

October 20, 2017

VIA EMAIL

Jeff Jackson
Chief, Program Compliance Branch
Fair Housing and Equal Opportunity, Region IX
U.S. Department of Housing and Urban Development
One Sansome St., Suite 1200
San Francisco, CA 94104
Tel: (415) 489-6400

Re: Concerns Regarding the San Mateo County Regional Assessment of Fair Housing

Dear Mr. Jackson:

Over the course of the past year, the undersigned organizations actively participated in the Assessment of Fair Housing process conducted by San Mateo County, Daly City, South San Francisco, Redwood City, San Mateo City, the Housing Authority of San Mateo County, and the Housing Authority of South San Francisco.¹ Unfortunately, the final Assessment of Fair Housing (“AFH” or “Final AFH”) submitted on October 4, 2017 contains serious deficiencies that we believe render it inconsistent with fair housing law and substantially incomplete under 24 C.F.R. § 5.162(b).

Specifically, the AFH fundamentally fails to satisfy the regulatory requirements of § 5.154 by omitting important information about segregation, disparities in access to opportunity, racially/ethnically concentrated areas of poverty (“R/ECAPS”), disproportionate housing needs, and the publicly supported housing analysis, and by failing to adequately respond to comments offered through the community participation process.

As described below, the AFH repeatedly violates core elements of § 5.154 and the analysis prescribed in the Assessment Tool. By ignoring important information relevant to the analysis of fair housing issues in San Mateo County, its constituent jurisdictions, and the region, the AFH renders a fundamentally flawed analysis that does not meet the requirement of § 5.154(d)(2) and (3), and the accompanying guidance in the Assessment Tool, to assess fair housing issues and their contributing factors. The AFH also fails in key places to satisfy the requirement in § 5.154(c) to use available local data and local knowledge in its analysis, and it systematically violates the requirement of § 5.154(d)(6) to either adopt comments made through the community participation process or explain the basis for rejection of comments or recommendations.

¹ San Mateo County hired BBC Research & Consulting to assist with the community participation process and completion of the AFH.

We ask that the U.S. Department of Housing and Urban Development (“HUD”) decline to accept the AFH and return it to the participating jurisdictions and PHAs for revision and resubmission.

1. The AFH’s Analysis of Segregation and Disparities in Access to Opportunity Fails to Identify Patterns of Racial Exclusion.

The AFH fundamentally fails in the task of analyzing segregation and disparities in access to opportunity by ignoring geographic patterns of racial exclusion. In violation of §§ 5.154(d)(2)(i), 5.154(d)(2)(ii), and § 5.154(d)(3) and the accompanying guidance in the Assessment Tool, it neither identifies high opportunity, segregated communities and neighborhoods that exclude members of protected classes, nor does it grapple with the factors contributing to that pattern of exclusion.

The segregation analysis discusses the clustering of minority populations and, in general terms, the fact that historical discriminatory practices contributed to continuing patterns of segregation and disparate rates of homeownership, but it completely fails to identify racially exclusive neighborhoods and jurisdictions.² Similarly, the analysis of disparities in access to opportunity reports, for example, that African American and Latino residents experience lower access to opportunity as measured by HUD’s indices,³ but it does not identify the high opportunity areas to which these residents disproportionately lack access.

This failure is inexcusable. The HUD-provided maps reveal clear patterns of neighborhood and city-level segregation and disparities in opportunity, particularly in the southern part of San Mateo County. For example, Menlo Park is starkly segregated between the majority-white western portion of the city, and a comparatively small African American and Hispanic neighborhood in the eastern corner of the city, next to East Palo Alto. *See* Attachment 1. The county map also points to patterns of racial exclusion—specifically, the exclusion of African American and Latino residents from multiple cities, including Atherton, Belmont, Hillsborough, Portola Valley, San Carlos, and Woodside. *See id.* Maps of Redwood City and the City of San Mateo also reflect patterns of internal segregation, and the exclusion of African American and Latino residents from certain neighborhoods. *See* Attachments 2.

Similarly, the maps provided by HUD show that these geographical patterns of residential exclusion are deeply connected with racial disparities in access to proficient schools, to low poverty neighborhoods, and to a healthy environment. *See* Attachment 3.

The failure to grapple with patterns of racial exclusion goes to the heart of the fair housing analysis and renders the Final AFH substantially incomplete under § 5.162(b)(ii)(B). By turning a blind eye to racially exclusive, high opportunity neighborhoods, the AFH does not satisfy the requirement in § 5.154(d)(2)(i) to identify

² *See* Final AFH at V-15 to V39.

³ *See* Final AFH at V-44.

“integration and segregation patterns,” which, as the Assessment Tool specifies, requires program participants to “[i]dentify areas in the jurisdiction and region with relatively high segregation . . . by race/ethnicity . . . and indicate the predominant groups living in each area.”⁴ Similarly the AFH does not meet the basic requirements of the analysis of “significant disparities in access to opportunity,” which include the requirement that program participants describe how disparities “relate to residential living patterns in the jurisdiction and region.”⁵

Additionally, the identification of contributing factors for segregation and disparities in access to opportunity required by § 5.154(d)(3) is both substantially incomplete and inconsistent with fair housing and civil rights laws under § 5.162(b)(i) and (ii). Without justification, and in conflict with information elsewhere in the report,⁶ the Final AFH fails to identify land use and zoning laws in exclusive jurisdictions and neighborhoods as contributing factors to segregation or disparities in access to opportunity.⁷

This inadequate analysis is all the more inexcusable in light of input offered during the community participation process. Even prior to the release of the Draft AFH, local organizations recommended categories and sources of local data that would have shed light on patterns of racial exclusion and their contributing factors.⁸ And comments offered by Public Advocates on the Draft AFH specifically raised the failure to appropriately identify geographic patterns of racial exclusion and analyze contributing factors including land use and zoning practices.⁹ Unfortunately, in a pattern reflected across numerous topics and in violation of § 5.154(d)(6), the Final AFH neither adopted the recommendations of these comment letters, nor provided a substantive response explaining why the comments were rejected. And by ignoring important sources of local data pointed out by commenters, such as information in housing planning documents for San Mateo County and its constituent cities, the Final AFH also failed to satisfy § 5.154(c)’s requirement to use local data and knowledge relevant to the fair housing analysis.

⁴ Assessment of Fair Housing Tool for Local Governments (2017), at 2 (emphasis added), available online at <https://www.hudexchange.info/resources/documents/Assessment-of-Fair-Housing-Tool-For-Local-Governments-2017-01.pdf>

⁵ *Id.* at 4; 24 C.F.R. § 5.154(d)(2)(iii).

⁶ See Final AFH at V-106 to V-107 (describing zoning and land use practices that create barriers to affordable housing development).

⁷ See Final AFH at V-39 (brief section identifying only two contributing factors to segregation); V-71 (chart of contributing factors to disparities in access to opportunity)

⁸ See Legal Aid Society of San Mateo County, “Re: Local Data in San Mateo County for Assessment of Fair Housing” (May 31, 2017), Final AFH, Appendix B (describing a variety of data sources regarding disparities on access to opportunity and segregation, including for example census data on the demographic characteristics for each of the 21 jurisdictions in the county, or information from housing planning documents regarding the siting of affordable housing opportunity sites that could be compared to patterns of segregation); Public Advocates, *et al.*, “Initial Input for Draft Assessment of Fair Housing,” (June 16, 2017) Final AFH, Appendix B (identifying data sources and requesting analysis of zoning and planning barriers to affordable housing, community opposition to affordable housing development, “jobs-housing fit” data, and information in the Housing Elements of local jurisdictions, among other things)

⁹ Final AFH, Appendix B.

HUD should decline to accept the Final AFH on these grounds. We further request that HUD require San Mateo County and the other participating jurisdictions to revise the AFH to (1) identify geographical patterns of racial exclusion underlying segregation and disparities in access to inequality, (2) analyze potential contributing factors, including land use and zoning practices in neighborhoods and cities throughout the county; and (3) commit to strengthened goals around increasing access to exclusive and high opportunity neighborhoods and communities.

2. The AFH Fails to Identify Racially/Ethnically Concentrated Areas of Poverty in San Mateo County Because it Omits Important Local Data and Knowledge.

The AFH analysis regarding “Racially/Ethnically Concentrated Areas of Poverty” (“R/ECAPS”) fails to reflect crucial local data possessed by the participating jurisdictions and local knowledge offered during the comment period, in violation of §§ 5.154(c), 5.154(d)(2)(ii), 5.154(d)(6). Specifically, the R/ECAP analysis fails to integrate important data from the 2015 regional Fair Housing and Equity Assessment (FHEA) identifying neighborhoods of racial and ethnic concentration that are characterized by significant economic hardship.¹⁰ Those areas, denoted “communities of concern” in the FHEA, should have been used to supplement the HUD-provided data identifying R/ECAPs. The omission of that data resulted in a R/ECAP analysis that ignores disadvantaged communities of color in San Mateo County and cripples the ability of the AFH to guide policy decisions and investments to address fair housing needs for residents of those communities.

The Final AFH correctly notes that “R/ECAPs are meant to identify areas where residents may have historically faced discrimination and continue to be challenged by limited economic opportunity.”¹¹ The “communities of concern” from the FHEA constitute vital local data precisely targeted to enabling this crucial analysis. In fact the “communities of concern” metric was designed specifically to supplement HUD’s algorithm for identifying R/ECAPs based on concerns that R/ECAPs did not adequately identify disadvantaged communities of color in the Bay Area. Specifically, because HUD’s R/ECAP algorithm is based on the federal poverty standard, it is not well suited to identifying economic hardship in an area with costs of living as high as those in the Bay Area. Communities of concern, in contrast, are defined by low-income metrics that are more locally appropriate.

Local data is a particularly important corrective tool in these circumstances. As the Affirmatively Furthering Fair Housing Rule Guidebook (“AFFH Rule Guidebook”) published by HUD explains:

¹⁰ ABAG, Fair Housing and Equity Assessment (March 13, 2015), at 18, available online at https://abag.ca.gov/files/1_FHEAFinalReport_3.13.15.pdf (last accessed October 16, 2017).

¹¹ Final AFH at V-40. This is consistent with the regulatory definition of R/ECAPs as “a geographic area with significant concentrations of poverty and minority populations.” § 5.152.

Certain HUD-provided data may have limitations, including limitations in how they apply to geographic areas with different characteristics (e.g., rural, urban, suburban, majority-minority areas). For this reason, program participants must supplement the HUD-provided data with local data and local knowledge outlined in 24 C.F.R. § 5.152[.]¹²

Just as the AFFH Rule Guidebook foresaw, HUD’s R/ECAP algorithm has limited ability to identify disadvantaged communities of color in San Mateo County because its economic component based on the federal poverty line does not correspond appropriately to the high cost of living in the Bay Area.

The AFH, however, failed to make use of the crucial local data from the FHEA’s mapping of communities of concern, and as a result fails to conduct a fair housing analysis of those communities within San Mateo County.¹³ As a result, the AFH both understates the fair housing issues in the county—obscuring which protected classes are affected by conditions in disadvantaged communities of color and what deficits in opportunity and environment they face—and avoids any consideration of contributing factors related to those communities.

The failure to incorporate the communities of concern into the R/ECAP analysis constitutes a core violation of the requirement to use local data under § 5.154(c). There is no question that this data was available to the authors of the AFH—the AFH in fact frequently cites to the FHEA and, in another section, includes a FHEA map showing areas of opportunity and communities of concern. *See* Attachment 4.

The resulting inadequate R/ECAP analysis also reflects a failure to either adopt or provide a substantive response to comments pursuant to the requirements in § 5.154(d)(6). At the San Mateo County public hearing regarding the Assessment of Fair Housing, multiple members of the Board of Supervisors expressed their concern that the AFH failed to identify and discuss racially and ethnically concentrated areas of economic hardship.¹⁴ (Their critique, however, is not included in the summary of their comments in the community participation section of the Final AFH.¹⁵) Public Advocates raised the same concern in its comments on the Draft AFH, arguing that “it would be misleading not to disclose that due to the high cost of living in the area, a formula linked to federal poverty standards fails to provide an adequate map of economic hardship” and that

¹² HUD, *AFFH Rule Guidebook* at 40-41 (Dec. 31, 2015) available online at <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf> (last accessed October 19, 2017). *See also id.* at 67 (“As with the other HUD-provided data, the R/ECAP measures being provided are intended as a baseline for analysis that can be supplemented with local data and local knowledge.”).

¹³ *See* Final AFH at V-40 (mentioning communities of concern at a regional level, within analyzing the circumstances or contributing factors for any communities of concern within San Mateo County) and V-50 (FHEA map that reveals multiple communities of concern within San Mateo County).

¹⁴ Board of Supervisors Hearing, July 25, 2017.

¹⁵ The R/ECAP analysis in the San Mateo County Final AFH refers to communities of concern on a regional scale, but does not identify or analyze communities of concern within San Mateo. *See* Final AFH at III-11

“supplementing the HUD-provided data with local knowledge and data is therefore essential.”¹⁶

For these reasons, the R/ECAP analysis is inadequate under §§ 5.154(c), 5.154(d)(2)(ii), and the Assessment Tool for failing to integrate available local data that would have yielded a clearer picture of concentrated poverty in communities of color in San Mateo County. Additionally, the AFH flatly violates § 5.154(d)(6) by failing both to fully report the comments critical of the R/ECAP analysis and to either accept those comments or explain its basis for rejecting them.¹⁷

These grave flaws in the R/ECAP analysis provide a further basis for HUD to decline to accept the Assessment of Fair Housing. We request that San Mateo County and the other participating jurisdictions be required to apply the questions set out in the R/ECAP section of the Assessment Tool to the “communities of concern” identified in the 2015 FHEA. After the analysis is completed, the participating jurisdictions should adopt goals for addressing the fair housing needs brought to light by that analysis.

3. The Disproportionate Housing Needs Analysis Fails to Identify Regulatory and Political Contributing Factors to the Harms Experienced by Renters of Color.

Although the AFH appropriately devotes significant space to the acute challenges facing protected classes in the San Mateo County rental market in the disproportionate housing needs analysis, it fails to identify important contributing factors to those challenges and therefore fails to satisfy § 5.154(d)(3). Additionally, as with other subjects, the AFH fails to either adopt or give a substantive response to comments describing contributing factors driving the crisis in the rental market that is disproportionately harming African American and Latino residents.

The AFH reports that African American and Latino residents are majority renters¹⁸ and disproportionately impacted by evictions,¹⁹ and African American and Latino renter households experience high rates of involuntary displacement.²⁰ Spanish speaking renter households in particular report high rates of displacement caused by large rent increases that outstripped their ability to pay.²¹ Appropriately, the AFH identifies “renter displacement” as a key fair housing challenge, highlights “increasing rents” as a source of displacement, and puts a high priority on addressing renter displacement, “especially in addressing evictions in remaining affordable areas in the county.”²²

¹⁶ Public Advocates, “Comments on the Draft Assessment of Fair Housing,” (August 23, 2017), Final AFH, Appendix B.

¹⁷ See Final AFH at III-13 to III-25 (comments and responses chart); III-11 (summary of comments by the Board of Supervisors at the July 25, 2017 hearing); and Public Advocates, “Comments on the Draft Assessment of Fair Housing,” (August 23, 2017), Final AFH, Appendix B.

¹⁸ Final AFH at V-88

¹⁹ Final AFH at V-82 to V-83.

²⁰ Final AFH at V-97.

²¹ Final AFH at V-98.

²² Final AFH at II-9.

In light of the significance of the crisis in the rental market and its connection to multiple fair housing issues, it is deeply concerning that the AFH ignored contributing factors identified in the community participation process. Multiple commenters highlighted the *absence of regulations on rent increases and evictions* as a regulatory choice made by local governments that is a key factor contributing to disproportionate housing need, re-segregation, and disparities in access to opportunity.²³ The AFH, however, fails to even mention the absence of regulations, much less analyze the unregulated market environment as a contributing factor.

Additionally, comments shared both before and after the Draft AFH was released raised concerns about the interference of special interest groups in the AFH and their role in blocking policies that would stabilize housing opportunity for members of protected classes. One letter signed by civil rights organizations warned that “[a]ny suggestion by real estate interest groups that tenant protections or other topics related to the rental market are somehow inappropriate to address in the AFH reveals an effort to suppress important data on fair housing and civil rights.”²⁴ The letter documented a pattern of hostile opposition by real estate interest groups to policies that would protect tenants’ fair housing choice and lessen disproportionate housing needs. The letter described how that opposition has all too often been couched in racially charged language baselessly linking regulations on rent increases and evictions to crime and overcrowding. Based on this history, the civil rights organizations authoring the letter argued that the actions of real estate interest groups “are a contributing cause of the continued loss of equal housing opportunity for members of protected classes resulting from the crisis in the rental market in San Mateo County.”²⁵

Although the San Mateo County Department of Housing responded to the letter from civil rights organizations assuring advocates, among other things, of its commitment

²³ See Final AFH at V-111 (contributing factors chart for disproportionate housing needs); Public Advocates *et al*, “Initial Input for the Draft Assessment of Fair Housing” (June 16, 2017), Final AFH, Appendix B (requesting that the AFH “consider the presence or absence of tenant protections, including rent stabilization, just cause, and anti-harassment provisions, when analyzing contributing factors related to segregation, access to opportunity, and disproportionate housing need in connection with the rental market”); Public Advocates, “Comments on the Draft Assessment of Fair Housing,” (August 23, 2017), Final AFH, Appendix B (commenting that the Draft AFH “explicitly identifies both rent increases and evictions as a primary cause of displacement, but it does not acknowledge that these problems are a direct consequence of the choices made by San Mateo County local governments not to regulate rents and evictions, even though such regulations would stabilize housing opportunity”); Community Legal Services of East Palo Alto, “Comments on the Draft Assessment of Fair Housing,” (September 15, 2017), Final AFH, Appendix B (reporting that the organization’s clients are likely “to not report substandard conditions such as plumbing issues, mold, and pest infestations for fear of retaliation from unscrupulous landlords” and criticizing the failure of the Draft AFH to list “the failure to enact any meaningful rental protections to regulate rents and evictions that would stabilize communities” as a contributing factor to disproportionate housing needs.)

²⁴ Public Advocates *et al*, “Special Interests and Civil Rights in Housing: Ensuring the Assessment of Fair Housing Process Provides an Accurate and Complete Analysis of Resident Experiences in San Mateo County” (May 24, 2017), Final AFH, Appendix B.

²⁵ *Id.*

to delivering a thorough analysis of the civil rights challenges facing renters of color,²⁶ the AFH does not discuss opposition from special interest groups to regulatory policies that would stabilize housing opportunity for renter households, much less identify that opposition as a contributing factor for the fair housing issues facing tenants of color.

The failure to identify as contributing factors both the absence of regulatory protections for tenants and the political opposition of special interest groups to those protections, and the failure to adopt or explain the basis for rejecting comments highlighting those issues, results in an analysis that is substantially incomplete under §§ 5.154(d)(3), 5.154(d)(6) and 5.162(b)(2). HUD should decline to accept the AFH on this basis in addition to the grounds outlined above, and require the participating jurisdictions to examine contributing factors to increasing rents and evictions, including the absence of rental protections and the influence of special interest groups with a primarily financial stake in the rental market. Based on that analysis, participating jurisdictions should then consider appropriate goals for overcoming those contributing factors.

4. The Publicly Supported Housing Analysis Is Inadequate.

The Housing Authority of the County of San Mateo (HACSM) and the Housing Authority of South San Francisco are participants in the San Mateo County regional AFH. However, the publicly supported housing analysis is currently substantially incomplete. Three specific issues we wish to highlight here include (1) failure of HACSM to identify source of income discrimination as a contributing factor without adequate explanation, despite local knowledge indicating that such discrimination is a problem; (2) goals that are insufficiently specific, and that do not contain metrics and milestones that adequately address the identified contributing factors; and (3) the final AFH did not provide adequate responses to concerns raised about HACSM's Moving to Work (MTW) time-limited vouchers. This discussion is intended to be illustrative, not exhaustive of the inadequacies in the publicly supported housing section and the PHA goals.

We urge HUD in its review to examine the comment letters submitted by the National Housing Law Project and the Legal Aid Society of San Mateo County, both of which focused on the publicly supported housing analysis and PHA goals.

Source of Income Discrimination

HACSM, which administers Housing Choice Vouchers, fails to identify "source of income discrimination" as a contributing factor in the final AFH. The AFH notes that African-American households²⁷ and Hispanic households²⁸ are overrepresented in the Housing Choice Voucher program, which underscores the importance of examining the

²⁶ San Mateo County Department of Housing, "Re: Special Interests and Civil Rights in Housing, Ensuring the Assessment of Fair Housing Process Provides an Accurate and Complete Analysis of Resident Experiences in San Mateo County," (May 31, 2017), Final AFH, Appendix B.

²⁷ Final AFH at V-113.

²⁸ Final AFH at II-6.

issue of source of income discrimination in the County in more depth. As noted in earlier comments, “the possible contributing factor of ‘source of income discrimination’ is not identified as a contributing factor within the publicly supported housing section,[²⁹] nor is it identified as a contributing factor by HACSM.[³⁰] The only place source of income discrimination is identified as a contributing factor is in the disability and access section.”³¹ This is in spite of survey results reporting that “three in four resident survey respondents who have Section 8 vouchers found it ‘very difficult’ to find a landlord that accepts Section 8 and 15 percent found it ‘somewhat difficult.’”³² The final AFH reports that 77 percent of these respondents asserted their belief that landlords having policies “of not renting to voucher holders” made using their voucher difficult.³³ This is also in spite of the focus group with persons experiencing disabilities identifying “source of income discrimination” as a “huge issue” in the region.³⁴ Even though HACSM is not in a position to require source of income protections in the jurisdiction or region, as the *AFFH Rule Guidebook* notes, “Contributing factors may be outside of the ability of the program participant to control or influence. However, such factors, if relevant to the jurisdiction or region, must still be identified.”³⁵ The very fact that Voucher holders with disabilities identified source of income discrimination as a “huge issue” in the region should have been sufficient for HACSM to identify such discrimination as a contributing factor. HACSM’s goals, which do reference ways to incentivize landlord participation, should be designed to alleviate and overcome the effects of source of income discrimination.

The final AFH would benefit from an analysis that discusses the extent to which the difficulties faced by Voucher households stem from source of income discrimination versus market factors. This, in turn, would assist HUD and stakeholders in evaluating the extent to which the proposed goals would improve the ability of Voucher households to utilize their Vouchers.

One positive goal that should be highlighted is the City of San Mateo’s stated milestone of exploring a Section 8 nondiscrimination policy, and its stated intent of working with HASCAM to evaluate current PHA practices. However, HACSM itself should also include a goal of working with other jurisdictions to see if source of income protections are viable across the County.

Goals, Metrics, and Milestones

Several of the proposed goals for both PHAs do not adequately relate to the identified contributing factors, and do not contain adequate metrics and milestones to

²⁹ Final AFH at V-122 (fields left next to “Source of Income Discrimination” left blank, which as the note below the chart states, “indicate[s] no contributing factor”).

³⁰ Final AFH at II-7 (listing goals and contributing factors for HACSM).

³¹ National Housing Law Project, AFH Comments, at 2 (Sept. 15, 2017).

³² Final AFH at V-119.

³³ Final AFH at V-119.

³⁴ Final AFH at V-130. As noted above, the disability and access section did identify source of income discrimination as a contributing factor.

³⁵ *AFFH Rule Guidebook*, at 108-109.

measure success. For example, the South San Francisco Housing Authority, which did not have a single goal included in the draft AFH, included a goal in the final AFH that states, “To Promote adequate and affordable housing, economic opportunity and a suitable living environment free from discrimination and violence.”³⁶ The contributing factors identified in the goals chart include “Lack of affordable housing; Displacement of residents; Growing importance of publicly-supported housing as the only affordable option for some residents.”³⁷ However, the stated metrics and milestones seemingly address property maintenance and upkeep issues, along with annual unit inspections. Without additional analysis or explanation by the Housing Authority, the contributing factors do not directly speak to habitability or maintenance issues; thus, the goals are not directly addressing a lack of affordable housing, or displacement. If the PHA is saying that maintaining habitable units is a means of preventing further displacement, the AFH should state this such that this goal can be meaningfully evaluated. Also, while these stated metrics and milestones relate to the goal of providing a “suitable living environment,” the stated metrics and milestones do not really go to providing an environment “free from discrimination and violence.”

Additionally, HACSM’s stated goal #2 (“Maintain high level of customer service”) is vague and does not explain how good customer service would combat contributing factors such as displacement or the lack of affordable housing. For example, what is the “resource assistance” referenced in the metrics and milestones? Furthermore, the metrics and milestones do not detail what HACSM means by “evaluat[ing] internal processes in order to provide more efficient services to voucher holders experiencing difficulty.”³⁸ What difficulties are being addressed? What does HACSM mean by “efficient services”? Additionally, as noted in earlier comments,³⁹ while a milestone of goal #1 (maintain high voucher utilization rate) of allocating funding (\$250,000) for housing locator services and landlord incentives is a positive step, it is not clear how providing these incentives would be an improvement over current landlord incentives offered. As the AFH notes, the voucher success rate has “consistently been below 50 percent” for years 2015, 2016, and the first half of 2017.⁴⁰

Failure to Respond to Comments not Accepted Regarding Time-Limited Vouchers

HACSM did not adequately respond to concerns raised about Moving To Work (MTW) time-limited vouchers; specifically, that the hardship exemption in place is not adequately serving populations such as seniors and persons with disabilities. The comment letter submitted by the Legal Aid Society of San Mateo County stated:

The Housing Authority’s approach to addressing the obstacles of the elderly and disabled participants is to make extensions of time available through the Hardship Exemption Policy, yet it is difficult to imagine how additional time alleviates the

³⁶ Final AFH at II-26.

³⁷ Final AFH at II-26.

³⁸ Final AFH at II-17.

³⁹ National Housing Law Project, AFH Comments, at 4.

⁴⁰ Final AFH at V-119.

hardship of permanent obstacles to self sufficiency for elderly and disabled tenants. For many such tenants a temporary subsidy is actually a destabilizing influence in their lives, since use of the voucher in most instances requires a move to new housing and loss of the voucher then requires another move five years later. To advance the housing stability of vulnerable populations, enrollment in the time-limited voucher program should be limited to appropriate households with the capacity to succeed in the program, or the Hardship Exemption Policy should be sensibly expanded to include the potential to shift a household to permanent voucher status where clear criteria are met. HACSM goals in the AFH should specifically address the application of hardship exemptions to disabled and elderly tenants.⁴¹

However, in the final AFH, the HACSM responded, “HACSM has hardship policy in place to address the time-limited feature of its Moving-To-Work program elderly/disabled households may request extension of their subsidy at their recertification.”⁴² This response is tautological, since the Legal Aid Society’s comment went to the inadequacies of having the hardship exemption in place. This response does not adequately address why Legal Aid’s suggestion of expansion of the Hardship Exemption Policy was not included.

5. The AFH Globally Fails to Satisfy the Requirement in § 5.154(d)(6) to Adopt or Substantively Respond to Comments.

As a means of ensuring meaningful engagement with the views and information shared through the community participation process, § 5.154(d)(6) requires the Final AFH to include “a summary of the comments, views, and recommendations, received in writing, or orally at public hearings, during the community participation process; and a summary of any comments, views, and recommendations not accepted by the program participant and the reasons for nonacceptance.” In other words, if the participating jurisdictions do not accept the comments and integrate them into the AFH, they must provide an explanation of their disagreement.

Unfortunately, the Final AFH does not include *any response* to the numerous comments offered regarding the fair housing analysis, nor are those comments or the data they refer to integrated into the document’s analysis.⁴³ As described above, this failure was tied to inadequate analyses of important fair housing issues including segregation, disparities in access to opportunity, R/ECAPS, disproportionate housing needs, and the publicly supported housing analysis. For this reason, the AFH is in violation of § 5.154(d)(6) and must be found substantially incomplete under § 5.162(b)(2).

⁴¹ Legal Aid Society of San Mateo County, AFH Comments, at 2 (Sept. 15, 2017).

⁴² Final AFH, at III-17.

⁴³ The Final AFH only provides responses to comments regarding goals and strategies that the participating jurisdictions should adopt to address fair housing issues. Final AFH at III-13 to III-25.

We request that HUD require the participating jurisdictions and PHAs to review the comments submitted and either adopt those comments or give an adequate explanation of the reasons for their disagreement.

6. Conclusion

Thank you for your work in reviewing the San Mateo County AFH. The Assessment of Fair Housing process provided a valuable opportunity to explore critical fair housing issues, and we appreciate the numerous important findings in the document. However, the Final AFH fails to satisfy the regulatory standards and guidance published by HUD. For the reasons outlined above, we ask that HUD find the AFH inconsistent with fair housing law and substantially incomplete, and that you return the AFH to San Mateo County and the other participating jurisdictions and PHAs so that they can complete the required analysis and finish the important work that was begun in this document.

Sincerely,

Public Advocates, Inc.

Community Legal Services of East
Palo Alto

El Comité

Fair Rents 4 Pacifica

Faith in Action

Legal Aid Society of San Mateo
County

National Housing Law Project

One San Mateo

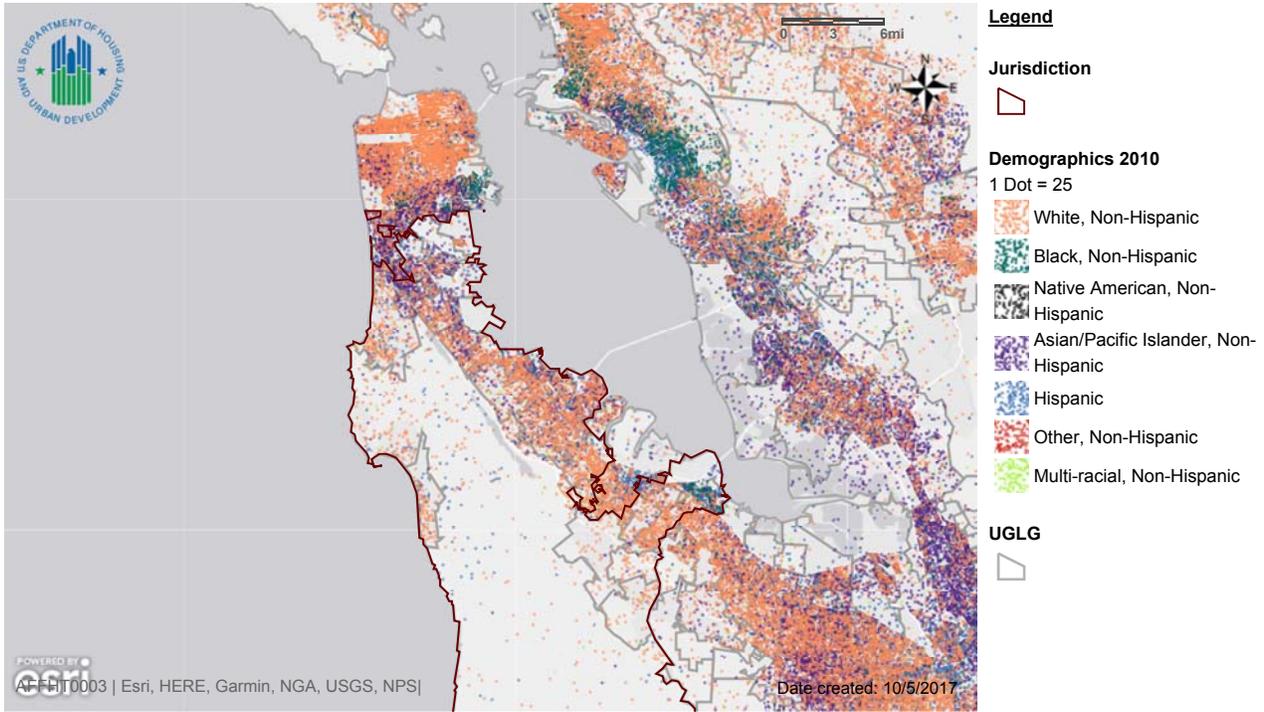
Urban Habitat

Youth United for Community Action

CC: Director Ken Cole, San Mateo County Department of Housing

Attachment 1

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Name: Map 1 - Race/Ethnicity

Description: Current race/ethnicity dot density map for Jurisdiction and Region with R/ECAPs

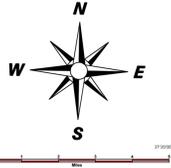
Jurisdiction: San Mateo County (CONSORTIA)

Region: San Francisco-Oakland-Hayward, CA

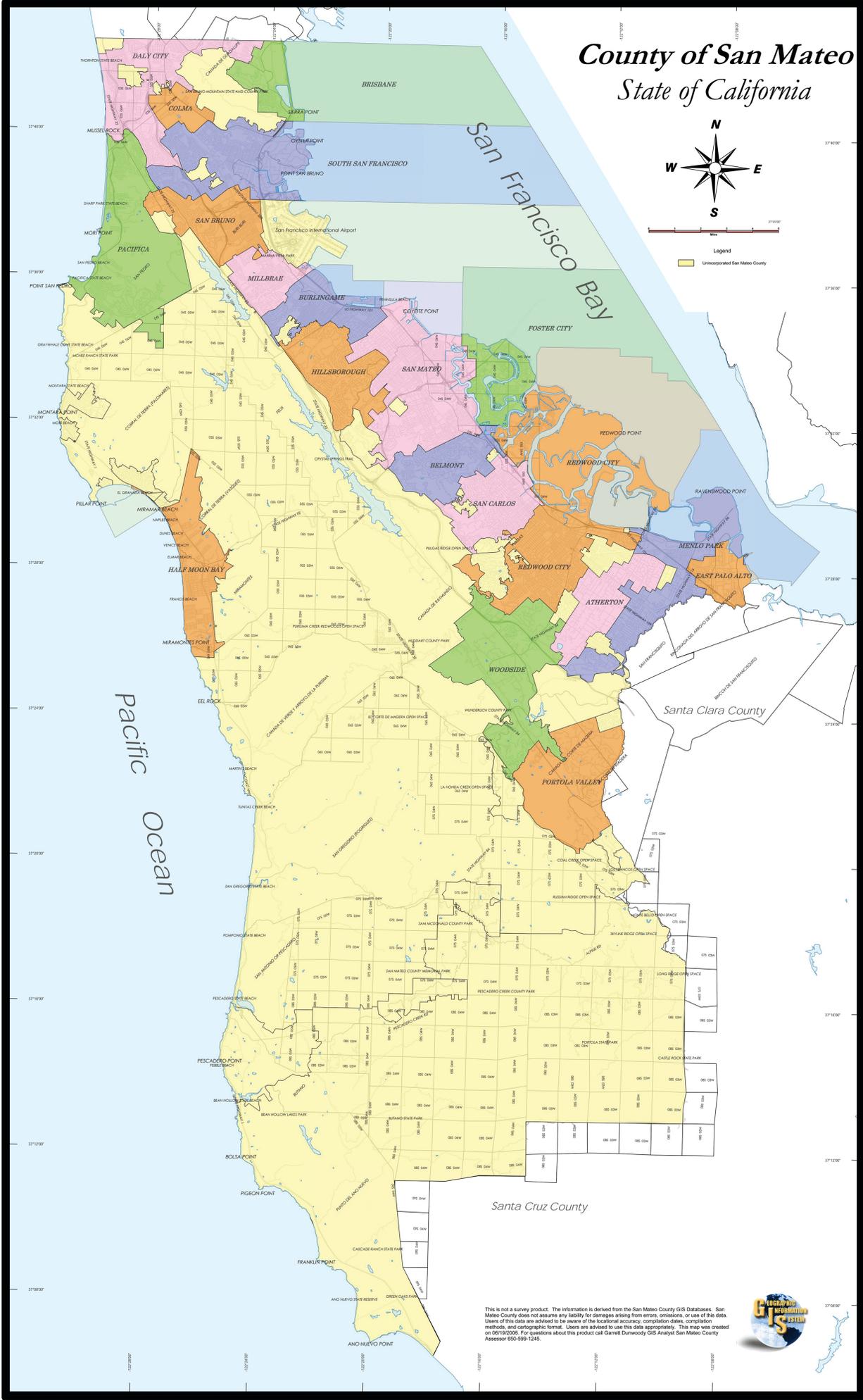
HUD-Provided Data Version: AFFHT0003

County of San Mateo

State of California



Legend
 Unincorporated San Mateo County

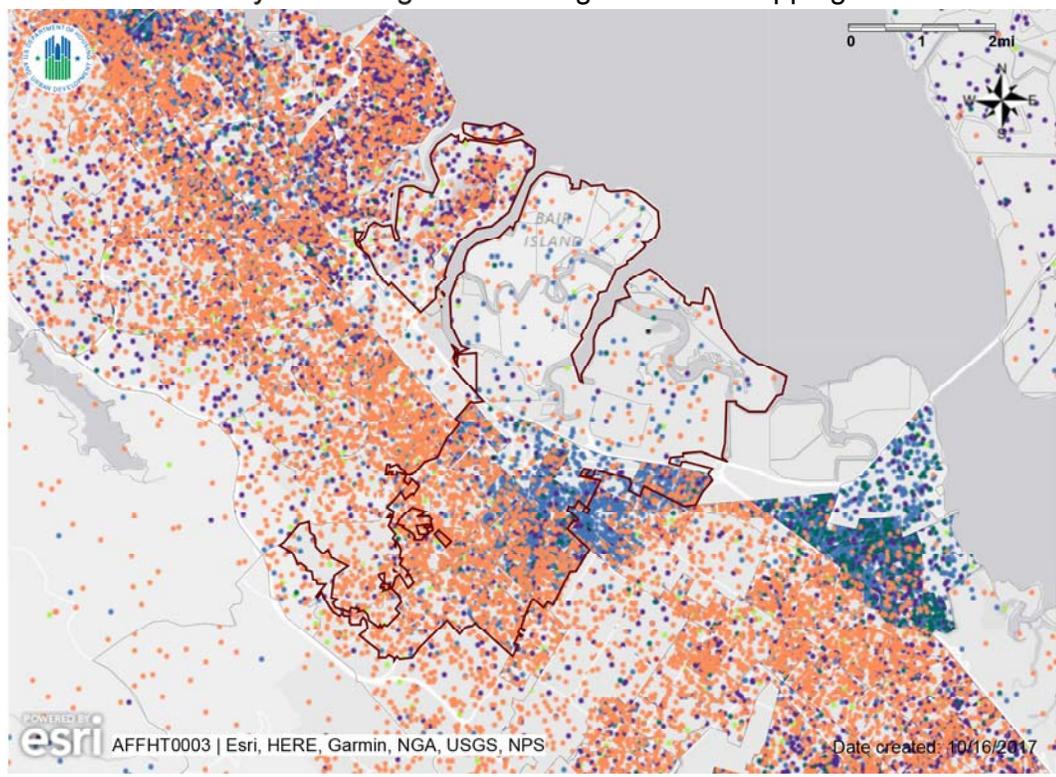


This is not a survey product. The information is derived from the San Mateo County GIS Databases. San Mateo County does not assume any liability for damages arising from errors, omissions, or use of this data. Users of this data are advised to be aware of the locational accuracy, compilation dates, compilation methods, and cartographic format. Users are advised to use this data appropriately. This map was created on 06/19/2008. For questions about this product call Garrett Dunwoody GIS Analyst San Mateo County Assessor 650-569-1245.



Attachment 2

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Legend

Jurisdiction
[Red outline symbol]

Demographics 2010
1 Dot = 10

- White, Non-Hispanic
- Black, Non-Hispanic
- Native American, Non-Hispanic
- Hispanic
- Asian/Pacific Islander, Non-Hispanic
- Hispanic
- Hispanic
- Other, Non-Hispanic
- Multi-racial, Non-Hispanic

TRACT
[White outline symbol]

R/ECAP
[Purple outline symbol]

Name: Map 1 - Race/Ethnicity

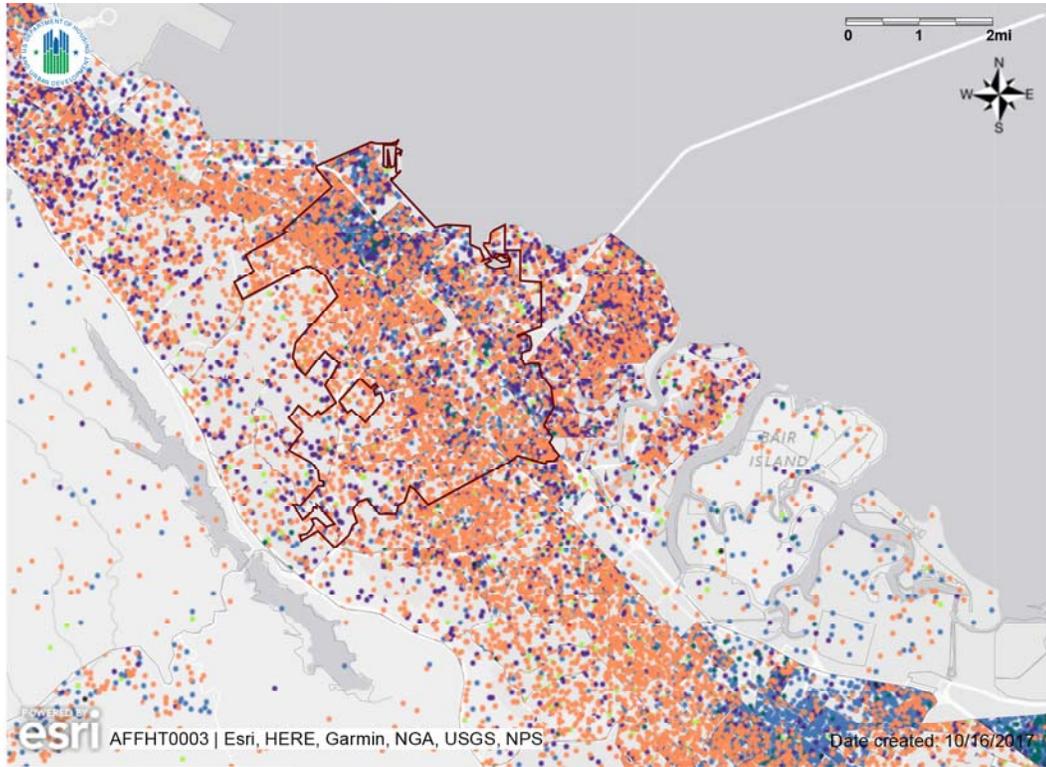
Description: Current race/ethnicity dot density map for Jurisdiction and Region with R/ECAPs

Jurisdiction: Redwood City (CDBG, HOME)

Region: San Francisco-Oakland-Hayward, CA

HUD-Provided Data Version: AFFHT0003

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Legend

Jurisdiction



Demographics 2010

1 Dot = 10

- White, Non-Hispanic
- Black, Non-Hispanic
- Native American, Non-Hispanic
- Hispanic
- Asian/Pacific Islander, Non-Hispanic
- Hispanic
- Hispanic
- Other, Non-Hispanic
- Multi-racial, Non-Hispanic

TRACT



R/ECAP



Name: Map 1 - Race/Ethnicity

Description: Current race/ethnicity dot density map for Jurisdiction and Region with R/ECAPs

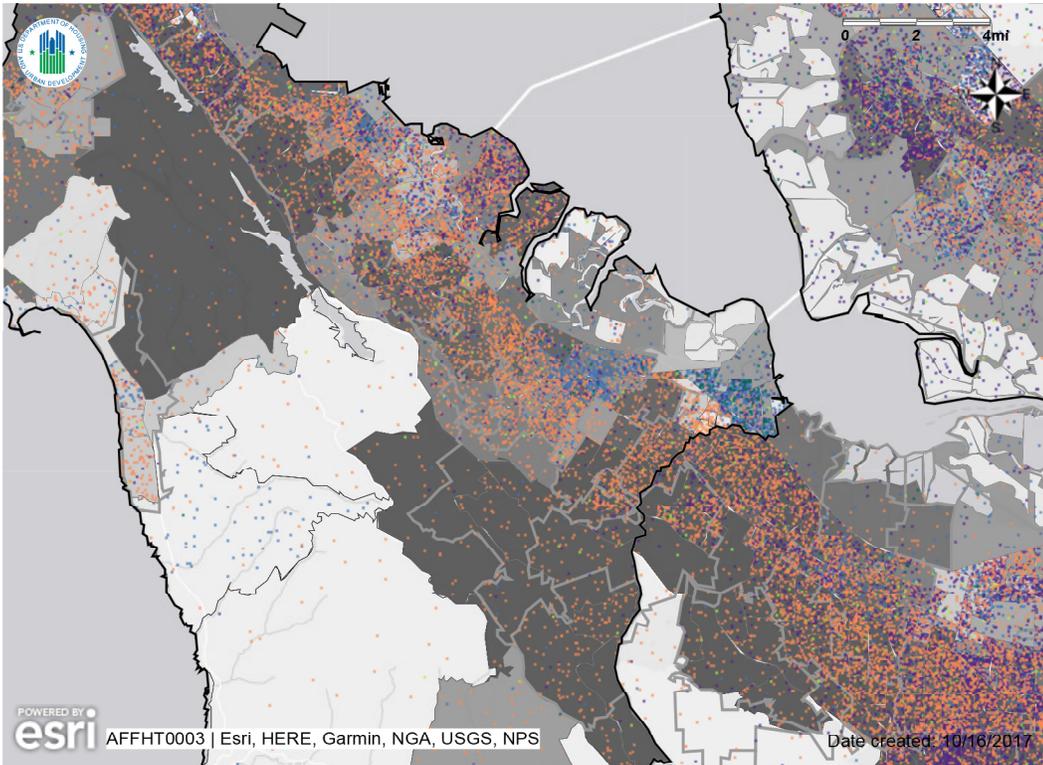
Jurisdiction: San Mateo (CDBG)

Region: San Francisco-Oakland-Hayward, CA

HUD-Provided Data Version: AFFHT0003

Attachment 3

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Legend

Region



Demographics 2010

1 Dot = 20

- White, Non-Hispanic
- Black, Non-Hispanic
- Native American, Non-Hispanic
- Asian/Pacific Islander, Non-Hispanic
- Hispanic
- Hispanic
- Other, Non-Hispanic
- Multi-racial, Non-Hispanic

UGLG



School Proficiency Index

- 0 - 10
- 10.1 - 20
- 20.1 - 30
- 30.1 - 40
- 40.1 - 50
- 50.1 - 60
- 60.1 - 70
- 70.1 - 80
- 80.1 - 90
- 90.1 - 100

School Proficiency Index: Data not Available



Name: Map 7 - Demographics and School Proficiency

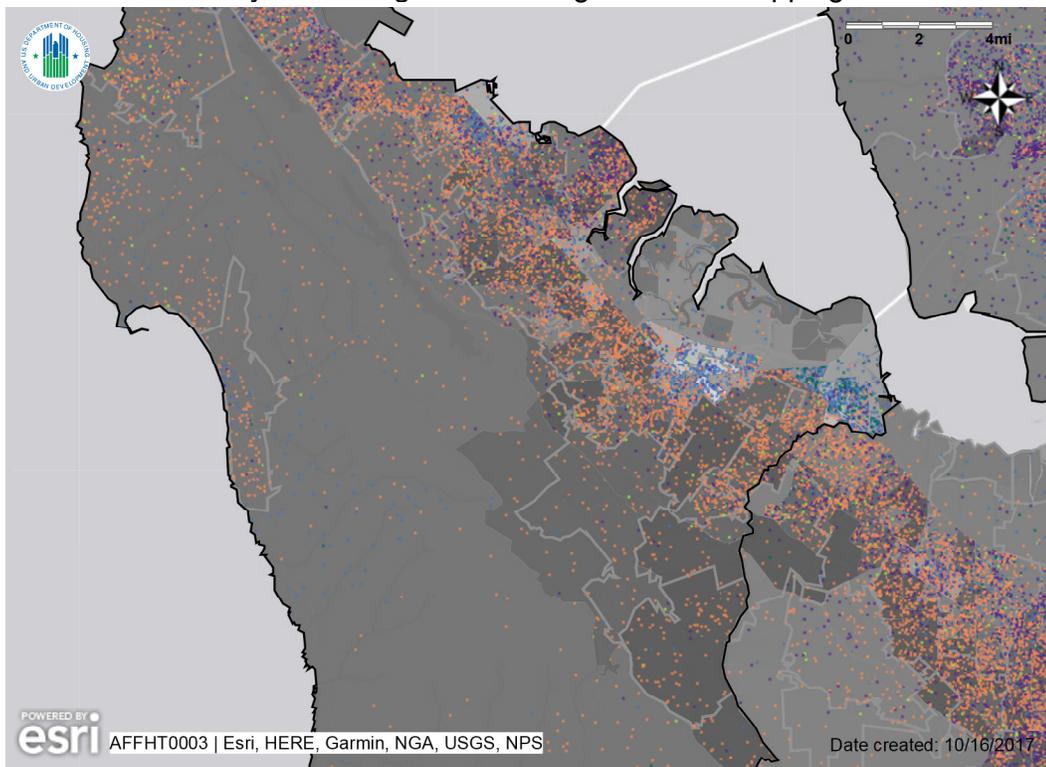
Description: School Proficiency Index for Jurisdiction and Region with race/ethnicity, national origin, family status, and R/ECAPs

Jurisdiction: San Mateo County (CONSORTIA)

Region: San Francisco-Oakland-Hayward, CA

HUD-Provided Data Version: AFFHT0003

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Legend

Region



Demographics 2010

1 Dot = 25

- White, Non-Hispanic
- Black, Non-Hispanic
- Native American, Non-Hispanic
- Hispanic
- Asian/Pacific Islander, Non-Hispanic
- Hispanic
- Other, Non-Hispanic
- Multi-racial, Non-Hispanic

UGLG



R/ECAP



Low Poverty Index

- 0 - 10
- 10.1 - 20
- 20.1 - 30
- 30.1 - 40
- 40.1 - 50
- 50.1 - 60
- 60.1 - 70
- 70.1 - 80
- 80.1 - 90
- 90.1 - 100

Low Poverty Index: Data not Available



Name: Map 12 - Demographics and Poverty

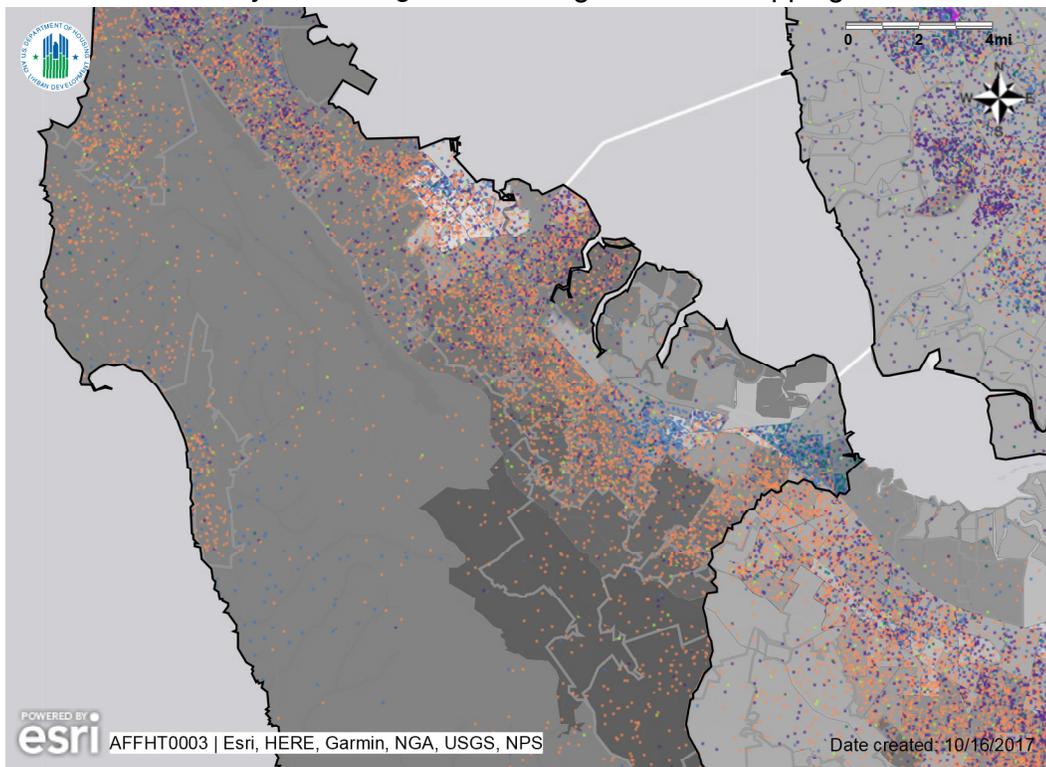
Description: Low Poverty Index with race/ethnicity, national origin, family status and R/ECAPs

Jurisdiction: San Mateo County (CONSORTIA)

Region: San Francisco-Oakland-Hayward, CA

HUD-Provided Data Version: AFFHT0003

HUD Affirmatively Furthering Fair Housing Data and Mapping Tool



Legend

Region



Demographics 2010

1 Dot = 25

- White, Non-Hispanic
- Black, Non-Hispanic
- Native American, Non-Hispanic
- Asian/Pacific Islander, Non-Hispanic
- Hispanic
- Hispanic
- Other, Non-Hispanic
- Multi-racial, Non-Hispanic

UGLG



R/ECAP



Environmental Health Index

- 0 - 10
- 10.1 - 20
- 20.1 - 30
- 30.1 - 40
- 40.1 - 50
- 50.1 - 60
- 60.1 - 70
- 70.1 - 80
- 80.1 - 90
- 90.1 - 100

Environmental Health Index: Data not Available



Name: Map 13 - Demographics and Environmental Health

Description: Environmental Health Index with race/ethnicity, national origin, family status and R/ECAPs

Jurisdiction: San Mateo County (CONSORTIA)

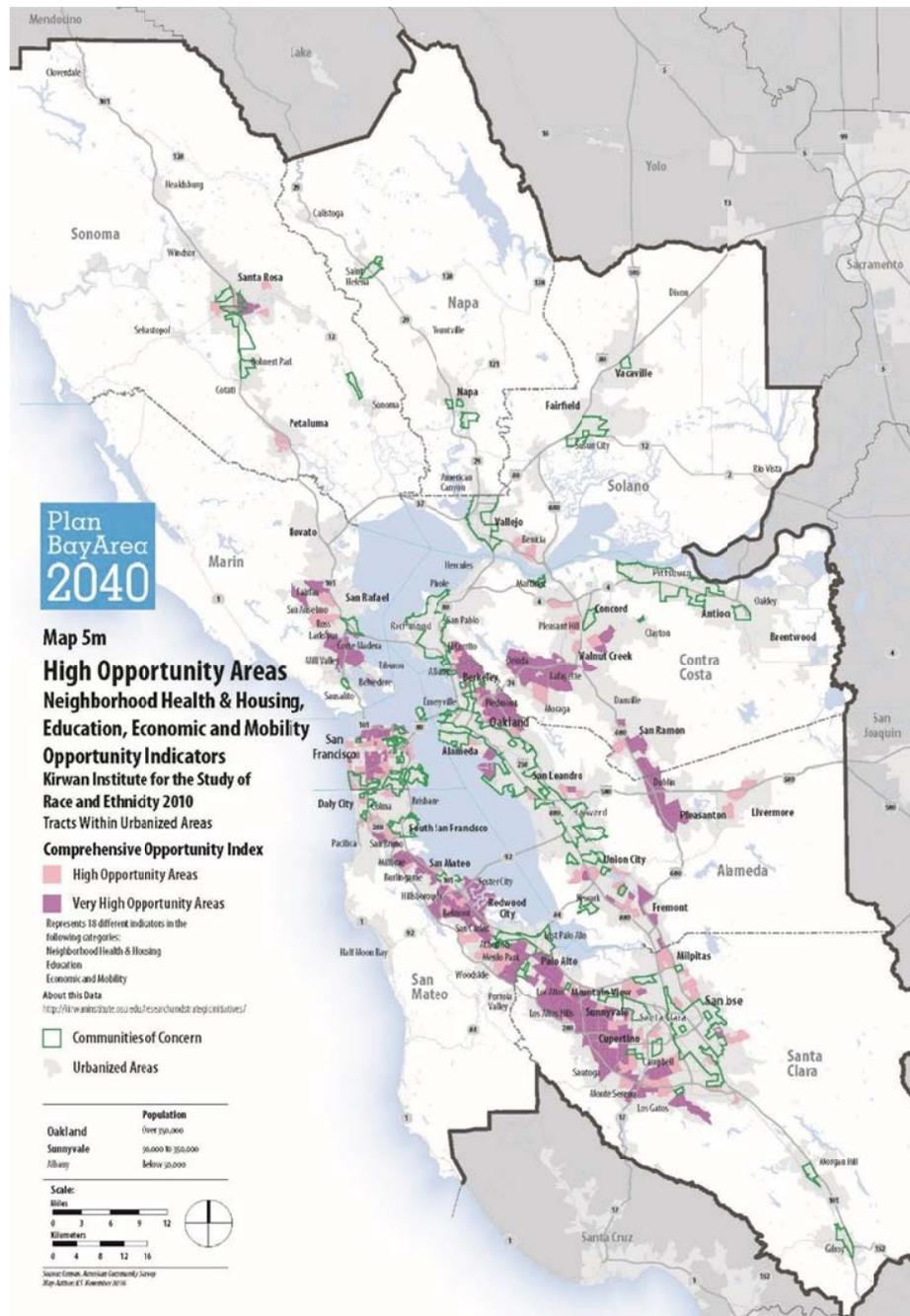
Region: San Francisco-Oakland-Hayward, CA

HUD-Provided Data Version: AFFHT0003

Attachment 4

**Figure V-35.
High
Opportunity
Area Map**

Source:
PlanBayArea2040.



Access to Low Poverty Neighborhoods. As shown by the ABAG opportunity maps, San Mateo County has far more “opportunity” neighborhoods (i.e. areas of low poverty) than areas of concern. The HUD map below corroborates this finding. That said, neighborhoods with relatively low poverty indices (higher poverty areas) are also those where African American and Hispanic residents, including residents of Mexican origin.