs.

This policy has the added result of denying assistance to the populations with the highest concentrations of housing problems.<sup>52</sup> As shown in Figure B-3, housing problems are more prevalent among income-eligible renters than homeowners,<sup>53</sup> and the highest concentrations are found among minority renter households. Around half of LMI black and Hispanic renter households, for example, face housing cost burdens or other housing problems.<sup>54</sup> As discussed above in Section 2, the County does not operate other programs to meet these needs.

**Figure B-3: Housing problems among LMI households, by tenure and race/ethnicity**



By choosing to provide housing assistance to homeowners, but not to renters, the County is excluding the majority of income-eligible, non-white households from participation in HUD-funded housing assistance. The County’s administration of CDBG and HOME funds is therefore discriminatory, preventing equal access to housing assistance on the basis of race and ethnicity.

**2) UNDERREPRESENTATION OF NON-WHITE HOUSEHOLDS AMONG BENEFICIARIES**

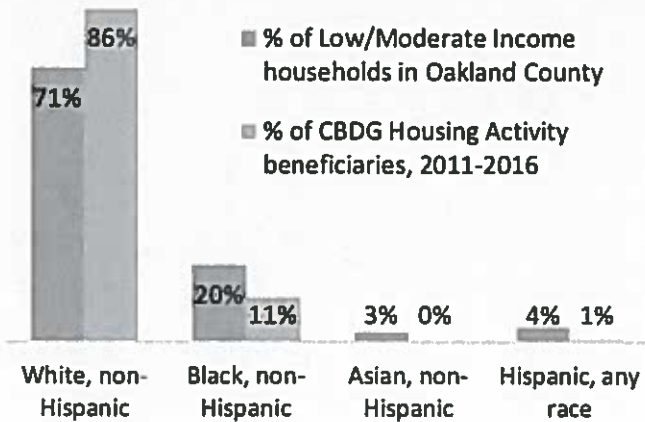
The beneficiaries of federally-funded housing assistance programs are disproportionately white, as shown in Figure B-4. Comparing the racial and ethnic demographic makeup of the County’s LMI population with the demographics of beneficiaries of County housing assistance over the past five years shows that black, Asian, and Hispanic households have not benefitted from federally-funded housing assistance at levels commensurate with their share of the County’s LMI population.

<sup>52</sup> CDBG and HOME grantees use HUD’s Comprehensive Housing Affordability Strategy (“CHAS”) dataset to prepare their ConPlans. CHAS includes data on four housing problems: 1) housing unit lacks complete kitchen facilities; 2) housing unit lacks complete plumbing facilities; 3) household is overcrowded; and 4) household is cost burdened. A household is said to have a housing problem if they have any one or more of these four conditions. [https://www.huduser.gov/portal/datasets/cp/CHAS/bg\\_chas.html](https://www.huduser.gov/portal/datasets/cp/CHAS/bg_chas.html).

<sup>53</sup> CHAS 2010-2014

<sup>54</sup> CHAS 2010-2014

**Figure B-4: Comparing the race & ethnicity of beneficiaries to income-eligible households<sup>55</sup>**



The County’s administration of CDBG and HOME funds results in an unequal distribution of benefits, on the basis of race and ethnicity. Therefore, the County’s CDBG- and HOME-funded housing assistance programs have a discriminatory effect on non-white households.

**3) AREAS OF MINORITY CONCENTRATION DO NOT RECEIVE EQUITABLE SHARES OF FUNDS OR BENEFITS**

The County’s methods of administering CDBG and HOME funds result in areas of minority concentration receiving shares of funds and benefits that are proportionally smaller than their shares of the County’s income-eligible population and housing needs. This is the result of the County’s lack of programs supporting renters, because homeownership rates are substantially lower in minority-concentrated areas, and the County’s lack of policies targeting investments geographically or based on need.<sup>56</sup> The County’s method for distributing funds among municipal sub-recipients, described in section A.2, also has an adverse effect on areas of minority concentration.

The County’s five majority-black jurisdictions – Lathrup Village, Oak Park, Pontiac, Royal Oak Township, and Southfield – have a disproportionate concentration of the Consortium’s LMI households and a majority of the County’s non-white LMI households.<sup>57</sup> As shown in Figures B-5 and B-6, these five jurisdictions have disproportionate concentrations of income-eligible households with housing problems, foreclosures, and LMI households living in housing built before 1980 – issues the County uses to justify its focus on home rehabilitation.<sup>58</sup> Despite the

<sup>55</sup> CDBG Accomplishment Report (PR-03 BOSMAC)

<sup>56</sup> ConPlan, *SP-10 Geographic Priorities*, p. 238; 2017 Annual Action Plan, p. 31, [oakgov.com/advantageoakland/resources/Documents/chi PY 2017 Annual Action Plan.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202017%20Annual%20Action%20Plan.pdf).

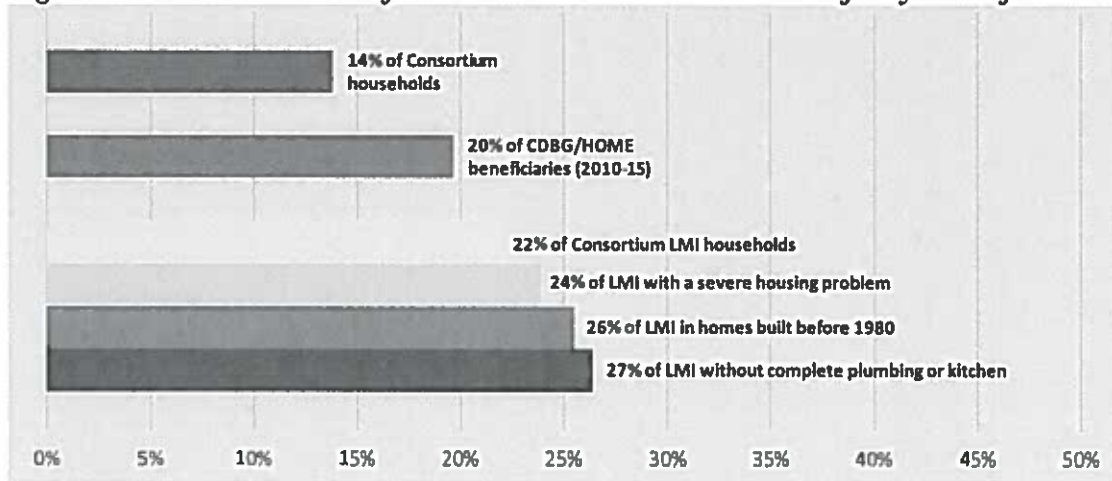
<sup>57</sup> CHAS 2010-14

<sup>58</sup> See, e.g., ConPlan, *SP-25 Priority Needs*, pp. 244-45, 248-49; *ES-05 Executive Summary*, p. 3; *NA-05 Needs Assessment Overview*, p. 53. 2015 CAPER, p. 5, [https://www.oakgov.com/advantageoakland/resources/Documents/chi PY%202015%20CAPER.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_PY%202015%20CAPER.pdf).

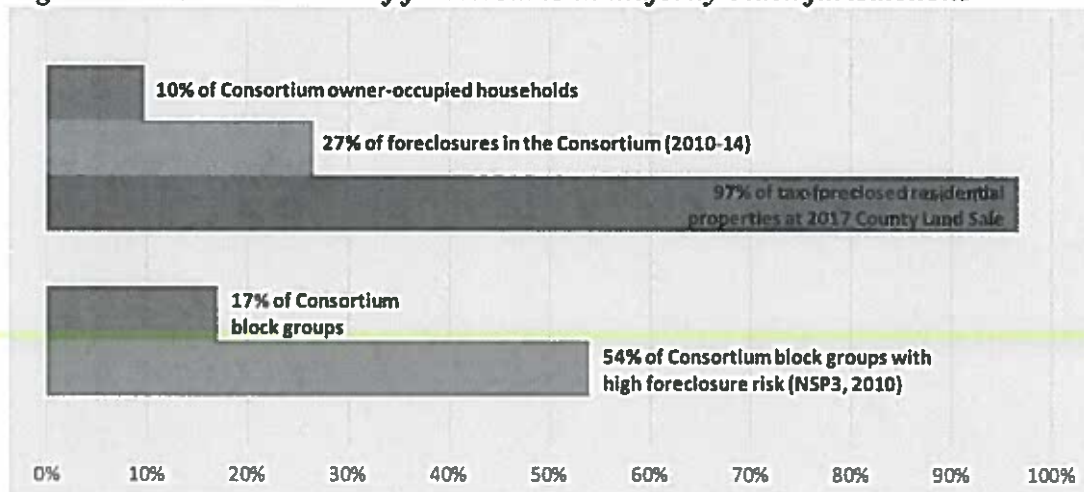


County's stated focus on these issues, these jurisdictions do not see a proportionally-higher amount of the federally-funded housing assistance that flows through the County.

**Figure B-5: Concentration of LMI households and needs in majority-black jurisdictions<sup>59</sup>**



**Figure B-6: Concentration of foreclosures in majority-black jurisdictions<sup>60</sup>**

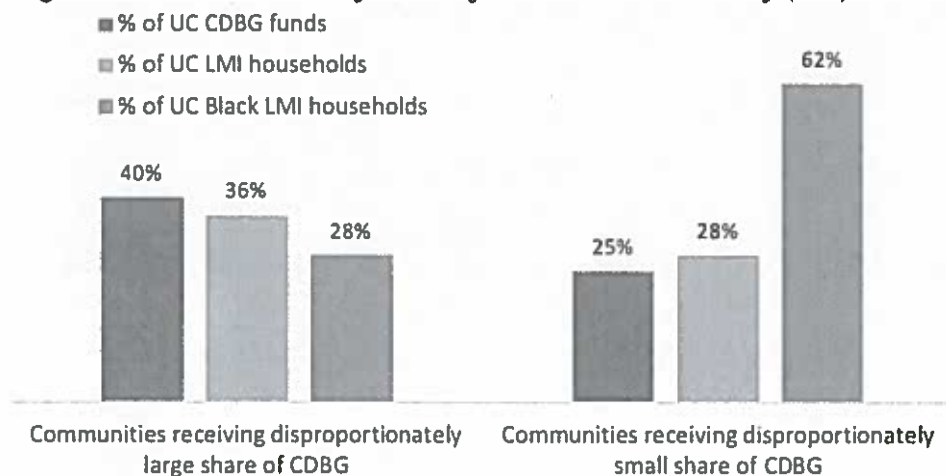


<sup>59</sup> Analysis of approximately 1,400 addresses for beneficiaries of housing assistance programs administered by the County and municipal sub-recipients found in IDIS for program years 2010-2015. HOME activities were included based on their initial funding date in the HOME Activity Report (PR-22), and CDBG activities were included based on the year attributed to accomplishments in the CDBG Accomplishment Report (PR-03 BOSMAC). CDBG beneficiary addresses were verified by looking up details for the IDIS activity numbers found in PR-03.

<sup>60</sup> HUD's NSP3 program used industry data to score Census Block Groups based on the concentrations of loans that were delinquent or in the foreclosure process and the aggregate impact of the foreclosure crisis on each individual neighborhood between 2007 and 2010. NSP3 data available at <https://www.huduser.gov/portal/datasets/NSP.html>. 2010-2014 foreclosure data reported in the ConPlan, *MA-20 Condition of Housing*, pp. 183-85; tax foreclosure data from the County Treasurer's Office Land Sale Property list, [https://services1.arcgis.com/GE4Idg9FL97XBa3P/arcgis/rest/services/Land\\_Sale\\_Properties\\_\(Public\\_View\)/FeatureServer](https://services1.arcgis.com/GE4Idg9FL97XBa3P/arcgis/rest/services/Land_Sale_Properties_(Public_View)/FeatureServer) (updated Aug. 16, 2017).

Despite having the highest concentrations of housing needs, majority-black jurisdictions receive disproportionately-small shares of the County’s CDBG funds. As shown in Figure B-7, municipalities receiving a smaller share of County CDBG funds than their share of LMI households are home to the majority of black LMI households.<sup>61</sup> The communities with the largest gaps between their allocations under the County’s formula and their share of the Urban County’s LMI population, are home to 20% of the LMI population but 50% of the black LMI population. Included in this group are the majority-black communities of Royal Oak Township and Oak Park. The communities receiving the largest percentage boosts in funds based on the County’s formula are home to only about eight percent of the LMI population, and over 90 percent of the LMI households in these communities are white.<sup>62</sup>

**Figure B-7: Distribution of CDBG funds to Urban County (UC) municipalities**



These funds are largely used to address the concentrations of economic blight in these areas: all of the Low/Moderate Income Area Benefit (“LMA”) expenditures in minority-concentrated jurisdictions funded building demolition and code enforcement,<sup>63</sup> and none of the CDBG funds used for public improvements like parks and sidewalks by the County or its sub-recipients were spent on projects in the four majority-black jurisdictions that participate in the Urban County CDBG program (Figure B-8 below shows LMA expenditures in the Urban County, excluding Pontiac).<sup>64</sup>

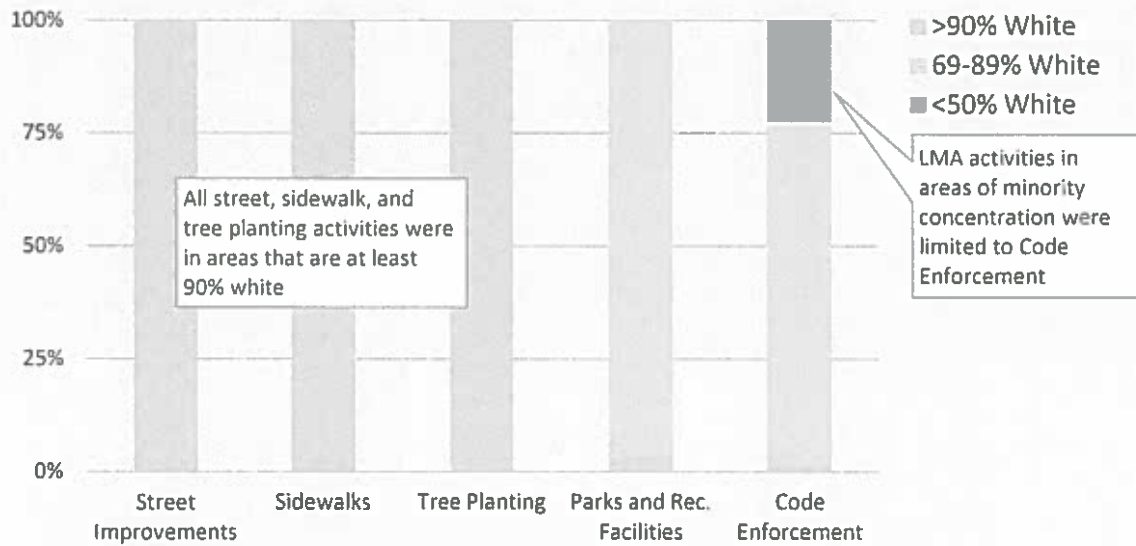
<sup>61</sup> While the County claims to distribute funds among municipal sub-recipients using one of HUD’s formulas for determining CDBG allocation amounts (42 U.S. Code § 5306), the County uses only two of the three factors used in HUD’s formula, omitting the measure of housing overcrowding.

<sup>62</sup> CHAS 2010-2014. Percentages calculated by applying funding distribution formula described on p. 238 of the ConPlan to the FY16 CDBG allocations for the Urban County, excluding Pontiac.

<sup>63</sup> CDBG Accomplishment Report (PR-03 BOSMAC)

<sup>64</sup> Activities reported as meeting CDBG National Objective of Low/Moderate Income Area Benefit, 2015 CDBG Accomplishment Report (PR-03 BOSMAC). Activity categories shown as reported by grantee. Pontiac receives the majority of its entitlement grant amount from the County, through their joint agreement. Virtually all of Pontiac’s 2011-15 CDBG funds were used for slum clearance and demolition.

**Figure B-8: Distribution of Urban County CDBG-funded low/moderate income area benefit activities, by activity type and area demographics, 2011-2015<sup>65</sup>**



While the County encourages communities using funds for Code Enforcement to refer clients to the County HIP program to correct violations,<sup>66</sup> it is not clear whether this is occurring. The County does not appear to prioritize applications for HIP assistance on the basis of code violations, and there is no clear correlation between where CDBG code enforcement activity occurs and where housing rehab assistance beneficiaries reside.

For example, of the six jurisdictions that used CDBG funds to support code enforcement activities in 2014, Oak Park and Madison Heights reported the highest level of code enforcement activity. These jurisdictions were home to the same number of HIP beneficiaries in the year following the code enforcement activity as Hazel Park and Ferndale, jurisdictions that each reported well under a third of Oak Park’s number of CDBG-funded code inspections. Two of the six jurisdictions had equally low levels of code enforcement activity: Royal Oak Township, a majority-black area, and Wixom, a much wealthier area that is predominately white. Wixom operated its own housing rehab program using CDBG funds, which reportedly benefitted three local households. Two Wixom households also received assistance through the County-wide HIP. Royal Oak Township, on the other hand, did not have funds to operate a local housing rehab program, and no Royal Oak Township households received assistance from the County-wide HIP during PYs 2014 and 2015.<sup>67</sup> This appears to be another example of how the County’s methods for distributing resources and targeting its programs are failing to meet the needs of the most impacted areas – areas that are also where most LMI minority households are concentrated.

<sup>65</sup> *Id.* Racial/ethnic demographics from 2012-2016 ACS 5-year estimates, Table B03002. The population of the Urban County CDBG entitlement area is 79% white, non-Hispanic.

<sup>66</sup> CDBG Application Guide p. 41

<sup>67</sup> Considering CDBG PY2014 accomplishment reports and HOME rehabilitation activities reported in PR22 that had initial funding dates in 2014 and 2015.

In sum, the County's policies, practices, and method of administering its CDBG and HOME programs and activities have operated in such a manner as to disproportionately deny the benefits of HUD assistance to areas of racial and ethnic minority concentration.

### C. CONCLUSIONS

Based upon the above findings, there is sufficient evidence to conclude that the County has failed to carry out its CDBG- and HOME-funded programs in conformity with the civil rights certifications and civil rights requirements as set forth in 24 CFR 570.904(a)(1)(ii). Such failure may also constitute noncompliance with Title VI and Section 109.

This letter addresses only the issues discussed herein and should not be interpreted as a determination of the County's compliance or noncompliance with the CDBG Equal Opportunity and Fair Housing Review Criteria, 24 CFR 570.904, Title VI or Section 109 in any other respect.

### D. ADDITIONAL CONCERNS

In addition to the finding that Oakland County is not administering its CDBG and HOME programs in compliance with relevant civil rights certifications and requirements, the review raised a number of concerns regarding the extent to which the County's housing and community development programs may be contributing to the perpetuation of segregation, both regionally and within the County itself.<sup>68</sup>

The Detroit metropolitan region, including the County, is highly-segregated by race and ethnicity, as noted in planning documents prepared for HUD by the County.<sup>69</sup> Oakland County and its constituent municipalities have a documented history of using local regulations, policies, and processes to exclude racial and ethnic minority households.<sup>70</sup> Today's patterns of residential development and segregation reflect those foundations: the Detroit region is, by some measures, the most segregated in the country,<sup>71</sup> and the difference in racial/ethnic demographics between Oakland County and Detroit is more extreme than any other central city-large suburban HUD grantee pair, as shown in the chart below.<sup>72</sup>

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<sup>68</sup> E.g., the LIHTC data discussed in section A.2 showed that 100% of the affordable rental units awarded tax credits were located in one of the five majority-black jurisdictions in the County.

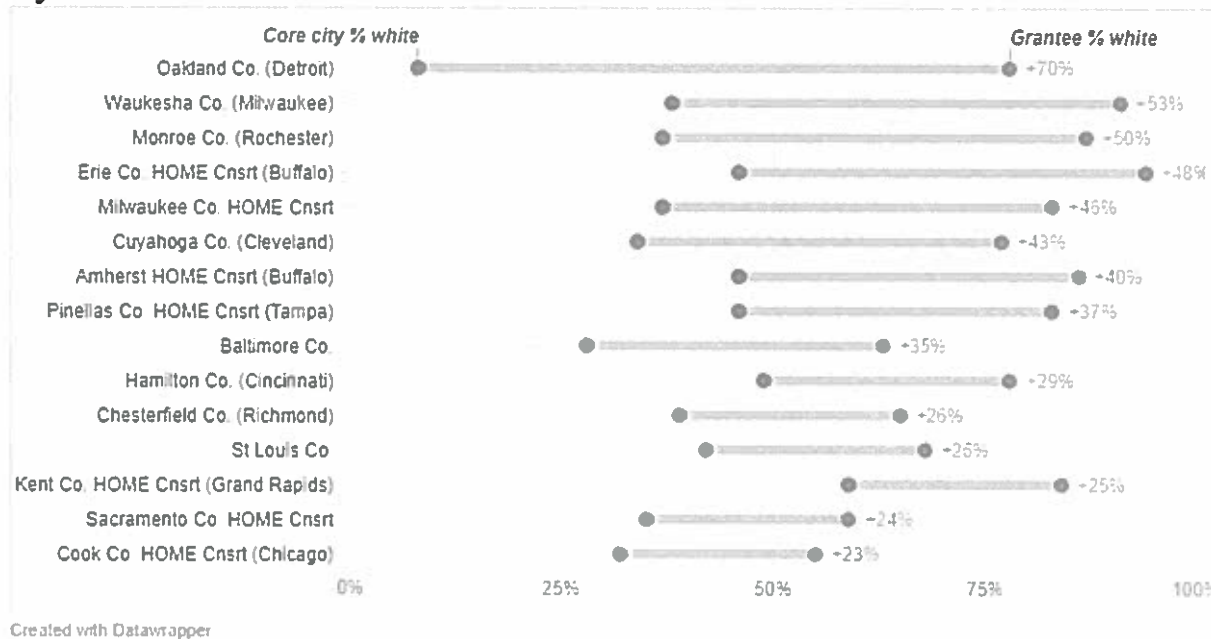
<sup>69</sup> ConPlan, *NA-30 Disproportionately Greater Need*, 108-10; "Fair Housing and Equity Assessment for Southeast Michigan," *Regional Housing Needs and Neighborhood Resiliency Strategy for Southeast Michigan* (2012), Appendix C [hereinafter FHEA], pp. 8-23, available at [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_2012%20Fair%20Housing%20Equity%20Assessment.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_2012%20Fair%20Housing%20Equity%20Assessment.pdf).

<sup>70</sup> See, e.g., <http://www.remappingdebate.org/article/segregation-and-racial-politics-long-death-knell-regionalism-detroit-area> <http://www.remappingdebate.org/node/1021>, citing Thomas J. Sugrue, *The Origins of the Urban Crisis*

<sup>71</sup> AFFH-T Dissimilarity Index (2010 Census). See also, <https://s4.ad.brown.edu/Projects/Diversity/Data/Report/report2.pdf>

<sup>72</sup> AFFH-T tabulations of census data, among County CDBG-grantees and HOME Consortia located in a Metropolitan Statistical Area that don't include the MSA's most populous city. Limited analysis to jurisdictions

**Figure C-1: Largest racial disparities between large suburban grantees and their region's core city<sup>73</sup>**



This review led to observations that the County may be contributing to the perpetuation of segregation within the Detroit region and the County itself through its administration of federally-funded housing assistance, as well as through its housing and urban development policies, generally. The criteria for HUD’s review for equal opportunity incorporate Title VI and Section 109 prohibitions against discrimination in federally-funded programs, and the review for fair housing incorporates the same prohibition against discrimination in all programs and activities related to housing and urban development. The County also certifies that it shall Affirmatively Further Fair Housing (“AFFH”) and has set a priority goal in its ConPlan to do so.<sup>74</sup> Nevertheless, this review revealed County policies and practices that could run counter to this goal.<sup>75</sup> If not addressed, these policies and practices could bring the County out of compliance with its obligation to take affirmative steps to ensure fair and open housing throughout its jurisdiction.

HUD encourages Oakland County to closely analyze all of its housing and community development programs to determine if, and to what extent, they may contribute to the perpetuation

comparable in population to Oakland Co. – i.e., home to 20-40% of the MSA’s population and between 50% and 300% of the core city’s population.

<sup>73</sup> CHAS 2010-2014

<sup>74</sup> See, e.g., ConPlan, *ES-05 Executive Summary*, p. 3

<sup>75</sup> Among these practices: it does not appear that the County makes meaningful efforts to monitor sub-recipient compliance with the duty to affirmatively further fair housing. The PY 2018 CDBG Application for municipal sub-recipients does not have any questions or certifications pertaining to fair housing or civil rights, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_CDBG\\_Application\\_GUIDE.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_CDBG_Application_GUIDE.pdf).



of racial segregation in the county and in the region thus constituting impediments to fair housing choice.<sup>76</sup> Specifically, the County should examine the effect of current and proposed zoning and land use policies on the development of affordable single-family and multi-family housing.<sup>77</sup> HUD also encourages the County to examine how it could better use HUD funding to assist minority households who wish to move to integrated areas.<sup>78</sup> HUD will look to the County's next Analysis of Impediments to Fair Housing Choice to see the extent to which such impediments are addressed and what programmatic steps the County is proposing to address them.

## E. NEXT STEPS

As stated, HUD has determined there is sufficient evidence to conclude that Oakland County does not meet the CDBG Equal Opportunity and Fair Housing Review Criteria as set forth in 24 CFR 570.904. This regulation provides that when review criteria are not met, a recipient will be afforded an opportunity to present evidence that it has not failed to carry out the civil rights certifications and fair housing requirements. HUD's final determination of whether there has been compliance will be made on a review of the recipient's performance, evidence submitted by the recipient and any other available evidence.

Given that Oakland County's 2018 Annual Action Plan (AAP) is due on or about May 15, 2018, HUD requests that any evidence Oakland County wishes to submit in rebuttal be provided to HUD as soon as possible but not later than May 15, 2018. This will ensure that HUD has sufficient time to evaluate any evidence in advance of reviewing for acceptance the County's attendant civil rights related certifications.

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<sup>76</sup> The HUD Notice entitled "Affirmatively Furthering Fair Housing: Extension of Deadline For Submission of Assessment of Fair Housing For Consolidated Plan Participants" was published on January 5, 2018 at 84 FR 683. It states in pertinent part, "[c]onsolidated plan program participants must continue to comply with existing, ongoing obligations to affirmatively further fair housing. Until a consolidated plan program participant is required to submit an AFH, it will continue to provide the AFFH Consolidated plan certification in accordance with the requirements that existed prior to August 17, 2015. See 24 CFR 5.160(a)(3). The requirements obligated a program participant to certify that it will affirmatively further fair housing, which means that it will conduct an analysis of impediments (AI) to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions.


For Consolidated plan program participants that are starting a new 3-5-year Consolidated plan cycle that begins before their due date for an AFH, the AI should continue to be updated in accordance with the HUD, Fair Housing Planning Guide (1996), available at <https://www.hud.gov/sites/documents/FHPPG.PDF> until those consolidated plan program participants submit an AFH after October 31, 2020. HUD encourages consolidated plan program participants to use the data and mapping tool and the AFH Assessment Tool as resources for program participants that are updating their AIs. HUD encourages program participants to collaborate to develop a regional AI, as regional collaborations provide an opportunity for program participants to share resources and address fair housing issues that cross jurisdictional boundaries."

<sup>77</sup> Zoning and other potential impediments to fair housing choice are listed in the County's June 2017 Update to the Regional Analysis of Impediments, but the County does not analyze these impediments, nor do the County's proposed actions appear designed to address these impediments. 2017 AI Update available at, [https://www.oakgov.com/advantageoakland/resources/Documents/chi\\_FinalAIUpdateJune2017.pdf](https://www.oakgov.com/advantageoakland/resources/Documents/chi_FinalAIUpdateJune2017.pdf).

<sup>78</sup> Currently the County works with three CHDOs, and all three operate in the County's most segregated areas: Habitat for Humanity is currently offering homes in Pontiac and Southfield, Venture Inc. builds housing "mainly in Royal Oak Township and Pontiac," and the Community Housing Network develops and manages affordable rental properties in Pontiac (CHN currently has no for-sale homes available in Oakland County). As a result, Oakland County's CPD performance reporting shows that CHDOs have helped six black households buy homes, all in highly-segregated areas of the County (ConPlan, NA-30 *Disproportionately Greater Need*, pp. 105, 109).

In the alternative, it is HUD's policy to resolve all matters regarding civil rights compliance by informal means whenever possible. Informal resolution is usually achieved through the execution of a Voluntary Compliance Agreement ("VCA") between HUD and the Recipient. We invite the County to enter into such an informal resolution. If the County is interested in pursuing such an informal resolution, please contact Mr. David Long of my staff, within the next 30 days, to discuss negotiating the terms of a VCA. He can be reached directly at [David.C.Long@hud.gov](mailto:David.C.Long@hud.gov) or (313) 234-7352.

Sincerely,

  
Maurice J. McGough  
FHEO Region V Director  
Region V Office of Fair Housing and  
Equal Opportunity

Cc: Mr. Keith Lermينياux, Corporation Counsel  
1200 North Telegraph Road  
Pontiac, MI 48341