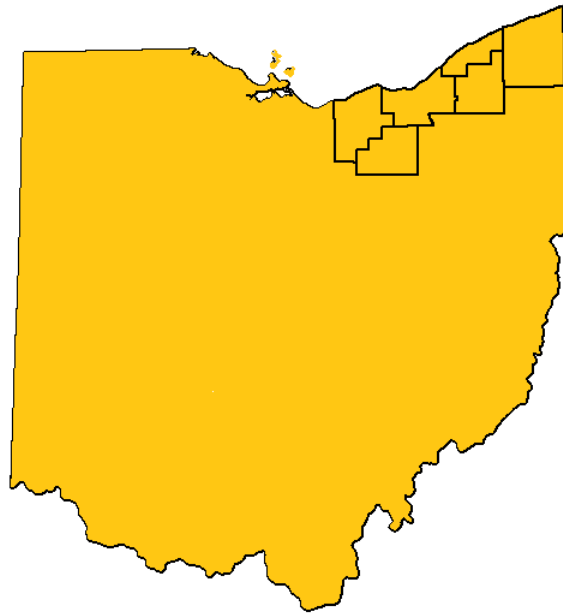


The State of Fair Housing in Northeast Ohio

April 2021



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Fair Housing Center
for Rights & Research

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About Fair Housing Center for Rights & Research

Fair Housing Center for Rights & Research (The Fair Housing Center) is a 501(c)(3) non-profit organization whose mission is to protect and expand fair housing rights, eliminate housing discrimination, and promote integrated communities. The Fair Housing Center works to achieve its mission through work in three primary areas: research and mapping; education and outreach; and enforcement of fair housing laws through testing, complaint investigation and resolution, and litigation.

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THE STATE OF FAIR HOUSING IN NORTHEAST OHIO

EXECUTIVE SUMMARY

Housing discrimination remains a problem in Northeast Ohio and in the United States. The level of discrimination that exists today, as well as the segregated living patterns of our region, result from decades of official and unofficial policies of governments at all levels; of private businesses and associations; and of individual actions by homeowners, rental agents, and others. Without these actions we might face less segregation and discrimination as a society and less economic stratification due to the effect of housing patterns have on one's life chances through access to quality schools, transportation, jobs, and a healthy environment.

This report is The Fair Housing Center's fifteenth annual comprehensive survey of fair housing for Ashtabula, Cuyahoga, Geauga, Lake, Lorain, and Medina Counties. The report finds that 53 years after the passage of the Fair Housing Act housing discrimination remains wide spread. The following are some of the key findings of the report.

1. Federal and Ohio fair housing protections have eroded.

In 2020, HUD fully repealed the *Affirmatively Furthering Fair Housing* (AFFH) regulation. AFFH created a standardized, publically-informed process for local fair housing planning. AFFH would have held jurisdictions accountable for increasing residential integration and undoing the effects of discrimination. In 2020, HUD issued a new rule making it more difficult to bring a fair housing complaint using disparate impact theory. Disparate impact theory is a legal doctrine that holds that facially neutral practices and policies may violate the Fair Housing Act if they have an unjustified discriminatory effect based on a protected class.

In 2021, the current presidential administration stated that it will review both regulations signaling forthcoming changes to both. On a positive note, HUD announced in 2021 that gender identity and sexual orientation discrimination are prohibited under the Fair Housing Act under the basis of sex and that it will immediately begin enforcement.

Ohio State courts and the state legislature have steadily reduced the protections provided under the Ohio's fair housing law. Several state court decisions have limited the statute of limitations for bringing complaints under the state's design and construction requirements for accessible, new housing. They found that the Ohio Attorney General cannot force noncompliant developers to retrofit inaccessible units as a remedy. They also found that landlords are not required to take action when their tenants are racially harassing their neighbors. Ohio judges have reduced the "substantial equivalency" of state law to federal law, jeopardizing federal funding granted to the State of Ohio to do the work of upholding civil rights.

In 2016, the Ohio General Assembly amended the state fair housing law to reduce penalties against those who violate the law and to increase the oath requirements for people trying to seek protection under the law. Both of these changes are regressive.



2. Local fair housing protections are expanding.

The City of Medina passed its first fair housing ordinance protecting people from discrimination on the bases of sexual orientation and gender identity. The City of Shaker Heights amended its fair housing law to add military status and gender identity as protected classes and removed exemptions for small housing providers. There are 61 county and municipal fair housing ordinances in Northeast Ohio. The City of Cleveland Heights added Source of Income to its fair housing protections.

3. An eviction crisis is looming. Due to decreasing housing affordability coupled with the COVID-19 Pandemic, a backlog of evictions is expected be filed in the upcoming months. A federal evictions moratorium has been extended through June 2021, but several federal courts have ruled that the moratorium is unconstitutional. As the printing of this report, some local courts are accepting moratorium declarations until the appeals process is complete.

4. Mortgage lenders deny loans to people of color at higher rates and make few loans in majority-minority neighborhoods. In Northeast Ohio, lenders deny home-purchase mortgages to African American borrowers at more than twice the rate they do to white borrowers. In Cuyahoga County, some of the largest lenders have no branch presence in majority-minority census tracts and do very little of their business in majority-minority census tracts. Across the United States, Black homeownership is decreasing.

5. The Housing Choice Voucher Program (HCVP) contributes to racial segregation because of legal discrimination. In the Cleveland metropolitan region, participants in the HCVP (89% of whom are African American) are more racially segregated than their peers at the same income level paying out of pocket for housing. Landlords in Cuyahoga County refuse to accept HCVP 91% of the time. Landlords who advertise “no Section 8” are more likely to discriminate against Black renters. It is possible that some landlords refuse to take HCVP as a legal proxy for refusing to rent to Black renters.

6. Cities in Northeast Ohio have adopted Criminal Activity Nuisance Ordinances (CANOs) as a tool for excluding the people of color, victims of domestic violence, and people with disabilities.

CANOs are laws that penalize property owners for crimes and other unwanted behaviors that take place on or near their property. CANO enforcement is triggered by a response of emergency services to a property. Landlords are fined for CANO violations and often pressured to evict tenants causing the perceived nuisance. Researchers at Cleveland State University have shown that some cities in Northeast Ohio adopted CANOs as a response to increasing racial diversity. Some disproportionately target people of color with CANO enforcement. CANOs often cause the eviction of survivors of domestic violence following an incident of domestic violence. CANO enforcement discourages people from calling police and ambulance services when they are in moments of danger. Some cities have used their CANOs to evict people in health crises following their call for an ambulance.

7. Burdensome group home regulations exclude people with disabilities from cities.

Many cities in Northeast Ohio have set minimum distance requirements for group homes. Group homes are communal living settings for people who cannot live independently due to a disability but wish to live integrated with the greater community. Even the smallest minimum distance requirements, 500ft between group homes, eliminate most available housing for use by group home residents. Some municipalities require group homes to be separated by a mile or more. Some cities regulate the residents themselves by limiting what illnesses they can have, requiring residents to have similar disabilities, or requiring that a citizen committee approve residents. Many cities have blanket bans on people with criminal histories living in group homes. Due to the racial bias of the criminal justice system in the United States, blanket bans on criminal records violate the Fair Housing Act.

II. FAIR HOUSING LAWS IN NORTHEAST OHIO

Fair housing laws exist to address the effects of housing discrimination in our society. Laws prohibiting discrimination in housing are found at the federal, state, and local level in some jurisdictions.¹ Which law or laws apply in a given situation depends on where the property in question is located and where the alleged discriminatory act occurred. Ohio law is generally broader than federal law, providing more protection to potential victims of discrimination. Some local laws provide even further protections within their communities than Ohio law, while in other communities with local legislation, Ohio law remains the broadest in terms of protection. Below is a brief summary of the federal, state, and local fair housing laws in Northeast Ohio.

A. Federal Law

1. The Federal Fair Housing Act

In 1968, Congress passed the federal Fair Housing Act (42 U.S.C. §3601, *et seq.*) to prohibit housing discrimination that was prevalent throughout the country. The Fair Housing Act makes it unlawful, because of one of the classes protected by the statute, to:

- Refuse to sell or rent a dwelling;²
- Refuse to negotiate for the sale or rental of a dwelling;
- Otherwise make unavailable or deny a dwelling;
- Discriminate in the terms, conditions, or privileges of the sale or rental of a dwelling;
- Discriminate in the provision of services or facilities in connection with a dwelling;
- Make discriminatory advertising or statements with respect to the sale or rental of a dwelling;
- Indicate any discriminatory preference or limitation with respect to the sale or rental of a dwelling;
- Misrepresent the availability of a dwelling;
- Engage in “blockbusting;”³
- Discriminate in the financing of residential real estate-related transactions;
- Discriminate in the provision of brokerage services;
- Coerce, intimidate, threaten, or interfere with any person in the exercise of his or her rights under the Act or retaliate against an individual for exercising his or her rights under the Act.

The federal Fair Housing Act prohibits discrimination based on seven grounds: race, color, religion, national origin, sex, familial status, and handicap.⁴ “Familial status” is defined under the Fair Housing Act to mean one or more individuals under 18 years of age living with a parent, legal custodian, or the designee

¹ In addition to federal, state, and local fair housing laws discussed below in this report, there are a number of other federal statutes that provide protection to individuals from discrimination in housing and mortgage lending. These statutes include: the Civil Rights Act of 1866 (42 U.S.C. §1981 and §1982), the Americans with Disabilities Act (ADA) (42 U.S.C. §1201, *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, *et seq.*), the Equal Credit Opportunity Act (15 U.S.C. §1691, *et seq.*), and the Housing and Community Development Act (42 U.S.C. §1437, *et seq.*).

² In certain circumstances, the owner of a single-family home may be exempt from coverage under the federal Fair Housing Act. In addition, under the “Mrs. Murphy” exemption, an owner-occupied complex of four or fewer units may be exempt from coverage. These exemptions do not exist under Ohio’s fair housing law.

³ “Blockbusting” refers to encouraging homeowners to sell their homes quickly (and often at below market rates) by creating a fear that members of a minority group are moving into the neighborhood.

⁴ In passing the Act in 1968, Congress prohibited discrimination based on race, color, religion, and national origin. (Civil Rights Act of 1968, Title VIII, Pub. L. No. 90-284.) Discrimination based on sex (including sexual harassment) was prohibited by a 1974 amendment. (Housing and Community Development Act of 1974, Pub. L. No. 93-383, §808.) In 1988, Congress amended the Act to include familial status and handicap as protected classes. (Fair Housing Amendments Act of 1988, Pub. L. No. 100-430.)

of such a parent or legal custodian. The provision also protects individuals in the process of securing legal custody of a minor and pregnant woman. 42 U.S.C. §3602(k).

A “handicap or disability” is defined under the Fair Housing Act to include a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment, or being regarded as having such an impairment. 42 U.S.C. §3602(h).

In 2021, HUD announced that it would begin to enforce the Fair Housing Act to prohibit discrimination on the basis of sexual orientation and gender identity. A 2021 executive order from President Biden aligned federal Fair Housing Act enforcement with the Supreme Court’s ruling in *Bostock v. Clayton County* that discrimination on the basis of sexual orientation and gender identity both fall under the protected class of sex. HUD requires jurisdictions that receive funding under the Fair Housing Assistance Program (FHAP) to administer those laws to prohibit discrimination because of gender identity and sexual orientation in order to maintain their FHAP status. In Northeast Ohio, the Ohio Civil Rights Commission and the Shaker Heights Fair Housing Review Board are FHAP agencies.⁵

The Fair Housing Act can be enforced by the U.S. Department of Justice, HUD, and through private lawsuits brought by individuals or organizations that have experienced discrimination.

2. Challenges to the Fair Housing Act

In 2018, HUD suspended the Affirmatively Furthering Fair Housing Rule (AFFH), and in 2020 it was fully repealed by HUD Secretary Ben Carson. It was replaced by the “Preserving Community and Neighborhood Choice” regulation.⁶ The Obama Era AFFH rule would have required recipients of federal funds to take *meaningful actions* (in addition to combating discrimination) that would overcome patterns of segregation and foster inclusive communities, address significant disparities in housing needs and in access to opportunity, replace segregated living patterns with truly integrated and balanced living patterns, transform racial and ethnic areas of poverty into areas of opportunity, and foster and maintain compliance with civil rights and fair housing laws.⁷ The AFFH rule was meant to replace the obligation to prepare an Analysis of Impediments to Fair Housing Choice (AI) with an Assessment of Fair Housing (AFH). The purpose of the AFH was to help recipients of federal funds undertake fair housing planning in an easier-to-use and standardized format and to lead to meaningful actions that would overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The AFH would have included an analysis of fair housing data, an assessment of fair

⁵ HUD Public Affairs, “HUD to Enforce Fair Housing Act to Prohibit Discrimination on the Basis of Sexual Orientation and Gender Identity,” (February 11, 2021).
https://www.hud.gov/press/press_releases_media_advisories/HUD_No_21_021

⁶ The United States Department of Housing and Urban Development, “Affirmatively Furthering Fair Housing: Extension of Deadline Submission of Assessment of Fair Housing for Consolidated Plan Participants,” *Federal Register* vol. 83, no. 4 (January 5, 2018).

The United States Department of Housing and Urban Development, “Secretary Carson Terminates 2015 AFFH Rule: Removal of rule returns power to localities in effort to advance fair housing nationwide,” HUD Public Affairs (July, 23, 2020).

⁷ The United States Department of Housing and Urban Development, “Affirmatively Furthering Fair Housing; Final Rule.” *Federal Register* vol. 80, no. 136 (July 16, 2015).

housing issues and contributing factors, identification of fair housing priorities and goals, and would be conducted and submitted to HUD using the Assessment Tool.⁸ The AFFH Rule improved on the AI by:

- Offering regulatory guidance on what constituted an impediment when there had previously been none;
- Requiring public participation;
- Requiring submission directly to HUD for review;
- Linking the AFH directly to a jurisdiction's consolidated plan;
- Prescribing a schedule for timely updating.⁹

Under the current rule, the Preserving Community and Neighborhood Choice regulation, jurisdictions only have to certify to HUD that they are affirmatively furthering fair housing without offering any proof or doing any meaningful work to address segregation.

In 2020, HUD issued a final rule on HUD's Implementation of Disparate Impact Standard.¹⁰ Advocates believe this regulation will make it more difficult to prove that housing discrimination took place in cases when complainants cannot prove discriminatory intent.¹¹ Disparate impact is a legal doctrine that holds that facially neutral practices and policies may violate the Fair Housing Act if they have an unjustified discriminatory effect on the basis of a protected class regardless of intent. The following is an example of the implementation of disparate impact theory from the National Fair Housing Alliance:

A city decides to prohibit all housing that would be affordable to working-class people, and that has the effect of excluding most or all people of color in that region. If that city cannot show a valid reason for its policy, or if a more fair and effective alternative is available, then the policy would have to be set aside under the disparate impact approach.¹²

In 2015, the Supreme Court upheld the use of "Disparate Impact" under the Fair Housing Act in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project*. The majority opinion states that the wording of the Fair Housing Act, specifically the phrase "otherwise make unavailable," refers to the consequence of a policy and not the actor's intent recognizing the use of disparate impact liability and that it was the intention of Congress, in 1968, to include the use of disparate impact based on the analysis of contemporary, antidiscrimination laws that were written using similar language. Furthermore, Congress recognized the use of disparate impact again in 1988 during the passage of the Fair Housing Amendments Act, where the legal precedent for disparate impact was discussed in Senate subcommittee meetings regarding the Act and through exemptions included in the FHAA that assume the existence of disparate impact. In 2015, the Court acknowledged HUD's 2013 Disparate Impact Rule and its three-part burden-shifting analysis without rejecting it. HUD's 2020 rule implements an uncommon five-pronged standard that will make showing a discriminatory effect "incredibly difficult."¹³ In 2020, a federal

⁸ The United States Department of Housing and Urban Development, "Affirmatively Furthering Fair Housing; Final Rule." *Federal Register* vol. 80, no. 136 (July 16, 2015).

⁹ National Low Income Housing Coalition, "HUD Suspends Assessment of Fair Housing Submissions until after October, 2020," January 08, 2018 <http://nlihc.org/article/hud-suspends-assessment-fair-housing-submissions-until-after-october-2020>

¹⁰ The United States Department of Housing and Urban Development, "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard." *Federal Register* vol. 85, no. 186 (September 24, 2020).

¹¹ Jamie L. Crook, "Disparate Impact," National Low Income Housing Coalition 2020 Advocate's Guide (July 3, 2020).

¹² National Fair Housing Alliance, "Disparate Impact," <http://www.nationalfairhousing.org/PublicPolicy/DisparateImpact/tabid/4264/Default.aspx>

¹³ *Texas Department of Housing and Community Affairs, et al, Petitioners v The Inclusive Communities Project, INC., et al.*, 576 US ____ (2015).

Implementation of the Fair Housing Act's Discriminatory Effects Standard; Final Rule, 78 Fed. Reg. 11460 (February 15, 2013).29, 2021)

court ordered HUD to postpone implementation of the new rule, and in 2021 HUD withdrew its appeal of the court's order.¹⁴

In 2021, President Biden ordered HUD to examine the effects of recent rule making for both AFFH and Disparate Impact standards under the Fair Housing Act, signaling the potential for changes to both rules in the future.¹⁵

B. Ohio Fair Housing Law

In Ohio, state law governing fair housing (Ohio Revised Code 4112.02(H)) covers residential property. The Ohio statute is broader than the federal Fair Housing Act in several important respects. First, Ohio law prohibits discrimination based on all of the classes protected by federal law (race, color, religion, national origin, sex, familial status, and disability). It also prohibits discrimination based on two additional grounds: “ancestry,” a somewhat different and potentially broader category than national origin, and military status. Ancestry refers to a person’s ethnic origin or descent, “roots,” or heritage, or the place of birth of the person or the person’s parents or ancestors before their arrival in the United States.¹⁶ Second, while federal law contains several provisions that exempt certain residential property from coverage, Ohio’s statute does not include these exemptions, making Ohio’s fair housing law applicable to almost all housing in the state.¹⁷

Although Ohio’s fair housing law is written in language nearly identical to the federal Fair Housing Act, a series of decisions by Ohio courts in 2007 and 2008 interpreted Ohio’s law to be inconsistent with the federal law in several key respects.¹⁸ These decisions held that the statute of limitations in design and construction cases is only one year from the issuance of the certificate of occupancy for private citizens, regardless of when they encounter the discrimination, that the Ohio Attorney General may not seek remedies to require retrofitting of inaccessible housing constructed in violation of Ohio’s fair housing law, and that landlords are not required to take action when they know that one tenant is racially harassing another tenant.¹⁹ If allowed to stand, these decisions represent limitations on fair housing rights for individuals in the state and threaten Ohio’s “substantial equivalency” status, including the work-sharing agreement between HUD and the Ohio Civil Rights Commission (OCRC) that results in substantial revenue

Jamie L. Crook, “Disparate Impact,” National Low Income Housing Coalition 2020 Advocate’s Guide (July 3, 2020).

¹⁴ Alex Roha, “HUD withdraws appeal in fair housing case,” Housing Wire (February 10, 2021). <https://www.housingwire.com/articles/hud-withdraws-appeal-in-fair-housing-case/>

¹⁵ Executive Office of the President, “Memorandum on Redressing Our Nation’s and the Federal Government’s History of Discriminatory Housing Practices and Policies,” Federal Register vol. 86 No. 18 (January 29, 2021), 7487.

¹⁶ United States Census Bureau, *Ancestry*. <https://www.census.gov/topics/population/ancestry/about.html>

¹⁷ The “Mrs. Murphy” exemption (for an owner-occupied complex of four or fewer units) and the exemption for the sale and rental of an owner’s single-family home are not included in Ohio’s fair housing law. Under both Ohio and federal law, certain noncommercial property owned by religious organizations and private clubs may be exempt from fair housing laws in certain circumstances. In addition, senior housing is exempt from the familial status provisions under both statutes. The “Mrs. Murphy” exemption is discussed on greater detail on pages 13-14.

¹⁸ See *Ohio Civil Rights Comm’n v. Triangle Real Estate Services, Inc.*, 2007 WL 1125842 (Ohio App. 10 Dist.); *Ohio Civil Rights Comm’n v. Fairmark Development, Inc.*, 2008 WL 5197160 (Ohio App. 10 Dist.); and *Ohio Civil Rights Comm’n v. Akron Metropolitan Housing Authority*, 119 Ohio St. 3d 77 (2008). A fourth decision, *Fair Housing Advocates Ass’n v. Chance*, 2008 Ohio 2603 (Ohio App. 9 Dist.), which had held that private fair housing groups do not have standing to bring cases under Ohio law, was effectively overturned by the Ohio legislature with the passage of HB 1 in 2009, which became effective on October 16, 2009. This bill, among other things, added to Ohio’s fair housing law a definition of an “aggrieved person” that is nearly identical to the federal Fair Housing Act, which has been widely interpreted as encompassing private fair housing organizations. See O.R.C. 4112.01(A)(23).

¹⁹ *Ohio Civil Rights Comm’n v. Triangle Real Estate Services, Inc.*, *supra*; *Ohio Civil Rights Comm’n v. Fairmark Development, Inc.*, *supra*; *Ohio Civil Rights Comm’n v. Akron Metropolitan Housing Authority*, *supra*.

for the OCRC to investigate and process fair housing cases in the state.²⁰ Ohio's fair housing law was amended in 2016 to eliminate punitive damages and change the oath requirements for filing complaints.²¹

C. Local Law

1. Local Fair Housing Ordinances

Numerous counties, cities, and villages in Northeast Ohio have passed ordinances or resolutions covering fair housing. Locally, three governments in Ashtabula County have passed fair housing ordinances, along with 41 in Cuyahoga County, 4 in Lake County, 9 in Lorain County, and 4 in Medina County. There are no local fair housing ordinances in Geauga County.²² While some of these ordinances provide the same protection as federal or state law, others are broader, offering protection from discrimination to additional classes of individuals.²³ The additional classes protected by cities in the region (and the number of local jurisdictions protecting them) include age (25 ordinances), marital status (20), creed (17), sexual orientation (23), disabled veteran status, and Vietnam veteran status (4), ethnic group (6), gender identity (16), military discharge status (1), occupation (1), parental status (1), physical characteristic (2), source of income (5), and association with a protected class (2).²⁴

In 2019, the City of Medina passed its first fair housing ordinance, protecting people from housing discrimination on the basis of sexual orientation and gender identity and expression.²⁵ The City of Shaker Heights updated its fair housing ordinance to add the protected classes of disability (in addition to already including "handicap"), military status, and gender identity (which was previously included as part of the definition of "sexual orientation"). The City of Shaker Heights also removed their single-family structure exemption and their Mrs. Murphy exemption (see below for more municipal exemptions).²⁶ In 2021, the City of Cleveland Heights expanding their civil rights ordinance to include "source of income" as a protected class.²⁷

Table 1 provides a comparison of the local fair housing laws passed by villages, cities, and counties in the six-county region covered by this report, including the classes protected from discrimination by each ordinance. The table also indicates which jurisdictions have a complaint procedure or a local fair housing board to investigate complaints.

²⁰ G. Michael Payton, Matthew D. Miko, "Substantial Equivalency and the Future of Fair Housing in Ohio, Symposium: New Strategies in Fair Housing," *Cleveland State Law Review* vol. 57 no. 2 (2009).

²¹ Ohio General Assembly. House. House Bill No. 463. 131st General Assembly Regular Session 2015-2016 (passed December 08, 2016).

²² For purposes of this report, we consider local fair housing ordinances to be laws that prohibit discrimination in housing transactions. Two counties (Lorain and Medina) passed resolutions making housing discrimination illegal. We have included these as fair housing ordinances. In addition to the ordinances listed here, 43 jurisdictions have ordinances criminalizing intimidation in obtaining housing. Because these ordinances are criminal intimidation statutes, we do not include them in Table 1 or this analysis of local fair housing laws.

²³ Some of these statutes are narrower than federal or state law. In those cases, the broader protections offered by state and federal law would apply.

²⁴ In 2021, due the COVID-19 pandemic, the staff of the Fair Housing Center only reviewed municipal ordinances and zoning codes available online.

²⁵ Codified Ordinance of the City of Medina § 717 (Ord. 112-19. Passed 7-8-19).

²⁶ Codified Ordinance of the City of Shaker Heights § 515 (Ord. 19-49. Passed 7-22-2019)

²⁷ Codified Ordinance of the City of Cleveland Heights. Ord. 25-2021. Passed 4-19-2021.

Fair Housing Center for Rights & Research

Ordinance		763	563	771	773	519	715	516	515	825	150	743	515	1901	628	628	1353	623	622
Complaint Process		Y	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
Fair Housing Board		N	N	N	N	N	Y	Y	N	Y	N	Y	Y	Y	Y	Y	Y	N	N
Association with a Protected Class																			
Occupation																			
Source of Income									X										
Physical Characteristic								X											
Vietnam/Disabled Vet Status																			
Military Discharge Status																			
Ethnic Group																			
Sexual Orientation		X		X				X	X	X			X	X				X	
Gender Identity		X						X	X	X								X	
Parental Status																			
Marital Status								X			X								
Creed								X			X								
Age			X	X						X	X		X	X					
Military Status (state coverage)		X							X	X	X					X		X	
Ancestry (state coverage)		X			X	X	X	X	X	X		X	X	X	X	X	X	X	X
Handicap/Disability (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Familial Status (Federal coverage)		X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	
Sex/Gender (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
National Origin (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Religion (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Color (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Race (Federal coverage)		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cuyahoga County (Continued)																			
Euclid																			
Fairview Park																			
Garfield Heights																			
Gates Mills																			
Glenwillow																			
Highland Hills																			
Lakewood																			
Linndale																			
Maple Heights																			
Mayfield Heights																			
Mayfield Village																			
Newburgh Heights																			
North Olmsted																			
North Randall																			
North Royalton																			
Oakwood																			
Olmsted Falls																			
Parma																			

Ordinance		622	749	538	515	552,1408	1484	820	113	515	553,727			1175	628	1377	1103
Complaint Process		Y	Y	N	Y	Y	N	Y	Y	N	Y			Y	Y	Y	Y
Fair Housing Board		Y	Y	N	Y	Y	N	Y	N	N	Y			Y	Y	Y	N
Association with a Protected Class						X		X									
Occupation																	
Source of Income						X		X	X								X
Physical Characteristic						X											
Vietnam/Disabled Vet Status																	
Military Discharge Status																X	
Ethnic Group						X			X								
Sexual Orientation					X	X		X	X								X
Gender Identity					X	X		X	X							X	
Parental Status																X	
Marital Status						X					X				X	X	
Creed						X			X		X				X		
Age						X		X			X						X
Military Status (state coverage)		X			X	X		X	X					X			
Ancestry (state coverage)		X	X		X	X	X	X	X	X	X			X			X
Handicap/Disability (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X		X
Familial Status (Federal coverage)		X	X	X	X	X	X	X	X	X				X			
Sex/Gender (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X	X	X
National Origin (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X	X	X
Religion (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X	X	X
Color (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X	X	X
Race (Federal coverage)		X	X	X	X	X	X	X	X	X	X			X	X	X	X
Cuyahoga County (Continued)																	
	Parma Heights																
	Richmond Heights																
	Rocky River																
	Shaker Heights																
	South Euclid																
	Strongsville																
	University Heights																
	Warrensville Heights																
	Westlake																
	Woodmere																
Lake County																	
	Mentor																
	Mentor-on-the-Lake																
	Painesville																
	Wickliffe																

Ordinance		561	725	628	136	Res. 11-525	628	1185	790	628		Ord. 610-05	Res. 81-509	717	515
Complaint Process		Y	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y
Fair Housing Board		Y	Y	Y	Y	Y	Y	N	Y	Y		N	Y	N	Y
Association with a Protected Class															
Occupation		X													
Source of Income															
Physical Characteristic															
Vietnam/Disabled Vet Status					X				X						
Military Discharge Status															
Ethnic Group					X			X	X					X	
Sexual Orientation					X			X	X					X	
Gender Identity								X							
Parental Status															
Marital Status		X		X	X		X		X			X	X		
Creed		X	X	X			X					X	X		
Age				X	X		X		X			X	X		X
Military Status (state coverage)						X		X							
Ancestry (state coverage)					X			X	X	X					
Handicap/Disability (Federal coverage)		X	X	X	X	X	X	X	X			X	X		X
Familial Status (Federal coverage)		X	X		X	X		X	X						
Sex/Gender (Federal coverage)		X	X	X	X	X	X	X	X			X	X		X
National Origin (Federal coverage)		X	X	X	X	X	X	X	X	X		X	X		X
Religion (Federal coverage)		X	X	X	X	X	X	X	X	X		X	X		X
Color (Federal coverage)		X	X	X	X	X	X	X	X	X		X	X		X
Race (Federal coverage)		X	X	X	X	X	X	X	X	X		X	X		X
	Lorain County														
	Amherst														
	Elyria														
	Grafton														
	Lorain City														
	Lorain County														
	North Ridgeville														
	Oberlin														
	Sheffield Lake														
	Vermillion														
	Medina County														
	Chippewa Lake														
	Medina County														
	Medina														
	Rittman														

2. Fair Housing Issues in Municipal Ordinances²⁸

The Fair Housing Center has identified several issues in local ordinances with potential fair housing implications.

a. Federal Exemptions and the Fair Housing Act

i. Single-Family Home and Mrs. Murphy Exemptions

The Fair Housing Act initially protected people from discrimination only on the basis of race, color, religion, and national origin. Congress later added sex, familial status, and disability.²⁹ However, a compromise was made to pass the bill in its original form in 1968. This compromise exempted certain smaller landlords from the law. Single-family homes sold or rented by a housing provider with three or fewer properties were exempt. Landlords of owner-occupied buildings with four or fewer units were also exempt. This legislative compromise is colloquially known as the “Mrs. Murphy” exemption.

These exemptions were written into the Fair Housing Act in order to pass the legislation. Some lawmakers at the time argued that owner-occupied buildings and landlords with only a few properties should be able to rent their units with fewer restrictions under the law. The exemption states that the actions prohibited in section 804 (other than subsection (c))³⁰ of the Fair Housing Act do not apply to:

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 804(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

²⁸ Local ordinances sources: American Legal Publishing Company and city and village ordinances available at local municipal law libraries.

²⁹ In passing the Act in 1968, Congress prohibited discrimination based on race, color, religion, and national origin. (Civil Rights Act of 1968, Title VIII, Pub. L. No. 90-284.) Discrimination based on sex (including sexual harassment) was prohibited by a 1974 amendment. (Housing and Community Development Act of 1974, Pub. L. No. 93-383, §808.) In 1988, Congress amended the Act to include familial status and handicap as protected classes. (Fair Housing Amendments Act of 1988, Pub. L. No. 100-430.)

³⁰ Sec. 804 (c) [42 U.S.C. 3604]: To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner actually maintains and occupies one of such living quarters as his residence.

The exemption does not apply to making, printing, or publishing an advertisement. Discriminatory statements in housing advertisements are a violation of the Federal Fair Housing Act regardless of the number of properties or units a housing provider has.

ii. Federal Exemptions and Ohio Law

Ohio Fair Housing law regulates more of the housing market than the federal law as it does not include the single-family home or Mrs. Murphy exemptions for private housing providers. All covered dwellings must comply. Landlords involved in the rental of any covered dwelling in Ohio are prohibited from discriminating based on race, color, religion, national origin, sex, ancestry, familial status, disability, or military status.

iii. Single-Family Home Exemption, Mrs. Murphy Exemption, and Local Laws

Local cities and villages often have their own fair housing ordinances. These ordinances offer additional protection to groups of people who are not included under state or federal law. Some examples of additional protected classes covered in Northeast Ohio are sexual orientation, gender identity, occupation, source of income, and age.

The single-family home and Mrs. Murphy exemptions appear in a number of fair housing ordinances in cities and villages with additional protected classes. The effect of these exemptions in local fair housing ordinances is that small housing providers may be exempt from claims of housing discrimination on the basis of a protected class afforded only under local law. Cities and villages that amend their ordinances and expand protections to prohibit discrimination on additional bases effectively do so to some properties and housing transactions, but not all. This could have a particular impact on communities that have a large number of duplexes, four unit, and single-family homes. The Fair Housing Center reviewed fair housing ordinances for every village and city in Northeast Ohio that has a fair housing ordinance for the presence of single-family housing exemptions and the “Mrs. Murphy” exemption and identified the following:

Cuyahoga County³¹

City or Village	Single-Family Home Exemption	Mrs. Murphy Exemption
Brooklyn	Yes	Yes
Euclid	No	Yes ³²
Gates Mills	Yes	Yes
Highland Hills	Yes	Yes ³³
Mayfield Village	Yes	Yes
Newburgh Heights	Yes	Yes
North Olmsted	Yes	Yes
North Randall	Yes	Yes
Oakwood	Yes	Yes
Parma	Yes	Yes ³⁴
Parma Heights	Yes	Yes
South Euclid	Yes	Yes

Lorain County³⁵

City or Village	Single-Family Home Exemption	Mrs. Murphy Exemption
Elyria	Yes	Yes

b. Domestic Violence and Housing Discrimination

Domestic violence disproportionately impacts women, with one in four women experiencing domestic violence in her lifetime. Women are five times more likely to be survivors of domestic violence (hereafter, “survivors”) than men. Survivors often face housing insecurity as a result of domestic violence, including housing discrimination due to their status as survivors and possible loss of current housing due to criminal activity nuisance ordinances.

In 2019, The Fair Housing Center released a report on housing discrimination experienced by survivors in Cuyahoga County. Twenty percent of survivors surveyed for this report responded that they struggled to find new housing following an act of domestic violence; 16.7% responded that they faced homelessness. Thirteen percent responded that they were evicted because of domestic violence.

³¹ Codified Ordinances of the City of Brooklyn § 745.03 (Ord. 2010-46. Passed 9-27-10.). Codified Ordinances of the City of Euclid § 763.04 (Ord. 141-1992. Passed 6-1-92.). Codified Ordinances of the Village of Gates Mills § 773.03 (Ord. 2001-13. Passed 3-13-01.). Codified Ordinances of the City of Highland Hills § 715.03 (Ord. 2000-58. Passed 10-11-00.). Codified Ordinances of the Village of Mayfield § 743.03 (Ord. 98-12. Passed 2-16-98). Codified Ordinances of the Village of Newburgh Heights § 515.05 (Ord. 2010-36. Passed 9-21-10.). Codified Ordinance of the City of North Olmsted § 1901.05 (Ord. 2000-76. Passed 7-5-00.). Codified Ordinances of the Village of North Randall § 628.04 (Ord. 1996-4. Passed 2-12-96). Codified Ordinances of the Village of Oakwood § 1353.03 (Ord. 2002-38. Passed 10-8-02.). Codified Ordinances of the City of Parma § 622.03 (Ord. 142-88. Passed 6-20-88.). Codified Ordinances of the City of Parma Heights § 622.03 (Ord. 2011-38. Passed 12-28-11.). Codified Ordinances of the City of South Euclid § 1408.03 (Ord. 9-98. Passed 2-23-98; Ord. 76-02. Passed 12-23-02.).

³² Exemption only applies to owner-occupied duplexes

³³ Exemption on the basis of family status only

³⁴ Exemption only applies to owner-occupied duplexes

³⁵ Codified Ordinances of the City of Elyria § 725.10 (Ord. 96-98. Passed 5-6-96.)

Multiple systems work to discourage survivors from contacting emergency services, including criminal activity nuisance ordinances, law enforcement, and child services. Twenty percent of survivors surveyed in Cuyahoga County reported they had refrained from calling 911 concerning domestic violence for fear of eviction or that child services would remove their children from their home. Survivors face housing discrimination because of their history of domestic violence through unfavorable treatment from landlords, denial of access to housing, and eviction in both the private and subsidized housing markets. Thirty percent of surveyed survivors reported experiencing housing discrimination.

The Fair Housing Center used matched-pair phone and email testing to measure the incidence of discrimination occurring towards survivors in their search for housing in Cuyahoga County. Testing pairs included: A) an African American survivor or advocate for survivors (the protected tester) and an African American tester not associated with domestic violence (control tester); and B) a white survivor or advocate and a white control tester. In 92 conclusive tests, 35.9% revealed unfavorable treatment of the protected tester. Testers posing as a survivor experienced unfavorable treatment 34.0% of the time (17 of 50 total tests). Testers posing as advocates contacting housing providers on behalf of survivors experienced unfavorable treatment 38.1% of the time (16 of 42 total tests).³⁶

i. Criminal Activity Nuisance Ordinances

Criminal activity nuisance ordinances (CANOs) are municipal laws that penalize property owners for occurrences of crime and other “nuisance behaviors” on or near their property. Such laws list specific behaviors that are classified as a nuisance. Often, CANOs define a timeline wherein if a specified number of “nuisance” activities occur, the jurisdiction will require the property owner to “abate” the nuisance or face a penalty.

Eviction is the most common landlord response to a nuisance notification. This increases housing instability and can exacerbate behavior that triggered the nuisance citation, such as domestic violence. Once a person has an eviction record, it is much more difficult to obtain housing. Survivors of domestic violence may not have the immediate financial means available to secure alternate housing. Many survivors face homelessness upon eviction. Threats of eviction or a nuisance citation may also cause a survivor to avoid calling the police for assistance, fearing a phone call for help could jeopardize their current and future housing options.

In many jurisdictions, a notice of the nuisance only goes to the property owner, not the tenant, and allows only the property owner to challenge the nuisance designation. This raises concerns of a tenant’s Fourteenth Amendment right to due process when they are not given the notice or opportunity to defend against the allegations or designation as a nuisance activity.³⁷ Additionally, it raises concerns regarding a tenant’s First Amendment right to petition the government, which includes their right to contact local emergency services.³⁸

A Milwaukee-based study showed that residents in African American neighborhoods disproportionately received nuisance property citations and that a third of all citations were generated by incidents of domestic

³⁶ Michael Lepley & Lenore Mangiarelli, “Domestic Violence Survivor Housing Discrimination in Cuyahoga County,” Fair Housing Center for Rights & Research, February 2019. Available at: <http://www.thehousingcenter.org/wp-content/uploads/2019/03/Domestic-Violence-Discrimination-Study-Final.pdf>

³⁷ Joseph Mead, Megan E. Hatch, J. Rosie Tighe, Marissa Pappas, Kristi Andrasik, “Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio,” Cleveland State University, 2017.

³⁸ American Civil Liberties Union, “Somai v. City of Bedford,” September 22, 2020). <https://www.aclu.org/cases/somai-v-city-bedford-oh>

violence. In 78% of cases where landlords received a citation, landlords abated nuisance citations by discouraging tenants from calling 911, threatening to evict, or actually evicting the tenants.³⁹

There are 36 CANOs in Northeast Ohio, 13 (36.1%) of which include domestic violence as a nuisance activity. Municipalities use CANO enforcement as a tool for the control and exclusion of vulnerable renters. Some municipalities in Cuyahoga County adopted CANOs as a response to residents' racial and economic bias against incoming renters, particularly renters of color and renters using housing subsidies such as the Housing Choice Voucher. Some cities use CANOs to evict Housing Choice Voucher Program participants by crosschecking alleged nuisance activity against lists of HCVP renters and requesting that the housing authority revoke the vouchers from these tenants. CANOs are used to target minor, non-criminal behaviors. The mere record that a landlord or other residents believe that criminal activity has occurred on the premise counts against the resident.⁴⁰

Municipalities use CANOs to penalize and remove renters experiencing mental health crises, drug addiction, and domestic violence when they called emergency services. Some city law directors in Cuyahoga County actively encourage property owners to use eviction as a remedy to avoid CANO penalties. CANOs have the effect of discouraging renters from calling emergency services, destabilizing their housing, and increasing homelessness. CANOs disproportionately affect people of color, renters (particularly participants of the housing choice voucher program), survivors of domestic violence, and people with disabilities and may violate the federal Fair Housing Act.⁴¹ Throughout Cuyahoga County, enforcement of criminal activity nuisance ordinances varies. Researchers at Cleveland State University showed that more than half of CANO letters are sent in some cities in response to domestic violence incidents. These letters often result in evictions of the survivor of domestic violence.⁴² Several U.S. cities had settled Fair Housing Act complaints when their CANO enforcement caused the eviction of survivors of domestic violence.⁴³

In 2020, The Fair Housing Center was party to a lawsuit against the City of Bedford, Ohio, along with Ms. Beverly Somai. The lawsuit alleged that Bedford's CANO violated Ms. Somai's First Amendment rights, Fourteenth Amendment rights, and her federal and state fair housing protections when enforcement of that CANO led to her eviction. Ms. Somai and The Fair Housing Center were represented by the ACLU and the ACLU of Ohio. Additionally, the Legal Aid Society of Cleveland represented Ms. Somai. The case settled, and the City of Bedford agreed to repeal its CANO in the fall of 2020.⁴⁴ The City of Bedford agreed to consider implementing a restorative justice program for instances of repeated low-level criminal misconduct.

³⁹ Matthew Desmond and Nicol Valdez, "Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner City Women," *American Sociological Review* 78(1) 117-131, 2012.

⁴⁰ Mead, et al., "Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio," Cleveland State University, 2017.

⁴¹ "Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHA) and the Violence Against Women Act (VAWA)," *U.S. Department of Housing and Urban Development*, 2011.

⁴² Mead, et. al., "Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio," Cleveland State University, 2017.

⁴³ *Briggs v. Borough of Norristown, et al.* No. 2:13-cv-02191-ER *ED Pa. filed Apr. 29, 2013.

Nancy Markham v. City of Surprise, et al. 2:15-cv-01696-SRB Filed Sept. 2, 2015.

Rosetta Watson v. City of Maplewood, Missouri: 4:17-cv-1269 Filed April 7, 2017.

⁴⁴ American Civil Liberties Union, "Somai v. City of Bedford," September 22, 2020).
<https://www.aclu.org/cases/somai-v-city-bedford-oh>

The Fair Housing Center reviewed ordinances for every municipality in Northeast Ohio and identified the following (those that include “domestic violence” as a nuisance activity are marked with an asterisk*):

Ashtabula County:⁴⁵

- Ashtabula
- Geneva-on-the-Lake*

Cuyahoga County:⁴⁶

- Bedford Heights
- Berea
- Brooklyn
- Cleveland
- Cleveland Heights
- Cuyahoga Heights*
- East Cleveland
- Euclid
- Fairview Park*
- Garfield Heights
- Independence*
- Lakewood
- Lyndhurst
- Maple Heights
- Mayfield Heights

⁴⁵ Codified Ordinances of the City of Ashtabula § 521 (Ord. 2011-36. Passed 3-7-11). Codified Ordinances of the Village of Geneva-on-the-Lake § 151 (Ord. 2012-53. Passed 8-6-12).

⁴⁶ Codified Ordinances of the City of Bedford § 511.12 (Ord. 9523-17. Passed 9-18-17). Codified Ordinances of the City of Bedford Heights § 561.01(Ord. 2007-089. Passed 4-17-07). Codified Ordinances of the City of Berea § 931.02 (Ord. 2009-1. Passed 1-5-09). Codified Ordinances of the City of Brooklyn § 503.01(Ord. 2005-19. Passed 5-23-05). Codified Ordinances of the City of Cleveland § 630.01(Ord. No. 574-18. Passed 5-14-18, eff. 5-15-18). Codified Ordinances of the City of Cleveland Heights § 553.01(Ord. 122-2015. Passed 11-2-15). Codified Ordinances of the Village of Cuyahoga Heights § 680.07 (Ord. 2012-98. Passed 10-10-12). Codified Ordinances of the City of East Cleveland § 1315.01 (Ord. 98-04. Passed 6-29-04). Codified Ordinances of the City of Euclid § 529.07 (Ord. 86-2006. Passed 5-15-06; Ord. 179-2006. Passed 10-16-06; Ord. 134-2010. Passed 10-4-10. Ordinance amended and passed on 12/19/2016, Ordinance No.145-2016). Codified Ordinances of the City of Fairview Park § 509.18 (Ord. 04-33. Passed 12-20-04). Codified Ordinances of the City of Garfield Heights § 555.01 (Ord. 13-2017. Passed 2-27-17). Codified Ordinances of the City of Independence § 663.02 (Ord. 2018-6. Passed 3-13-18). Codified Ordinances of the City of Lakewood § 510.01 (Ord. 22-18. Passed 7-2-2018.). Codified Ordinances of the City of Lyndhurst § 161.01 (Ord. 2017-11. Passed 2-20-17). Codified Ordinances of the City of Maple Heights §680 (Ord. 2016-106). Codified Ordinances of the City of Mayfield Heights §153.02 (Ord. 2017-6. Passed 1-23-17; Ord. 2017-8. Passed 3-13-17). Codified Ordinances of the Village of Newburgh Heights §1355.01 (Ord. 2007-27. Passed 9-18-07). Codified Ordinances of the City of North Olmsted §561.01 (Ord. 2018-19. Passed 3-20-18.). Codified Ordinances of the Village of Oakwood §122.01 (Ord. 2011-54. Passed 10-25-11). Codified Ordinances of the City of Parma § 606.31 (Ord. 220-04. Passed 6-20-05; Ord. 178-12. Passed 9-17-12; Ord. 160-16. Passed 8-1-16; Ord. 61-17. Passed 5-1-17). Codified Ordinances of the City of Seven Hills §565.02 (Ord. 95-2015. Passed 10-13-15). Codified Ordinances of the City of Shaker Heights §109.01 (Ord. 16-109. Enacted 10-24-16). Codified Ordinances of the City of South Euclid § 531.09 (Ord. 41-04. Passed 7-26-04; Ord. 35-06. Passed 6-26-06; Ord. 10-08. Passed 3-24-08; Ord. 36-11. Passed 3-26-12; Ord. 27-12. Passed 2-11-13; Ord. 08-17. Passed 6-12-17). Codified Ordinances of the City of University Heights § 648.17 (Ord. 2004-42. Passed 11-14-2004; Ord. 2007-66. Passed 11-19-2007.) Codified Ordinances of the City of Warrensville Heights § 550.01 (Ord. 2016-036. Passed 2-16-16). Codified Ordinances of the Village of Woodmere § 551.07 (Ord. 2014-106. Passed 11-12-14).

- Newburgh Heights*
- North Olmsted
- Oakwood
- Parma
- Seven Hills*
- Shaker Heights
- South Euclid
- University Heights
- Warrensville Heights*
- Woodmere*

Lake County:⁴⁷

- Fairport Harbor
- Mentor-on-the-Lake
- Painesville

Lorain County:⁴⁸

- Avon Lake*
- Sheffield Lake*
- Wellington*

Medina County:⁴⁹

- Brunswick
- Rittman*
- Wadsworth*

ii. The Reauthorization of the *Violence Against Women Act (VAWA)*

The 2005 reauthorization of VAWA addressed issues specifically confronting victims of domestic violence who live in federally-funded Public Housing or Project-Based Subsidized Housing or who participate in the Housing Choice Voucher Program. This law offered special protections and included an exemption to the “one strike” rule for victims of domestic violence.⁵⁰ VAWA 2005 policies:

⁴⁷ Codified Ordinances of the Village of Fairport Harbor § 521 (Ord. 2006-39. Passed 4-4-06. Codified Ordinances of the City of Mentor on the Lake § 606.31 (Ord. 2009-O-07. Passed 3-24-09). Codified Ordinances of the City of Painesville § 508.20 (Ord. 22-08. Passed 11-3-08).

⁴⁸ Codified Ordinances of the City of Avon Lake § 662.01 (Ord. 54-2015. Passed 4-13-15). Codified Ordinances of the City of Sheffield Lake § 1395.25 (Ord. 1-14. Passed 1-14-14). Codified Ordinances of the City of Wellington § 501.14 (Ord. 2016-17. Passed 6-20-16).

⁴⁹ Codified Ordinances of the City of Brunswick § 678 (Ord. 69-05. Passed 7-18-05). Codified Ordinances of the City of Rittman § 521.10 (Ord. 7909, passed 3-12-12. Ord. 7909, passed 12-7-15). Codified Ordinances of the City of Wadsworth § 93.70 (Ord. 13-039, passed 7-16-13).

⁵⁰ “The Impact of Domestic Violence Against Women Act 2005 (VAWA) on the Housing Rights and Options of Survivors of Domestic and Sexual Violence.” *National Law Center on Homelessness & Poverty*. <http://www.ncdsv.org/images/ImpactofVAWAHousingFAQ.pdf>

- Prohibited public housing authorities (PHAs) from denying admission to victims of domestic violence.
- Prohibited evictions in Public Housing, Project-Based Housing, and the Housing Choice Voucher program based on being a victim of domestic violence.
- Prohibited the termination of assistance, tenancy, or occupancy rights for victims of domestic violence.

VAWA was most recently reauthorized in 2013 and expanded the housing programs covered under the law. In addition to Public Housing, Project-Based Housing, and the Housing Choice Voucher Program, the following federally subsidized housing programs are now included in VAWA 2013:

- HOME Investment Partnerships Program
- Section 202 Supportive Housing for the Elderly
- Section 236 Rental Program
- Section 811 Supportive Housing for People with Disabilities
- Section 221 (d)(3) Below Market Interest Rate (BMIR) Program
- HOPWA Housing Program
- HUD's McKinney-Vento homeless programs
- Low-Income Housing Tax Credit (LIHTC) properties (Department of the Treasury)
- USDA Rural Housing Properties (Department of Agriculture)

VAWA (2013) also:

- Created emergency housing transfer options for victims of domestic violence.
- Gave tribal courts recourse against non-Native offenders.
- Protected lesbian, gay, bisexual, and transgender victims of domestic violence.
- Gave victims of domestic violence the right to self-certify.
- Offered additional protections for immigrant victims of domestic violence.⁵¹

In November 2016, the VAWA final rule implemented the requirements of VAWA 2013 per HUD regulations. In June 2017, HUD issued VAWA 2013 guidance for multi-family owners and management agents. The 2017 guidance outlines adverse rental factors that may be the direct result of domestic violence, such as poor credit history, poor rental history, criminal record, or failure to pay rent and methods to determine when the factors are the direct result of domestic violence, allowing for a nuanced evaluation of a domestic violence survivors' rental history. The guidance reaffirms that all fair housing and civil rights laws apply to victims of domestic violence.⁵²

VAWA was up for reauthorization in 2018 and was introduced into the House of Representatives in July 2018. Funding for the program was extended first to December 7th and then to December 21st.⁵³ Due to the government shutdown, VAWA was not re-authorized and expired on December 21st. Grants that had already been awarded under VAWA were not affected, but all future payment requests from programs that receive VAWA funding will be delayed until the law is re-authorized. VAWA 2018 policies include prohibiting the

⁵¹ Sandra B. Henriquez, "New Housing Protections in VAWA 2013," U.S. Department of Housing and Urban Development (2013)

United States Department of Housing and Urban Development, "Violence Against Women Reauthorization Act of 2013: Implementation in HUD Housing Programs," *Federal Register* vol. 81, on 221 (November 16, 2016).

⁵² "Violence Against Women Act (VAWA) Reauthorization Act of 2013—Additional Guidance for Multifamily Owners and Management Agents," U.S. Department of Housing and Urban Development, June 2017.

⁵³ H.R.6546—Violence Against Women Reauthorization Act of 2018, 115th Congress (2017-2018) via <https://www.congress.gov/bill/115th-congress/house-bill/6545/all-actions>

sale of firearms to people subject to protection orders and to persons convicted of stalking.⁵⁴ VAWA protections were extended until February 15, 2019, following the re-opening of the government.⁵⁵ On April 4, 2019, the House of Representatives passed a bill re-authorizing VAWA, but the leadership of the Senate would not bring VAWA to the floor for a vote.⁵⁶ On March 17, 2021, the House of Representatives voted to reauthorize VAWA.⁵⁷

iii. Ohio: Domestic Violence and Private Rental Housing

States across the nation have enacted laws to protect victims of domestic violence in private rental housing. Twenty-four states and localities have eviction defense laws for survivors of domestic violence, 27 have early release termination laws, 18 have lock change laws, seven allow lease bifurcations, 15 have laws protecting survivor-tenant's right to call the police or emergency assistance, 40 permit courts to exclude the abuser from property and grant possession of the property to the survivor, 18 require the abuser to pay for or provide housing for the survivor, 11 impose liability on the abuser for damages to the unit, 5 provide relocation assistance or right to emergency transfer, and 44 have laws pertaining to confidentiality of housing records and address confidentiality. The state of Ohio provides address confidentiality, a petitioner's right to obtain a protection order, orders to exclude the restrained party from the petitioner's residence, and orders allowing the restrained party to provide suitable alternate housing in the case of a consent agreement.⁵⁸ In February 2018, House Bill 1 was passed by both the Ohio House and the Ohio Senate, which authorized dating violence protection orders for victims of intimate partner violence.⁵⁹

c. Evictions and Fair Housing

i. Covid-19 and the Eviction Crisis

A housing crisis is looming in the United States due to wage and job loss and the economic downturn of the COVID-19 Pandemic. Thirty to forty million renters, disproportionately people of color, are at risk for eviction, with an additional 3 million homeowners facing foreclosure.⁶⁰ National and local eviction moratoriums have kept people in their homes and slowed the spread of COVID-19 (by as much as 11%) by keeping families off the streets and out of the shelter system.⁶¹ According to Eviction Lab, the State of Ohio

⁵⁴ Jenny Gathright, "Violence Against Women Act Expires Because of Government Shutdown," NPR Politics, Published December 24, 2018 <https://www.npr.org/2018/12/24/679838115/violence-against-women-act-expires-because-of-government-shutdown>

⁵⁵ Sanjana Karanth, "Violence Against Women Act Extended Thanks to Shutdown Ending," Huffington Post, Published January 27, 2019, https://www.huffingtonpost.com/entry/violence-against-women-act-expired-extended-government-shutdown_us_5c4e71abe4b06ba6d3be72e9

⁵⁶ Matthew Daly, "House Passes Violence against Women Act with New Provision Against 'Boyfriend Loophole'," Time Magazine, April 4, 2019. <http://time.com/5564467/house-passes-violence-against-women-act/>

⁵⁷ Susan Davis, "House Renews Violence Against Women Act, But Senate Hurdles Remain," National Public Radio (March 12, 2021) <https://www.npr.org/2021/03/17/977842441/house-renews-violence-against-women-act-but-senate-hurdles-remain>

⁵⁸ National Housing Law Project, "Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium," December 2017.

<https://www.nhlp.org/wp-content/uploads/2018/07/2017-DV-State-and-Local-Housing-Laws-Compendium.pdf>

⁵⁹ House Bill 1, "Authorize dating violence protection orders," General Assembly 132, The Ohio Legislature (2018).

⁶⁰ Emily Benfer, David Bloom Robinson, Stacy Butler, et. al., "The COVID-19 Eviction Crisis: an Estimated 30-40 Million People in America Are at Risk," Aspen Institute (August 7, 2020). <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>

⁶¹ Amy Norton, "Bans on Evictions, Utility Shutoffs are Curbing COVID Infections: Study," U.S. News & World Report

has done relatively little to protect renters or enhance renters' rights during the COVID-19 Pandemic in comparison to other states, only passing federal stabilization funding on to the local governments.⁶² In 2020, Cleveland saw a 30% reduction in unsheltered people, but the effects of the pandemic could be felt for years after.⁶³ The Center for Disease Control's national eviction moratorium is currently extended through June 30 of 2021.⁶⁴ Federal courts have found that the federal government lacks authority to implement a nationwide eviction moratorium, but have not halted the order.⁶⁵

Eviction moratoriums do not address that amount of back rent owed by U.S. renters. It is estimated that U.S. renters are collectively more than 57 billion dollars behind on rent.⁶⁶ In 2020, most counties and some cities issued tens of millions of dollars for rent and utility relief for qualifying households allocated through the federal CARES Act.⁶⁷ In Northeast Ohio, the foundation community came together and committed 3.5 million dollars in relief funding, some of which cover residents' back rent not eligible for CARES Act funding.⁶⁸

ii. Evictions

People of color, women, families with children, and people with disabilities are at increased risk of eviction.⁶⁹ One in five African American women report having been evicted at some point in their life; 1 in 12 Hispanic women and 1 in 15 white women also report eviction.⁷⁰ The presence of children is a significant

(February 8, 2021). <https://www.usnews.com/news/health-news/articles/2021-02-08/bans-on-evictions-utility-shutoffs-are-curbing-covid-infections-study>

⁶² Eviction Lab, *COVID-19 Housing Policy Scorecard: Ohio* <https://evictionlab.org/covid-policy-scorecard/oh/>

⁶³ Connor Morris, "Cleveland saw a decrease in unsheltered homelessness in 2020; can that continue?" *Cleveland.com* (February 5, 2021). <https://www.cleveland.com/news/2021/02/cleveland-saw-a-decrease-in-unsheltered-homelessness-in-2020-can-that-continue.html>

⁶⁴ Center for Disease Control and Prevention, "Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19," Order Under Section 361 pf the Public Health Service Act (March 29, 2021) <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-03292021.pdf>

⁶⁵ Erik Heisig, "CDC extends eviction moratorium as court challenges in Ohio, nationwide threaten measure's future," *Cleveland.com* (March 29, 2021) <https://www.cleveland.com/realestate-news/2021/03/cdc-extends-eviction-moratorium-as-court-challenges-in-ohio-nationwide-threaten-measures-future.html>

⁶⁶ Amy Norton, "Bans on Evictions, Utility Shutoffs are Curbing COVID Infections: Study," *U.S. News & World Report* (February 8, 2021).

⁶⁷ Ashtabula County: <https://communityaction.wixsite.com/accaa>
Cuyahoga County: <https://chnhousingpartners.org/rentalassistance/#tenant>
City of Lakewood: <https://www.lcsclakewood.org/rental-assistance>
City of Parma: <http://cityofparma-oh.gov/en-US/Residential-Services.aspx>
Geauga County: <https://www.geaugajfs.org/rent-and-utility-assistance-o>
Lake County: <https://fhrc.org/ohio-coronavirus-relief-fund/>
Lorain County: https://www.lccaa.net/programs/cares_programs-covid_relief
Medina County: <https://www.cawm.org/community-action-wayne-medina-home-relief-grant/>

⁶⁸ The Cleveland Foundation, "Greater Cleveland COVID-19 Rapid Response Fund," (February 9, 2021). <https://www.clevelandfoundation.org/news/covid-19/response-fund/>

Dan Polletta, "Eviction aid: Slavic Village Development helps residents struggling with rent," *Fresh Water* (January 27, 2021). <https://www.freshwatercleveland.com/features/EvictionHelp012721.aspx>

⁶⁹ George Lipsitz, "In an Avalanche Every Snowflake Pleads Not Guilty: The Collateral Consequences of Mass Incarceration and Impediments to Women's Fair Housing Rights," 59 *UCLA L. Rev.* 1746 (2012).

Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," 118 *American Journal of Sociology*, 88, 120 (2012).

⁷⁰ Matthew Desmond, "Unaffordable America: Poverty, housing, and eviction," University of Wisconsin-Madison

predictor of eviction.⁷¹ Persons with severe and persistent mental illness are often evicted from housing for reasons that are related to their disability, in violation of state and federal laws.⁷² A 2019 study of evictions in Cleveland showed that 78% of evictions filed were against female heads of household, 77% were against African American households, and 60% were filed against households with children.⁷³

Evictions of people of color are not just isolated incidents with individual landlords but a symptom of a larger legacy of discrimination through policies that perpetuate racial residential segregation, the wealth gap, and poverty among communities of color.⁷⁴ Evictions are the most common response landlords give to nuisance citations; housing instability following eviction places individuals in increasingly vulnerable situations, including homelessness, unsafe housing, inability to acquire new housing given their eviction record, loss of job, or disruption of children's schooling.⁷⁵ A Milwaukee study showed that citations for nuisance violations are issued most frequently in communities of color and routinely lead to evictions.⁷⁶ Court-filed evictions account for just 24% of forced moves in the study; such evictions represent a fraction of all forced moves, revealing significant housing instability and vulnerability for low-income renters.⁷⁷

An individual could face discrimination based on their eviction record by landlords and tenant screening companies when attempting to acquire new housing. Tenant screening services often use court databases to obtain information on a tenant's eviction record; however, this can be problematic because the report may lack critical details as to the outcome of the case or if the file was dropped. Such screening commonly results in adverse action by the landlord, such as requiring an increased security deposit or a co-signer or altogether denying the tenant access to their housing.⁷⁸

Case law suggests that fair housing law covers discriminatory evictions.⁷⁹ The Ninth Circuit held that the FHA does pertain to "post-acquisition (of housing) discrimination."⁸⁰ If a tenant can prove that the

Institute for Research on Poverty, *Fast Focus*, No. 22-2015 (March 2015).

⁷¹ Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," 118 *American Journal of Sociology*, 88, 120 (2012).

⁷² Meghan Carter, "How Evictions from Subsidized Housing Routinely Violate the Rights of Persons with Mental Illness," *Northwestern Journal of Law & Social Policy*, Vol. 5, Issue 1, Article 5, Spring 2010.

⁷³ Francisca García-Cobán Richter, April Hirsh Urban, Claudia Coulton, et. al., *The Cleveland Eviction Study: Downstream Paths of Evictions into Homelessness and Loss of Human Capital*. The Center on Urban Poverty and Community Development, Case Western Reserve University (October 2019).

⁷⁴ Matthew Desmond, *Evicted: Poverty and Profit in the American City*, The Crown Publishing Group: Penguin Random House, LLC, New York (2016).

⁷⁵ Joseph Mead, et al, "Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio," Cleveland State University office of Research (November 2017).

⁷⁶ Matthew Desmond, *Evicted: Poverty and Profit in the American City*, The Crown Publishing Group: Penguin Random House, LLC, New York (2016).

⁷⁷ Andrew Flowers, "How We Undercounted Evictions By Asking The Wrong Questions," *FiveThirtyEight*, September 15, 2016. <https://fivethirtyeight.com/features/how-we-undercounted-evictions-by-asking-the-wrong-questions/>

⁷⁸ Merf Ehman, "Fair Housing Disparate Impact Claims Based on the Use of Criminal and Eviction Records in Tenant Screening Policies," Institutions Project of Columbia Legal Services, updated September 2015.

⁷⁹ Merf Ehman, "Fair Housing Disparate Impact Claims Based on the Use of Criminal and Eviction Records in Tenant Screening Policies," Institutions Project of Columbia Legal Services, updated September 2015 *citing*: HUD regulation that interprets Section 3604(1), prohibits "employing codes or other devices to segregate or reject applicants." 24 CFR § 100.70(d)(2).

Inland Mediation Bd. V. City of Pomona, 158 F. Supp. 2d 1120, 1145-46 (C.D. Cal. 2001).

⁸⁰ *Comm. Concerning Cmty. Improvement v. City of Modesto*, 583 F.3d 690, 713 (9th Cir. 2009)

landlord's motivation for evicting was discriminatory, the tenant would be able to bring a claim under the Fair Housing Act; however, proving clear discriminatory intentions outside of legitimate business needs as it relates to evictions could prove challenging. A fair housing claim of discrimination in eviction screening by a landlord or by tenant screening companies would require a disparate impact liability analysis; the plaintiff would need to prove that the practice of eviction by a landlord had a disproportionately adverse effect on a protected class or a plaintiff would need to prove that a facially neutral policy has a discriminatory effect in the case of the screening company.⁸¹

There were over 8,000 incoming filings in Cleveland in 2019; most landlords have legal representation in housing court, while most tenants do not. Most tenants lose the eviction case, leading to housing instability and even homelessness. Only 1 to 2% of tenants in Cleveland are represented by counsel; if represented, it is usually by a Legal Aid attorney.⁸² An individual has the right to a public defender in criminal cases only, not in civil cases such as those in housing court. To address this problem, the Housing Justice Alliance (HJA) was recently established. HJA is a pilot program for the Cleveland Housing Court led by The Legal Aid Society of Cleveland that offers no-cost legal counsel in housing cases, particularly for an individual or family facing an eviction in housing court. This is the first program of its kind in Ohio and in the Midwest.⁸³

Cleveland Housing Court launched a new program on January 1, 2019, to permit the sealing of eviction records. Within the State of Ohio, eviction records cannot be expunged. However, the Cleveland Housing Court program allows a tenant to move (under certain stipulations) to seal the record if the eviction case pertains to an address in the City of Cleveland. In sealing the record, the eviction is redacted from the housing court system, but not the public record. A tenant is eligible to put forth this motion if a) the tenant won the case (settled or dismissed), yet the filing exists on his or her record even though there was no eviction judgment; or b) if the tenant was evicted five years ago, does not owe the landlord money, and has not had an eviction since.⁸⁴

Landlords can legally deny a person with an eviction record. The program to seal eviction records can thus protect some tenants from discrimination based on their eviction history through tenant screening by preventing the eviction record from appearing online or being available at the clerk's office. However, tenants with a sealed eviction record must continue to answer truthfully on a rental application about their eviction history, as the sealing of a civil record differs from the expungement of a criminal record (in which a prospective tenant can report that they do not have a criminal history after the expungement).⁸⁵ The program to seal the eviction record is limited, as tenants may still be subject to adverse actions from a housing provider due to the application questions regarding eviction history.

On July 1st, 2020, the Legal Aid Society of Cleveland and United Way of Great Cleveland launched its "Right to Counsel" program. Under this program, low-income families with children living in the City of Cleveland have a right to legal representation during eviction proceedings. In the first six months of the program, Legal Aid represented 93% of eligible households and was able to avoid eviction due to the federal eviction moratorium.⁸⁶

⁸¹ Merf Ehman, "Fair Housing Disparate Impact Claims Based on the Use of Criminal and Eviction Records in Tenant Screening Policies," Institutions Project of Columbia Legal Services, updated September 2015.

⁸² The Legal Aid Society of Cleveland, *Housing Justice Alliance*, <https://lasclev.org/get-help/community-engagement/housing-justice-alliance/>

⁸³ Ibid.

⁸⁴ Rachel Dissell, "Cleveland Housing Court sets new rules to make requests to seal evictions easier," The Plain Dealer, December 2018, <https://www.cleveland.com/metro/2018/12/cleveland-housing-court-sets-new-rules-to-make-requests-to-seal-evictions-easier.html>

⁸⁵ Rachel Dissell, "Cleveland Housing Court sets new rules to make requests to seal evictions easier," The Plain Dealer, December 2018.

⁸⁶ Dave DeNatale, "Report: 93% of evictions in Cleveland were prevented during the first six months of Right to Counsel program," WKYC Studios (February 10, 2021).

Ohio is one of five states that landlords file an eviction as soon as one payment is missed. Several city councils in Cuyahoga County are considering a new renter right known as “Pay to Stay,” which would allow tenants to stay in their homes if they pay back rent and late fees before a court grants an eviction. City council people in Cleveland, Cleveland Heights, Euclid, Lakewood, and South Euclid have expressed interest in passing Pay to Stay ordinances.⁸⁷

Table 2 shows the number of incoming forcible entry and detainer cases filed in each municipal court in Cuyahoga County in 2019. Of the 13 municipal courts, eight serve multiple jurisdictions. Further in-depth investigation of eviction in Cuyahoga County is required for conclusive interpretation of the data.

<https://www.wkyc.com/article/news/health/coronavirus/evictions-prevented-cleveland-right-to-counsel-program/95-599c2644-9682-4387-a977-eef20d0769c2>

Legal Aid Society of Greater Cleveland, *Right to Counsel: Annual Report to Cleveland City Council and courtesy report to Cleveland Mayor’s Office*, January 31, 2021. <https://lasclev.org/wp-content/uploads/January-2021-report-on-initial-6-months-of-Right-to-Counsel-Cleveland-high-res.pdf>

⁸⁷ North East Ohio Coalition for the Homeless, “Support Pay to Stay Legislation in Northeast Ohio.” <https://www.neoch.org/cleveland-homeless-blog/2021/1/20/support-pay-to-stay>

Conor Morris, “Support for ‘Pay to Stay’ legislation to help curb some evictions,” FreshWater (February 15, 2021). <https://www.freshwatercleveland.com/features/PaytoState021521.aspx>

Table 2: Forcible Entry and Detainer Total Incoming Cases in Municipal Courts of Cuyahoga County in 2019

Municipal Court	Forcible Entry and Detainer: Total Income Cases, 2019
Bedford <ul style="list-style-type: none"> Serving: Bedford, Bedford Heights, Bentleyville, Chagrin Falls Township, Chagrin Falls Village, Cleveland Metroparks, Glenwillow, Highland Hills, Moreland Hills, North Randall, Oakwood Village, Orange Village, Solon, Warrensville Heights, Woodmere Village 	1,975
Berea <ul style="list-style-type: none"> Serving: Berea, Brook Park, Cleveland Metroparks, Middleburg Heights, Olmsted Falls, Olmsted Township, Strongsville 	434
Cleveland Heights	622
Cleveland Housing Court <ul style="list-style-type: none"> Serving: Bratenahl, Cleveland 	8,158
East Cleveland	656
Euclid	1,532
Garfield Heights <ul style="list-style-type: none"> Serving: Brecksville, Cleveland Metroparks, Cuyahoga Heights, Garfield Heights, Independence, Maple Heights, Newburgh Heights, Valley View, Walton Hills 	1,200
Lakewood	510
Lyndhurst <ul style="list-style-type: none"> Serving: Gates Mills, Highland Hills, Lyndhurst, Mayfield Heights, Mayfield Village, Richmond Heights 	843
Parma <ul style="list-style-type: none"> Serving: Broadview Heights, Brooklyn, Brooklyn Heights, Linndale, North Royalton, Parma, Parma Heights, Seven Hills 	1,304
Rocky River <ul style="list-style-type: none"> Bay Village, Fairview Park, North Olmsted, Rocky River, Westlake 	316
Shaker Heights: <ul style="list-style-type: none"> Beachwood, Bedford Heights, Hunting Valley, Pepper Pike, Shaker Heights, University Heights 	458
South Euclid	254
Cuyahoga County Total	18,262

Source: Ohio Supreme Court Ohio, State of Ohio Municipal and County Courts Caseload and Performance Measures.

d. Fair Housing and Group Homes

Some people with disabilities choose to live in group homes. For the purposes of this analysis, “group home refers to housing occupied by groups of unrelated individuals with disabilities.”⁸⁸ Zoning codes that treat groups of unrelated people with disabilities differently than groups of related people could violate fair housing laws. According to a jointly-written report from the Department of Justice (DOJ) and HUD: “A local government may restrict groups of unrelated persons from living together if the restrictions are imposed on all such groups.” Because reasonable accommodations are allowed, groups of unrelated people with disabilities must be “given the opportunity to seek an exception or waiver.”⁸⁹ Zoning codes that do not

⁸⁸ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, “Group Homes, Local Land Use, and the Fair Housing Act,” p. 2 (August 18, 1999).

⁸⁹ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, “Group Homes, Local Land Use, and the Fair Housing Act,” p. 3 (August 18, 1999).

provide for such procedures potentially inhibit the rights of people with disabilities.

The Fair Housing Center reviewed zoning codes for every village and city in Northeast Ohio for ordinances related to group homes and identified the following issues.

i. Density Requirements for Group Homes

Several municipalities in Northeast Ohio restrict group home density by setting minimum distance requirements between group homes or excluding group homes from certain residential districts.

Ashtabula County:⁹⁰

- Andover Township – 600 feet
- Austinburg Township – 600 feet
- Colebrook Township– 600 feet
- Dorset Township – 600 feet
- Harpersfield Township – 600 feet
- Hartsgrove Township– 600 feet
- Kingsville Township – 600 feet
- Lenox Township– 600 feet
- New Lyme Township– 600 feet
- Orwell Township– 600 feet
- Plymouth Township – 600 feet
- Roaming Shores — 600 feet

⁹⁰ Codified Ordinances of the Township of Andover § 1000.82 (June 2000). Codified Ordinances of the Township of Austinburg § 1000.82. Codified Ordinances of the Township of Colebrook § 1082. Codified Ordinances of the Township of Dorset § 1000.82. Codified Ordinances of the Township of Harpersfield § 1000.82. Codified Ordinances of the Township of Hartsgrove § 600.82 (July 1994). Codified Ordinances of the Township of Kingsville § 1000.82 (December 1994). Codified Ordinances of the Township of Lenox § 1000.82 (May 2013). Codified Ordinances of the Township of New Lyme § 1000.82 (January 2008). Codified Ordinances of the Township of Orwell § 1000.82 (1993). Codified Ordinances of the Township of Plymouth § 1082 (2004). Codified Ordinances of the Village of Roaming Shores § 1157.03 (Ord. 381-02-03. Passed 5-20-03).

Cuyahoga County:⁹¹

- East Cleveland – 1500 feet
- Euclid – 500 feet for high-density group homes in districts where they are conditional uses. Low-density group homes are permitted uses throughout most residential districts.
- Fairview Park – 1,000 feet and limited to multi-family districts
- Garfield Heights – 2,640 feet
- Lakewood – 1,000 feet in residential districts. Permitted in some commercial districts.
- Lyndhurst – 1,000 feet
- Maple Heights – excludes group homes from all single-family and two-family districts
- Olmsted Falls – 1,500 feet in single-family districts and 2,000 feet in multifamily districts
- Olmsted Township – 600 feet
- Parma Heights – 1,320 feet
- Rocky River – 1,000 feet
- Shaker Heights – 500 feet
- South Euclid – 600 feet
- University Heights – 2,000 feet

Geauga County:⁹²

- Bainbridge Township – 10,560 feet
- Chardon – 1,000 feet
- Hambden Township – 10,560 feet
- Newbury Township – 5,280 feet
- Parkman Township – 5,280 feet

⁹¹ Codified Ordinances of the City of Euclid, Ohio § 1351.02, § 1353.02, § 1355.02, § 1356.02, § 131356.03, § 1368.13, (Ord. 28-1957. Passed 1-28-1957. Ord. 178-1959. Passed 9-14-1959) Ord. 97-1972. Passed 5-1-1972. Ord 174-2008. Passed 9-2-2008). Codified Ordinances of the City of East Cleveland, Ohio § 1123.01 (Ord. 5531. Passed 2-11-1964 § 1125.10 (Ord. 97-08. Passed 12-2-2008). Codified Ordinances of the City of Fairview Park § 1149.14 (Ord. 89-99. Passed 4-2-1990). Codified Ordinances of Garfield Heights § 1369.03 (Ord. 82-988. Passed 11-14-88). Codified Ordinances of the City of Lakewood § 1121.11 (Ord. 91-95. Passed 10-7-1996). Codified Ordinances of the City of Lyndhurst § 1160.03 (Ord. 96-61. Passed 10-19-1998). Codified Ordinances of the City of Maple Heights § 1270.02, 1272.02, and 1274.02 (Ord. 2000-128. Passed 12-6-2000). Codified Ordinances of the City of Olmsted Falls § 1264.03 (Ord. 89-99. Passed 12-14-1999). Zoning Resolution of Olmsted Township § 280.01, Adopted March 9, 2000, Amended May 22, 2013. Codified Ordinances of the City of Parma Heights § 1189.03 (Ord. 1986-56. Passed 10-27-1986). Codified Ordinances of the City of Rocky River § 1183.11. Codified Ordinances of the City of Shaker Heights § 1222.02. Codified Ordinances of South Euclid § 722.03 (Ord. 05-12. Passed 7-23-12). Codified Ordinances of University Heights § 1274.01(e) (1982 Code, § 1124.01) (Ord. 91-11. Passed 5-6-1990.)

⁹² Codified Ordinances of the Township of Bainbridge, Ohio: Bainbridge Township Zoning Resolution § 135.02 (b)(9) (Adopted 6/27/1994). Codified Ordinances of the City of Chardon § 1145.13 (Ord. 2652. Passed 4-14-11). Codified Ordinances of the Township of Hambden § 402.3 (2014). Zoning Resolution of the Township of Newbury, Article V. Codified Ordinances of the Township of Parkman § 402.12, Parkman Township Zoning Resolution IV-10, Effective November 15, 2012.

Lake County:⁹³

- Painesville — 2,000 feet
- Perry Village — 1,000 feet
- Willoughby Hills — 1,000 feet

Lorain County:⁹⁴

- Amherst Township — 600 feet
- Avon — 1,000 feet
- Avon Lake — 1,320 feet
- Elyria — 1,320 feet
- Grafton — 600 feet
- Wellington — 600 feet

Medina County:⁹⁵

- Brunswick — 2,000 feet
- Brunswick Hills Township — 600 feet
- Montville Township — 1,000 feet
- Spencer — 1,000 feet

In a joint statement from the DOJ and HUD, both agencies stated that in general, minimum distance requirements for group homes in zoning codes are inconsistent with the federal Fair Housing Act, and distance requirements will only be upheld on a case-by-case basis where group home over-concentration can be shown.⁹⁶ States and municipalities often argue that minimum distance requirements are necessary for integrating residents of group homes into the general community (terms used often include “clustering,” “institutionalization,” and “ghettoization”) and maintaining the residential character of neighborhoods.

Federal courts have offered contradictory rulings on minimum distance requirements for group homes, making it difficult to turn to case law for guidance on the issue, but in most cases, minimum distance requirements have been found to violate the Fair Housing Act and the Fair Housing Amendments Act (FHAA). Though state and local governments often enact minimum distance requirements citing the goals of integration (or preventing “clustering”) and deinstitutionalization for residents with disabilities, some courts have found that discrimination through minimum distance requirements is not an acceptable means to integration or that it is contrary to the goal itself. Density thresholds for group home concentration have

⁹³ Codified Ordinances of the City of Painesville § 1115.02 (Ord. 16-19. Passed 9-16-2029). Codified Ordinances of the Village of Perry § 2012-08 (Passed 6-14-12). Codified Ordinances of the City of Willoughby Hills § 1147.08 (Ord. 2006-35. Passed 5-25-06).

⁹⁴ Codified Ordinances of the Township of Amherst § 1173.08 (8/12/10). Codified Ordinances of the City of Avon § 1280.06 (Ord. 58-01. Passed 5-29-01. Ord 30-05. Passed 3-28-05. Ord 77-05. Passed 6-13-05. Ord. 147-07. Passed 1-14-08. Ord 1-08. Passed 2-11-08. Ord 169-08. Passed 2-11-08. Ord 169-08. Passed 1-12-09. Ord. 26-10. Passed 5-10-10. Ord. 11-13. Passed 2-25-13. Ord 26-15. Passed 4-13-15). Codified Ordinances of the City of Avon Lake § 1240.08 (Ord. 52-99. Passed 3-22-1999) § 1240.10 (Ord. 106-2015. Passed 8-24-2015). Codified Ordinances of the City of Elyria § 1137.10 (Ord. 98-176. Passed 8-3-98). Codified Ordinances of the Village of Grafton § 1287.08 (Ord. 01-014. Passed 7-17-2001). Codified Ordinances of the Village of Wellington § 1173.08.

⁹⁵ Codified Ordinances of the City of Brunswick § 1280.14 (Ord. 9-03. Passed 1-27-03). Codified Ordinances of the Township of Brunswick Hills § 804-4, Effective March 26, 2009. Codified Ordinances of the Township of Montville § 450.6 (June 24, 2004). Codified Ordinances of the City of Spencer § 410.3 (Revised December 1, 2010).

⁹⁶ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, “Group Homes, Local Land Use, and the Fair Housing Act,” (August 18, 1999).

not been established and, in many cases, would stand in conflict with several federal court decisions. The anti-clustering justification has been rejected repeatedly in federal courts. In *Larkin v. the State of Michigan Department of Social Services*, the Sixth Circuit Court of Appeals found that the State of Michigan's 1,500-foot minimum distance requirement for licensing residential facilities violated the FHAA.⁹⁷ The State argued that it wished to prevent clustering of group homes, or "ghettoization," and achieve deinstitutionalization for residents. The court found no evidence that clustering would occur in the absence of restrictions. If it did, it would be under the free choice of the person with a disability to live near other individuals with disabilities. The ruling described the minimum distance requirement as "paternalistic" and a policy of "forced integration." The ruling also stated, "Two . . . facilities 500 feet apart would violate the statute without remotely threatening to recreate an institutional setting in the community."⁹⁸

Some courts have ruled that the separation of people with disabilities to achieve integration is not a legitimate government interest. In *ARC of New Jersey v. New Jersey* (1996) and *Horizon House Developmental Services, Inc. v. Township of Upper Southampton* (1992), federal courts stated that integration of group home residents was not adequate justification for discriminatory, minimum distance requirements under the FHAA. The *Horizon House* decision noted the following testimony: "'Meaningful integration' is a deep and complex notion; it involves a variety of circumstances, not the least of which is the relationship between individuals and their community. The first step, however, is to be 'physically included' and to have choices about where to live."⁹⁹

In some cases, courts found that a municipality's refusal to grant a reasonable accommodation by waiving a minimum distance requirement violated the FHAA. In *Oconomowoc Residential Programs Incorporated v. City of Milwaukee* (2002), the Seventh Circuit Court declined to decide if the City's minimum distance requirement itself violated the FHAA.¹⁰⁰ The Court did decide that the City failed to provide a reasonable accommodation, when requested, to residents with disabilities choosing to live in group homes, thus violating their right to enjoy an equal opportunity to housing by enforcing its minimum distance requirement under FHAA.¹⁰¹ Confusing the matter somewhat, the Court of the Western District of Washington, in *Children's Alliance v. City of Bellevue* (1997), found that even the offer of reasonable accommodation does not validate a minimum distance requirement under the Fair Housing Act.¹⁰²

In fewer cases, minimum distance requirements have been upheld under the Fair Housing Act by federal courts. In the *Family style of St. Paul Inc. v. City of St. Paul* (1991), the Eighth Circuit Court found that the State of Minnesota's dispersal requirement for group homes was not intended to discriminate against people with disabilities. That deinstitutionalization of people with disabilities was a legitimate goal of the City and State.¹⁰³ In *Harding v. City of Toledo* (2007), the Court for the Northern District of Ohio upheld

⁹⁷ Additional cases where courts rejected the clustering argument include: *Advocacy Center for Persons with Disabilities v. Woodlands Estates*, *ARC of New Jersey v. New Jersey*, *Children's Alliance v. City of Bellevue*, *Horizon House Developmental Services, Inc. v. Township of Upper Southampton*, and *Nevada Fair Housing Inc. v. Clark County*.

⁹⁸ *Larkin v. State of Michigan Department of Social Services*, 89 F.3d 285 (6th Cir. 1996).

⁹⁹ *ARC of New Jersey, Inc. v. New Jersey*, 950 F. Supp. 637 (D. New Jersey 1996).
Horizon House v. Township of Upper Southampton, 804 F. Supp. 683 (E.D. Pennsylvania 1992).
Daniel R. Mandelker, "Housing Quotas for People with Disabilities: Legislating Exclusion," *The Urban Lawyer* vol. 43 no. 4 (2011), 936-939.

¹⁰⁰ Additional cases cities violated the FHAA by failing to make a reasonable accommodation by waiving minimum distance requirements include: *New Hope Fellowship v. City of Omaha* and *United States v. the City of Chicago Heights*.

¹⁰¹ *Oconomowoc Residential Programs Incorporated v. City of Milwaukee*, 300 F.3d 775 (7th Cir. 2002).
Daniel R. Mandelker, "Housing Quotas for People with Disabilities: Legislating Exclusion," 939.

¹⁰² *Children's Alliance v. City of Bellevue*, 950 F. Supp. 1491 (W.D. Washington 1997).

¹⁰³ *Familystyle of St. Paul Inc. v. City of St. Paul*, 923 F.2d 91 (8th Cir. 1991).

the City's 500-foot minimum distance requirement noting that Toledo's minimum distance was substantially smaller than that of the *Larkin* case.¹⁰⁴ In two cases, minimum distance requirements were upheld because cities offered reasonable accommodations on a case-by-case basis or offered special permits waving the distance requirement.¹⁰⁵

ii. Special Restrictions on Group Home Access

Two communities in Cuyahoga County place extraordinary restrictions and requirements on people wishing to live in group homes. The Fair Housing Act prohibits land-use policies that treat people with disabilities less favorably than groups of people without disabilities.¹⁰⁶ In Mayfield Heights, group home occupancy is limited to two to five people. Applicants who are residents of Mayfield Heights have priority over nonresidents. Similar residency preferences are sometimes used in affordable housing programs, but they have been found to violate the Fair Housing Act if they have a discriminatory impact on protected class members. Residency preferences implemented in majority-white municipalities where people of color have less representation than that of the surrounding area have been found to discriminate on the basis of race.¹⁰⁷ In Mayfield Heights, a group home operator must provide a written assurance that prospective residents will not constitute a danger to the community. Prospective residents are to be approved by an admissions committee that includes one non-voting member appointed by the Mayor. Organizations operating group homes must agree that all residents will either be "enrolled in day programs *outside the community* or employed *in the community* [emphasis added]."¹⁰⁸

In the City of Strongsville, group home regulations require that individual residents residing at home have the same functional impairment as represented in the initial application.¹⁰⁹ This regulation could limit people wishing to live in a group home by requiring that only certain types of disabilities, initially outlined in the group home application, would be admitted into the home.

iii. Restrictions Based on Conditions Qualifying as Disabilities under the Fair Housing Act

Several municipalities in Northeast Ohio exclude people from living in group homes due to conditions that may qualify as disabilities under the Fair Housing Act. These include individuals with communicable diseases and drug and alcohol addiction. In a joint statement from HUD and DOJ, the definition of the term "disability" covers individuals with some communicable diseases, drug addiction, and alcoholism when their tenancy does not pose a "direct threat" to the health and safety of other individuals or would not result in substantial physical damage to the property or "if the threat can be eliminated or significantly reduced by reasonable accommodation." HUD and DOJ state specifically that individuals receiving addiction treatment are protected by the Fair Housing Act. Individuals currently engaged in the illegal use of a controlled substance are not protected by the Fair Housing Act, as well as those who have been convicted of the illegal manufacture or distribution of a controlled substance.¹¹⁰

¹⁰⁴ *Moretha Harding, et al. v. City of Toledo*, 433 F. Supp. 2d 867 (N.D. Ohio 2007).

¹⁰⁵ *Elderhaven Inc. v. City of Lubbock*, 98 F.3d 175 (5th Cir. 1996).
Mandelker, "Housing Quotas for People with Disabilities: Legislating Exclusion," 939-940.

¹⁰⁶ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, "Group Homes, Local Land Use, and the Fair Housing Act," p. 1 (August 18, 1999).

¹⁰⁷ *United States of America v. Town of Oyster Bay, et. al.*, No 14 Civ. 2317 (E.D. New York 2014).
Fair Housing Justice Center, Inc. v. Town of York Town, No. 10cv9337 (S.D. New York 2010).

¹⁰⁸ Codified Ordinances of the City of Mayfield Heights, Ohio § 721.03 (Ord. 1986-31. Passed 1-12-1987).

¹⁰⁹ Codified Ordinances of the City of Strongsville, Ohio § 1252.37 (Ord. 2010-096. Passed 6-6-11.).

¹¹⁰ Joint Statement of the Department of Justice and the Department of Housing and Urban Development, "Reasonable Accommodations Under the Fair Housing Act," p. 2-4 (May 17, 2004).
United States Department of Justice, "Fair Housing Act,"
http://www.justice.gov/crt/about/hce/housing_coverage.php#disability.

The Fair Housing Center reviewed municipal ordinances in Northeast Ohio, and the following municipalities bar individuals from group homes who may be protected by the Fair Housing Act:¹¹¹

Cuyahoga County

- Bay Village – persons with a communicable disease, persons who are addicted to alcohol or drugs or abuse alcohol or drugs
- Fairview Park – persons with a communicable disease, persons who are addicted to alcohol or drugs or abuse alcohol or drugs
- Garfield Heights – persons being treated for drug or alcohol abuse
- Mayfield Heights – persons being treated for drug or alcohol abuse
- Newburgh Heights – persons who use or are addicted to illegal substances/drugs or abuse alcohol
- Parma Heights – persons being treated for drug abuse or primarily for alcohol abuse
- Shaker Heights – persons who are currently addicted to alcohol or narcotic drugs

Lake County

- Painesville – persons being treated for drug or alcohol abuse

Lorain County

- Avon Lake – persons addicted to a controlled substance

iv. Restrictions Based on Involvement with the Criminal Justice System

Several municipalities in Northeast Ohio restrict access to group homes for people with disabilities who have been involved with the criminal justice system. The Fair Housing Act does not cover individuals who pose a direct threat to the health and safety of others or whose tenancy would result in substantial physical damage to property. Many individuals who have been convicted of felony offenses have served prison sentences or who are on probation or parole have been convicted of a nonviolent criminal offense and would pose no threat to the health or safety of other individuals. DOJ defines nonviolent crimes as “property, drug, and public order offenses, which do not involve a threat of harm or actual attack upon a victim.”¹¹² Securing housing is a major barrier to re-integration into the community faced by formerly incarcerated individuals, especially those in need of supportive housing due to physical and mental health disabilities or a history of drug abuse.¹¹³ In April 2016, HUD released guidance concerning the application of Fair Housing Act Standards to the use of criminal records by housing providers. Due to the pervasive racial and ethnic disparities present in the U.S. criminal justice system, restrictions to access to housing based upon criminal history may disproportionately affect African Americans and Hispanics/Latinos. Arbitrary, blanket

¹¹¹ Codified Ordinances of the City of Avon Lake, Ohio § 1212.03(49) (Ord. 52-99. Passed 3-22-99; Ord. 129-2011. Passed 12-12-11; Ord. 151-2012. Passed 11-10-12; Ord. 105-2014. Passed 8-25-14; Ord. 106-2015. Passed 8-24-15; Ord. 125-2015. Passed 10-13-15.). Codified Ordinances of the City of Bay Village, Ohio § 1142.04 (Ord. 90-12. Passed 3-19-1990). Codified Ordinances of the City of Fairview Park, Ohio § 1149.14 (Ord. 91-49. Passed 10-7-1991). Codified Ordinances of the City of Garfield Heights, Ohio § 1369.02 (Ord. 82-1988. Passed 11-14-1988). Codified Ordinances of the City of Mayfield Heights, Ohio § 721.03 (Ord. 1986-31. Passed 1-12-1987). Codified Ordinances of Newburgh Heights, Ohio § 1129.10 (Ord. 20041-28. Passed 8-21-01). Codified Ordinances of the City of Painesville, Ohio § 1107.02 (Ord. 16-19. Passed 9-19-2019). Codified Ordinances of the City of Parma Heights, Ohio § 1189.03 (Ord. 1986-56. Passed 10-27-86). Codified Ordinances of the City of Shaker Heights, Ohio § 1211.02 (Ord. 13-45. Enacted 7-8-13; Ord. 13-114. Enacted 12-16-13.).

¹¹² Department of Justice Office of Justice Program, “Bureau of Justice Statistics Factsheet: Profile of Nonviolent Offenders Exiting State Prisons,” (October, 2004).

¹¹³ Jocelyn Fontaine and Jennifer Biess, “Housing as a Platform for Formerly Incarcerated Persons,” Washington, D.C.: Urban Institute, April 2012.

criminal history-related bans can have a disparate impact if a policy denies housing to anyone with a prior arrest or any kind of criminal conviction. Such selective use of criminal history can be a proxy for illegal discrimination based on protected classes such as race or national origin and therefore violate the Fair Housing Act.¹¹⁴

The Fair Housing Center reviewed municipal ordinances in Northeast Ohio, and the following municipalities restrict access to group homes based on some involvement with the criminal justice system:¹¹⁵

Cuyahoga County

- Bay Village – non-developmentally disabled persons with a felony record; persons found to be a danger to themselves or the community; persons found incompetent to stand trial or not guilty by reasons of insanity of a felonious offense
- Fairview Park – a non-developmentally disabled person with a felony record; persons found incompetent to stand trial or not guilty by reason of insanity of a felony criminal offense; persons found to be a danger to the community or themselves
- Garfield Heights – persons discharged from a correctional institution within the last 10 years; persons under probation, parole, or conditional release; persons discharged from any facility after being found incompetent to stand trial or not guilty by reason of insanity; persons who cannot function in a community setting or who constitute a reasonably foreseeable danger to the community
- Mayfield Heights – persons discharged within the last ten years from a correctional facility or the Ohio Department of Youth Services; persons under probation, parole, or conditional release; persons discharged from any facility after being found incompetent to stand trial or not guilty by reason of insanity; persons who cannot not function adequately in a community setting or constitute a reasonably foreseeable danger to the community
- Newburgh Heights – non-developmentally disabled person with a felony criminal record; persons found incompetent to stand trial or not guilty by reasons of insanity of a felonious offense; persons who constitute a reasonably foreseeable danger to the community or themselves
- Parma – Any person...whose tenancy would result in substantial physical damage to the property of others, including, but not limited to, those persons convicted of a property crime
- Parma Heights – persons discharged within the last ten years from a penal or correctional facility, or from the custody of the Ohio Department of youth Services
- Shaker Heights – criminal offenders serving on work release or probationary programs

¹¹⁴ U.S. Department of Housing and Urban Development, “Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions,” released April 2016.

¹¹⁵ Codified Ordinances of the City of Bay Village, Ohio § 1142.04 (Ord. 90-12. Passed 3-19-1990). Codified Ordinances of the City of Fairview Park, Ohio § 1149.14 (Ord. 91-49. Passed 10-7-1991). Codified Ordinances of the City of Garfield Heights, Ohio § 1369.02 (Ord. 82-1988. Passed 11-14-1988). Codified Ordinances of the City of Mayfield Heights, Ohio § 721.03 (Ord. 1986-31. Passed 1-12-1987), Codified Ordinances of Newburgh Heights, Ohio § 1129.10 (Ord. 20041-28. Passed 8-21-01), Codified Ordinances of Painesville, Ohio § 1125.04 (Ord. 18-06. Passed 5-15-06; Ord. 17-12. Passed 5-21-12; Ord. 21-13. Passed 12-16-13; Ord. 8-14. Passed 5-19-14; Ord. 5-15. Passed 4-20-15). Codified Ordinances of the City of Parma, Ohio § 1717.02 (Ord. 178-96. Passed 6-3-96.). Codified Ordinances of the City of Parma Heights, Ohio § 1189.03 (Ord. 1986-56. Passed 10-27-86). Codified Ordinances of the City of Shaker Heights, Ohio § 1211.02 (Ord. 13-45. Enacted 7-8-13. Ord. 13-114. Enacted 12-16-13.).

Lake County

- Painesville – criminal offenders serving on work release or probationary programs

III. FAIR HOUSING COMPLAINTS IN NORTHEAST OHIO

A. Federal and State Complaint Process

Under the federal Fair Housing Act, individuals who have suffered discrimination may choose to file an administrative complaint before the U.S. Department of Housing and Urban Development (HUD), a lawsuit in court, or both. Because Ohio's fair housing law has been designated substantially equivalent to the federal statute, virtually all housing discrimination complaints filed with HUD involving property in Ohio are referred to the Ohio Civil Rights Commission (OCRC) for investigation and potential resolution.¹¹⁶

Ohio's fair housing law also allows individuals to pursue remedies administratively before the OCRC or in court. In addition to investigating cases referred by HUD, the OCRC accepts complaints of housing discrimination filed with the agency directly.¹¹⁷

Once the OCRC receives a complaint (or "charge"), the agency assigns it to an investigator. The investigator researches the complaint, speaking with the parties and witnesses, and reviewing any available documentation to determine if there is probable cause of discrimination. Prior to making the determination, the OCRC offers the parties the opportunity to voluntarily mediate their dispute. If both parties agree, a mediator meets with the parties and attempts to find a mutually satisfactory resolution. If a settlement is not reached, the case continues to be investigated.¹¹⁸

After the investigator has reached a recommendation, the case is submitted for supervisory approval and ultimately to the Commissioners, who must approve the report before it becomes a final OCRC determination. Based on its review of the report and recommendation of the OCRC's field staff, the Commission makes a determination of "probable cause" or "no probable cause" of discrimination.

If the OCRC finds probable cause of discrimination, the parties are offered a final chance to resolve their differences through a conciliation process. In the event that the dispute cannot be resolved, the case is referred to the Civil Rights Section of the Ohio Attorney General's Office to bring a civil action before an administrative law judge or, if the parties request, in state court.

¹¹⁶ According to the agreement between HUD and the OCRC, with several exceptions, fair housing complaints from Ohio that are filed with HUD are referred to the OCRC for investigation and resolution. In 2005, HUD investigated less than one percent of cases. (Email communication with Carolyn Murphy, Director of Columbus Fair Housing Center, U.S. Department of Housing and Urban Development, March 10, 2006.) In addition, starting in 2009, HUD also began retaining jurisdiction of cases alleging violations of the accessibility provisions for new multi-family construction and cases of third party liability.

¹¹⁷ The procedures of the OCRC are set forth in ORC 4112.03-4112.06 and in the Ohio Administrative Code 4112-3-01 through 4112-3-17.

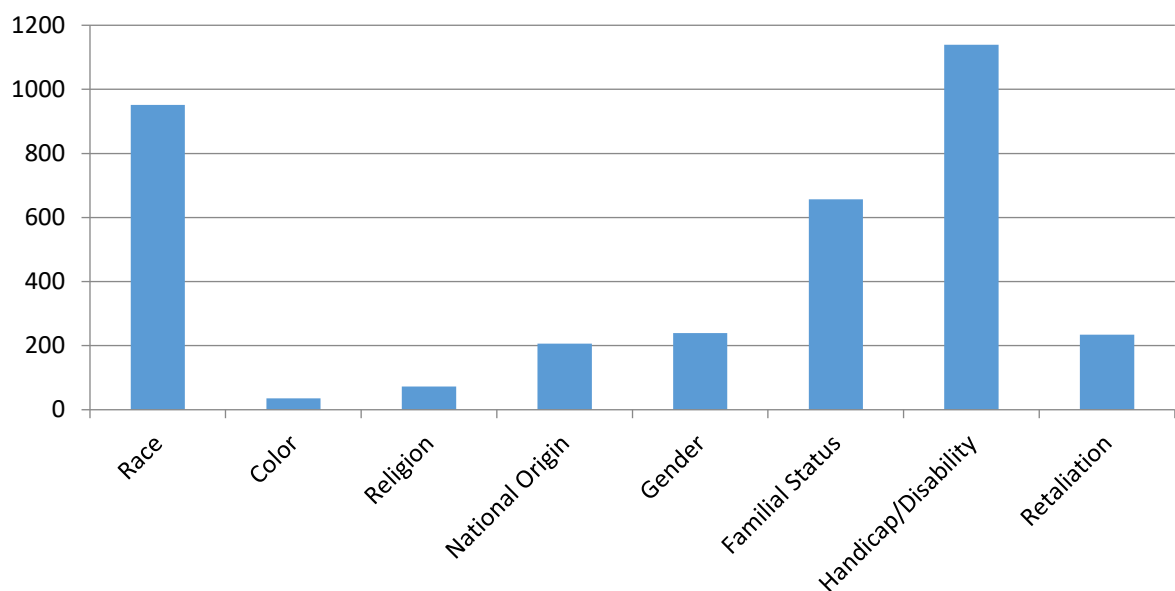
¹¹⁸ The Commission has the authority to demand access to records, premises, documents, evidence or possible sources of evidence, and to record testimony or statements from individuals. Further, the agency has the right to issue subpoenas, interrogatories, and cease and desist orders; hold public hearings; and collect monetary benefits (Ohio Revised Code 4112.04).

B. Number of Complaints Filed in Region

The Fair Housing Center has collected and analyzed data on all fair housing complaints filed with HUD in the six-county region from 1996 to 2020.¹¹⁹ The data revealed that over the 25-year period (see Figure 1 Table 3):

- On average, 141.4 were filed each year in the region
- Cases filed alleging race discrimination accounted for 26.9% of the total cases, compared to 32.2% for disability and 18.6% for families with children;
- Complaints based on national origin accounted for 5.8% of the total, gender cases made 6.8% of the total, religion made up 2.0%, and color made up 1.0%;
- Nearly three-quarters of the complaints (73.2%) were filed in Cuyahoga County.¹²⁰

Figure 1: Fair Housing Complaints Filed with HUD in the Region from 1996 to 2020



(Source: The Fair Housing Center analysis of HUD Data)

¹¹⁹ For the purposes of this report we considered each basis raised as a complaint. For details of The Fair Housing Center's methodology, see Appendix B.

¹²⁰ County-level data is presented in Appendix A

Table 3: Fair Housing Complaints Filed with HUD in the Region from 1996 to 2020

	Race	Color	Religion	National Origin	Gender	Familial Status	Handicap/Disability	Retaliation	Total
1996	53	1	1	7	6	19	12	0	99
1997	28	0	1	12	1	7	19	2	70
1998	32	0	1	0	2	9	14	4	62
1999	35	1	4	2	6	14	22	6	90
2000	29	6	0	10	1	10	26	5	87
2001	17	1	2	4	1	14	19	4	62
2002	25	1	3	1	3	14	20	6	73
2003	57	0	3	13	6	20	43	10	152
2004	46	2	1	3	3	10	46	5	116
2005	44	3	5	8	3	13	52	21	149
2006	54	2	2	9	7	25	63	6	168
2007	41	2	2	10	9	21	25	4	114
2008	84	1	12	35	8	27	81	6	254
2009	56	1	0	16	20	90	36	7	226
2010	44	0	2	22	23	49	47	12	199
2011	20	0	2	4	7	68	40	2	143
2012	18	2	5	5	8	37	31	5	111
2013	34	2	7	9	16	37	81	13	199
2014	59	4	3	4	33	75	119	21	318
2015	46	1	6	3	14	37	66	18	191
2016	28	1	1	6	18	25	52	12	143
2017	26	1	1	9	10	17	52	15	131
2018	30	1	4	9	11	7	68	23	153
2019	23	1	2	4	15	10	63	9	127
2020	22	2	2	1	8	2	42	18	97
Total	951	36	72	206	239	657	1139	234	3534

Source: The Fair Housing Center analysis of HUD Data

To compare rates of complaints across counties, The Fair Housing Center undertook an analysis of the number of complaints filed in the region per 100,000 residents for the period of 1996 to 2020.¹²¹ During the 25-year period of 1994 to 2018, 6.5 complaints were filed on average per year per 100,000 people in the six-county region. Cuyahoga County had the highest incidence of fair housing complaints with 8.3 per 100,000 people. Lake County had the second-highest incidence of fair housing complaints with 5.3 complaints per 100,000 people. Ashtabula, Lorain, and Medina Counties had incidences of complaints at 4.4, 3.5, and 3.5 per 100,000 people, respectively, while Geauga County had the lowest incidence of fair housing complaints at 2.6 per 100,000. The difference in rates of cases filed in each county is likely due to a number of factors, including the differential rates of discrimination, the racial and ethnic makeup of the region, the percentage of rental (as compared to owner-occupied) housing, housing mobility, and the

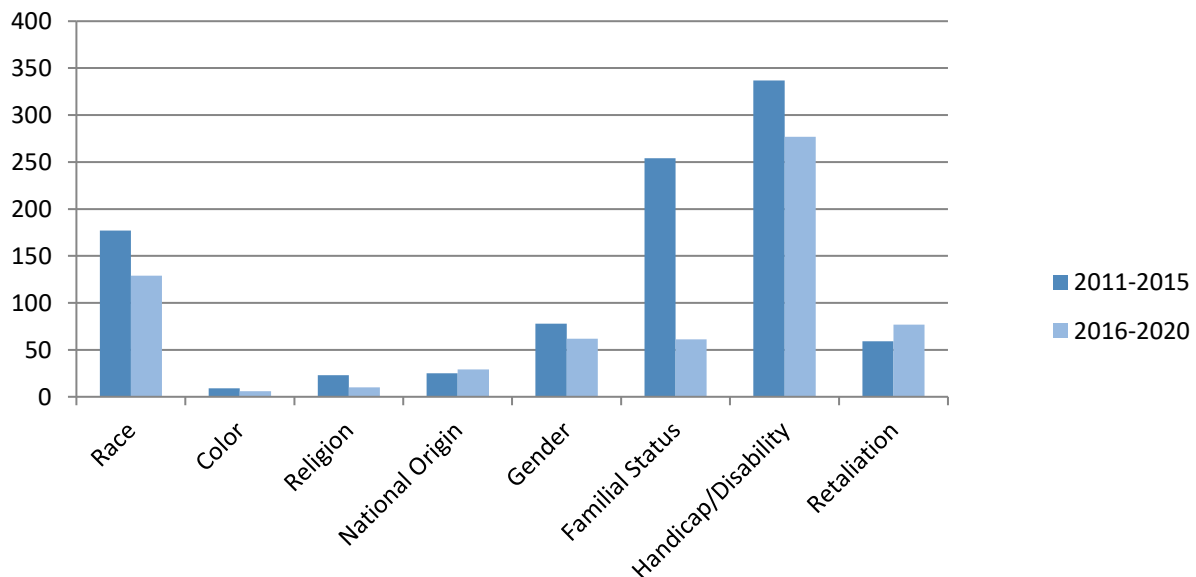
¹²¹ County-level complaint data is presented in Appendix A.

presence or absence of fair housing organizations in the counties that might educate and assist victims of discrimination and conduct systemic testing.

Because of the possibility that any particular year could have an unusually large or small number of complaints filed in a given category or the number of complaints per category could change over time, The Fair Housing Center examined the number of complaints filed in two five-year periods (2011-2015 and 2016-2020; see Figure 2) to ascertain whether the types of complaints filed recently differed from those being filed earlier. This analysis revealed the following:

- In the past five years (2016 to 2020), there were 651 complaints filed with HUD, for an average of 130.2 complaints per year, decreasing from 192.4 per year in the period of 2011 to 2015.
- The most common bases of discrimination alleged in complaints from 2016 to 2020 were disability (42.6%), race (19.8%), and gender (9.5%);
- The number of cases brought by race decreased by 27.1%, from 177 filed between 2011 and 2015 to 129 filed between 2016 and 2020;
- In the last five years, the number of complaints filed based on disability decreased 17.8% from 337 filed between 2011 and 2015 to 277 filed between 2016 and 2020;
- The number of complaints filed based on family status fell 75.9%, from 254 filed between 2011 and 2015 to 61 filed between 2016 and 2020;
- From 2011-2015 to 2016-2020 complaints based on color decreased 0.02%, religion decreased 0.8%, national origin increased 1.9%, gender increased 1.9%, and retaliation increased 5.7%.

Figure 2: Fair Housing Complaints Filed with HUD Over Five Year Periods



(Source: The Fair Housing Center analysis of HUD Data)

IV. RACIAL AND ETHNIC SEGREGATION IN NORTHEAST OHIO

A. Racial Dissimilarity Indices

Due to a long history of housing discrimination, the Cleveland-Lorain-Elyria Metropolitan Statistical Area (Cuyahoga, Geauga, Lake, Lorain, and Medina Counties) is ranked as one of the most racially and ethnically segregated areas in the United States. Segregation has a damaging effect on all members of a community. It polarizes regions on the basis of race and income. It prevents access to wealth and educational opportunities, which has the effect of limiting job access and depressing housing values.¹²²

The Racial Dissimilarity Index is a measure of the distribution of individuals of one race compared to another race (usually the majority). Using the dissimilarity index, a score of 0 would represent a completely integrated distribution of individuals, while a score of 100 represents a completely segregated region where every member of the minority group would have to move in order to achieve complete integration. For 2010, the Racial Dissimilarity Index score, for African Americans (20.7% of the total population of the MSA) to white people for the MSA is 74.1 (above 60 is considered very high; the MSA is ranked 5th most segregated in the United States); meaning 74.1% of all African Americans would have to change residence to achieve equal distribution in the region.

Using the dissimilarity index for African Americans and whites, the Cleveland-Elyria MSA has had little change in the past twenty years, moving from the fifth most-segregated area in the country in 1990 to the sixth in 2000, and back to the fifth most-segregated area in 2010 (Table 4 and Figure 3). During this period, the MSA's ranking on the dissimilarity index has improved slightly from a score of 82.8 in 1990 to 78.2 in 2000 to 74.1 in 2010.¹²³

The MSA's 2010 Isolation Index score for Black-Black, a measure of the concentration of a racial group by census tract, is 64.7, meaning the average African American lives in a Census tract that has a population that is 64.7% African American. The MSA's 2010 Index of Exposure to Other Groups score, a measure of the likelihood that a member of one race lives near members of another race, for Black-White, is 29.2 while the White-Black score is 4.2; meaning the average African American lives in a Census tract that has a population that is 29.2% white and the average white person lives in a tract that is 4.2% African American.¹²⁴ In a fully integrated region, a group's Isolation Index score and Index of Exposure to Other Groups score would be equal to the group's percentage of the total population.

While some of these measures show a slight improvement for the region, the continued out-migration of the population from the region, and from Cuyahoga County, in particular, presents challenges for racial integration in the region. As many researchers have noted, the areas of the country that have shown the most gains in terms of residential integration have been those in the south and west that have experienced the largest population growth.¹²⁵ In fact, of the 10 most segregated large metropolitan areas in 2010, all but one (Los Angeles) are in the Northeast or Midwest.

¹²² John A. Powell, "Is Racial Integration Essential to Achieving Quality Education for Low-Income Minority Students, In the Short Term? In the Long Term?," *Poverty & Race*, September/October 1996.

¹²³ Population Studies Center, "New Racial Segregation Measures for Large Metropolitan Areas: Analysis of the 1990-2010 Decennial Census," University of Michigan <http://www.psc.isr.umich.edu/dis/census/segregation2010.html>.

¹²⁴ US2010 Project, "Residential Segregation: Cleveland-Elyria-Mentor OH Metropolitan Statistical Area," <http://www.s4.brown.edu/us2010/segregation2010/msa.aspx?metroid=17460>.

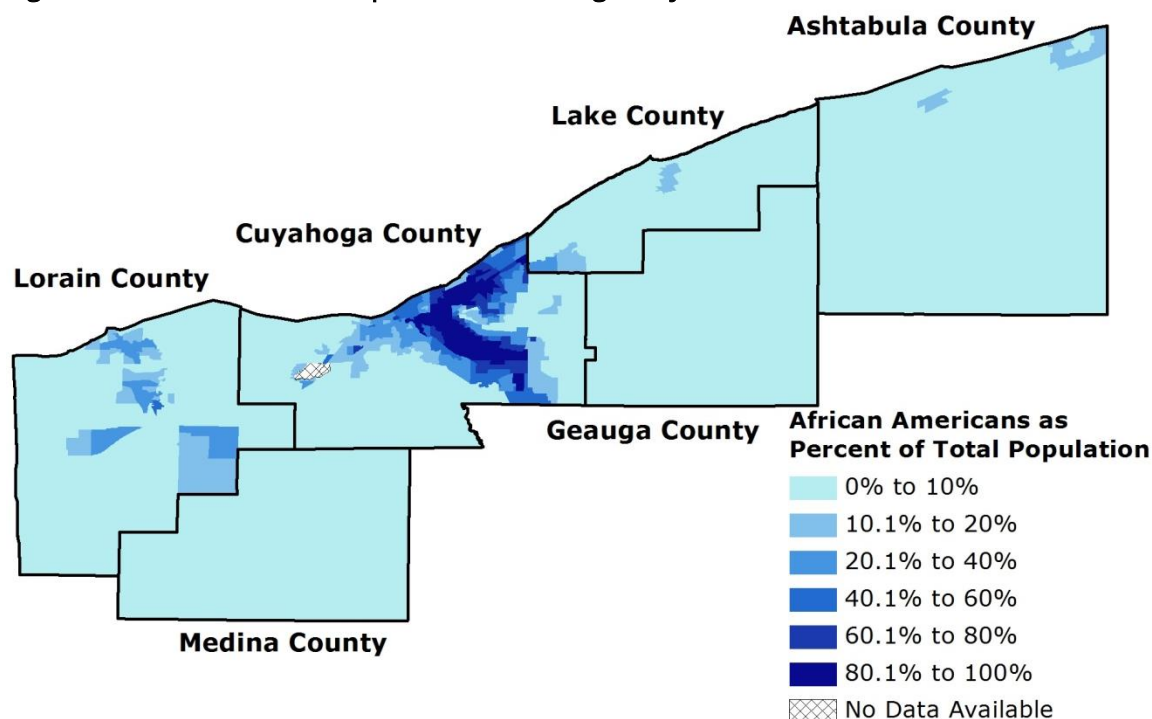
¹²⁵ Robert L. Smith and David Davis, "Migration Patterns Hold Back Cleveland," *Plain Dealer*, December 30, 2002.

Table 4: Residential Segregation for African Americans in Large Metropolitan Areas Ranked by Dissimilarity Index

	1990	2000	2010
Rank	MSA Name	MSA Name	MSA Name
1	Detroit	Detroit	Milwaukee-Waukesha
2	Chicago	Milwaukee-Waukesha	New York
3	Milwaukee-Waukesha	New York	Chicago
4	Newark	Newark	Detroit
5	Cleveland-Lorain-Elyria	Chicago	Cleveland-Lorain-Elyria
6	New York	Cleveland-Lorain-Elyria	Buffalo-Niagara Falls
7	Buffalo - Niagara Falls	Buffalo - Niagara Falls	St. Louis
8	St. Louis	Cincinnati	Cincinnati
9	Bergen - Passaic	St. Louis	Philadelphia
10	Philadelphia	Nassau - Suffolk	Los Angeles

(Source: Population Studies Center/University of Michigan)

Figure 3: African American Population of the Region by Census Tract, 2010



(Source: U.S. Census)

Segregated housing patterns affect the ability of African American families to build wealth through homeownership. A 2001 report sponsored by the Brookings Institute concluded that a “segregation tax” is imposed on African American homeowners due to the decreased value of property in predominantly minority neighborhoods.¹²⁶ According to this report, the Cleveland area suffers from a “tax” of 24%, meaning that for each dollar of income, African American homeowners have 24% less in home values compared to whites with the same income. While this “tax” is not formally assessed or collected by any governmental body, the lower amount of wealth that African Americans are able to accumulate has a real effect on their wealth and the amount of money they can pass on to their children.

In the Cleveland-Elyria MSA, the 2010 Racial Dissimilarity Index score for Hispanics/Latinos (4.7% of the total population of the MSA) to white people is 52.3 (between 40 and 50 is considered a moderate level of segregation; the MSA ranked 20th most segregated in the United States); meaning 52.3% of all Hispanics/Latinos would have to change residence to achieve equal distribution (Table 5 and Figure 4).¹²⁷ The MSA’s 2010 Isolation Index score for Hispanic-Hispanic is 17.3, meaning the average Hispanic/Latino lives in a Census tract that is 17.3% Hispanic/Latino. The MSA’s 2010 Index of Exposure to Other Groups score for Hispanic/Latino-White was 61.5 while the White-Hispanic/Latino score is 4.0; meaning the average Hispanic/Latino lives in a Census tract that is 61.5% white while the average white person lives in a tract that is 4.0% Hispanic/Latino.¹²⁸ In a fully integrated region, a group’s Isolation Index Score and Index of Exposure to Other Groups score would equal the group’s percentage of the total population. The

¹²⁶ Rusk, David, “The ‘Segregation Tax’: The Cost of Racial Segregation to Black Homeowners,” Washington, D.C.: Brookings Institution, October 2001.

¹²⁷ Population Studies Center, “New Racial Segregation Measures for Large Metropolitan Areas: Analysis of the 1990-2010 Decennial Census,” University of Michigan <http://www.psc.isr.umich.edu/dis/census/segregation2010.html>.

¹²⁸ US2010 Project, “Residential Segregation: Cleveland-Elyria-Mentor OH Metropolitan Statistical Area,” <http://www.s4.brown.edu/us2010/segregation2010/msa.aspx?metroid=17460>

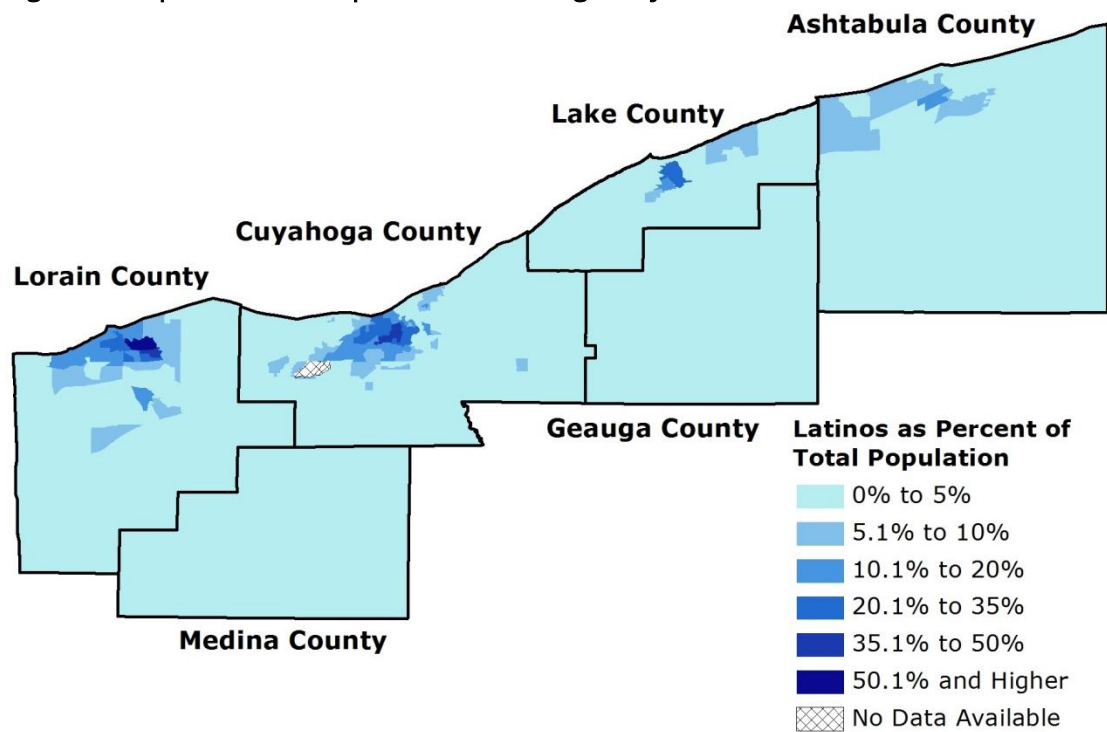
Hispanic/Latino population (classified as an ethnic minority by the U.S. Census Bureau) is concentrated in the west-side neighborhoods of the City of Cleveland and the west-side, inner-ring suburbs. The Cleveland metropolitan area has gone from being the ninth most segregated for Hispanics in 1990 and the eleventh most segregated in 2000 to the twentieth most segregated in 2010.

Table 5: Residential Segregation for Hispanics/Latinos in Large Metropolitan Areas Ranked by Dissimilarity Index

	1990	2000	2010
Rank	MSA/PMSA Name	MSA/PMSA Name	MSA/PMSA Name
1	Newark	Providence-Fall River-Warwick	Springfield, MA
2	Hartford	New York	Los Angeles-Long Beach
3	New York	Newark	New York
4	Philadelphia	Hartford	Providence-New Bedford-Fall River
5	Chicago	Los Angeles-Long Beach	Boston
6	Providence-Fall River-Warwick	Chicago	Bridgeport-Stamford-Norwalk, CT
7	Los Angeles-Long Beach	Philadelphia	Hartford-West, Hartford-East Hartford, CT
8	Bergen-Passaic	Milwaukee-Waukesha	Miami
9	Cleveland-Lorain-Elyria	Boston	Milwaukee-Waukesha
10	Milwaukee-Waukesha	Bergen-Passaic	Chicago
11	Boston	Cleveland-Lorain-Elyria	Allentown-Bethlehem-Easton, PA-NJ
12	San Antonio	Houston	Philadelphia
13	Miami	Orange County	Oxnard-Thousand Oaks-Ventura, CA
14	Orange County	Dallas	New Haven-Milford, CT
15	Dallas	San Francisco	Lancaster, PA

(Source: Population Studies Center of the University of Michigan)

Figure 4: Hispanic/Latino Population of the Region by Census Tract, 2010



(Source: U.S. Census)

B. Zoning

Zoning is a mechanism used by municipalities to regulate land use and the density of the built environment. Modern zoning, on its face, is a race-neutral policy. From its inception and throughout its use in the United States, zoning has generated and perpetuated racial segregation.¹²⁹ A 2020 study by the Fair Housing Center analyzes zoning codes for every municipality in Cuyahoga County and shows that exclusive, single-family residential use districts dominate the geography of the County.

The exclusive, single-family residential use district dominates the geography of Cuyahoga County; 58.1% of all land in Cuyahoga County is zoned to allow single-family homes as the exclusive residential use. Only 16.9% of all land in Cuyahoga County is zoned to allow two-family buildings or larger. The zoning regulations of eleven municipalities currently ban multifamily housing altogether. These are the Cities of Highland Heights and Independence; the Villages of Bentleyville, Bratenahl, Brooklyn Heights, Gates Mills, Glenwillow, Hunting Valley, Moreland Hills, and Walton Hills; and Chagrin Falls Township. Further, land regulated to permit multifamily housing in Cuyahoga County is concentrated in the City of Cleveland and several eastside suburbs (see Figure 5).

While single-family districts are exclusive to single-family houses, districts that permit multifamily residential use often implement cumulative zoning or hierarchical zoning or are influenced by cumulative zoning. Cumulative zoning permits preferential, low-density uses in districts zoned for high-density, e.g., single-family homes are permitted in apartment districts.¹³⁰ Forms of cumulative zoning are prevalent in Cuyahoga County. More than a quarter of land *available* for multifamily-use in Cuyahoga County is currently occupied by single-family houses, further reducing space for renters in some municipalities.

Rental housing has long been viewed by homeowners as a noxious use in which renters, as a proxy for race and class, reduce property values when in proximity to the single-family home. Exclusive, single-family residential use districts are predominantly white enclaves that maintain the privilege of homeownership for the white middle and upper classes by using zoning as a tool for exclusion. The protection of property values became the chief purpose of zoning. Zoning codes institutionalized property value protection in the single-family use district. Exclusive single-family use districts strengthen zoning's relationship to the racial exclusion by codifying racially segregated living patterns. Use districts that permit multifamily housing correspond to the presence of people of color in Cuyahoga County. Multifamily housing and people of color are concentrated in the City of Cleveland and eastside suburbs.

In the U.S., homeownership is primarily the historical privilege of the white middle and upper classes.¹³¹ Most Black families rent, and in 2019, Black homeownership has fallen to historic lows.¹³² The single-family use district empowers whites to maintain white-only communities as a form of wealth hoarding and rent-seeking.¹³³ Homeowners reap an undo monopoly profit through an artificially depressed housing and land supply and reduced access to property-enhancing public goods provided by an exclusively zoned

¹²⁹ Jessica Trounstein, *Segregation by Design: Local Politics and Inequality in American Cities* (Cambridge, United Kingdom: Cambridge University Press, 2018), 91.

¹³⁰ Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation* (Ithaca: Cornell University Press, 2014), 178-185, 36-43.

¹³¹ Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Corporation, 2017), 59-76.

¹³² James H. Carr, Michela Zonta, Steven P. Hornburg, and William Spriggs, *2019 State of Housing in Black America* (National Association of Real Estate Brokers BOARD OF DIRECTORS).

¹³³ Jonathan Levine, *Zoned Out: Regulation, Markets, and Choices in Transportation and Metropolitan Land Use* (Washington, D.C: Resources for Our Future, 2006), 78-82.

municipality and school district. Zoning and segregation perpetuate regional inequality by separating the rich and poor, causing unequal provision of public services and amenities.¹³⁴

To limit the effects of exclusionary zoning, The Fair Housing Center recommends that the State of Ohio prohibit municipalities from excluding multifamily housing, implements regional property tax-base sharing, or creates a statewide school subsidy targeted at low-income families and municipalities using their zoning code to exclude multifamily housing should be disqualified from this regional public funding sources.¹³⁵

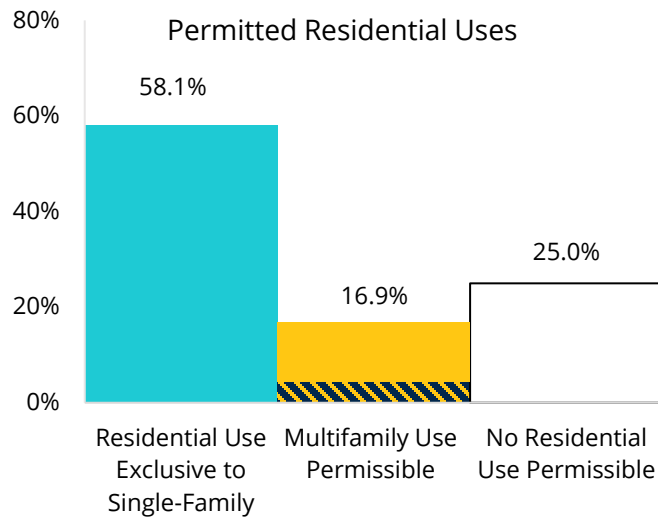
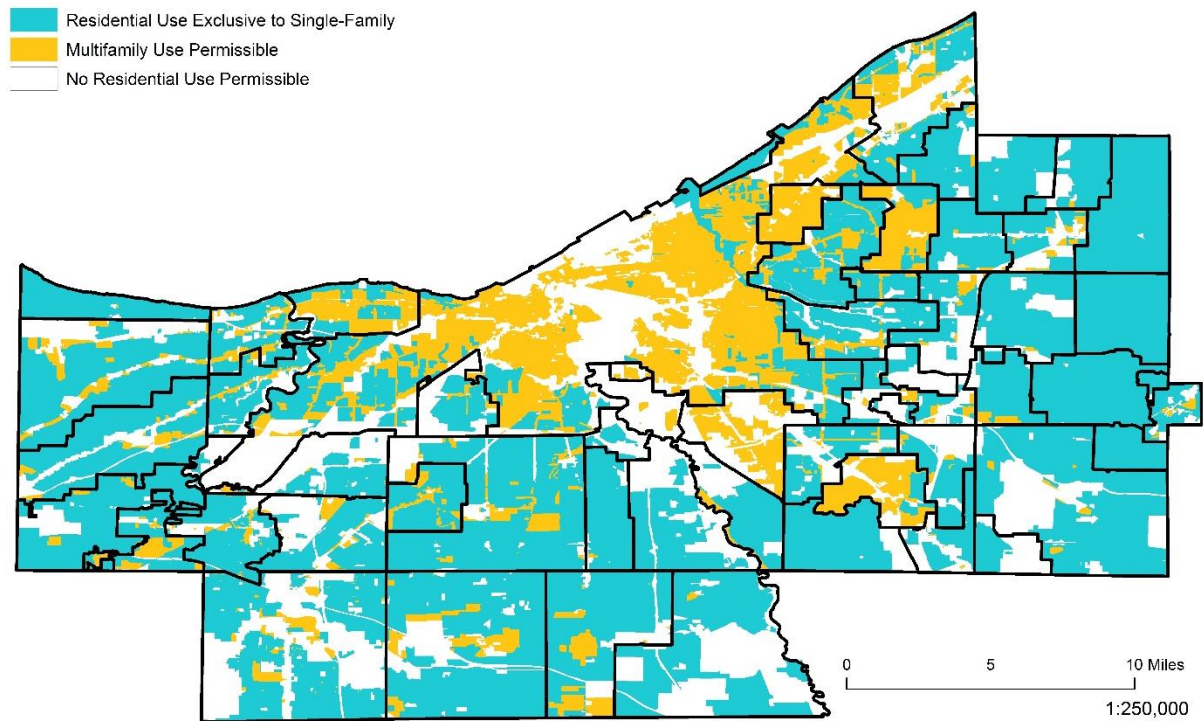
¹³⁴ Levine, *Zoned Out*, 94-95.


Trounstein, *Segregation by Design*, 92-96, 207.

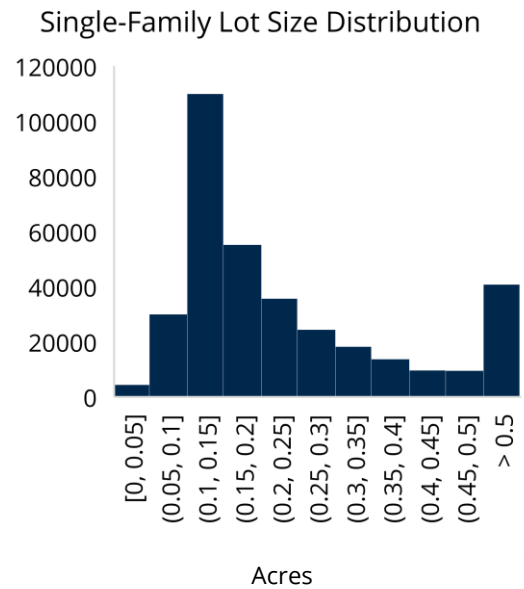
William A. Fischel, *Zoning Rules!: The Economics of Land Use Regulation* (Cambridge, Massachusetts: Lincoln Institute of Land Policy, 2015), 237.

¹³⁵ Michael Lepley & Lenore Mangiarelli, “Exclusionary Zoning in Cuyahoga County,” Fair Housing Center for Rights & Research (January 2020). <https://www.thehousingcenter.org/wp-content/uploads/2020/01/Exclusionary-Zoning-in-Cuyahoga-County.pdf>

Figure 5: Zoning in Cuyahoga County by Residential Use, 2020



 Single-family housing currently occupies 26.3% of all land zoned to permit multifamily use

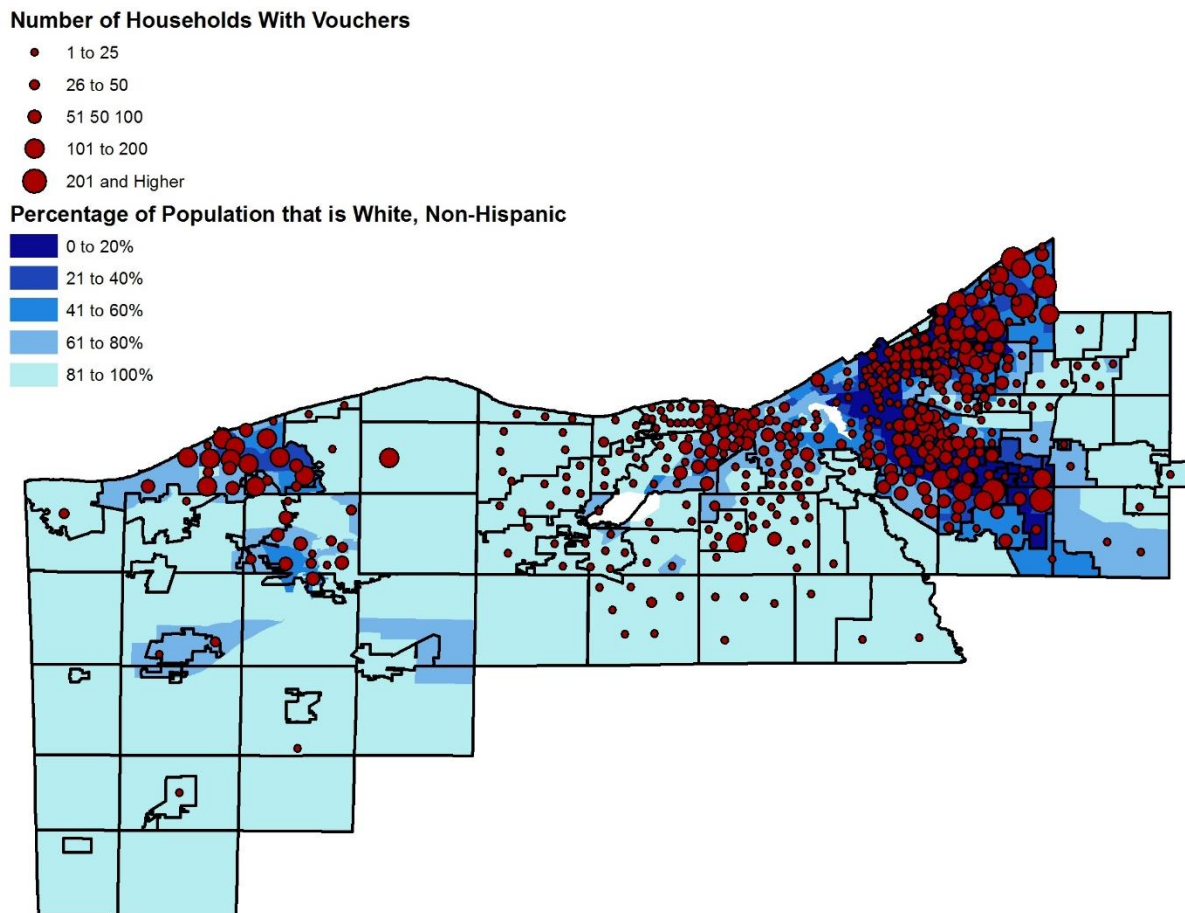


Number of Single-Family Lots: 351,547
Median Lot Size: .18 acres

C. Housing Voucher Mobility in Cuyahoga and Lorain Counties

The Fair Housing Center examined factors affecting the housing choice of people using housing vouchers in Cuyahoga County and Lorain County to assess the mobility of a housing voucher.¹³⁶ The Housing Choice Voucher Program was created to expand access to housing for low-income households by providing a rental subsidy that allows them to find housing in the private rental market. However, across the United States, voucher program participants are clustered in low-opportunity areas; Cuyahoga County and Lorain County are no exceptions to this pattern (see Figure 6). This research focused on Cuyahoga and Lorain Counties, but it is likely that housing voucher mobility is an issue across Northeast Ohio.

Figure 6: Households with Vouchers and Minority Concentrations in Cuyahoga and Lorain Counties by Census Tract, 2014



(Source: HUD, A Picture of Subsidized Households, 2013; 2013 American Community Survey 5-Year Estimates)

In the largest voucher program in Cuyahoga County, 89.6% of households using housing vouchers are African American and are clustered in areas with high concentrations of poverty, high crime, low educational opportunities, and high exposure to environmental health hazards. When surveyed, the

¹³⁶ Lenore Healy and Michael Lepley, "Housing Voucher Mobility in Cuyahoga County," Housing Research & Advocacy Center, February 2016. Available at: <http://www.thehousingcenter.org/wp-content/uploads/2016/02/Cuyahoga-County-Voucher-Mobility-Report.pdf>

Lenore Healy and Michael Lepley, "Housing Voucher Mobility in Lorain County," Housing Research & Advocacy Center, January 2017. Available at: <http://www.thehousingcenter.org/wp-content/uploads/2017/02/Lorain-Mobility-Report.pdf>

majority of voucher program participants responded that they desire housing in neighborhoods with low crime rates, high-quality schools, and low poverty. The most significant challenges to finding affordable housing cited by participants include landlords who do not accept the voucher (79.3%), finding housing in their price range (58.3%), security deposit (53%), and moving costs (44.4%).

In Lorain County, people using housing vouchers are likewise clustered in areas with high poverty, low educational opportunities, and high exposure to environmental hazards. Nearly 64% of people using vouchers are African American, Hispanic/Latino, or both. When surveyed, the majority of voucher participants stated their desire for housing in neighborhoods with low crime, high-quality schools, and affordable housing costs. In Lorain County, the most significant challenges to finding affordable housing cited by participants include: finding housing in their price range (56.9%), landlords who do not accept the voucher (49.0%), security deposit (39.2%), and moving costs (27.5%). In Cuyahoga and Lorain Counties, voucher participants are excluded from areas of opportunity.

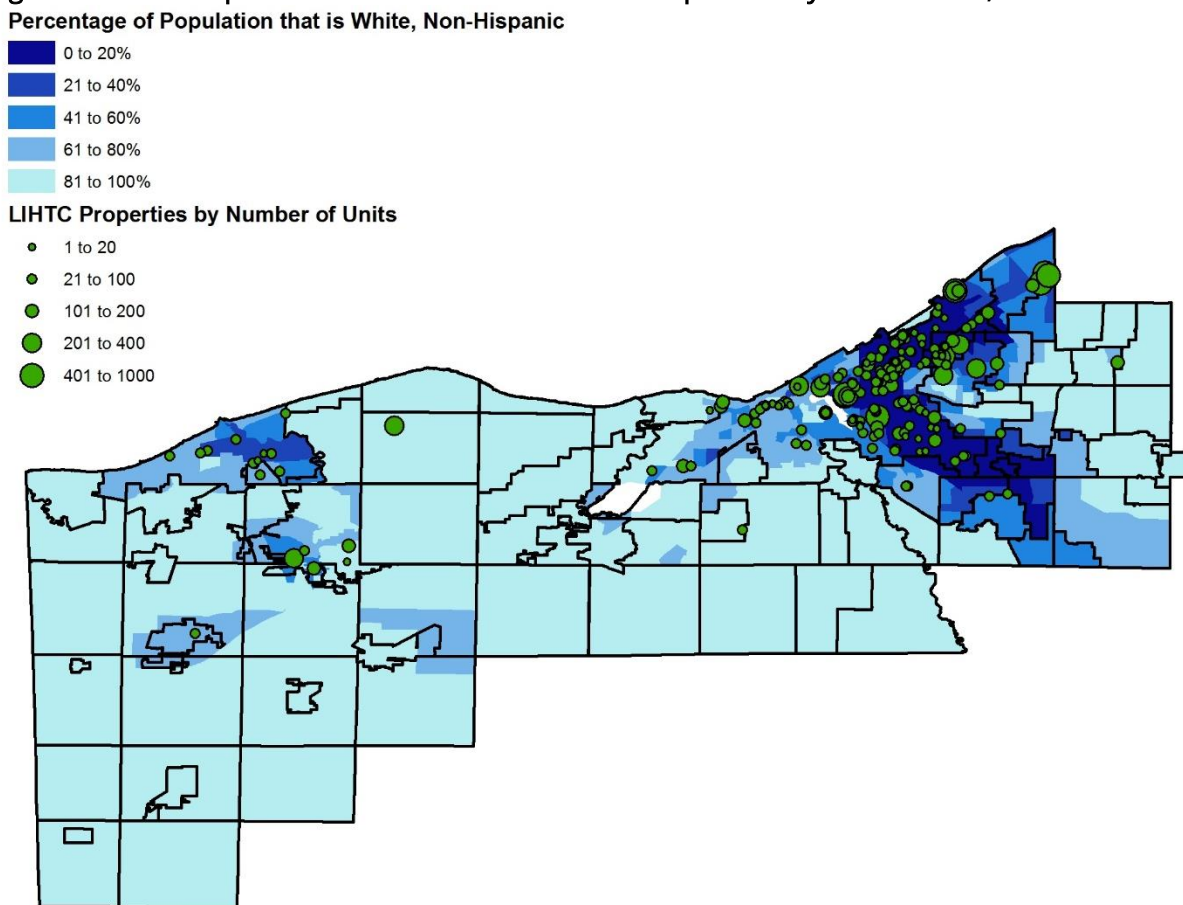
Factors that contribute to the exclusion of voucher program participants from high-opportunity areas include the Fair Market Rent and the development of low-income housing tax credit (LIHTC) properties in low-opportunity areas. Fair Market Rent determines the buying power of a voucher and is applied across the region. Housing markets vary widely across Cuyahoga and Lorain Counties, and FMR rates are insufficient for voucher holders to afford rental housing in many high-opportunity areas. Households using vouchers are priced out of much of the rental housing in Cuyahoga County; in Lorain County, voucher holders are priced out of the high-growth, high-opportunity areas on the eastern side of the county. Voucher households, which are classified as very-low-income or extremely-low-income, face additional financial burdens in affording the higher security deposits required in higher-cost neighborhoods.

The LIHTC program offers an opportunity to expand housing mobility for voucher holders and support residential integration by financing low-income housing in areas of high opportunity. In the State of Ohio, approximately 15% (14,201 units) of all LIHTC units were occupied by a household using a housing voucher in 2011.¹³⁷ Housing providers receiving LIHTCs are required to accept vouchers at their properties. LIHTC allocations throughout the state of Ohio, especially in the Cleveland-Elyria Metropolitan Statistical Area, have been issued to properties located predominately in high-poverty, minority neighborhoods.¹³⁸ Within both Cuyahoga and Lorain Counties, LIHTC developments are not expanding housing choices as the majority of LIHTC properties are located in areas with concentrations of racialized poverty (see Figure 7).

¹³⁷ Brett Barkley, Amy Higgins, and Francesca G.-C. Richter, “Do Low-Income Rental Housing Programs Complement Each Other? Evidence from Ohio,” Federal Reserve Bank of Cleveland, working paper no. 14-29R (2016), 24.

¹³⁸ Jill Khadduri and Carissa Climaco, “LIHTC Awards in Ohio, 2006-2015: Where Are They Providing Housing for Families with Children,” Abt Associates (July 2016).

Figure 7: LIHTC Properties and Racial and/or Ethnic Composition by Census Tract, 2014



(Source: 2013 American Community Survey 5-Year Estimates, HUD eGIS)

Housing providers are essential to the success of the voucher program and the mobility of participants, but voucher program participants report that landlords who refuse to accept vouchers are one of their greatest barriers to finding housing. In Cuyahoga County, more than half of landlords surveyed that participate in the voucher program report that they are dissatisfied with the program. Many commented that housing inspections required to rent to a voucher holder and interactions with the housing authority are burdensome. The majority of surveyed landlords that do not participate in the voucher program report that they have not considered accepting vouchers. Time constraints placed on voucher holders to secure a unit inhibit them from moving to areas where landlords have less experience with the program. Both landlords that do and do not accept vouchers reported negative perceptions of the program and of the program participants.

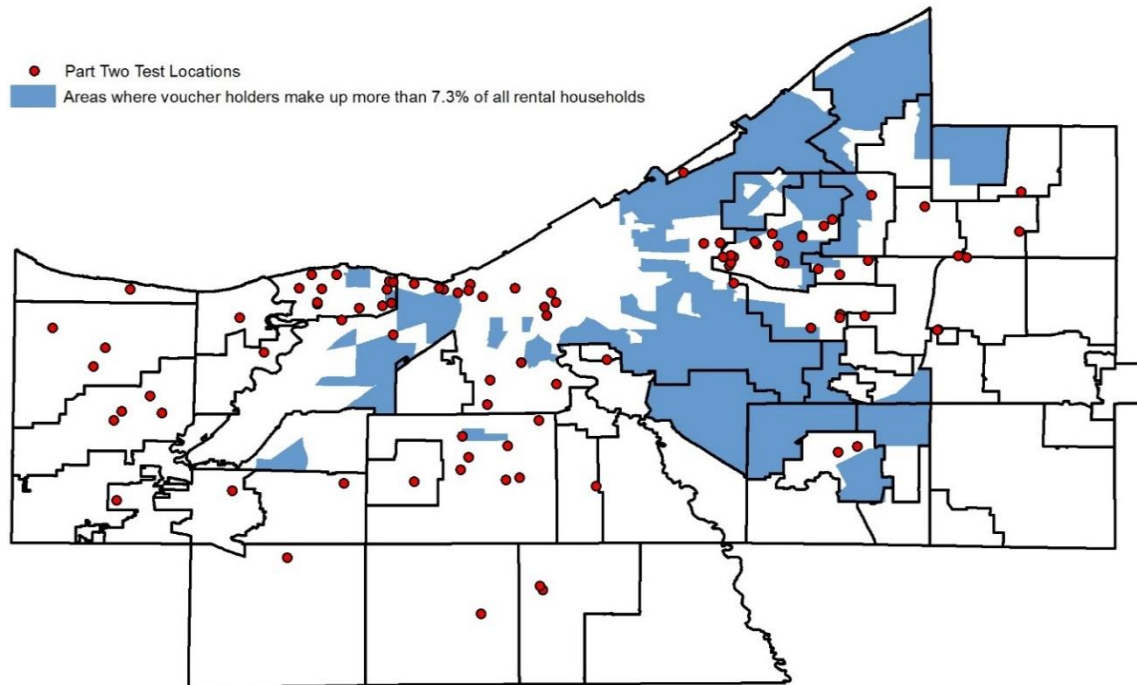
Housing mobility for participants of the housing choice voucher program in Cuyahoga and Lorain Counties is low. However, the Housing Choice Voucher Program and other affordable housing programs are tools that can be used to promote diverse communities and eliminate segregation in Cuyahoga and Lorain Counties as well as throughout Northeast Ohio.

D. Housing Voucher Discrimination and Race Discrimination in Cuyahoga County

A 2017 study by The Fair Housing Center using testing showed that landlords refuse to rent units outside of areas that already have concentrations of housing vouchers 9 out of 10 times (in 101 tests; see Figure 8).

A renter with a housing voucher was refused 91.2% of the time, receiving an explicit denial in nearly 60% of inquiries and being ignored in 32.7% of inquiries (a wrap-around tester, with no voucher, received a response). Landlords who deny units to housing voucher program participants help maintain racially segregated living patterns in Cuyahoga County.

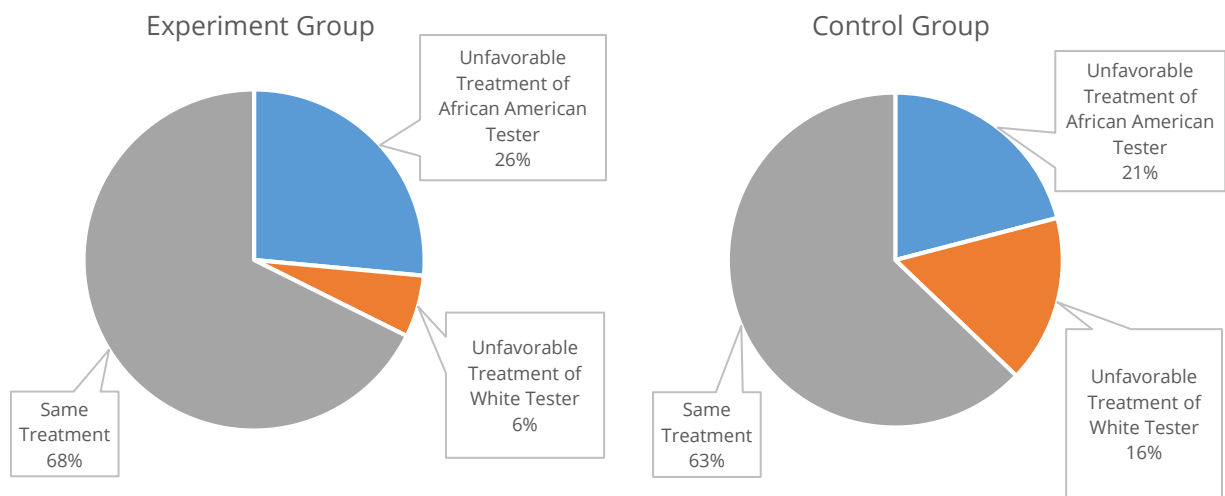
Figure 8: Location of Housing Voucher Renter Investigations and Housing Vouchers as a Percentage of All Renters in Cuyahoga County by Census Tract in 2015



(Source: HUD, A Picture of Subsidized Housing, 2015; 2015 American Community Survey 5-Year Estimates)

This study also showed that landlords in Cuyahoga County who advertise “No Section 8” are more likely to discriminate against African American renters who were not using a voucher when compared to landlords who do not mention vouchers in their ads. Results from this study showed African American renters are more likely to experience unfavorable racial treatment if they contact a landlord who advertised that they do not accept housing vouchers compared to a landlord whose rental ad did not state a preference or limitation regarding vouchers. African American renters experienced unfavorable treatment by landlords who advertised “No Section 8” in 26.4% of tests and white renters in 5.8% of tests. African American renters experienced unfavorable treatment by landlords who did not mention vouchers in their ads in 20.9% of tests and white renters in 16.1% of tests (see Figure 9).

Figure 9: Results of Part One Experiment Group and Control Group Tests



The African American testers experienced unfavorable treatment of a different nature when compared to white testers. The white tester only experienced ignoring as a form of unfavorable treatment by the housing provider. The African American renter was told units were unavailable while the white tester was offered time to view the unit; the African American renter was given less information than the white renter; and the African American renter was vetted more stringently than the white renter. In several tests, the first response received by the African American tester was analogous to “we don’t accept vouchers,” showing that some housing providers associate African Americans with HCVP in Cuyahoga County (no renter mentioned a voucher in this series of investigations). In Cuyahoga County, the majority of participants in the Housing Choice Voucher Program are African American (91.1%). It is possible that some landlords are refusing to accept vouchers as a proxy for race-based discrimination.¹³⁹

¹³⁹ Michael Lepley & Lenore Mangiarelli, “Housing Voucher Discrimination and Race Discrimination in Cuyahoga County,” Housing Research & Advocacy Center, December 2017. Available at: <http://www.thehousingcenter.org/wp-content/uploads/2017/12/Voucher-and-Race-Discrimination.pdf>

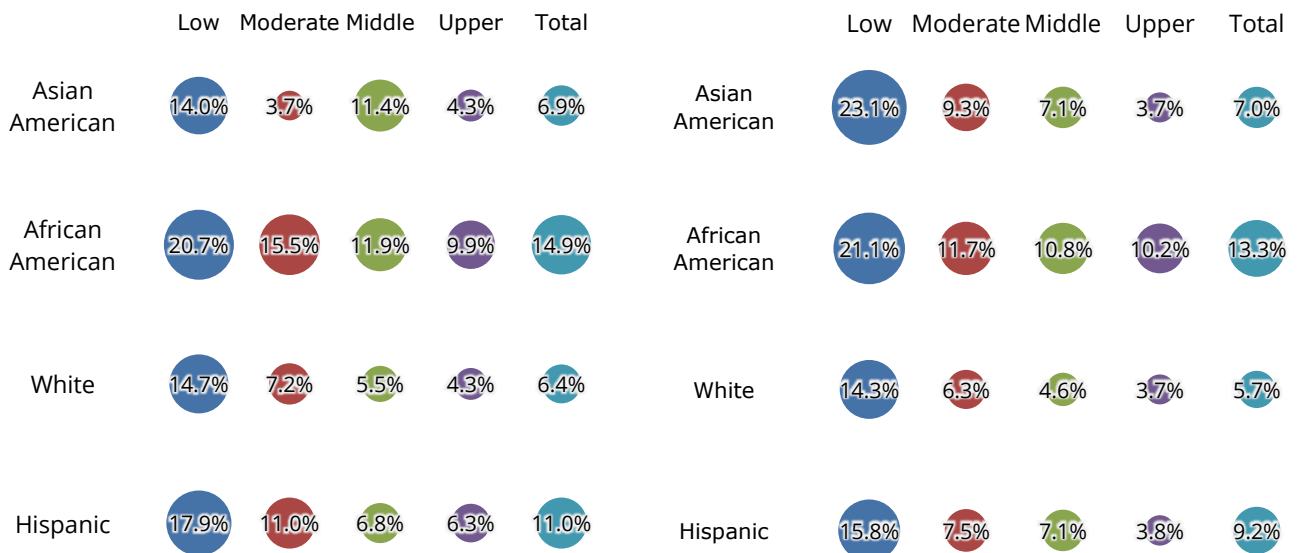
V. FAIR LENDING IN NORTHEAST OHIO

In the past, lending institutions openly engaged in discrimination against racial and ethnic minorities and in “redlining,” a practice by which individuals who wished to purchase housing in minority neighborhoods were denied access to mortgage credit. Discrimination in mortgage lending and redlining were made illegal by the Fair Housing Act in 1968 and by Ohio law.

The Home Mortgage Disclosure Act (HDMA) requires some lenders to disclose information on mortgage lending. The following is an analysis of HDMA data for 2018 and 2019 for Ashtabula, Cuyahoga, Geauga, Lake, Lorain, and Medina Counties, focusing on race or ethnicity and the household income of individuals seeking home purchase or refinance loans.

Figures 10 and 11 show home purchase denial rates for individuals in the six-county region by race and income for 2018 and 2019, respectively. African Americans were denied home purchase loans at the highest rates both years (14.9% for 2018, 13.3% in 2019), more than twice the rate of whites (6.4% in 2018, 5.7% in 2019). At nearly every income level, lenders denied African Americans at the highest rates of all races and ethnicities. In 2019, lenders denied upper-income African Americans twice as many times as all upper-income groups.

Figure 10: Denial Rates of Home Purchase Loans, 2018 **Figure 11: Denial Rates of Home Purchase Loans, 2019**



(Source: 2018-2019 HDMA Data; Home Purchase Loans, First Lien, Principal Residence, 1-4 Family Structures)

In 2018, the Fair Housing Center for Rights & Research released the report, “Cuyahoga County Mortgage Lending Patterns,” examining the ten largest lenders in Cuyahoga County by total dollars loaned between the years 2012 to 2016. The report shows that many lenders are making little-to-no effort to create or market products in majority-minority neighborhoods, evidenced by the lack of applications and branches in those neighborhoods. Lenders discourage minority borrowers by denying applications in majority-minority tracts at twice the rate that they deny applications in majority-white tracts.¹⁴⁰

¹⁴⁰ The full report can be found here: <http://www.thehousingcenter.org/wp-content/uploads/2018/07/Cuyahoga-County-Mortgage-Lending-Patterns-2018-BEST-FOR-SCREEN.pdf>

VI. RECOMMENDATIONS

Racial and other forms of housing discrimination and segregation remain prevalent in Northeast Ohio and most of the country despite the passage of the Fair Housing Act fifty-three years ago. Although residents have benefitted from the protections of the federal, state, and local fair housing laws, housing discrimination continues, and communities in Northeast Ohio remain significantly segregated. In recent years, federal protections have eroded. Segregation continues to contribute to disparities in the accumulation of wealth and lost opportunities for people of color.

Housing discrimination affects whether or not an individual will be able to rent a given apartment or purchase a particular house, and it also significantly affects people's lives in many other areas, including what type of city and neighborhood they can live in; the schools their children attend; their access to transportation, jobs, and public services; and the amount of wealth they are able to build from the equity in their homes.

This report outlines several areas in which our region has significant work to do to affirmatively further fair housing. There are concrete steps that government officials and others can take that will have a positive impact on the state of fair housing in the region. To help accomplish this goal, Fair Housing Center for Rights & Research recommends the following:

- 1) **Strengthen fair housing laws.** Federal, state, and local housing laws should protect a broader class of individuals than are currently protected by federal and state law.
 - Prohibit discrimination based on age, gender identity, marital status, sexual orientation, and status as a victim of domestic violence.
 - Prohibit discrimination based on the source of income, ensuring that individuals who use housing subsidies (including "Housing Choice vouchers") are not discriminated against on that basis.
 - Adopt state and local visitability ordinances to expand the protection of fair housing laws for people with disabilities to enable them to visit other residents living in single-family homes.
 - Enforce HUD's prohibition of blanket bans on criminal backgrounds, which can have a disparate impact if a policy denies housing to anyone with a prior arrest or any kind of criminal conviction. Due to pervasive racial and ethnic disparities in the U.S. criminal justice system, restrictions to access to housing based on criminal history may disproportionately affect African Americans and Hispanics/Latinos ¹⁴¹
- 2) **Reinstate and Effectively Implement the Affirmatively Furthering Fair Housing Rule.** Currently, HUD requires no fair housing planning from jurisdictions receiving community development money. Reinstating the 2015 AFFH rule will implement a standardized, effective, fair housing planning process that will hold communities accountable for their responsibility to increase housing choice and inclusiveness.
- 3) **Conform local ordinances to Ohio law and eliminate exemptions for small housing providers.** The single-family home and Mrs. Murphy exemptions appear in a number of local fair housing ordinances, which provide additional protected classes. The effect of these exemptions in

¹⁴¹ Housing Research & Advocacy Center, *Fair Housing for People with a Criminal History*, 2017:

<http://www.thehousingcenter.org/wp-content/uploads/2017/12/Criminal-History-Brochure-2017.pdf>

U.S. Department of Housing and Urban Development, "Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real-Estate Related Transactions," released April 2016.

local fair housing ordinances is that small housing providers may be exempt from claims of housing discrimination on the basis of a protected class afforded only under local law. Cities and villages that amend their ordinances and expand protections and prohibit discrimination on additional bases effectively do so for some, but not all housing transactions and for some, but not all properties. This could have a particular impact on communities that have a large number of small multifamily buildings and single-family homes.

- 4) **Repeal local criminal activity nuisance ordinances as such ordinances penalize renters; people of color; victims of domestic violence, dating violence, stalking, or sexual assault; and those with mental disabilities or mental health crises.**

Local criminal nuisance activity ordinances can have a disproportionately negative impact on renters, people of color, victims of domestic violence, and those with mental health disabilities. Nuisance ordinances penalize both landlord and tenant when calls are made to law enforcement in response to an activity deemed “criminal activity.” These ordinances require abatement of the nuisance activity by the landlord; abatement is often synonymous with the eviction of the “problem” tenant.

- 5) **Support statewide legislation to protect victims of domestic violence, stalking, and sexual assault from housing discrimination.** Thirty-three states across the nation have enacted laws to protect victims of domestic violence in private rental housing. Ohio is not currently one of those states. The legislation was introduced in the Ohio House, most recently in 2013.

- 6) **Reduce the segregatory effects of exclusionary municipal zoning codes through statewide or regional efforts that:**

- Prohibit municipalities from banning multifamily housing.
- Reduce or eliminate public funding from regional sources to communities with exclusionary zoning.
- Implement regional property tax-base sharing or statewide subsidies targeted directly toward low-income families.

- 7) **Review restrictive language in group home zoning ordinances.** Remove minimum distance requirements for group homes or provide a process to make reasonable accommodations in choosing group home locations. Remove language that excludes residents on the basis of disabilities such as drug and alcohol addiction and communicable diseases or allow group home administrators to decide when a resident does or does not pose a health or safety threat to other residents on a case-by-case basis. Eliminate blanket exclusions on people with criminal histories and allow group home administrators to decide whether or not a resident poses a health or safety threat to other residents on a case-by-case basis.

- 8) **Create a Housing Voucher mobility program to encourage and assist housing voucher participants to move to high opportunity neighborhoods to deconcentrate voucher households and support residential integration.** A housing voucher mobility program should include a flexible payment standard and security deposit assistance so that voucher holders can afford higher rents in high opportunity neighborhoods. Landlords with rental properties in high opportunity neighborhoods should be recruited to participate in the program.

- 9) **Encourage the Ohio Housing Finance Agency to prioritize high-opportunity neighborhoods when awarding Low Income Housing Tax Credits.** LIHTC properties are not being used to decrease racial and economic segregation in Cuyahoga County. Siting future LIHTC properties, particularly those to be occupied by families, in racially-integrated, high-opportunity neighborhoods will expand housing choice for low-income tenants in Cuyahoga County.

- 10) **Enforce fair housing laws more vigorously to “affirmatively further fair housing.”** While having strong laws is important, without vigorous enforcement, housing discrimination will

continue.

Housing discrimination is not always easy to detect. Discrimination now often occurs in more subtle forms than before, such as not returning telephone calls from individuals with African American dialects or speech patterns, falsely stating that an available dwelling is no longer available, or changing the terms or conditions of a home purchase or rental based on a protected characteristic. African American men who have been incarcerated are disparately impacted by denial of housing based on their criminal history after serving their debt to society. This discrimination prevents their productive reentry into the community.

Immigrants and individuals with limited English proficiency experience similar discrimination based upon “citizenship” questions and often fear the repercussions of reporting discrimination.

It is the responsibility of federal, state, and local governments to work to ensure that all residents have a fair opportunity to rent and purchase housing in cities and neighborhoods they desire. Moreover, it is a legal obligation of governments that receive Community Development Block Grant (CDBG) and other HUD funds to take actions that “affirmatively further fair housing.”¹⁴² Local and county governments throughout the region can do more to meet their obligations under the law.

A vigorous enforcement strategy should include an adequate testing program to ensure that discrimination is both deterred and detected. In cases where housing discrimination is found, governments must take strong action to ensure that laws are enforced.

The Fair Housing Act’s accessibility provisions for multi-family housing have been in effect for 30 years, but new housing is still being built in violation of these provisions. Governments at all levels must ensure that these requirements are complied with to ensure that the region’s housing stock becomes more accessible.

- 11) **Support and adequately fund the Consumer Financial Protection Bureau to protect the public from abusive and unfair financial products and services.** The CFPB was designed to promote financial education for consumers; supervise banks, credit unions, and financial companies; enforce federal consumer protection laws; and research consumer behavior. The Fair Housing Center strongly supports efforts to ensure that the CFPB has sufficient resources to adequately investigate and enforce anti-discrimination and consumer protection laws to ensure that discrimination is not occurring in the mortgage and financial services industries.¹⁴³ The Fair Housing Center supports the efforts of the CFPB to expand the categories of data reported through the Home Mortgage Disclosure Act (HMDA).
- 12) **Devote increased resources to educating housing providers and professionals, as well as the public at large, regarding fair housing laws.** While most individuals likely know that discrimination based on race or religion in housing is illegal, some housing providers are still unaware that discrimination based on familial status and handicap/disability is prohibited. The Fair Housing Center continues to uncover new multi-family housing that does not comply with federal and state accessibility requirements.¹⁴⁴ Additionally, many victims of housing

¹⁴² In February 2009, U.S. District Court Judge Denise Cote held that Westchester County, New York, had submitted “false or fraudulent” claims to the government and “utterly failed” to meet its obligation to affirmatively further fair housing over a period of years. *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc., v. Westchester County, New York*, (S.D.N.Y. February 24, 2009).

¹⁴³ Michael Lepley and Lenore Mangiarelli, “Cuyahoga County Mortgage Lending Patterns,” Fair Housing Center for Rights & Research, July 2018. Available at: <http://www.thehousingcenter.org/wp-content/uploads/2018/07/Cuyahoga-County-Mortgage-Lending-Patterns-2018-BEST-FOR-SCREEN.pdf>

¹⁴⁴ See Housing Research & Advocacy Center, “Housing Group, Ohio Civil Rights Commission Settles Federal Housing Discrimination Suit with Cleveland Developers, Architects: Defendants Agree to Make Units in Stonebridge

discrimination are unaware of their rights under federal, state, and especially local laws and of the procedures they may use to vindicate those rights. Increased resources should be devoted to education on fair housing laws and procedures.

- 13) **Provide government incentives to help achieve housing integration.** Fifty-three years after the passage of the Fair Housing Act, we continue to live in a region that is highly segregated, particularly for African Americans. At the current rate of “progress,” it will take decades for the region to become integrated. Governments should develop creative mechanisms to help address housing discrimination, possibly including the use of financial incentives for individuals making diversifying moves. For example, tax incentives, such as a state tax credit or down payment assistance, could be offered to individuals who make a racially diversifying move.

Local land-use codes and regulations must be examined and revised to ensure that individuals and groups are not discriminated against and that such policies do not exacerbate regional sprawl, further weakening our region and worsening economic, racial, and ethnic segregation.

- 14) **Continue to fund comprehensive local fair housing programs, including enforcement, client intake and assistance, testing, research, and advocacy.** Local private fair housing organizations process and assist in the majority of reported housing discrimination complaints as well as monitor for fair housing compliance through testing programs.¹⁴⁵

It is time to evaluate current practices and develop effective solutions to eliminate segregation and promote diverse communities. While these recommendations are broad and will require the investment of time and resources, The Fair Housing Center believes that they will strengthen our region and benefit the entire community, making our region not only more just and equitable but economically stronger.

Complex Accessible to Persons with Disabilities,” June 13, 2011. Available at <http://www.thehousingcenter.org/publications/press-releases/>

¹⁴⁵ National Fair Housing Alliance, *The Case for Fair Housing: 2017 Fair Housing Trends Report*, 2017; Accessed April 12, 2018: <http://nationalfairhousing.org/wp-content/uploads/2017/04/TRENDS-REPORT-4-19-17-FINAL-2.pdf>

Appendix A: Fair Housing Complaint Data by County

Table 6: Fair Housing Complaints Filed in Ashtabula County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	2	0	0	0	0	0	4	0	6
1995	2	0	0	0	0	1	0	0	3
1996	2	0	0	0	0	1	0	0	3
1997	0	0	0	0	0	0	0	0	0
1998	0	0	0	0	0	0	0	0	0
1999	0	0	0	0	0	1	1	0	2
2000	1	0	0	0	0	0	0	0	1
2001	0	0	0	0	0	0	1	0	1
2002	0	0	0	0	0	0	0	0	0
2003	0	0	0	0	0	0	2	1	3
2004	1	0	0	0	0	0	0	0	1
2005	1	0	0	0	0	0	2	1	4
2006	3	0	0	0	0	0	1	0	4
2007	1	0	0	0	0	2	4	0	7
2008	1	0	0	0	0	2	11	0	14
2009	2	0	0	1	1	0	3	0	7
2010	0	0	0	0	0	2	4	0	6
2011	2	0	0	0	0	0	5	0	7
2012	0	0	0	0	0	0	2	0	2
2013	0	0	0	0	1	0	7	0	8
2014	1	0	0	0	0	2	9	0	12
2015	0	0	0	0	0	2	3	0	5
2016	0	0	0	0	0	1	3	0	4
2017	1	0	0	0	0	1	8	0	10
2018	1	0	0	0	0	1	2	0	4
2019	1	0	0	0	0	2	2	0	5
2020	0	0	0	0	0	0	1	1	2

Table 7: Fair Housing Complaints Filed in Cuyahoga County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	49	1	0	5	6	23	19	0	103
1995	43	0	2	1	4	16	15	1	82
1996	44	1	1	7	5	12	10	0	80
1997	28	0	1	12	0	5	14	2	62
1998	27	0	0	0	0	5	14	3	49
1999	31	1	4	2	4	8	19	6	75
2000	25	6	0	10	1	6	20	5	73
2001	17	0	2	3	0	8	14	3	47
2002	21	1	1	0	2	8	13	4	50
2003	46	0	2	8	3	5	7	6	77
2004	30	1	1	2	2	5	27	2	70
2005	32	3	5	6	1	11	29	14	101
2006	35	0	1	8	4	18	35	3	104
2007	35	2	2	9	8	16	17	3	92
2008	72	1	11	32	6	20	34	4	180
2009	48	1	0	11	17	69	21	6	173
2010	38	0	2	20	19	38	29	8	154
2011	16	0	2	4	4	56	23	2	107
2012	15	2	1	2	7	30	28	5	90
2013	30	1	7	8	14	32	50	9	151
2014	49	3	3	2	28	59	86	17	247
2015	39	1	6	2	11	30	52	15	156
2016	20	1	1	5	17	21	35	10	110
2017	19	1	0	8	5	12	34	11	90
2018	27	1	4	8	10	6	55	22	133
2019	19	0	2	3	11	6	50	7	98
2020	17	2	2	1	8	1	32	13	76

Table 8: Fair Housing Complaints Filed in Geauga County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	3	0	0	0	0	1	0	0	4
1995	1	0	0	0	0	0	0	0	1
1996	0	0	0	0	0	1	0	0	1
1997	0	0	0	0	0	0	0	0	0
1998	2	0	0	0	0	0	0	0	2
1999	1	0	0	0	0	1	0	0	2
2000	0	0	0	0	0	0	0	0	0
2001	0	0	0	0	0	0	1	0	1
2002	1	0	1	0	0	0	0	0	2
2003	0	0	0	0	0	0	1	1	2
2004	0	0	0	0	0	0	0	1	1
2005	1	0	0	0	0	0	0	1	2
2006	1	0	0	0	0	0	1	0	2
2007	0	0	0	0	0	0	0	1	1
2008	1	0	0	0	0	1	15	0	17
2009	0	0	0	0	1	1	1	1	4
2010	1	0	0	0	1	2	1	1	6
2011	0	0	0	0	0	0	2	0	2
2012	0	0	0	0	0	0	0	0	0
2013	0	0	0	0	0	0	0	0	0
2014	0	0	0	0	1	0	0	0	1
2015	0	0	0	0	0	1	1	0	2
2016	1	0	0	0	0	0	0	0	1
2017	0	0	0	0	0	0	0	0	0
2018	1	0	0	1	1	0	0	0	3
2019	1	0	0	1	0	1	2	0	5
2020	1	0	0	0	0	0	1	2	4

Table 9: Fair Housing Complaints Filed in Lake County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	2	0	0	0	0	4	0	1	7
1995	0	0	0	0	2	0	3	0	5
1996	5	0	0	0	0	3	2	0	10
1997	0	0	0	0	0	1	2	0	3
1998	1	0	0	0	1	1	0	0	3
1999	2	0	0	0	2	1	1	0	6
2000	0	0	0	0	0	2	2	0	4
2001	0	1	0	0	0	1	2	1	5
2002	3	0	1	0	0	1	2	0	7
2003	11	0	0	5	0	7	23	0	46
2004	8	1	0	1	0	1	7	0	18
2005	2	0	0	1	0	1	10	0	14
2006	3	0	0	0	2	2	15	0	22
2007	2	0	0	1	0	2	2	0	7
2008	3	0	0	0	0	2	16	0	21
2009	3	0	0	2	0	6	5	0	16
2010	2	0	0	1	1	6	11	0	21
2011	1	0	0	0	1	6	6	0	14
2012	1	0	0	0	1	1	1	0	4
2013	1	1	0	0	0	0	14	2	18
2014	2	1	0	1	3	3	10	2	22
2015	0	0	0	1	1	0	1	0	3
2016	2	0	0	1	0	3	6	1	13
2017	1	0	0	0	2	0	3	0	6
2018	0	0	0	0	0	0	5	1	6
2019	0	0	0	0	0	1	5	0	6
2020	2	0	0	0	0	1	4	0	7

Table 10: Fair Housing Complaints Filed in Lorain County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	6	0	0	1	1	1	1	0	10
1995	1	1	0	1	1	4	0	0	8
1996	1	0	0	0	0	0	0	0	1
1997	0	0	0	0	1	1	3	0	5
1998	2	0	1	0	1	3	0	1	8
1999	1	0	0	0	0	1	0	0	2
2000	0	0	0	0	0	0	1	0	1
2001	0	0	0	1	1	2	0	0	4
2002	0	0	0	0	1	0	1	2	4
2003	0	0	0	0	0	0	3	0	3
2004	5	0	0	0	0	1	5	1	12
2005	8	0	0	1	0	0	9	4	22
2006	7	2	1	1	1	3	2	2	19
2007	3	0	0	0	1	0	1	0	5
2008	5	0	1	2	2	2	4	2	18
2009	1	0	0	2	0	7	3	0	13
2010	3	0	0	1	2	1	2	3	12
2011	1	0	0	0	1	4	3	0	9
2012	2	0	4	3	0	5	0	0	14
2013	3	0	0	1	1	4	9	2	20
2014	5	0	0	1	1	10	10	2	29
2015	5	0	0	0	2	3	6	3	19
2016	5	0	0	0	1	0	4	1	11
2017	2	0	1	1	2	2	4	3	15
2018	1	0	0	0	0	0	3	0	4
2019	1	1	0	0	3	0	2	1	8
2020	0	0	0	0	0	0	3	1	4

Table 11: Fair Housing Complaints Filed in Medina County

	Race	Color	Religion	National Origin	Gender	Familial Status	Disability	Retaliation	Total
1994	0	0	0	0	0	2	1	0	3
1995	0	0	0	0	0	1	0	0	1
1996	1	0	0	0	1	2	0	0	4
1997	0	0	0	0	0	0	0	0	0
1998	0	0	0	0	0	0	0	0	0
1999	0	0	0	0	0	2	1	0	3
2000	3	0	0	0	0	2	3	0	8
2001	0	0	0	0	0	3	1	0	4
2002	0	0	0	1	0	5	4	0	10
2003	0	0	1	0	3	8	7	2	21
2004	2	0	0	0	1	3	7	1	14
2005	0	0	0	0	2	1	2	1	6
2006	5	0	0	0	0	2	9	1	17
2007	0	0	0	0	0	1	1	0	2
2008	2	0	0	1	0	0	1	0	4
2009	2	0	0	0	1	7	3	0	13
2010	0	0	0	0	0	0	0	0	0
2011	0	0	0	0	1	2	1	0	4
2012	0	0	0	0	0	1	0	0	1
2013	0	0	0	0	0	1	1	0	2
2014	2	0	0	0	0	1	4	0	7
2015	2	0	0	0	0	1	3	0	6
2016	0	0	0	0	0	0	4	0	4
2017	3	0	0	0	1	2	3	1	10
2018	0	0	0	0	0	0	3	0	3
2019	1	0	0	0	1	0	2	1	5
2020	2	0	0	0	0	0	1	1	4

Appendix B: Methodology for Calculating Fair Housing Complaint Data

In Ohio, fair housing cases may be filed with the U.S. Department of Housing and Urban Development (HUD), the Ohio Civil Rights Commission (OCRC), or sometimes with local fair housing agencies.

Because of an agreement with HUD, fair housing cases filed directly with the OCRC were also logged into HUD's database, Title Eight Automated Paperless Office Tracking System (TEAPOTS) and now the HUD Enforcement Management System (HEMS), if the complaint alleges a basis of discrimination that is found under both federal and state law. Cases from Ohio that are filed with HUD are generally referred to the OCRC for investigation unless there is a concern regarding jurisdiction or equal protection under state law in such an arrangement.¹⁴⁶ This results in most OCRC cases also being found in HUD's database and vice versa.

In our 2006 and 2007 reports, we combined the HUD and OCRC complaint data in an attempt to arrive at the most accurate number of complaints filed in the region. However, beginning in 2007, reporting differences between the TEAPOTS database used by HUD and the OCRC's database prevented us from combining these sources. With our 2008 report, we began only reporting cases included in the HUD TEAPOTS database. Because most cases included in the OCRC fair housing cases should be included in the HUD database, we believe that this data represents most of the fair housing complaints filed in the region.

For purposes of the chart, we followed HUD by considering each alleged basis of discrimination as a separate "complaint." Therefore, if someone filed a charge alleging discrimination based on race and sex, we counted that as two complaints and placed it in each column, even if it arose in only one charge form. HUD classifies some cases as having a basis of "retaliation." Although "retaliation" is not a basis of discrimination under federal, state, or local law, we included a separate category of retaliation in the charts since the HUD data separated this category from the other bases of discrimination. Military status is not included in complaint data, because the data only includes Federal protected classes.

¹⁴⁶ Starting in 2009, HUD began retaining jurisdiction of cases alleging violations of the accessibility provisions for new multi-family construction.

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Fair Housing Center for Rights & Research is a not-for-profit agency whose mission is to protect and expand fair housing rights, eliminate housing discrimination, and promote integrated communities.

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