


Deep Dive on Affordable Housing

Fair Housing

Quetzal Gardens, Alum Rock Ave., San Jose: RCD



We acknowledge the traditional, ancestral, & unceded territory of the indigenous peoples of the Muwekma Ohlone, Ramaytush Ohlone, Tamien Nation, and Amah Mutsun on which we are learning, working, and organizing today. We are committed to honoring and making visible the indigenous people and tribes that were intentionally displaced from their land, who remain here in Silicon Valley, and are a part of our community.

Goals for today-

- Understand how our present-day Fair Housing Laws came to be, and who is protected by them
- Understand common violations that Fair Housing Laws are intended to protect against.
- Acknowledge the intent and the outcome of the laws - how they have both succeeded and fallen short
- Understand Affirmatively Furthering Fair Housing (AFFH), and how it's intended to help undo the segregation and unequal access to opportunity our communities still experience today
- Learn more about requirements for implementing AFFH through the Housing Element process
- Explore ongoing programs, policies, and funding sources that can support fair housing and equitable community development

Fair Housing Act of 1968

(Title VI of Civil Rights Act – 1968)

Prohibited discrimination concerning the sale, rental, and financing of housing based on:

- Race
- Color
- National Origin
- Religion
- Sex

Later added

- Family Status (i.e., families with children, but note exception for some housing designated for seniors)
- Disability (“handicap” in the statute)

Affirmatively Furthering Fair Housing (AFFH)

HUD and recipients of federal funds from HUD to affirmatively further the policies and purposes of the Fair Housing Act. Obligation to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.



California's Fair Housing Laws

1959 – Unruh Civil Rights Act

Prohibited “arbitrary discrimination” by all business establishments – including landlords. (Fair Employment Practices Act 1959 established protected classes.)

1963 – Rumford Fair Housing Act

Prohibited discrimination in rental properties over four units

Followed by Proposition 14 on ballot constitutional amendment – 2/3 of voters supported explicit right to discriminate. Ruled unconstitutional by US Supreme Court in 1966.



William Byron Rumford

Protected Characteristics (Classes) – Federal and California

Federal

Race, Color, National Origin, Religion, Sex, Family Status, Disability

Additional in California

- Gender, gender identity, gender expression
- Sexual orientation
- Broader definition of disability
- Marital status (i.e., unmarried couples)
- Ancestry
- Genetic information
- Source of income, including housing subsidies like Section 8 Housing Choice Vouchers

Others apply to state and state-funded programs:

- Citizenship
- Ethnic Group Identification
- Age



Or because of any **arbitrary characteristic** that has no relation to one's ability to be a good tenant or to be financially qualified to buy a home.

Violations of the Fair Housing law include actions at leasing

Refusal to sell, rent, or lease rooms, apartments, condos or houses to protected individuals

- the manager asks about your immigration status
- you're told that you don't qualify because your income does not come from a job

Refusal to negotiate for the sale, rental, or lease of housing

- the rent or deposit quoted to you is higher than advertised
- you are told "You wouldn't like it here," "There's no place for your children to play"
- you are told there are too many people in your family, or you will have to pay more rent for more people



Violations of the Fair Housing law include actions at leasing

Representation that a housing accommodation is not available for inspection, sale, or rental when it is in fact available

Offering inferior terms, conditions, privileges, facilities or services in connection with the housing accommodation

- you are told that children can only be outside before dark



Violations of the Fair Housing law include actions during tenancy

Cancellation or termination of a sale or rental agreement

- you're being evicted because you're a victim of domestic violence
- you're being evicted because your children bother the neighbors when they play outside

Policies, practices, terms, or conditions that result in unequal access to housing or housing-related services

- repairs are only made for tenants of one ethnicity or race

Offering inferior terms, conditions, privileges, facilities or services in connection with the housing accommodation

- a neighbor harasses you because of your race, religion, or ethnicity

Sexual harassment involving unwanted sexual advances or requiring sexual favors for housing rights or privileges



Violations of the Fair Housing law include refusal to take actions that reasonably accommodate the specific needs of protected categories



Refusal to permit, at a disabled tenant's expense, reasonable modifications when necessary to accommodate a disability

Refusal to make reasonable accommodations in housing rules, policies, practices, or services where necessary to afford a disabled person equal opportunity to use and enjoy a dwelling

- the owner won't allow you to have an emotional support animal
- the manager won't grant a request related to a disability

Violations of the Fair Housing law include refusal to take actions that reasonably accommodate the specific needs of protected categories

Overly restrictive rules limiting the activities of daily life for families with children, including where children are allowed to play

Policies that create a greater barrier to housing for some protected groups rather than others without a good business justification may also violate the law.

- overly restrictive occupancy standards (family members in unit)
- overly broad criminal background checks.



Fair Housing Concepts

Disparate Treatment/Intentional Discrimination

Treating a person or a group of people differently because of membership in a protected category.

Disparate Impact/Discriminatory Effect

Seemingly neutral policy or practice that has a discriminatory effect on members of a protected category.

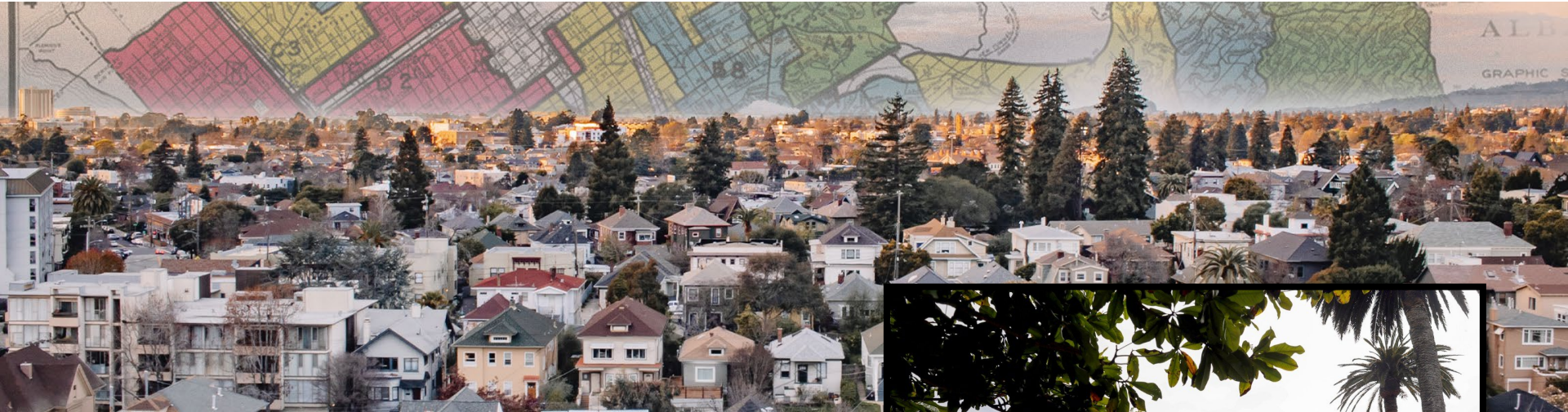
Reasonable Accommodations and Modifications

For people with disabilities.

Affirmatively Furthering Fair Housing (AFFH)

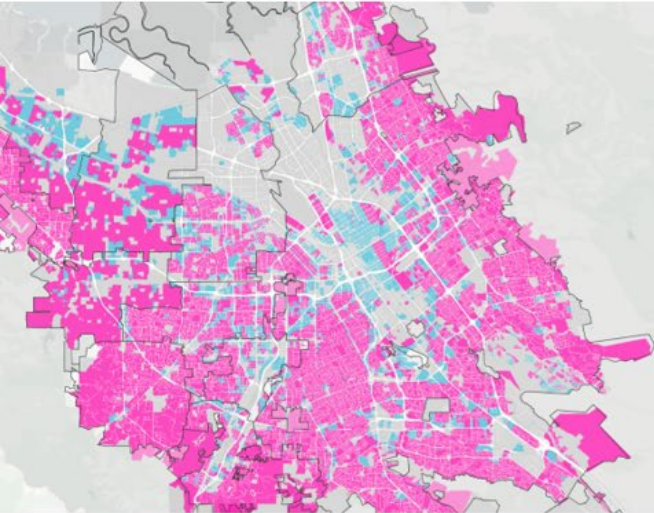


The Full Promise of the Fair Housing Act is Not Yet Achieved

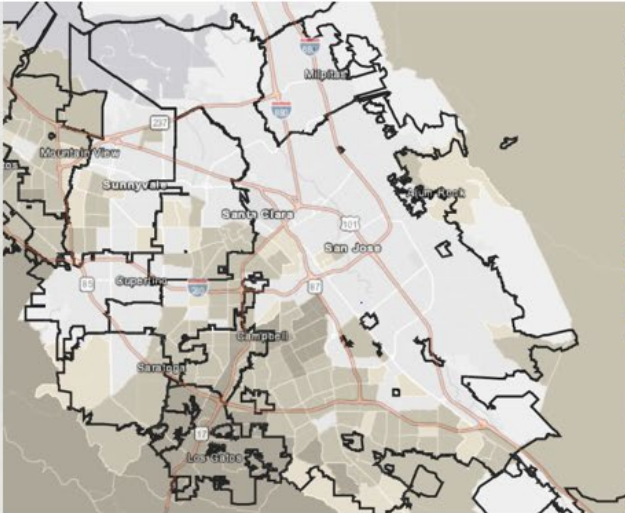


Land Use Decisions Make a Difference

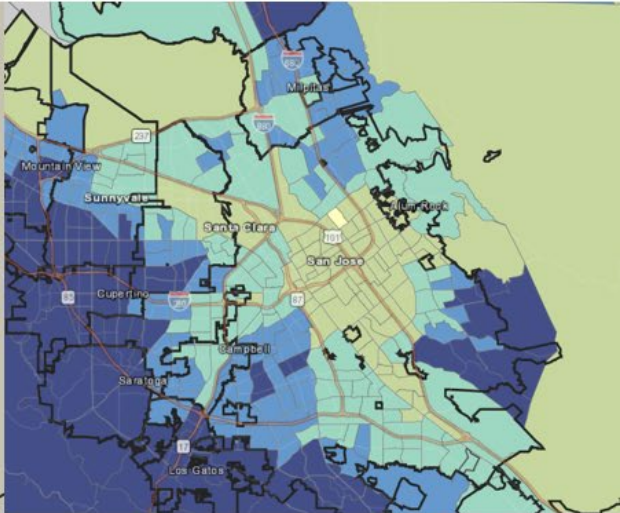
Pink: Single Family Zoning



Gray: Predominantly White Population



Blue: High-Resource Area



Affirmatively Furthering Fair Housing- 2015 HUD Regulations

- Provided guidance and tools to assess patterns of segregation and unequal access
- Required local governments to identify and address systemic issues



Affirmatively Furthering Fair Housing- California's AB 686 (2018)

Defines affirmatively furthering fair housing:

“Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.



Affirmatively Furthering Fair Housing- California's AB 686 (2018)

Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together,

1. **address significant disparities in housing needs and in access to opportunity,**
2. **replace segregated living patterns with truly integrated and balanced living patterns,**
3. **transform racially and ethnically concentrated areas of poverty into areas of opportunity, and**
4. **foster and maintain compliance with civil rights and fair housing laws.**



Affirmatively Furthering Fair Housing & the Housing Element:

Implementing AFFH through long-range planning processes

Cities must identify unique housing issues in the community, especially disproportionate issues

- Assessment of Fair Housing
- Assessment of Housing Needs



Affirmatively Furthering Fair Housing & the Housing Element:

Cities must create real, concrete, time-specific plans to address the issues they found

- Inventory of Sites
- Programs and Policies
 - **remove or mitigate constraints** to housing development and assist in the development of housing,
 - **preserve and improve existing housing stock**, especially affordable units at risk of conversion to market rate,
 - **address disparities in housing needs and in access to opportunity**,
 - replace segregated living patterns with **integrated and balanced living patterns**,
 - **transform racially and ethnically concentrated areas of poverty** into areas of opportunity, and
 - foster and maintain **compliance with civil rights and fair housing laws**



Affirmatively Furthering Fair Housing & the Housing Element:

What are AFFH advocates demanding?

- Start with the community, and make a plan based on the needs you discover.
- Distribute sites for lower-income housing throughout the community, especially in areas with access to resources like schools, parks, transit, and groceries. Would you want to live there?
- Open up neighborhoods that have historically been exclusionary to people with lower incomes by upzoning for multifamily housing and identifying sites for lower-income housing.
- Commit to real investment to bring resources to under-resourced communities to enhance the lives and strengthen outcomes for the people living there.

Industrial areas with few resources or infrastructure:
NOPE!



Affirmatively Furthering Fair Housing: The Promise & The Familiar

The Promise - *overcome patterns of segregation and foster inclusive communities*



Holistic community development

- **Thriving Communities (HUD)** ensure housing needs are considered as part of their larger infrastructure investment plans, while also supporting equitable development and local economic development ecosystems in Disadvantaged Communities
- **Choice Neighborhoods (HUD)**
- **Community Development Block Grant (HUD)**

Affirmatively Furthering Fair Housing: The Promise & The Familiar

The Promise - *overcome patterns of segregation and foster inclusive communities*



Holistic community development

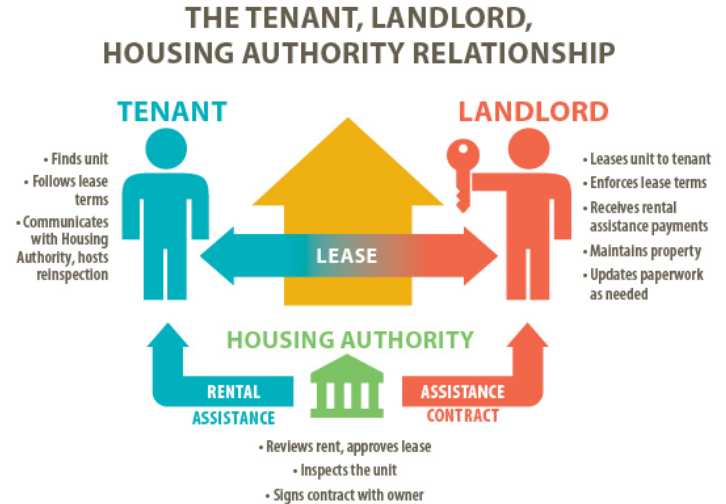
- Affordable Housing & Sustainable Communities (HCD) achieve GHG emissions reductions and benefit Disadvantaged Communities through increasing accessibility of affordable housing, employment centers, and key destinations.
- Community Development Corporations (CDCs) & Community Development Financial Institutions (CDFIs)

Affirmatively Furthering Fair Housing: The Promise & The Familiar

AFFH mobility strategies provide low-income families access to opportunity without addressing the transformation and investment needed in low-income communities.

Mobility Focused Strategies

- Housing Choice Section 8 Vouchers (HUD)
- Multifamily Housing Program (HCD)
- Low Income Housing Tax Credits (TCAC)
- Tax-Exempt Bonds (CDLAC)



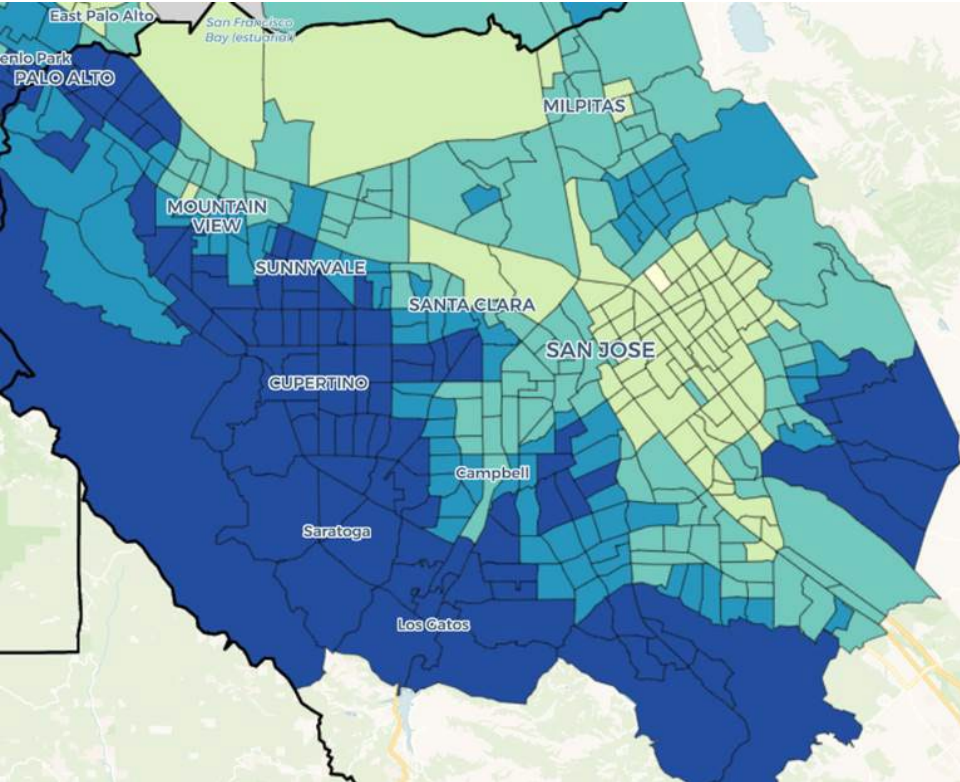
Affirmatively Furthering Fair Housing: The Promise & The Familiar

The Opportunity Map – identifies areas in every region of the state whose characteristics have been shown by research to support positive economic, educational, and health outcomes for low-income families

Used by the State, Local, and Regional governments and agencies to implement mobility strategies by categorizing communities as:

- Highest Resource
- High Resource
- Moderate Resource
- Low Resource

Affirmatively Furthering Fair Housing: The Promise & The Familiar



The Opportunity Map

Example: San Jose Siting Policy

Affirmatively Furthering Fair Housing: The Possibilities

We **MUST** affirmatively further fair housing!

- Displacement risk high for historically marginalized groups
- Black and Latinx communities are overrepresented in unhoused population
- Zip codes determine social mobility and life expectancy

How do we use this mandate to transform our cities and neighborhoods?

Affirmatively Furthering Fair Housing & Local Preference:

SB 649 (2022) allows local governments to adopt local tenant preference policies that support access to housing that would allow households facing displacement to remain in the community.



Questions?



Become a Member!

When you join SV@Home, we can leverage our resources, magnify our voices, and advance strategic, collaborative solutions to California's affordable housing crisis that meet our local and regional needs.

Help us transform Silicon Valley into the kind of place where all people have access to a safe, stable, and affordable home. Join us today!