1. SUMMARY OF IMPEDIMENTS TO FAIR HOUSING CHOICE

An Analysis of Impediments is a broad spectrum review of private and public practices and policies which may impact people’s ability to choose housing in an environment free from discrimination. The stated purpose of the AI is to increase housing choice, identify problems and assemble fair housing information. (HUD Fair Housing Planning Guide, p. 2-4) The AI:

• serves as the substantive, logical basis for Fair Housing Planning.
• provides essential and detailed information to policy makers, administrative staff, housing providers, lenders and fair housing advocates.
• assists in building public support for fair housing efforts both within entitlement jurisdictions’ boundaries and beyond.

The U.S. Department of Housing and Urban Development (HUD) requires entitlement jurisdictions to develop action plans to overcome the effects of identified impediments to fair housing choice (HUD Fair Housing Planning Guide, p. 2-1). Therefore, the Analysis of Impediments is the necessary first step in the Fair Housing Planning process.

Identified Impediments to Fair Housing Choice

**Impediment 1:** It appears that the Cities of Tehachapi, California City, Arvin, Maricopa, McFarland, and Shafter have in place public policies which may constitute impediments to fair housing choice for elderly, disabled, or other persons with special needs in relation to the siting and maintaining of group homes in their jurisdiction (Impediment 2-A from 1996 AI Report).

This is Impediment 2-A identified in the 1996 Analysis of Impediments to Fair Housing Choice for Kern County and affiliated cities. While Kern County and the City of Ridgecrest have taken action to remove the impediment, the other cities identified above have not modified or clarified their zoning codes in response to this impediment identified in 1996.

**Recommendation:** Each city should revise their zoning codes to permit group homes of up to six persons by right in all residential areas. Occupancy of the group homes should not be restricted to exclude protected categories such as persons with disabilities. The County of Kern should also again recommend that the zoning ordinance for each jurisdiction specify siting requirements for group homes of seven or more. Clearly stated requirements for approval of group homes would give greater certainty to the applicant and remove an impediment to fair housing choice for elderly, disabled, or other persons with special needs.

**Impediment 2:** The City of California City grants CUPs which are revocable or are granted for a limited time period. A revocable or limited period CUP could cause great uncertainty regarding the ability of group homes to continue operating in the community interest as mandated by California State Law (Impediment 2-B from 1996 AI Report).

This is Impediment 2-B identified in the 1996 Analysis of Impediments to Fair Housing Choice for Kern County and affiliated cities. No action has been taken by California City to remove this impediment.

**Recommendation:** The City of California City should define conditions under which a CUP can be
revoked that are not arbitrary and that give reasonable assurance of long term applicability so long as the conditions of use are not violated, no crimes are committed, and a public nuisance is not created. The wording of the Kern County Zoning Code with regard to revocability of CUPs is a good example of terminology that is not arbitrary and that provides reasonable assurance of long term use.

**Impediment 3:** The City of Tehachapi has been very slow to respond to Impediment 2-A of the 1996 Analysis of Impediments to Fair Housing Choice. After seven years of not acting on the recommendations of the 1996 Analysis of Impediments, the City has only recently implemented a program to study the issue.

Siting requirements for group homes of seven or more does require careful study. However, seven years should be more than enough time to develop a reasonable policy. Issues with respect to group homes of six or less are less complex and explicitly covered by California State Law. Modifications to the zoning code required to comply with California State Law include permitting Residential Care Facilities for six or less individuals by right in all residential zoning districts. The Kern County Zoning Code provides an excellent example of a Zoning Code that complies with applicable State Law.

**Recommendation:** The City of Tehachapi should bring its zoning code into compliance with State Law with regard to group homes of six persons or less with disabilities. Applicable sections of California Law include Health and Safety Code Section 1566.3, which states that a residential care facility for six persons or less shall be treated no differently than any other family residence of any kind with regard to zoning codes, use permits and fees. Also, Government Code Section 12955, paragraph 1, makes it unlawful to discriminate in housing using public zoning codes.

**Impediment 4.** Weakness in fair housing investigative services, and the absence of testing to obtain corroborative evidence to validate housing discrimination complaints, leaves victims of housing discrimination with little recourse and allows individuals who practice discrimination free to continue without fear of consequences.

The 1992 Fair Housing Assessment cited the joint City of Bakersfield/Kern County Fair Housing Program for a number of weaknesses, one of which was insufficient use of testing to gather corroborative evidence to support or deny allegations of housing discrimination. As a result of this and other criticism, the County and City Fair Housing Programs became independent in 1995. The 1996 Analysis of Impediments to Fair Housing Choice for Kern County cited a renewed initiative to recruit and train testers and to use testing to validate allegations of housing discrimination. However, this initiative apparently ran out of steam. During the two full years from mid-2001 to mid-2003, no testing was conducted in Kern County.

Testing is a primary means by which false complaints can be culled from actual cases of housing discrimination. It also provides corroborative evidence that victims of housing discrimination can use to seek redress with HUD, DFEH, or through private attorneys. Lack of a means to establish corroborative evidence allows individuals to discriminate without fear of consequence.

Review of case information from 2001-2003 also revealed that over 40% of complaints of housing discrimination were dropped due to “uncooperative complainants”, a sign that the investigative process is unnecessarily burdensome to complainants. Part of that unnecessary burden is a requirement to fill-in and return a case intake form. Normally, this is done by telephone interview in other jurisdictions.

The Fair Housing Program of the County of Kern views itself as a “neutral third party”. The County is an advocate of fair housing and employs mediation as well as referrals to other government agencies such as
the State Department of Fair Employment and Housing, the U.S. Department of Housing and Urban Development, and outside attorneys as appropriate. While impartiality in the gathering of evidence is necessary, the Fair Housing Program of the County of Kern should view itself as an advocate of housing rights with a mission to aid victims of housing discrimination in seeking redress, when appropriate, against housing providers who have deprived them of their civil rights under State and Federal Fair Housing Law.

**Recommendations.** The Fair Housing Program of the County of Kern should recruit and train testers in order to employ testing as a means to validate complaints of housing discrimination. The Fair Housing Program should also eliminate the requirement for complainants to fill out and mail in a complaint form, but instead should gather the necessary information through telephone interviews.

**Optional Recommendation.** The Fair Housing Program of the County of Kern should strengthen its presence in the remote cities of the County. It should evaluate placing a field office in the High desert area and staffing it on a part time basis. As an alternative, it could conduct education and outreach activities in the remote areas as an ongoing planned effort and could schedule certain days of the week or month to provide a physical presence in these areas. Another option is to designate an individual on each city’s staff to be the fair housing contact person to provide on-site advocacy and link to the Fair Housing Program of the County of Kern.

**Impediment 5.** *The City of California City has a restrictive definition of family that discriminates against persons with disabilities and some other families with children.*

**Recommendation:** Modify the definition of family in the zoning code to allow an unrelated group of six or less individuals.
2. PURPOSE AND SCOPE OF THE AI

HUD wants entitlement jurisdictions to become fully aware of the existence, nature, extent, and causes of all fair housing problems and the resources available to solve them. Without this information, an entitlement jurisdiction’s Fair Housing Plan could fall short of measurable results. HUD’s goal in requiring the production of an AI is to conserve valuable energy and resources while producing efficient and effective fair housing services.

2.1 Information Gathering and Analysis

To assist policy makers the AI consolidates fair housing information otherwise located in a variety of sources. It also brings together information not otherwise perceived as fair housing related. This AI is a review of and search for impediments to fair housing choice in Kern County, the unincorporated communities within the metropolitan Bakersfield area, the affiliated incorporated cities of Arvin, California City, Maricopa, McFarland, Ridgecrest, Shafter, and Tehachapi and unincorporated neighborhoods within the County.

HUD defines fair housing impediments as:

1) Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status or national origin which restrict housing choices or the availability of housing choices, or

2) Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status or national origin.

The information sought for conducting an AI includes the following:

- Practices and procedures involving housing and housing-related activities;
- Zoning and land use policies;
- The nature and extent of fair housing complaints/suits or other data that may evidence achievement of fair housing choice;
- Demographic patterns;
- Home Mortgage Disclosure Act (HMDA) data;
- Allegations of discrimination;
- Patterns of occupancy in Section 8, Public and Assisted Housing, and private rental housing.

The AI evaluates policies and practices of the entitlement jurisdictions, nonprofit agencies and private entities for the existence of impediments. In analyzing possible impediments, HUD also requests that entitlement jurisdictions review the number and types of complaints filed with the Department of Justice or private plaintiffs, HUD, and the California Department of Fair Employment and Housing (DFEH).

2.2 Assembling Fair Housing Information

The production of the AI involved extensive data collection. HUD does not intend AI’s to be the product of original research. Therefore, Project Sentinel relied primarily on existing data throughout the report.
Primary sources included City and County websites, Zoning Codes, Housing Elements, and other information directly applicable to this AI. Most demographic data was available from US Census 2000 and US Census 1990. Other sources included Consolidated Plans, Home Mortgage Disclosure Act (HMDA) data, fair housing agencies and documents developed by these entities. Information provided by Kern County, the Housing Authority of the County of Kern, and the Fair Housing Program of the County of Kern were also reviewed. Since local jurisdictions do not always collect data in the same way, different data sources are sometimes used for similar information.

To produce this Analysis of Impediments, Project Sentinel reviewed relevant demographic data to identify housing patterns and assess efforts to avoid segregation and isolation. We also analyzed land use and zoning for legality of terminology and fair housing practice. Land use and zoning were also reviewed to identify practices used to promote or inhibit development of affordable housing. Transportation policy was analyzed from the perspective of impact to those groups protected by fair housing law. Impact of banking policies on ability of protected groups to buy homes was analyzed. We also reviewed cases of housing discrimination documented with the California Department of Fair Employment and Housing (DFEH) and HUD. Efforts of each jurisdiction to promote affordable housing and fair housing were reviewed. Results of these analyses and assessments identified potential and actual impediments to fair housing, which then formed the basis of recommended fair housing actions to mitigate each impediment.

2.3 Approach to racial and ethnic group census data comparisons

In analyzing data from the US Census, numerous difficulties arise because Hispanics are treated as an ethnic group and not a race. Therefore, when comparing data by race, Hispanics are not shown in census tables but are included mainly in either “Other” or “White” and to some degree in each of the other races. When comparing Hispanic and non-Hispanic ethnicity, categories of non-Hispanic White and Hispanic White, Non Hispanic Asian and Hispanic Asian, etc, appear in the census tables. To be completely precise with our demographic data, we would show all categories in all figures. However, this complicates the analysis and makes the graphics nearly unreadable. Furthermore, most census information is not broken down to the “Hispanic Asian” level so that the precise approach can’t be employed for most data comparisons.

There is no completely satisfactory way to resolve this issue. Much of our data analysis compares the major cultural groups White, Hispanic, Asian and Black. If a person is a Hispanic White, is he counted as Hispanic or White? Our solution is pragmatic (Fig. 2.1). We have assigned each census category to a cultural group as follows:

<table>
<thead>
<tr>
<th>Cultural Group</th>
<th>Census Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non- Hispanic White</td>
<td>Non-Hispanic White</td>
</tr>
<tr>
<td>Hispanic</td>
<td>Hispanic</td>
</tr>
<tr>
<td>Asian</td>
<td>Asian</td>
</tr>
<tr>
<td>Black</td>
<td>Black or African American</td>
</tr>
<tr>
<td>Native American</td>
<td>American Indian and Alaska Native</td>
</tr>
<tr>
<td>Pacific Islander</td>
<td>Native Hawaiian and other Pacific Islander</td>
</tr>
<tr>
<td>Other</td>
<td>Part of total population not counted above</td>
</tr>
<tr>
<td>Total</td>
<td>Total Population</td>
</tr>
</tbody>
</table>
With this approach, all persons who labeled themselves Hispanic are counted as Hispanic. All persons who identified themselves as Asian, Black, American Indian, and Pacific Islander are counted in those groups. Only non-Hispanic Whites are counted as White. Using this method, a handful of Hispanic Asians, Hispanic Blacks, etc, are counted twice. They are taken back out in the “other” category so that the total population remains accurate. This approach gives 100% accuracy to the Asian, Black, American Indian, and Pacific Islander races, the Hispanic ethnic group, and the total population. It undercounts the White race by assigning all Hispanics to the Hispanic category. “Other” is employed as the difference between the sum of these categories and the total population and is used to keep the total population accurate. Therefore, “other” in this report does not correspond to “other” in the Census data.

In nearly all figures, we use the cultural groups defined above for data comparisons. Demographic maps from Census 2000, however, present only the racial groups and the ethnic Hispanic group. Therefore, demographic map data presents the entire White race, Hispanic and non-Hispanic. Other demographic map data for Asians, Blacks, and Hispanics conform to the above definitions.

### PRESENTATION OF CENSUS 2000 DATA

<table>
<thead>
<tr>
<th>Kern County Hispanic and Racial Census 2000 Data</th>
<th>Kern County</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-Hispanic</strong></td>
<td><strong>White</strong></td>
</tr>
<tr>
<td>Non-Hispanic</td>
<td>327,190</td>
</tr>
<tr>
<td>Hispanic</td>
<td>80,391</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>407,581</td>
</tr>
</tbody>
</table>

Data available for most census categories
Data presented in AI report

<table>
<thead>
<tr>
<th>Data as Presented in AI Report</th>
<th>Kern County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Hispanic White</td>
<td>327,190</td>
</tr>
<tr>
<td>Hispanic</td>
<td>254,036</td>
</tr>
<tr>
<td>Asian</td>
<td>22,268</td>
</tr>
<tr>
<td>Black</td>
<td>39,798</td>
</tr>
<tr>
<td>Pacific Islander</td>
<td>972</td>
</tr>
<tr>
<td>Native American</td>
<td>9,999</td>
</tr>
<tr>
<td>Other</td>
<td>7382</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>661,645</td>
</tr>
</tbody>
</table>

*Fig. 2.1. A subset of Census 2000 Hispanic and racial data provides an accurate portrayal of the major ethnic and racial groups in Kern County.*
3. DEMOGRAPHIC OVERVIEW OF KERN COUNTY

3.1 Introduction to Kern County

Located at the southern end of California’s Central Valley, Kern County is a gateway to Southern California, the San Joaquin Valley and California’s High Desert. It is California’s third-largest county in land area, 8,073 square miles, larger than the land area of Massachusetts, New Jersey or Hawaii (Fig. 3.1).

Kern County encompasses a variety of living environments and lifestyles. Two thirds of Kern County residents live in the metropolitan Bakersfield area, a rapidly growing mix of older communities and new housing tracts. North and south of Bakersfield are the agricultural fields of the southern end of the San Joaquin Valley with high concentrations of Hispanic residents. East of Bakersfield lies the High Desert, sparsely populated outside a handful of small cities and towns. This region has the highest concentration of non-Hispanic Whites. Northeast of Bakersfield is the Sequoia National Forest and the Sierra Nevada Mountains, a distinctly alpine environment.

Bakersfield stands alone as the only large city (Fig. 3.2). Other incorporated cities in the County range in population from just over one thousand to nearly forty thousand. Seventeen other unincorporated communities are listed in the census as Community Designated Places (CDP), of which Oildale (27,855) and Lamont (13,296) are the largest. Because Kern County has some of the lowest housing prices in California, these cities and towns are growing rapidly. Population density outside these cities and communities is small, the environment either farmland to the west or desert and mountains to the east.

Kern County’s state-of-the-art agricultural industry provides the nation and world with food and fiber. Oil and natural gas deposits make Kern County one of the nation’s significant energy producers. Located at the crossroads of southern California, Kern County has become the distribution center for some of the world’s largest companies. From high-tech computer and aviation companies to state-of-the art manufacturers, Kern

![Fig. 3.1. California's third largest county in area, Kern County extends across the southern Central Valley into the Mojave Desert.](image-url)
County features a wide and increasingly diversified economic base.

### 3.2 Demographic Data

Demographic data for unincorporated metropolitan Bakersfield and seven other cities that constitute this AI are compared in Fig. 3.2 to data for California and Kern County as a whole. The City of Bakersfield had 247,057 residents in 2000. The surrounding unincorporated metropolitan area includes 186,834 residents, so that nearly two thirds of the County’s population resides in the Bakersfield metropolitan area, either incorporated or unincorporated. The City of Ridgecrest, with 24,927 residents, is the next largest community that is part of this AI. The city of Delano, not part of this AI, had 38,824 residents in 2000. Other cities and communities in the County are relatively small, with twenty five thousand or fewer residents.

Population growth for Kern County was 21.4% for the decade from 1990 to 2000, fifty percent greater

<table>
<thead>
<tr>
<th>Kern County Demographics</th>
<th>Census 2000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Population</td>
</tr>
<tr>
<td>California</td>
<td>33,871,648</td>
</tr>
</tbody>
</table>

**Kern County and Affiliated Cities**

- Kern County, 661,645, 50.5% minority, 16.9% immigrant, 208,652 occupied housing units, 3.03 average household size, $15,760 per capita income, $35,446 median household income.
- Bakersfield, 186,834, 51.8% minority, 18.0% immigrant, 57,432 occupied housing units, 3.22 average household size, $15,781 per capita income, $38,572 median household income.
- California City, 8,385, 38.7% minority, 7.3% immigrant, 3,067 occupied housing units, 2.72 average household size, $19,902 per capita income, $45,735 median household income.
- McFarland, 9,618, 89.8% minority, 39.0% immigrant, 1,990 occupied housing units, 4.3 average household size, $9,524 per capita income, $24,821 median household income.
- Maricopa, 1,111, 17.7% minority, 5.6% immigrant, 404 occupied housing units, 2.75 average household size, $15,692 per capita income, $27,917 median household income.
- Ridgecrest, 24,927, 23.5% minority, 6.9% immigrant, 9,826 occupied housing units, 2.51 average household size, $21,312 per capita income, $44,971 median household income.
- Shafter, 12,736, 71.0% minority, 28.0% immigrant, 3,293 occupied housing units, 3.67 average household size, $10,961 per capita income, $29,515 median household income.
- Tehachapi, 10,957, 49.8% minority, 7.0% immigrant, 2,533 occupied housing units, 2.59 average household size, $18,220 per capita income, $29,208 median household income.

**Other Kern County Cities and Communities**

- Bakersfield city, 247,057, 48.9% minority, 13.6% immigrant, 83,441 occupied housing units, 2.92 average household size, $17,678 per capita income, $39,982 median household income.
- Buttonwillow CDP, 1,266, 75.0% minority, 35.2% immigrant, 328 occupied housing units, 3.81 average household size, $9,424 per capita income, $28,370 median household income.
- Delano city, 38,824, 90.8% minority, 38.4% immigrant, 8,409 occupied housing units, 4.02 average household size, $11,068 per capita income, $28,143 median household income.
- Derby Acres CDP, 376, 9.8% minority, 1.9% immigrant, 125 occupied housing units, 3.01 average household size, $19,925 per capita income, $44,688 median household income.
- Edwards AFB CDP, 5,909, 31.7% minority, 6.1% immigrant, 1,678 occupied housing units, 3.19 average household size, $13,190 per capita income, $36,915 median household income.
- Fellows CDP, 153, 17.6% minority, 1.3% immigrant, 52 occupied housing units, 2.73 average household size, $15,636 per capita income, $30,417 median household income.
- Frazier Park CDP, 2,348, 18.1% minority, 3.4% immigrant, 922 occupied housing units, 2.55 average household size, $19,302 per capita income, $40,721 median household income.
- Inyokern CDP, 984, 16.2% minority, 9.5% immigrant, 418 occupied housing units, 2.35 average household size, $21,707 per capita income, $35,046 median household income.
- Kernville CDP, 1,736, 15.0% minority, 9.3% immigrant, 800 occupied housing units, 1.99 average household size, $23,159 per capita income, $40,721 median household income.
- Lamont CDP, 13,296, 90.8% minority, 44.7% immigrant, 3,114 occupied housing units, 4.27 average household size, $7,915 per capita income, $25,576 median household income.
- Lebec CDP, 1,285, 25.4% minority, 13.9% immigrant, 456 occupied housing units, 2.82 average household size, $14,895 per capita income, $39,063 median household income.
- McKittrick CDP, 160, 11.9% minority, 2.5% immigrant, 54 occupied housing units, 2.96 average household size, $14,174 per capita income, $43,333 median household income.
- Mettler CDP, 157, 84.7% minority, 29.9% immigrant, 31 occupied housing units, 5.06 average household size, $6,919 per capita income, $28,750 median household income.
- Mojave CDP, 3,836, 40.3% minority, 13.8% immigrant, 1,408 occupied housing units, 2.71 average household size, $12,477 per capita income, $24,761 median household income.
- Olivedale CDP, 27,885, 15.1% minority, 4.0% immigrant, 10,983 occupied housing units, 2.53 average household size, $13,342 per capita income, $27,041 median household income.
- Randsburg CDP, 77, 15.6% minority, NA, 49 occupied housing units, 1.57 average household size, NA per capita income, NA median household income.
- Rosamond CDP, 14,349, 39.4% minority, 12.7% immigrant, 4,988 occupied housing units, 2.88 average household size, $14,440 per capita income, $42,678 median household income.
- Rosedale CDP, 8,445, 16.7% minority, 4.0% immigrant, 2,566 occupied housing units, 3.28 average household size, $25,414 per capita income, $76,277 median household income.
- Taft city, 6,400, 20.9% minority, 8.3% immigrant, 2,233 occupied housing units, 2.62 average household size, $17,564 per capita income, $33,861 median household income.
- Wasco city, 21,263, 78.4% minority, 23.3% immigrant, 3,971 occupied housing units, 3.79 average household size, $14,228 per capita income, $28,997 median household income.
- Wofford Heights CD, 2,276, 11.0% minority, 5.4% immigrant, 1,162 occupied housing units, 1.94 average household size, $15,937 per capita income, $24,326 median household income.

Fig. 3.2. Kern County demographic data (Census 2000).
than the California average growth of 13.6%. This growth is fueled by a number of factors: inexpensive housing, an expanding economy, proximity to Los Angeles and coastal communities to the west, and an attractive location, within easy reach of the Sierra Nevada Mountains and the High Desert to the north and east.

From a racial and ethnic perspective, Kern County’s population is half non-Hispanic White and half minority (Fig. 3.3). The largest proportion of the minority population is Hispanic, concentrated in the agricultural region of the Central Valley along Highway 99. The cities of Arvin, McFarland, and Shafter, located in this region north and south of Bakersfield, are 70-90% minority, of which one-fourth to one-half are foreign-born immigrants. These cities have the lowest per capita incomes in the County, one-third to one-half the California average.

The cities of Maricopa (82.3%), Ridgecrest (76.5%), California City (61.3%) and Tehachapi (50.2%) have the highest concentrations of non-Hispanic White population and lowest percentage of foreign-born immigrants in the County. Ridgecrest, California City and Tehachapi, located on the eastern Mojave Desert side of Tehachapi pass, lie closest to the China Lake and Edwards AFB military bases. Per capita income for those cities are highest in the County and close to the California average.

Demographics of other cities and Community Designated Places (CDP) within Kern County follow the same trends already discussed. Lower income agricultural communities in the Central Valley outside the metropolitan Bakersfield area have high concentrations of minorities and immigrants, with associated higher average household size. Predominately non-Hispanic White higher income communities are located in the high desert and mountainous areas to the east of Tehachapi Pass. Metropolitan Bakersfield, both incorporated and unincorporated, on average has demographic characteristics close to those of Kern County as a whole since nearly two-thirds of the County’s population resides in this region. Within Bakersfield metropolitan area communities, Lamont has the lowest per capita income and highest percentage of minorities. Rosedale has the highest per capita income in the County and a population that is over 83% non-Hispanic White.

<table>
<thead>
<tr>
<th>Kern County Ethnic Groups</th>
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<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Total Population</td>
</tr>
<tr>
<td>Non-Hispanic White</td>
</tr>
<tr>
<td>Hispanic</td>
</tr>
<tr>
<td>Asian</td>
</tr>
<tr>
<td>Black</td>
</tr>
<tr>
<td>Native American</td>
</tr>
<tr>
<td>Pacific Islander</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>California 33,871,648</td>
</tr>
<tr>
<td>Kern County 661,645</td>
</tr>
<tr>
<td>Arvin 12,956</td>
</tr>
<tr>
<td>Maricopa 1,111</td>
</tr>
<tr>
<td>Ridgecrest 24,927</td>
</tr>
<tr>
<td>Shafter 12,736</td>
</tr>
<tr>
<td>Tehachapi 10,957</td>
</tr>
<tr>
<td>California City 8,385</td>
</tr>
<tr>
<td>McFarland 9,618</td>
</tr>
<tr>
<td>Unincorporated</td>
</tr>
<tr>
<td>Metropolitan Bakersfield</td>
</tr>
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<td></td>
</tr>
</tbody>
</table>

Fig 3.3. *Population of major ethnic groups for communities analyzed in this AI (Census 2000).*
As is typical throughout California, Hispanic and Asian families tend to have the largest household size; non-Hispanic White and Black families tend towards smaller average household size (Fig. 3.4). This trend holds in Kern County, where high average household size is seen in agricultural communities with heavy concentrations of minorities and foreign-born immigrants. Conversely, lower average household size is observed in communities with higher concentrations of non-Hispanic Whites, particularly in the high desert eastern portion of the County.

At the time of the 2000 Census, Kern County had a relatively large number of residents living below the poverty level, 20.8% overall and as high as 36.0% for Blacks and 31.0% for Hispanics. Non-Hispanic Whites and Asians had the highest per capita incomes, $21,066 and $16,608 respectively. Hispanic per capita income was the lowest at $9,393. Asians had the highest median household income in the County at $44,113 followed by Hawaiians at $43,846 and non-Hispanic Whites at $41,368. Blacks had the lowest median household income ($22,489) followed by Hispanics ($27,263).

### 3.3 Housing Profile

Kern County has some of the lowest cost housing in California, the median price of a home only 44% of the State average (Fig. 3.5). While per capita income and median household income in Kern County are lower than the State average, they are not nearly as low as the median home price. Median household income in Kern County is 75% of the California average, making home prices affordable to a much broader segment of the population than elsewhere in the State.

For this reason, the home ownership rate is higher in Kern County, 62% relative to 57% across the State. Rents are also relatively low, not only due to the low cost of housing but also to the relatively high vacancy rate. Overall, housing is much more affordable in Kern County than elsewhere in the State. This is a major reason for the County’s very high population growth rate.

However, there are areas of concern. Kern County’s poverty rate is high at 21% of the population, 36% and 31% respectively among Blacks and Hispanics. It is these two groups, lower income Blacks and Hispanics, which are of most concern with respect to affordable housing.

Overall, Kern County’s housing stock is younger than that of the State, on average 28 years old versus 33 years for the State. Only Shafter has housing stock with average age over that of the State, and then only by
one year. However, averages can be deceiving. Within the Metropolitan Bakersfield area, large new housing tracts exist side by side with very small shanties built before the Second World War. Many of these old substandard dwellings are dilapidated and occupied by lower income minorities and immigrants. Because of their poor condition, owners of substandard homes like these are sometimes tempted to engage in predatory habitability practices.

Predatory habitability is the practice of restricting the rental of code-deficient dwellings to one ethnic, racial or other fair housing protected group. This practice of providing code-deficient units may also be coupled with overcrowding and practices such as harassment. Typically, foreign-born immigrant populations are not aware of their rights and/or do not possess the language skills to protect these rights and to access the judicial system. It is important to focus on this problem because its victims are particularly vulnerable. Unlike other fair housing victims, who are familiar with the language and American customs, these tenants have been targeted because characteristics of their protected group (cultural, lack of legal status, lack of money) render them less prone to contact the authorities to remedy substandard living conditions.

To summarize, Kern County on average has relatively young, inexpensive housing stock, one of the drivers of the County’s high population growth rates. However, a significant segment of low-income Black and Hispanic residents are unable to take advantage of this housing affordability and occupy substandard dilapidated housing.
4. PROGRESS ON RECOMMENDATIONS OF THE 1996 KERN COUNTY ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

4.1 Introduction

This section reviews impediments and recommendations identified in the previous Kern County Analysis of Impediments to Fair Housing Choice, dated September 1996, and progress made in addressing those impediments. To conduct this assessment, Project Sentinel interviewed the Kern County Fair Housing Program Coordinator, housing officials with Kern County and the Housing Authority of the County of Kern (HACK), as well as city planners from the cities of Arvin, California City, Ridgecrest and Tehachapi. The most recent Housing Elements and Zoning Codes for Kern County and the Cities of Arvin, California City, Maricopa, McFarland, Ridgecrest, Shafter, and Tehachapi were also reviewed.

4.2 Assessment of Progress

The following paragraphs list the impediments and recommendations identified in the 1996 Analysis of Impediments and provide an assessment of progress made on each recommendation since 1996.

Chapter 1. Review of Lending and Insurance Practices

No Impediments

Chapter 2. Review of Group Homes and Supported Living Facilities

Impediment 2A: It appears that many cities have in place public policies which may constitute impediments to fair housing choice for elderly, disabled, or other persons with special needs in relation to the siting and maintaining of group homes in their jurisdiction.

Recommendation: The County of Kern should recommend that the zoning ordinance for each jurisdiction specify siting requirements for group homes. Clearly stated requirements for approval of group homes would give greater certainty to the applicant and remove an impediment to fair housing choice for elderly, disabled, or other persons with special needs.

Assessment of Progress: The prior Housing Programs Manager of the County of Kern sent two letters to each jurisdiction recommending the changes to the zoning ordinances with regard to siting requirements for group homes, the first immediately after release of the 1996 Analysis of Impediments Report and the follow-up letter approximately six months later.

The Kern County zoning ordinance is fully compliant with the 1996 Analysis of Impediments recommendations. The zoning code was modified so that policy with regard to group homes is explicit, clear, and supportive of development of new residential facilities. Group homes of 6 or less persons are permitted by right in all residential areas. Residential Care Facilities of up to 10 persons are permitted by right in the R3 multi-family residential district and up to 12 persons by right in the C1 commercial district. Community Care Facilities are permitted by right in the C2 commercial district and with a CUP in all other residential areas.

The City of Ridgecrest has recognized this impediment to Fair Housing Choice in the May 2002 update of the Housing Element of the General Plan by declaring it City Policy to revise the Zoning Code to allow
group homes for less than 6 persons in all residential areas and to clarify siting requirements for larger group homes.

Review of the current zoning ordinances for the other incorporated cities covered by this report indicates that, unlike the response by the County and City of Ridgecrest, few improvements have been made. Although State law (Health and Safety Code Section 1566.3) requires that group homes of 6 or less persons be permitted by right without CUP in all residential areas, a number of jurisdictions are not compliant.

Tehachapi does not allow group homes of less than 6 persons in agricultural areas and requires a CUP in the Estate and Commercial Districts. Group homes of less than 6 are permitted by right in the R1, R2, and R3 residential areas, but only for the elderly, not the disabled.

Shafter allows group homes of less than 6 in all residential areas, but only for the elderly, not persons with disabilities. California City requires a CUP for all group homes of less than 6 except in the Community Hospital District and specifically prohibits group homes for recovering alcoholics, drug abusers, and the mentally disabled.

Arvin makes no mention of group homes in its zoning code.

Incorporated city policy for group homes of 6 or more is marginally better. Shafter allows group homes of 12 or less with a CUP in the R2 and R3 multi-family districts. Tehachapi allows group homes in the Estate and Commercial C2 and C3 districts with a CUP. California City allows group homes only in the Community Hospital District. Arvin does not mention group homes.

Based on review of the zoning codes, this impediment to fair housing choice has been removed within unincorporated areas of the County that are subject to the Kern County Zoning Code and in the City of Ridgecrest. Because the recommendation of the 1996 Analysis of Impediments Report has not been implemented within the other incorporated city jurisdictions, the impediment to fair housing choice still exists within the other incorporated cities.

A more significant issue may exist within the City of Tehachapi. When this impediment to Fair Housing Choice was first identified in 1996, Kern County and the City of Ridgecrest took appropriate action to bring their zoning codes into compliance with California Law with regard to group homes of six or fewer persons with disabilities. This action also brings those jurisdictions into compliance with the federal Fair Housing Amendments Act of 1988. While the other smaller cities took no action, it appears to be simple oversight. Most of these cities are very small, some with planning departments of only a few people, and the staff has more than enough activities that must be carried out to keep their cities operational. That they might overlook taking action is not necessarily surprising.

The City of Tehachapi, on the other hand, put significant energy into defending their zoning policies with regard to group homes for persons with disabilities in the 2003 update of the Housing Element. The action goes so far as to initiate a study of the City’s policies to identify “if impediments exist, and if so, to take action” (Program 3.2.3). It has been eight years since the 1996 Analysis of Impediments identified an impediment to fair housing choice in Tehachapi with respect to group homes. California Law Health and Safety Code Section 1566.3 states that a residential care facility for six persons or less shall be treated no differently than any other family residence of any kind with regard to zoning codes, use permits and fees. Also, Government Code Section 12955, paragraph l, makes it unlawful to discriminate in housing using public zoning codes. More than enough time has passed for the City of Tehachapi to bring its zoning code
into compliance with these sections of State Law.

Most cities and counties in the State of California have taken action to permit group homes of six or less persons with disabilities in all residential areas. This is not a complex issue. The County’s zoning code is a clear example. In every residential zoning district, a permitted use is “group homes of six or less persons”, without exception (Estate District) or qualifier (elderly).

The City of Tehachapi’s approach has not been responsive to the 1996 Analysis of Impediments to Fair Housing Choice. This of itself would be an impediment to fair housing choice. The entire process of performing these analyses presumes a good faith effort on the part of the jurisdictions to take some corrective action to remove the impediment. Lack of this good faith effort impedes the process. Attempts to circumvent the process with “further study” serves to undermine the underlying principle of local government making reasonable efforts to remove impediments to fair housing choice for all citizens.

**Impediment 2B:** The City of California City and the City of Delano grant CUPs which are revocable or are granted for a limited time period. A revocable or limited period CUP could cause great uncertainty regarding the ability of group homes to continue operating in the community interest as mandated by State Law.

**Recommendation:** The County of Kern should recommend that the zoning ordinance for each jurisdiction remove any reference to CUPs which are revocable or issued for a limited time period.

**Assessment of Progress:** Policy on CUPs in the Kern County Zoning Ordinance should serve as a model for the smaller incorporated cities within the County. Kern County specifies that a CUP is revocable only under very specific conditions:

- That the terms and conditions under which the CUP was approved have not been complied with
- That the property subject to the CUP is used or maintained in violation of any statute, ordinance, law, or regulation
- That the use for which the CUP was granted has been so exercised as to be detrimental to the public health and safety or as to constitute a nuisance
- That changes to technology or in the type or amount of development in the vicinity of the use or other good cause warrants modifications to the conditions of operation to assure that the use remains compatible with uses of other property within the general area.

This terminology provides the property owner reasonable assurance of long term use provided that terms and conditions of the CUP are complied with, statutes and laws are not violated, and the property is used in a responsible manner so as not to be detrimental to public health and safety. Only the fourth condition is not within the control of the property owner; however, the changes that might invoke that clause occur over extended timeframes and imply long term use. A CUP policy like that of Kern County does not constitute an impediment to fair housing choice.

The City of Delano is not part of this Analysis of Impediments and therefore its zoning code was not reviewed to assess progress.
The City of California City has not modified its zoning code in response to the recommendation of the 1996 Analysis of Impediments to Fair Housing Choice. Its CUP policy, unlike that of the County, provides poorly defined conditions for granting a CUP and instead states that the CUP may be revocable, granted for a limited time period, or granted subject to such conditions as the Commission may prescribe. This policy provides uncertain assurance of long term use.

Based on failure to act on the recommendation of the 1996 Analysis of Impediments to Fair Housing, Impediment 2B has not been removed within the City of California City.

Chapter 3. Review of Patterns of Occupancy in Public Housing and Section 8 Housing

Impediment 3A: Low-income Asian households are under represented in Section 8 programs as well as Public and Assisted Housing.

Recommendation: Increase outreach efforts to the Asian Community.

Assessment of Progress: Subsequent to publication of the 1996 Analysis of Impediments, HACK personnel conducted a number of outreach activities with grassroots Asian organizations in the North County area around Delano. The objective was to communicate the existence of low-income housing programs to lower income Asian residents. Strong feedback was received that it was not part of Asian culture or tradition to seek help from government agencies.

Other relevant demographic factors include the fact that Asians in Kern County (3.4%) are under represented relative to their numbers in California (10.9%). Furthermore, Asians have the highest median household income of any ethnic group in the County. One would expect, therefore, that the number of Asians qualifying for public housing would be much less than their proportion of County residents.

Based on the fact that the recommended outreach efforts took place and that the feedback received indicates a non-issue for the Asian population, the impediment has been removed.

Impediment 3B: In rural Kern County the need to build affordable housing units within jurisdictions where infrastructure and employment are available has led to some inadvertent concentration of assisted multi-family housing units in small towns and cities.

Recommendation: Actively solicit additional units for Section 8 housing in neighborhoods that are not traditional residential areas for such holders.

Assessment of Progress: In discussions with HACK personnel, they found that it is difficult to solicit Section 8 Housing in rural areas outside the small towns and cities. Because the housing market has been very robust over the past five years in Kern County, with lower vacancy rates and rising prices, there is little incentive for landlords in “non-traditional” areas to accept Section 8 vouchers.

However, HACK has found an innovative approach to accomplishing the same end. Through the “Hope One” program, HACK is selling public rental housing units to tenants, thereby establishing pride of ownership and helping to maintain the units. Using funds available from the sale of public housing, in combination with State funds, HACK is building low-income rental duplexes on unincorporated County land outside the smaller cities and towns.
With this approach, HACK has met the intent of the recommendation that removes impediment 3B.

Chapter 4: Analysis of Services and Practices of Public Entities in the County of Kern

No impediments identified.

Chapter 5: Review of Phase I and Phase II Fair Housing Assessment Studies (1992) and Evaluation of Progress on Recommendations from those Studies

Impediment 5-A: Individual property managers for both private sector and assisted housing units may be uninformed about fair housing principles and practices. Because individual property owners are the direct link between housing units and renter households, they are the group which most directly effects implementation of fair housing law.

Recommendation: Continue to emphasize and improve presentations for property managers including both market rate and assisted apartment projects. The problem of adequate training and dissemination of fair housing information is made more difficult by turnover in management staff for both public and private housing. The problem of education for management staff in HUD-assisted housing projects is exacerbated by the fact that many of them are managed by commercial management firms. Note also that HACK functions as a manager for Public Housing Projects as well as for several Farmers Home Apartment projects. HACK needs to be sure that the onsite management staff it hires has sufficient training in fair housing issues and to take steps to respond promptly to reported problems.

Assessment of Progress: The Fair Housing Program of the County of Kern has made significant progress in this area. Between twenty and thirty presentations have been made annually since 1996 to a variety of housing providers, including: the HACK, the Kern County Apartment Association, the Institute of Real Estate Management (IREM), the Bakersfield Association of Realtors, as well as to a number of protected class groups such as the Independent Living Center of Kern County and others.

The Fair Housing Program of the County of Kern supported and participated in the Annual Fair Housing Arts Contest held annually every April during Fair Housing Month. The contest is sponsored by the Bakersfield Association of Realtors with whom the County works.

The Fair Housing Program of the County of Kern also has distributed over 2000 brochures annually to a wide variety of protected groups, including lower income minorities and people with disabilities.

Based on the wide audience addressed, the variety of media employed, and the number of years over which action has been taken, the Fair Housing Program of the County of Kern has actively and energetically responded to the recommendations made in the 1996 Analysis of Impediments to Fair Housing Choice. Therefore this impediment is removed.

Impediment 5-B. Review of Housing Elements for the County of Kern CDBG Cooperative Agreement Jurisdictions indicates that fair housing is dealt with only peripherally. Inconsistent fair housing goals, objectives and programs in individual housing elements reflect inconsistent understanding of and commitment to the principles of fair housing choice for all persons.

Recommendation: The County of Kern should develop a program to encourage individual cities to make a stronger commitment to fair housing activities and to reflect this commitment in the next update of their
Housing Elements. The County should also make clear to individual cities the requirement that their Year 2000 Housing Element updates should reflect recommendations of both 1992 and 1996 Fair Housing Assessments conducted on behalf of the County of Kern and its cooperative agreement jurisdictions.

**Assessment of Progress:** Evidence of a stronger commitment to Fair Housing Choice can be seen in recent updates to the General Plans of some of the smaller cities. The City of Ridgecrest has strengthened the fair housing section of the Housing Element by stating the services provided by the Fair Housing Program of the County of Kern. The City of California City mentions working with the Fair Housing Program of the County of Kern, implementing the countywide fair housing hotline, and by providing fair housing literature at city hall. The City of Tehachapi makes numerous references to working with the Fair Housing Program of the County of Kern.

The County currently provides fair housing services for each of these cities. Short of funding their own fair housing service, all that can be expected of the smaller cities is that they cooperate with the Fair Housing Program, provide fair housing information to their residents, place them in contact with the Fair Housing Program if allegations of discrimination occur, and promote equal opportunity as city policy. For the most part, the smaller cities have done that and have therefore removed Impediment 5-B.

However, it is not evident that fair housing activities in these cities have been strengthened as a result. The smaller cities rely on the County Fair Housing Program to meet their commitments to fair housing. But there are significant obstacles to strong fair housing services being provided in the smaller cities, particularly those that are more remote to Bakersfield. Kern County is very large. Ridgecrest is nearly a two hour drive from the County offices in Bakersfield. Metropolitan Bakersfield has two thirds of the residents of Kern County and is therefore the major focus of the County Fair Housing Program. The County Program does not emphasize fair housing enforcement. If a bona fide case of housing discrimination does occur in the more remote cities in the County, the existing infrastructure is not well equipped to help the complainant gain restitution.

But the problem is not with the commitment of the cities to equal housing opportunity. Therefore, Impediment 5-B should be closed. A related recommendation is made in Section 8 of this report that addresses weakness in fair housing enforcement in the County Fair Housing Program.

### 4.3 Summary of Assessment of Progress

**Impediment 2A:** It appears that many cities have in place public policies which may constitute impediments to fair housing choice for elderly, disabled, or other persons with special needs in relation to the siting and maintaining of group homes in their jurisdiction.

**Progress:** Impediment removed for the County of Kern and the City of Ridgecrest. Impediment still open for the Cities of Tehachapi, California City, Arvin, Maricopa, McFarland, and Shafter.

**Impediment 2B:** The City of California City and the City of Delano grant CUPs which are revocable or are granted for a limited time period. A revocable or limited period CUP could cause great uncertainty regarding the ability of group homes to continue operating in the community interest as mandated by State Law.

**Progress:** Impediment still open for the City of California City.

**Impediment 3A:** Low-income Asian households are under-represented in Section 8 programs as well as Public and Assisted Housing.
Impediment 3B: In rural Kern County the need to build affordable housing units within jurisdictions where infrastructure and employment are available has led to some inadvertent concentration of assisted multi-family housing units in small towns and cities.

Progress: Impediment removed.

Impediment 5-A: Individual property managers for both private sector and assisted housing units may be uninformed about fair housing principles and practices. Because individual property owners are the direct link between housing units and renter households, they are the group which most directly effects implementation of fair housing law.

Progress: Impediment removed.

Impediment 5-B: Review of Housing Elements for the County of Kern CDBG Cooperative Agreement Jurisdictions indicates that fair housing is dealt with only peripherally. Inconsistent fair housing goals, objectives and programs in individual housing elements reflect inconsistent understanding of and commitment to the principles of fair housing choice for all persons.

Progress: Impediment removed.

4.4 Summary of Remaining Impediments to Fair Housing Choice

Impediment 1: It appears that the Cities of Tehachapi, California City, Arvin, Maricopa, McFarland, and Shafter have in place public policies which may constitute impediments to fair housing choice for elderly, disabled, or other persons with special needs in relation to the siting and maintaining of group homes in their jurisdiction (Impediment 2-A from 1996 AI Report).

Recommendation: Each city should revise their zoning code to permit group homes of up to six persons by right in all residential housing units. Occupancy of the group homes should not be restricted to exclude protected categories such as persons with disabilities. The County of Kern should also again recommend that the zoning ordinance for each jurisdiction specify siting requirements for group homes of seven or more. Clearly stated requirements for approval of group homes would give greater certainty to the applicant and remove an impediment to fair housing choice for elderly, disabled, or other persons with special needs.

Impediment 2: The City of California City grants CUPs which are revocable or are granted for a limited time period. A revocable or limited period CUP could cause great uncertainty regarding the ability of group homes to continue operating in the community interest as mandated by State Law (1996 Impediment 2-B).

Recommendation: The City of California City should define conditions under which a CUP can be revoked that are not arbitrary and that give reasonable assurance of long term applicability so long as the conditions of use are not violated, no crimes are committed, and a public nuisance is not created. The wording of the Kern County Zoning Code with regard to revocability of CUPs is a good example.

Impediment 3: The City of Tehachapi has been slow to resolve Impediment 2-A of the 1996 Analysis of Impediments to Fair Housing Choice. Although aware of this impediment identified in 1996, the City has not acted to modify its zoning code to remove the impediment.

Recommendation: The City of Tehachapi should bring its zoning code into compliance with State Law
with regard to group homes of six persons or less with disabilities.
5. TRANSPORTATION POLICY

Public transportation plays a role in expanding the supply of affordable housing to groups in need and others protected under fair housing laws. At issue is the ease with which an individual can travel from home to work if he/she lives in a lower income area or an area of minority concentration. If public transportation from a lower cost neighborhood is inefficient in providing access to employment centers, that neighborhood becomes inaccessible to those without dependable means of transportation, particularly very low-income residents, the elderly, and persons with disabilities.

A number of factors are of interest in assessing public transportation. First is the existence and speed of service between employment centers and neighborhoods with minority concentrations, low-income concentrations, public housing, and housing for people with disabilities. Second is the degree of actual use of the transportation system by protected categories of residents. Third is the transportation system’s impact on redevelopment of blighted areas near transportation hubs or rail stations.

5.1 Kern County Regional Transit

Two components make up Kern County’s public transportation system: the Golden Empire Transit District serving metropolitan Bakersfield and the Kern Regional Transit Network serving the unincorporated portions of the County and connecting the major cities and communities within the County (Fig.5.1).
Together they provide service throughout most populated areas of the County, enabling travel to all major and most other communities within Kern County. They also link with AMTRAK to provide transportation throughout the State and nation.

Kern County’s bus system is accessible to the disabled community. Also, the transit system provides a door-to-door transportation service (in accordance with its responsibilities under the Americans with Disabilities Act) through its Dial-a-Ride (DAR) program for Kern County residents who are unable to use fixed-route service.

5.2 Transit System Routes in Relation to Employment Centers and Lower Income Housing

Employment in Kern County is concentrated in Metropolitan Bakersfield, the incorporated cities, and in the agricultural region of the Central Valley north and south of Bakersfield along Highway 99.

Kern County’s transit system is extensive, connecting nearly every community and city over a very large land area. Because most residents live within city limits or in other unincorporated communities, they also live near a transit system bus line. Conversely, because most jobs are located within city limits or within other unincorporated communities, the bus system connects close to most employment centers. Most County and State highways have bus service along their routes.

Census data (Fig. 5.2) shows that lightest use of the transit system is along the Rt 58 corridor west of Bakersfield, a mix of commercial and new tract housing districts, the very lightly populated area along Rt 5 west of Bakersfield, and the lightly populated mountainous region stretching east from Rt 5 to Tehachapi southeast of Bakersfield. Census data shows heaviest use of public transportation in the mountainous northeast part of the County and in the agricultural areas of the Central Valley. Large concentrations of Hispanics reside in these agricultural communities along Highway 99 as well as in unincorporated portions of metropolitan Bakersfield. Average per capita incomes are low in these neighborhoods and there is heavier than average reliance on public transportation. Census data also shows that minority residents use public transportation more than twice as often as Whites.

However, census data also reveal that residents using public transportation face much longer commute times (Fig. 5.3). While over three fourths of automobile commuters reach their destination within 30 minutes, less than one in three commuters using public transportation reach work in the same interval. About one in three of those using public transit take more than an hour to reach work. On average, the longest commute times occur in the high desert and mountainous areas of the eastern part of the County where distances between communities are very long.
5.3 Transportation Summary

Kern County is very large in land area, taking nearly three hours to traverse from northeast to northwest corners. About two thirds of its population lives in metropolitan Bakersfield, either within or just outside the city limits. Most of the rest of the population live in the small cities and unincorporated communities widely scattered over the County. The rural areas of the Central Valley to the west outside these communities are heavily agricultural and lightly populated. The rural areas of the mountains and high desert to the east are even more lightly populated.

The Kern Regional Transit Network is extensive and connects nearly every city and unincorporated community within the County. Because most residents live near these communities, regional transit is available to most. The majority of residents (64%) using public transit are minorities and 45% are Hispanic. Travel times to work are longer than by car, but not unusually so. Longer commute times by public transit can be ascribed to the great distances between communities and the need to transfer from one line to another in many cases.

Overall, the Kern Regional Transit Network serves lower income minority residents well considering the significant challenge in providing public transportation within Kern County. Public transportation does not present an impediment to fair housing choice.
Fair housing choice and discrimination against persons with disabilities cover a broad range of issues. Many persons with disabilities have limited incomes and are strongly affected by the effectiveness of a jurisdiction’s strategies and policies to supply affordable housing. The ability of persons with disabilities to reside in group homes throughout a city is impacted by zoning and land use policies. Discrimination against persons with disabilities, particularly with regard to dwelling accessibility and use of guide dogs, is influenced by the strength of fair housing enforcement services. These issues are discussed in other sections.

This section evaluates compliance of new construction of multi-family dwellings with provisions of the Fair Housing Amendments Act (FHAA) of 1988 that improve housing accessibility for persons with disabilities. As a protected class, people with disabilities are unique because they are the only minority that can be discriminated against solely by design of the housing unit. The Fair Housing Amendments Act remedies that in part by establishing design and construction requirements for multifamily housing built for first occupancy after March 13, 1991. The law provides that failure to design and construct multifamily dwellings to include certain features of accessible design will be regarded as unlawful discrimination. These design and construction requirements apply to all new multifamily housing consisting of four or more dwelling units. Public and common use spaces and facilities must be accessible to people with disabilities. In addition, the interior of dwelling units must be designed so they too meet certain accessibility requirements.

During January 2004, accessibility audit site visits were completed at six residential buildings in unincorporated Kern County (Fig. 6.1). None of the sites visited had major violations of the accessibility provisions of the 1988 FHAA. All findings were easily correctible and were of the nature of minor oversights missed during an inspection rather than lack of knowledge of the accessibility provisions on the part of either the builder or the inspector. Examples of these minor findings included one laundry room door with a doorknob instead of the required levered door handles, a trash bin with a handle at 54”, and mailboxes sited so that wheelchair access could be blocked if a car were parked in the adjacent parking

<table>
<thead>
<tr>
<th>Multi-family Complex</th>
<th>Remarks</th>
</tr>
</thead>
</table>
| 10412 Stobaugh, Lamont | • Mailbox blocked by parked car  
Up to 200 yds to trash bin |
| 8505 Sunset Blvd, Arvin | • No findings |
| 815 Decatur, Bakersfield | • Some doors without lever handles |
| 6200 Victor St, Bakersfield | • Some doors without lever handles  
Trash bin handle at 54” |
| 600 Morning Dr, | • No findings |
| 380 Pacheco, Bakersfield | • No findings |

Potential Violation of 1988 FHAA

Fig. 6.1 Findings of new construction audit of accessibility in unincorporated Kern County.
space. One complex had access to a trash bin via a wheelchair ramp up to 100 yards away, technically not a violation. Most of these findings are easily correctible with a substitution or movement of a levered handle. The mailboxes can be made accessible by permanently blocking the parking space.

The very small number of violations found and their minor consequence, particularly when compared to results of similar audits in other California counties, is clear evidence that the provisions of the accessibility standards of the 1988 FHAA are being diligently implemented in multi-family new construction in Kern County. No impediments to fair housing choice were found with respect to accessibility standards.
7. PUBLIC AND SUBSIDIZED HOUSING

Assisted lower and moderate income housing in Kern County includes publicly owned housing, privately owned housing subject to rent controls for lower and moderate income residents as a condition of development, and privately owned housing that is occupied as part of a Section 8 rental voucher or certificate program. Housing units include low-income public housing and projects assisted by various HUD programs, the Farmer’s Home Administration (FmHA), and by various State and local programs. Assisted housing units in Kern County are managed either by the Housing Authority of the County of Kern (HACK) or by FmHA. This section assesses whether any Kern County public policies related to public or assisted housing contribute to housing discrimination.

7.1 Policies of the Housing Authority of the County of Kern

The following sections of the LIPH Admissions & Continued Occupancy Policy (05/08/2002) affirmatively advance the goals of fair housing. There were no sections of HACK policy that impede the goals of fair housing.

2-1 Fair Housing/Non-discrimination

It is the policy of HACK to fully comply with all Federal, State, and local non-discrimination laws; the Americans with Disabilities Act; and the U.S. Department of Housing and Urban Development regulations governing fair housing and equal opportunity. HACK shall affirmatively further fair housing in the administration of its public housing program.

HACK shall not discriminate because of race, color, creed, age, sex, handicap, disability, religion, national origin, or familial status in the leasing, rental, or other disposition of housing or related facilities included in any development or developments under its jurisdiction covered by an Annual Contributions Contract under the United States Housing Act of 1937, as amended, or in the use or occupancy thereof.

2-1 (A)

HACK shall not on account of race, color, creed, age, sex, handicap, disability, religion, national or ethnic origin, nor familial status:

1. deny to any household the opportunity to apply for such housing, nor deny to any eligible applicant the opportunity to lease such housing suitable to its needs.

2. provide housing which is different from that provided others, with the exception of providing the opportunity for reasonable accommodations and modifications to policies for tenants and applicants with disabilities;

3. subject a person to segregation or disparate treatment;

4. restrict a person’s access to any benefit enjoyed by others in connection with the public housing program;

5. treat a person differently in determining eligibility or other requirements for admission;

6. deny a person access to the same level of services; or,

7. deny a person the opportunity to participate in a planning or advisory group which is an integral part of the public housing program.
2-1 (B)

To further its commitment to full compliance with applicable Civil Rights laws, HACK will provide Federal/State/local information to applicants/tenants of the Public Housing Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be made available with the application and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at the HACK office. In addition, all written information and advertisements will contain the appropriate Equal Opportunity language and logo.

HACK will assist any family that believes they have suffered illegal discrimination by providing them copies of the appropriate housing discrimination forms. The HACK will also assist them in completing the forms if requested, and will provide them with the address of the nearest HUD office of Fair Housing and Equal Opportunity.

2-2 Reasonable Accommodation

HACK will assist people with disabilities who may need a reasonable accommodation in order to take full advantage of the programs and related services provided by HACK. Such accommodation, when granted, does not confer special treatment or advantage for the person, but allows more accessibility to them that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodation and the guidelines in determining whether it is reasonable to provide a requested accommodation.

2-2(A)

Because disabilities are not always apparent, HACK will ensure that all applicants/tenants are aware of the opportunity to request reasonable accommodation.

2-4 Marketing

2-4(A)

HACK will conduct outreach efforts to obtain and maintain a well-balanced application pool. Outreach efforts will take into account the level of vacancy in HACK units, unit availability through turnover, and size of the waiting list.

2-4(B)

Outreach efforts will be designed to attract applicants from the appropriate segments of the extremely low and very low-income population. HACK may also use a marketing program to achieve a more representative income mix of low-income households among those on the Waiting List and, thereby, attain a broad range of income in its developments, as required by Federal Law (7465.1 REV-2, Para. 5-3 (b) (2(a)).

2-6 Preferences for Tenant Selection

2-6(D) Primacy of Local Preferences

2. Any move-in mandated by court orders related to desegregation or Fair Housing and Equal Opportunity will take precedence over Local Preferences.

7.2 Demographics of Low Income Housing Programs
Ethnicity and household type of families on the waiting list for Low Income Public Housing are shown in Fig. 7.1. Over 75% are from the metropolitan Bakersfield area, not out of line with expectation since two out of three County residents live in metropolitan Bakersfield. A few on the waiting list are from cities outside Kern County, including Los Angeles, Paso Robles, Pixley, Porterville, and Richgrove.

Non-Hispanic Whites constitute 33.9% of the list and account for 38% of residents living below the poverty line, a reasonably close correlation. Hispanics account for 37.9% of wait list applicants compared to 47.7% of Kern County residents living below the poverty level. However, about one-third of Hispanics are not citizens and would not be expected to seek out public housing. Therefore the proportion of Hispanics seeking public housing is close to expectation. Blacks are somewhat over represented on the County waiting list, while the overall numbers of Asians, Pacific Islanders, and Native Americans are small.

In total, the ethnic make-up of the waiting list for Low Income Public Housing is close to what one might expect.

### Waiting List for Section 8 Voucher Program

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<tr>
<th>Location</th>
<th>Non-Hispanic White</th>
<th>Hispanic</th>
<th>Black</th>
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<th>Asian</th>
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<td>113</td>
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| % of total wait list | 33.9% | 37.9% | 23.1% | 3.9% | 1.2% | 0.0% | 100.0% | 67.9% | 2.1% | 30.0% | 0.0% |
| % of households below poverty level | 38.6% | 47.7% | 9.7% | 1.7% | 2.4% | 0.1% | 100.0% |

Fig. 7.1. Ethnicity and household type of families on waiting list for Section 8 housing vouchers.
expect from Census 2000 data.

Also shown in Fig. 7.1 are the household types on the waiting list for Low Income Public Housing. Approximately, two-thirds are lower income families while about 30% are persons with disabilities. Only about 2% are seniors, who would more likely reside in government assisted affordable housing projects for seniors.

7.3 Location of Government-Assisted Affordable Housing

Government assisted affordable housing is widely dispersed across the County. Many of the smaller cities have developed affordable housing projects using a combination of entitlement funds, State funds, mortgage bonds, and other public programs. Each of the housing projects visited for the new construction audits discussed in Section 6 were low-income units developed under the auspices of HACK. Each of these complexes is located in unincorporated communities surrounding Bakersfield. Most were in metropolitan Bakersfield and one in an agricultural area outside of Arvin.

The complexes were sited close to public transportation and usually within walking distance of community downtowns or major shopping centers. They were distributed over a broad area of the metropolitan region in communities close to jobs and other infrastructure. In all cases, they were attractive housing units in which to live. The siting and geographic distribution of these affordable housing units were well conceived.

The initiative taken by HACK to sell Low Income Public Housing, primarily to residents, in order to establish pride of ownership, is discussed in Section 4. HACK then combines the revenues from sales with other sources of funding to build new low-income rental projects. This is also an excellent and innovative program.

7.4 Summary

Demographic data in Section 3 shows that housing is relatively affordable in Kern County, household income at 75% of the State median but median housing costs only 44% of the State median. This translates into more people able to attain home ownership and more affordable rental housing for lower income residents. It also means that the focus for HACK must be those residents in the lower income categories that are least able to afford the cost of housing.

A good measure of residents in need of affordable housing is those with incomes under the poverty level. The 2000 Census shows that 36% of Blacks and 31% of Hispanics live below the poverty level compared to only 15% of Asians and 12% of non-Hispanic Whites. On this basis, one would expect a high proportion of Hispanics and Blacks and very few Asians in public housing.

It appears that HACK is targeting public and publicly assisted housing into the right neighborhoods and towards the right ethnic groups in approximately the correct proportion. No impediments to fair housing choice have been identified with respect to HACK policies.
8.0 ASSESSMENT OF FAIR HOUSING SERVICES AND HATE CRIMES

8.1. The Federal Fair Housing Act

The Federal Fair Housing Act of 1968, an extension of the Civil Rights Act, prohibits discrimination in the sale or rental of housing on the basis of race, religion, gender, or national origin. The act was amended in 1988 to include familial status and disability to the list of “protected categories”. This, in combination with the California Government Code and the Unruh Act, which extend federal prohibitions to include discrimination on the basis of age, sexual orientation, marital status, source of income, and other arbitrary reasons, is the basis upon which fair housing agencies within Kern County and the rest of the State are established and work to enforce fair housing law. Illegal housing practices that fall under these laws include the refusal to sell or rent a unit, the misrepresentation of the availability of a unit, harassment or intimidation of in-place tenants, and the refusal to allow reasonable accommodations or modifications to housing rules and policies in the case of persons with disabilities.

City and county governments are required by the U.S. Department of Housing and Urban Development to provide some sort of investigative service for those who feel that they have experienced housing discrimination. In many cases, city and county governments will hire private agencies devoted to fair housing investigation. These agencies not only respond to fair housing complaints, but work proactively to reduce instances of fair housing law violation through auditing and the education of housing providers.

8.2 Summary of Fair Housing Service Provider Performance

Under the Community Development Block Grant Program, the County of Kern operates a Fair Housing Program under Title VIII of the Civil Rights Act of 1968 aimed at combating illegal discrimination in housing. In 1986 the program was jointly funded by the County and the City of Bakersfield. In August 1994 the City of Bakersfield and County of Kern divided responsibility for separate Fair Housing Programs, with some shared services.

A variety of education and outreach activities are conducted annually, targeting potential victims of discrimination as well as housing providers. Proactive efforts are made to educate housing providers, working through trade associations such as the Kern County Apartment Association, to reduce discriminatory practices. Multi-lingual media are available to help minorities and immigrants understand their housing rights.

Fair housing services include investigations of complaints, interviews, surveys, and document review. These services are provided free of charge to all complainants. In its enforcement efforts, Kern County averages about 100 investigations annually. While fair housing enforcement services in Kern County are available, investigative processes, including more use of testing, can be strengthened. The most significant recent case settled in 2001 involved both racial discrimination and sexual harassment. Each of four complainants received $25,000 as their part of the settlement.

8.3 Education and Outreach Efforts

Education and outreach are important elements of a fair housing enforcement plan. The County of Kern Fair Housing Program rates outreach as a high priority objective and conducts dozens of outreach efforts every year. Outreach activities can be both formal and informal. Routine outreach efforts include:

- Distributing 2300 English and Spanish brochures throughout the County at the HACK, government offices, group homes, social service agencies, and other locations;
• Providing coloring books to children in attendance at health fairs and education programs at schools;

• Conducting 23 presentations and/or seminars to housing provider groups, the HACK, and to protected class groups. The County also worked very closely with the Kern County Apartment Association and the Institute of Real Estate Management;

• Supporting the Bakersfield Association of Realtors in sponsoring the Annual Fair Housing Arts contest held during Fair Housing Month in April since 1985. The County’s participation included monetary support, judging of entries, and presentation of awards to winners at the Annual Awards Banquet.

Maintaining contact and relationships with other social service agencies that serve residents in their jurisdictions is an important factor in reaching those in need of fair housing services. The County of Kern Fair Housing Program maintains close relationships with providers of assisted living facilities, the HACK and residents of group homes.

8.4 Discrimination Complaints in Kern County

The County of Kern Fair Housing Program investigated 211 inquiries concerning housing discrimination in Kern County over the two years covering 2001 through 2003 (Fig. 8.1). Throughout the County, this amounts to less than one half percent of all rental housing units over the two year period. Of the 211 inquiries, 49 resulted in actual complaints of housing discrimination.

Prior to 1988, most complaints involved racial or ethnic discrimination. Now, however, disability (51%) is the leading category of complaint, with race/ethnic discrimination (20%) and familial status (18%) second and third. Complaints of familial status discrimination often involve actions against children or attempts to arbitrarily limit the size of the household.

Complaints involving persons with disabilities most often result from failure to make reasonable accommodation, particularly with regard to service animals. Again, quite often persons with disabilities live on constrained incomes and are least able to cope with discriminatory practices.

A complaint of illegal housing discrimination initiates an investigation to gather facts and supporting evidence. Follow-up interviews and documentation reviews are also performed. Once the investigation is complete and if evidence of discrimination is found, the fair housing agency counsels the complainant on available options, which include:

• Mediation. The complainant may want to come to a mediated agreement with the housing provider. This might involve granting a reasonable accommodation to site rules for a person with disability or renting of a unit previously denied to a complainant on the basis of familial status.

• Education. The complainant may wish to require the landlord be educated by attending a fair housing training conducted by the fair housing agency or an outside agency certified to provide fair housing training.

• Referral to Private Attorney, HUD or the California Department of Fair Employment and Housing (DFEH). If the complaint is egregious, the complainant may wish to pursue the case in court or through a government agency such as HUD or DFEH. Cases often settle out of court with monetary damages awarded to the complainant.
• Decline to Pursue. The complainant may decide not to pursue a case, often after obtaining suitable housing.

• Counseled. In cases where insufficient or no corroborating evidence is found, the fair housing agency counsels the complainant on the lack of evidence. Unless the complainant chooses to file a complaint with DFEH or HUD alone, the case is closed as counseled.

The disposition of each of the 49 discrimination complaints is shown in Fig. 8.1. In 34 of the 49 complaints, insufficient evidence of discrimination was found to pursue the case further. Of these, 20 were recorded as an “uncooperative complainant”. Nine of the 49 complaints resulted in mediation, wherein the property owner/manager often reversed the discriminatory practice after intervention by the fair housing program. Five of the 49 complaints were referred to the California Department of Fair Employment and Housing (DFEH) for investigation. One resulted in litigation through a private attorney in which four complainants received $25,000 each.

Cases successfully carried to litigation do much more than provide monetary compensation to victims of housing discrimination. Most court settlements are often publicized in local newspapers, thereby educating consumers and other property owners of the consequences of illegal housing discrimination.

8.5. Identified Weakness in Investigative Services

The County of Kern Fair Housing Program has significant weakness in its investigative services first identified in the 1992 Fair Housing Assessment. The 1992 Fair Housing Assessment identified Problem #4 – inconsistently Performed Audits and Lack of Follow-up and Problem #5 – Lack of Referral to HUD and DFEH. In response, the Fair Housing Program refocused its efforts on testing and recruiting testers to validate specific complaints of housing discrimination. This initiative to increase reliance on testing was reported as a positive improvement in the 1996 Analysis of Impediments to Fair Housing Choice.

Unfortunately, over the following five years, the Fair Housing Program appears to have abandoned its efforts to test for evidence of housing discrimination. Over the two-year period from mid-2001 to mid-2003, no testing was performed to substantiate or validate claims of housing discrimination.

In its advertisement of services on the Kern County Website, the Fair Housing Program lists as the third element:

• Investigation/Testing - Investigate the validity of a discrimination complaint.

Yet the program has performed no testing over the past two years. Testing is a primary method to determine the validity of a fair housing complaint. Without testing, corroborative evidence with which to combat

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### Fair Housing Complaints

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**Fig. 8.1. Kern County Discrimination Complaints.**
instances of illegal discrimination is difficult to obtain. Many valid cases will not move forward, either with HUD, DFEH, or with a private attorney, due to lack of substantiating evidence.

In its advertisement of services on the Kern County Website, the Fair Housing Program lists as the fourth element:

- **Mediation - Serve as a mediator and offer a resolution to the conflict between two parties. The program is not an enforcement agency, but an impartial third party.**

While mediation is one potential outcome of a fair housing complaint, it is not the optimum resolution if an individual or housing provider knowingly and repeatedly breaks the law. In valid cases of flagrant illegal housing discrimination, the complainant deserves to have redress through litigation in the courts. The Fair Housing Program should act as an advocate for fair housing, willing to gather evidence of discrimination and help those who have been illegally victimized.

In the 1992 Fair Housing Assessment, the Fair Housing Program was criticized for focusing too much on tenant/landlord dispute resolution. Dispute resolution services require impartiality between landlord and tenant. Fair housing services also require impartiality in the gathering of evidence either supporting or negating claims of discrimination. However, fair housing services differ from dispute resolution services in one significant way. In discrimination complaints, one party has potentially violated State and/or Federal civil rights law. The complainant has potentially been deprived of his/her civil rights. If the evidence supports the claim of discrimination, the fair housing service should help bona fide victims seek redress, and advocate against individuals who insist on employing discriminatory practices in housing. Impartiality is no longer appropriate if the evidence supports a valid claim of housing discrimination, particularly if the housing provider knowingly and repeatedly violates fair housing laws.

The 2001 case settlement in which four complainants received $25,000 as a result of racial discrimination and sexual harassment provides a good example where it was appropriate for the Kern County Fair Housing Program to help victims seek redress for violations of their civil rights.

Twenty of the 49 complaints of housing discrimination resulted in the resolution category “uncooperative complainant”. Lack of cooperation on the part of more than 40% of complainants implies a burdensome investigative process. The current process requires complainants to fill out and return a written form that provides details of the complaint. This step in the process is unnecessary and may place undue burden on the complainant, particularly if their literacy competency is lacking. It is an imperative that the fair housing service employs a process that is as simple and user friendly as possible. Most fair housing agencies obtain case background data through telephone interviews and do not require additional work on the part of the complainant. The Fair Housing Program of the County of Kern should also gather intake information required to initiate an investigation through telephone interviews and eliminate the requirement for the complainant to fill out additional paperwork.

Weakness in the intake and investigative processes and failure to employ testing to gather evidence of housing discrimination is an impediment to fair housing choice. Without corroborative evidence of discrimination, victims of illegal discrimination have little recourse. Without the potential threat of litigation in the courts, individuals who practice discrimination in housing have little motivation to change.

8.6 Service in Remote Areas of the County

Section 4 discussed progress in removing impediments to fair housing choice identified in the previous 1996 Report. One identified impediment was a lack of commitment to fair housing on the part of the smaller cities in the County. Yet the smaller cities have committed to the Fair Housing Program of the County of Kern to
provide fair housing services to their residents. It is difficult for them to express more commitment without funding their own fair housing program.

There are significant problems providing fair housing services to the remote areas of the County. First, the focus of the Bakersfield-based County Fair Housing Program will likely be in the Bakersfield metropolitan area with the highest population density and the most number of complaints. Secondly, the High Desert area between Tehachapi and Ridgecrest is one to two hours drive from Bakersfield. The current weakness in investigative services discussed above, combined with the long drive, is not likely to lead to a very thorough investigation of any allegations of housing discrimination. Third, outreach and education efforts have significant potential to be diluted in the more remote areas of the county. While a fair housing hotline exists throughout the county, how does a victim of housing discrimination know that the hotline exists? Do outreach and education efforts extend to the more remote parts of the County so that protected groups are aware of their rights and know where to call?

While a hotline is good for providing initial contact between the complainant and the fair housing services agency, at some point a physical presence is required to pursue a case to its proper resolution. If the fair housing agency is 100 miles away, the temptation to pursue the case by phone can ultimately shortchange individuals with legitimate complaints of housing discrimination.

Nearly one hundred thousand residents live in the High Desert region stretching from Tehachapi Pass to Ridgecrest and southeast to Edwards AFB. Cities of that size normally provide a fair housing service. As discussed above, fair housing enforcement is lacking due to weak investigative processes. In the remote cities of Tehachapi, California City, Ridgecrest and surrounding communities, enforcement services are even weaker. The long distance between the fair housing service provider and complainants in remote cities has potential to weaken outreach and education and the ability to conduct timely investigations.

To assure adequate fair housing services throughout the County, the Fair Housing Program of the County of Kern should strengthen its presence in the remote cities of the County. It should evaluate placing a field office in the High Desert area and staffing it on a part-time basis. This would provide a local presence and allow more timely investigation of allegations of housing discrimination. As an alternative, it could conduct education and outreach activities in the remote areas as an ongoing planned effort and could schedule certain days of the week or month to provide a physical presence in these areas. Another option would be to designate an individual on each city’s staff to be the fair housing contact person to provide on-site advocacy and link to the Fair Housing Program of the County of Kern.

8.7 Hate Crimes in Kern County

Hate crime, also called bias crime, is defined as criminal offenses motivated in part or singularly by personal prejudice against others because of race, sexual orientation, religion, ethnicity/national origin, or disability. During the year 2000, 8,063 bias-motivated criminal incidents were reported across the United States covering jurisdictions in which 236 million people lived. The incidents covered 9,430 separate offenses, 9,924 victims, and 7,530 known offenders. According to the data collected, 53.8% were motivated by racial bias, 18.3% by religious bias, 16.1% by sexual orientation bias, 11.3% by ethnicity/national origin bias, and 0.5% by disability bias.

Hate crime data for Kern County, Ridgecrest, and Bakersfield, the only Kern County jurisdictions reporting hate crimes for the years 1999-2000, are shown in fig. 8.2. The statistics are similar to national figures, 66% race, 11% religion, 8% sexual orientation, and 16% ethnicity. Of the approximately twenty hate crimes reported each year throughout the County, only about ten percent result in convictions.
The occurrence of hate crimes makes visible patterns of discrimination that also would be expected to occur in the sales and rental of housing, reinforcing the need for stronger fair housing enforcement services.

### 8.8 Identified Impediments

**Impediment 4.** Weakness in fair housing investigative services, and the absence of testing to obtain corroborative evidence to validate housing discrimination complaints, leaves victims of housing discrimination with little recourse and allows individuals who practice discrimination free to continue without fear of consequences.

**Recommendations.** The Fair Housing Program of the County of Kern should recruit and train testers to employ testing as a means to validate complaints of housing discrimination. The Fair Housing Program should also eliminate the requirement for complainants to fill out and mail in a complaint form, but instead should gather the necessary information through telephone interviews.

**Optional Recommendation.** The Fair Housing Program of the County of Kern should strengthen its presence in the remote cities of the County. It should evaluate placing a field office in the High desert area and staffing it on a part time basis. As an alternative, it could conduct education and outreach activities in the remote areas as an ongoing planned effort and could schedule certain days of the week or month to provide a physical presence in these areas. Another option would be to designate an individual on each city’s staff to be the fair housing contact person to provide on-site advocacy and link to the Fair Housing Program of the County of Kern.

<table>
<thead>
<tr>
<th>Year</th>
<th>Jurisdiction</th>
<th>Race</th>
<th>Religion</th>
<th>Sexual Orientation</th>
<th>Ethnicity</th>
<th>Disability</th>
<th>Total</th>
<th>Referred for Prosecution</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>Kern County</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bakersfield</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ridgecrest</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total 1999</strong></td>
<td><strong>14</strong></td>
<td><strong>1</strong></td>
<td><strong>1</strong></td>
<td><strong>4</strong></td>
<td><strong>0</strong></td>
<td><strong>20</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>Kern County</td>
<td>10</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bakersfield</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ridgecrest</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total 2000</strong></td>
<td><strong>11</strong></td>
<td><strong>3</strong></td>
<td><strong>2</strong></td>
<td><strong>2</strong></td>
<td><strong>0</strong></td>
<td><strong>18</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Fig. 8.2. Kern County Hate Crimes including the Cities of Bakersfield and Ridgecrest.*
9. BANKING AND LENDING POLICIES

Equal opportunity to credit, or fair lending, is one of the cornerstones of fair housing. It is one of the steps when making a home purchase where discrimination can prevent a qualified home-buyer from successfully purchasing a home. When examining impediments to fair lending, we reviewed overall lending to whites and minorities. We also examined income levels and median home prices, and their effects on purchasing power, and compared those to Home Mortgage Disclosure Act (HMDA) data.

Despite repeated crackdowns against discrimination by the U.S. Department of Housing and Urban Development, in the past mortgage lenders have rejected black applicants more than twice as often as whites with similar incomes, according to a 1994 regulatory report.

According to data for 1993, banks, savings institutions and credit unions turned down 34 percent of mortgage applications received from Blacks, 27.8 percent from American Indians, 25.1 percent from Latinos, 15.3 percent from Whites and 14.6 from Asians (Fig. 9.1). The disparity in rejection rates for Whites and Blacks remained wide even when the data were adjusted for income. For low-income applicants, those with less than 80 percent of the median income in their areas, rejection rates for Blacks were 32.3 percent compared to 19.3 percent for whites. Rejection rates for applicants who made more than 120 percent of median income were 18.2 percent for Blacks compared to 7.9 percent for Whites.

Donald G. Ogilvie, executive vice president of the American Bankers Association, said the data were “at best a flawed measure” of his industry’s commitment to fair lending. Although the report groups applicants by income, it does not take into account such factors as applicant’s previous indebtedness and credit record. He pointed out that despite the still divergent rejection rates, the actual number of applications and approved loans increased more quickly for blacks and Latinos than for whites.

9.1 Background/Methodology

This analysis is based primarily on Home Mortgage Disclosure Act (HMDA) data for the year 2002, the most recent for which HMDA data is available. For comparative analyses, it also relies on data presented in the previous Analysis of Impediments to Fair Housing published in September 1996. Congress passed the Home Mortgage Disclosure Act in 1975, implemented by the Federal Reserve Board's Regulation C. This regulation provides the public loan data that can be used to assist:

- in determining whether financial institutions are serving the housing needs of their communities;
- public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- in identifying possible discriminatory lending patterns.
HMDA data comes with certain limitations. Not all lenders must report HMDA data. HMDA reporting lenders are not required to report pricing data for each loan, nor the credit characteristics of loan applicants, loan-to-value ratios and other criteria utilized by underwriters during the loan application process. Nevertheless, HMDA data remains the most detailed publicly available lending data.

9.2 Originations

Race Disparities

Recent lending in Kern County more closely mirrors the County’s demographic makeup than in 1994, the year for which HMDA data was analyzed for the previous AI report. In 1994, though they represented 3%, and 22% of the County’s households, respectively, Blacks and Hispanics received only 1.4% and 16.3% of all home loan originations (Fig. 9.2). Whites, on the other hand, while representing 72% of the County’s households, received 79.3% of home loans.

For 2002, the most recent year for which HMDA data is available, home mortgage lending more closely reflects the proportion of ethnic groups in the population. While Blacks are still under represented for new loan originations, their numbers are relatively small. Dramatic improvement occurred for Hispanics, representing 27.9% of all households and receiving 25.7% of new loan originations. While still receiving loans in excess of their numbers, Whites received 67.7% of loans originated compared to 61.0% of households in the County.

This data is encouraging. Nationwide, HMDA data has been showing a continual nationwide improvement in loan originations for Blacks and Hispanics since the 1993 data shown in Fig. 9.1 became public. Data for Kern County portrays loan originations by ethnic group that are approaching the actual ethnic distribution of households in the County.

9.3 Denial Rates

Lenders continue to more frequently deny minority applicants than white applicants, even when controlling

<table>
<thead>
<tr>
<th>Ethnic Group</th>
<th>Percent of Households, Kern County</th>
<th>Percent of Originations, Kern County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asian</td>
<td>2%</td>
<td>2.9%</td>
</tr>
<tr>
<td>Black</td>
<td>3%</td>
<td>5.3%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>22%</td>
<td>27.9%</td>
</tr>
<tr>
<td>Native American</td>
<td>NA</td>
<td>1.5%</td>
</tr>
<tr>
<td>White</td>
<td>72%</td>
<td>61.0%</td>
</tr>
</tbody>
</table>

* Reported in Kern County Analysis of Impediments to Fair Housing Choice, Sept 1996

Fig. 9.2. Percent loan originations by ethnic group compared to percent of households in Kern County (1994 and 2002 HMDA data, 1990 and 2000 Census data).

for income. Denial rates for African American and Hispanic applicants in Kern County in 1994 were high compared to White applicants (Fig. 9.3). Black and Hispanic loan applicants (22% and 29% denial rates) were nearly twice as likely as White applicants (14% denial rate) to be denied for a home loan, even when controlling for income.
In 2002, that picture for Kern County has also changed dramatically. The denial rate for Hispanics is down by more than a factor of two, from 29% to 13.1%. The same is true for Blacks, down from 22% denial to 13.7%. Denial rates are also down for low-income applicants. For Black and Hispanic home mortgage applicants in Kern County, denial rates are low and nearly the same independent of income (about 13%). Not only are Black and Hispanic loan denials down dramatically in Kern County from 1994, they are also 48.0% and 28% lower respectively than 2002 nationwide averages.

**Conventional vs. Government-Backed Lending**

Government guarantee loan programs, such as the FHA and VA programs, can provide underserved communities with opportunities to purchase homes that would otherwise be out of reach. At the same time, given the higher cost of these loans, higher default rates, and higher levels of fraud associated with these programs, there is concern that minority applicants are being steered into these products.

Conventional and government-backed loans are compared in Fig. 9.4. In the first table, denial rates from census tracts with different mean incomes are presented. For all but the lowest income census tracts, the government-backed loan denial rate is about half that for conventional loans, thereby indicating that government-backed loans do play a significant role in getting home mortgage credit to the consumer, particularly those who may have trouble qualifying for a home loan.

In the second table, census tracts with varying proportions of minorities are compared. While there is a tendency for loan denial rates to increase with proportion of minorities in a census tract, the trend is small and gradual. Once more, the striking feature is that denial rates are small across nearly all groups, about half that for conventional loans.

In the third table, denial rates for each applicant income category are compared. Once more there is only a very small variation in denial rate for all income levels. The major difference is the lower denial rate for government-backed mortgages.

From all three tables, the following conclusions can be drawn:

- Denial rates for government backed loans are approximately half those of conventional loans.
- Government-backed loans play an important role in qualifying marginal applicants for a home.
- Denial rates are small, even for low income residents and minorities.
Subprime Lending

Unfortunately, origination and denial rates in home lending only tell half the story. An explosion of subprime lending in the last few years demands greater scrutiny in which borrowers and neighborhoods are receiving these higher cost, and sometimes predatory, loans. For years, minority communities and low income neighborhoods suffered from a lack of credit for home purchase, home improvement and refinance loans. Now, traditionally underserved communities in California are being targeted and flooded with high cost, subprime credit, which they can ill afford. Abusive subprime lending can quickly lead borrowers down the path of lost equity and foreclosure.

The last few years have seen an increase in the proliferation of subprime lending. At the same time, Fannie Mae, Inside Mortgage Finance, and the California Reinvestment Committee estimate that up to half of all borrowers in the subprime market could have qualified for a prime, lower cost loan.

9.4 Subprime Lending

<table>
<thead>
<tr>
<th>by Racial Composition of Census Tract</th>
<th>Conventional</th>
<th>Government-Backed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applications % Denied</td>
<td>% Denied</td>
<td>Applications % Denied</td>
</tr>
<tr>
<td>Low Income (&lt;50% MFI)</td>
<td>187</td>
<td>14.4%</td>
</tr>
<tr>
<td>Moderate Income (50%-80% MFI)</td>
<td>1872</td>
<td>16.4%</td>
</tr>
<tr>
<td>Middle Income (80%-120% MFI)</td>
<td>3196</td>
<td>14.4%</td>
</tr>
<tr>
<td>Upper Income (&gt;120% MFI)</td>
<td>7975</td>
<td>8.4%</td>
</tr>
</tbody>
</table>

**Fig. 9.4. Comparison of denial rates for conventional and government back loans based on “income” census tract, “minority” census tract, and individual applicant income.**

Analysis of HMDA data shows that nearly 9% of all home loans originated in Kern County in 2002 were from subprime lenders. Last year the Center for Community Change released a comprehensive analysis of HMDA data for every Metropolitan Statistical Area of the country. The study’s key findings included:
There are significant racial disparities in subprime lending, and these disparities actually increase as income increases;

High overall percentages of subprime loans are made to African-Americans and Hispanics;

High disparity ratios when these percentages are compared to white borrowers; and,

High disparity ratios for neighborhoods with significant African American and Hispanic residents as compared to white neighborhoods.

9.5 Predatory lending

The extent of subprime lending in certain neighborhoods or with certain groups of borrowers is troubling, giving the relation between subprime and predatory mortgage lending.

Legitimate, fairly priced subprime lending can be a valuable and needed source of credit for certain borrowers. When subprime loans are not fairly priced and include onerous provisions, they can become predatory in nature. Predatory lending can be devastating for both borrower and community. Predatory victims can suffer from their loans in numerous ways, including: high upfront points and fees, high interest rates, onerous terms, such as costly and unneeded credit life insurance, or prepayment penalties that can lock borrowers into bad loans.

HUD and the Treasury Department define predatory lending as lending, whether undertaken by creditors, brokers, or even home improvement contractors, involving deception or fraud, manipulation of borrowers through aggressive sales tactics, or taking unfair advantage of a borrower’s lack of understanding about loan terms. These practices are often combined with loan terms that, alone or in combination, are abusive or make the borrower more vulnerable to abusive practices. (HUD and Department of Justice, Curbing Predatory Home Mortgage Lending, June 2000).

Predatory loans are characterized by one or more of a number of abusive practices or provisions. The National Association of Consumer Advocates counts over thirty-six such practices including:

- home improvement scams which often afflict the elderly;
- excessive mortgage broker fees and kickbacks for making high interest loans;
- making loans a borrower can’t possibly repay;
- negative amortization provisions that are unknown or poorly understood by the borrower;
- sale of lump sum premium and other insurance products where none is needed;
- excessive prepayment penalties that lock borrowers into their predatory loans;
- mandatory arbitration clauses which deny due process to unsuspecting borrowers; and
- loan flipping where borrowers are induced to continually roll over balances into new loans which result in more interest and fees being paid by the borrower.
It is difficult to establish a singular test for determining when a loan is predatory. The nature of the lender and its past practices may be relevant. Certain loan terms may present another clue. The circumstances surrounding the loan, such as aggressive sales tactics or misrepresentations may be an indicator. The capacity and financial needs of the borrower may also be relevant factors.

9.6 Identified Impediments to Fair Housing Choice

Analysis of HMDA data in Kern County, and review of additional literature concerning home lending in the Bakersfield MSA, shows dramatic improvements in availability of home loans to minorities since the last Analysis of Impediments Report in 1996 that was based on 1994 HMDA data. The low cost of housing in Kern County, combined with low home mortgage interest rates, provide opportunity for residents from all ethnic groups to achieve home ownership. The most recent HMDA data shows that availability of home mortgage loans to minorities in Kern County is much better than nationwide and is approaching the statistical expectation of the distribution of ethnic groups in County households. There were no impediments to fair housing choice identified.

An area of concern is the higher reliance of Blacks and Hispanics on sub-prime loans, even when they qualify for prime rate loans. Predatory lending, targeting and marketing of sub-prime loans to susceptible individuals lacking knowledge of home loan information, is often associated with excessive sub-prime lending in minority communities.

The optional recommended action to address this concern is to fund an on-going education and outreach campaign in minority communities to provide residents facts on home mortgage lending, data on the negative impact of sub-prime loans, and information on how to maintain a good credit record so they are not denied access to prime loans based on a sub-par credit record.
10. LAND USE AND ZONING

Public policy is a major factor driving each jurisdiction’s housing environment. Often employed as a tool to prevent change and maintain a majority population’s concept of “neighborhood value”, restrictive practices can pose significant impediments to fair housing choice, sometimes in violation of Federal or State Law. On the other hand, used constructively, elements of zoning and land use policy can be major tools in efforts to provide affordable housing and remove impediments to fair housing choice for lower income residents, groups protected under Federal and State Fair Housing laws, and others.

Public policy, in the context of impediments to fair housing choice, can be constructive or restrictive and explicit or implicit. Constructive applications most often work towards increasing the supply of affordable housing either directly, e.g., through use of inclusionary zoning policies, or indirectly, e.g., through incentives to developers.

Zoning ordinances that support the creation of affordable housing were examined to determine if the entitlement encourages the development and maintenance of affordable housing or imposes barriers to the detriment of affordable housing. Policies included inclusionary zoning ordinances, density bonuses, and approval of secondary dwelling units. Regulations that impede housing opportunities for people with disabilities were also examined.

The following section describes the various public policies (i.e., those policies implicit in statutes, ordinances, regulations, and administrative procedures/processes) in place that affect the provision of affordable housing in Kern County and assess to what extent the development of affordable housing is influenced by those policies.

10.1 Public policies promoting affordable housing

The following zoning and land use policies were reviewed for their effect on housing affordability in each of the seven cities and Kern County unincorporated communities reviewed in this report.

Granny Units

Often referred to as “in-law units” or “granny flats”, secondary dwelling units are an additional detached unit on parcels where single family residences are permitted. Legalizing existing secondary units that conform to the local building code, and allowing construction of new secondary units, can significantly increase affordable housing stock and thereby housing opportunities for members of protected categories. These units are often rented to lower income families that otherwise would have to seek housing in a much more competitive rental market. Granny units are also distributed throughout the geographic area so that lower income families have the opportunity to live in a more diverse housing environment, rather than be constrained to “lower income” neighborhoods. Granny units work to mitigate and remove impediments to fair housing choice.

Inclusionary Zoning

Inclusionary zoning is a planning device that ensures people of very low, low and moderate income can afford a percentage of newly constructed units which must be set aside as below market rate housing. The presence or absence of inclusionary zoning can impact the fair housing rights of people in several protected classes, such as families, elders and disabled persons. These groups of people tend to earn less than persons
in other classes and therefore can be included or excluded from a city, depending on its use of this type of ordinance.

Inclusionary zoning ordinances mandate that a percentage of newly developed housing (typically 10-20%) be reserved for lower income residents at below market sales prices. These units are usually administered by the city in a “below market rate” housing program. If and when the owner moves, the units are sold back into the program at below market rates.

Highly successful inclusionary zoning ordinances have been in force throughout the State for over 25 years. They provide two major benefits, first a significant increase in the supply of affordable housing for lower income residents, and secondly, the distribution of these residents throughout the city’s new housing developments, precluding concentrations of low income residents in “slum areas”. Inclusionary zoning is a major tool in providing affordable housing, creating ethnically diverse neighborhoods and removing impediments to fair housing choice.

**Density Bonuses**

Density bonuses are a planning device that encourages construction of affordable housing by allowing a developer to put more units of housing on a site than the general plan would otherwise allow if certain requirements are met. State mandated formulas are applied to developments and grant a housing developer a density bonus of 25% more units on a site if a developer agrees to construct: 1) 10% of the units for very low income households; 2) 20% for low income households; 3) 50% for senior households.

In addition, a supplemental density bonus can be granted if a development exceeds the above minimum requirements or provides a percentage of the total units for large families or disabled households. Potential incentives to developers of affordable housing projects include reduction in setback, reduction in lot width, reduction in lot square footage requirements, reduction in yard dimensions, increase in building height, increase in building intensity, reduction of ratio of vehicular parking spaces per unit, reduction in open space requirements, and reduction in fees.

Jurisdictions employ density bonuses to encourage developers to build affordable housing for low-income residents. Most California jurisdictions encourage use of density bonuses, which alleviate impediments to fair housing choice due to lack of affordable housing for low-income residents.

**Manufactured Homes**

Manufactured homes and mobile homes are lower cost than conventional housing. Many cities, however, do not allow other than conventionally constructed homes. If allowed in residential areas, manufactured and mobile homes provide a source of affordable housing not otherwise available.

**10.2 Assessment of Kern County Zoning Policies Affecting Affordable Housing**

Zoning policies of Kern County, as well as the seven incorporated cities, have been assessed with respect to their aggressiveness in promoting affordable housing for lower income residents (Fig. 10.1). Because of the low cost of housing, Kern County does not have the same affordability crisis as many other California counties.

Kern County allows granny units up to 1200 sf in size by right in all residential areas zoned for single family
dwelling. There are no occupancy restrictions other than the owner must reside in either the primary or secondary unit. Kern County also allows manufactured homes in all residential areas. Density bonus policy extends beyond State-mandated provisions to include bonuses for on-site day care and cluster plans.

Each of the incorporated cities except Ridgecrest allows granny units, although most require a CUP or Special Use Permit. They also allow manufactured housing. All cities except Arvin make provisions for density bonuses, although Ridgecrest requires a CUP. Arvin makes no mention of density bonuses but has allowed them in the past. Ridgecrest allows inclusionary zoning in its Redevelopment District according to State mandated provisions.

Kern County jurisdictions are generally less restrictive in zoning policy towards granny units, manufactured and mobile homes than most other California cities and counties. Density bonuses are provided for in compliance with State law. No impediments to fair housing choice were identified with respect to zoning policy impact on affordable housing.

10.3 Discriminatory Land Use Practices

Restrictive applications of zoning and land use policy nearly always derive from the fears and concerns of the majority population, often vocalized in city council meetings in an atmosphere that directly threatens council-member’s political longevity. Examples include use of Conditional Use Permits for group homes for the disabled and restrictive definitions of family that prohibit “undesirable” elements from residential neighborhoods. More subtle forms of restrictive policies include “exclusionary” zoning, setting minimum lot sizes sufficiently large that only higher income families can afford to buy in. Under the guise of preserving “neighborhood character,” housing and other uses serving a particular population are subjected to constraints which similar uses serving other people are not subjected to. This form of discrimination

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Granny Units</th>
<th>Inclusionary Zoning</th>
<th>MF Homes</th>
<th>Density Bonus</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kern County</td>
<td>Permitted, A,A1, E, R1, RF, PL &lt;1200 sf or &lt;50% primary unit owner must reside in one unit</td>
<td>No</td>
<td>Permitted, A, A1,E, R1, R2, R3, RF, PL</td>
<td>20% for on-site day care (&gt;50 units) 20% for complete infrastructure (&gt;5 units) 25% for 20% low income (&gt;5 units) or 10% very low income 10% for cluster plan</td>
</tr>
<tr>
<td>Arvin</td>
<td>OK</td>
<td>No</td>
<td>Yes</td>
<td>Not mentioned</td>
</tr>
<tr>
<td>California City</td>
<td>Requires Special Use Permit</td>
<td>No</td>
<td>Allowed in RA, R1, R2, R3, R4,R5, RM1</td>
<td></td>
</tr>
<tr>
<td>McFarland</td>
<td>permitted with CUP</td>
<td>No</td>
<td>Allowed in R1</td>
<td></td>
</tr>
<tr>
<td>Ridgecrest</td>
<td>not permitted</td>
<td>Yes, in Redevelopment Area</td>
<td>Allowed in RMH, MH, with CUP in R1, R2, R3</td>
<td>Up to 25% for 20% low income or 10% very low income or 50% for seniors subject to CUP</td>
</tr>
<tr>
<td>Shafter</td>
<td>not permitted in R2,R3 CUP for E, RE, R1 &lt;900sf for lot &lt; 2.5 acres no max for lot&gt;2.5 acres Owner occupant gets permit</td>
<td>No</td>
<td>Up to 25% for 5 or more units if at least 20% for lower income or 10% for very low income or 50% for qualifying (Sec 51.3) or 33% low or moderate for condo conversions or 15% lower income, condo conversions</td>
<td></td>
</tr>
<tr>
<td>Tehachapi</td>
<td>E - With CUP R1 - with CUP in certain area, &lt;900sf or half main house, can be rented, owner occupies main unit</td>
<td>No</td>
<td>Ag, E, R1 - Yes</td>
<td>20% for complete infrastructure, 25% if 25% affordable to low or moderate income or 10% to lower income 20% if day care provided</td>
</tr>
</tbody>
</table>

Fig. 10.1. Assessment of land use policy in Kern County affecting affordable housing.
violates State and Federal law.

**Federal Law**

Federal law does not explicitly refer to land use practices as discriminatory. However, they are specifically mentioned in the House report for the Fair Housing Amendments Act: “The Committee intends that the prohibition against discrimination against those with handicaps apply to zoning decisions and practices. The Act is intended to prohibit the application of special requirements through land use regulations, restrictive covenants, and conditional use permits that have the effect of limiting the ability of such individuals to live in the residence of their choice in the community.” A growing number of courts have interpreted federal law as covering discriminatory land use practices.

**California Law**

On October 10, 1993, Governor Wilson signed AB 2244. This law brought California into compliance with federal fair housing law and put into statute clarifications of the law as determined by the courts. In addition, California law provides protections to those discriminated against on the basis of marital status. Prohibited discrimination has also been held by California courts to include discrimination on the basis of one’s sexual orientation, age, and membership in a class.

California statute clarifies the standards by which discrimination can be determined. Business establishments must show that a practice with a discriminatory effect “is necessary to the operation of the business and effectively carries out the significant business need.” Governments must show that the practice “is sufficiently compelling to override the discriminatory effect and effectively carries out the purpose.” Under both standards, the existence of any “feasible alternatives” that would accomplish the purpose of the discriminatory practice will establish liability.

These recent amendments to California’s fair housing law do include a prohibition on discriminatory land use practices. California Government Code Section 12955(I) explicitly prohibits discriminatory “public or private land use practices, decisions, and authorizations,” and refers to restrictive covenants, zoning laws, and denials of use permits as examples of discriminatory practices. Coupled with the above-mentioned discriminatory effect standards, this Section provides a strong incentive to local governments to review their zoning and land-use practices.

Prohibited housing practices, under both State and Federal Law include: refusing to negotiate for the sale or rental of a dwelling or otherwise make it unavailable, and; discrimination in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities. Both of these prohibitions have been determined to cover discriminatory land-use practices.

In addition, legislative intent language (California Statutes 1993, chapter 1277, section 18) provides further clarification regarding the prohibition of discriminatory practices which restrict persons with disabilities from living where they wish, irrespective of the views and prejudices of neighbors, governments or the real estate industry:

“It is the Legislature’s intent to make the following findings and declarations regarding unlawful housing practices prohibited by this act:

a) That public and private land use practices, decisions, and authorizations have restricted, in
residentially zoned areas, the establishment and operation of group housing and other uses;

b) That persons with disabilities and children who are in need of specialized care and included within the definition of familial status are significantly more likely than other persons to live with unrelated persons in group housing.”

Applicable sections of California Law include Health and Safety Code Section 1566.3, which states that a residential care facility for six persons or less shall be treated no differently than any other family residence of any kind with regard to zoning codes, use permits and fees.

And finally, discrimination includes, in both State and Federal Law, a refusal to make reasonable accommodations in rules, policies, practices and services, when such accommodations are necessary to afford such persons equal opportunity to use and enjoy a dwelling.

10.4 Identification of Discriminatory Zoning and Land Use Policies

The following zoning and land use policies were reviewed for their effect on fair housing choice in each of the seven cities and the unincorporated communities of Kern County.

Family Definition

The definition of a “family” may preclude a reasonable number of people from occupying a dwelling. This is done by restricting occupancy and numbers of occupants in single-family residences to family members related by blood, adoption or marriage. A group of unrelated people could be prohibited from renting or buying housing in some residential zones reserved for “families” or would have occupancy restrictions applied to them which would not pertain to “families”. State Law prohibits discrimination on the basis of marital status. Therefore, this type of ordinance is an impediment to fair housing.

Occupancy Restrictions

It is widely recognized in State and Federal Law that families with minor age children in the household suffer a disparate impact from overly restrictive occupancy policies when compared to households without children. Furthermore, discrimination against families with children disproportionately harms Latino and Asian American households because these households are more likely than White households to have more children, according to the 2000 California Census data.

Occupancy restrictions regulate the minimum or maximum number of occupants allowed to live in certain sizes of dwelling units. Current State case law restricts local governments from setting occupancy standards. Local governments can choose to adopt the State maximum occupancy standard in section 503.2 of the Uniform Housing Code or Uniform Building Code. Policies which limit the number of occupants in a dwelling to below the maximum number allowed by the Uniform Housing Code are considered by some fair housing advocates to be indicative of discrimination against families with children and can directly impede fair housing under State and Federal Law. Other fair housing advocates recognize that the Uniform Housing Code sets occupancy limits for health and safety reasons and is not intended as a standard for civil rights enforcement. These advocates prefer to promote the State of California’s Department of Fair Employment and Housing complaint intake standard of two people per bedroom plus one (three people in a one bedroom, five people in a two bedroom, etc.)
**Conditional Use Permits (CUPS)**

In the early 1990s, California began requiring counties to pay for the cost of housing the mentally and physically disabled in State institutions. Unable to meet the bill, counties began housing disabled citizens in group homes within residential areas. Residents sometimes protest location of these group homes in their neighborhoods. If zoning codes require Conditional Use Permits for group homes, permit hearings can become a rallying point for residents attempting to exclude persons with disabilities from their neighborhoods.

The way zoning regulations are used to discriminate against people of a protected category is by requiring that those people meet higher standards and expend additional resources such as obtaining a Conditional Use Permit (CUP). If the same use serving other people is allowed by right, i.e., without a CUP, then the different requirements would be considered an impediment to fair housing.

The CUP process requires notice to owners of property within 300 feet of the project site and a public hearing to consider whether to approve the project subject to conditions or to deny it. The public notice and the hearing enable neighborhood residents and other interested parties to voice their concern and/or support. Neighborhood opposition is sometimes sufficiently vocal to cause the decision-making body to deny the permit or to place such restrictions on the permit that the project is no longer feasible.

Some courts have ruled that requiring CUPs for homes of 6 or less people in residential areas, but not for other families in the neighborhood, discriminates against the disabled under the statutes of the Fair Housing Amendments Act of 1988. After a number of such rulings, the California Legislature passed Health and Safety Code Section 1566.3, which states that a residential care facility for six persons or less shall be treated no differently than any other family residence of any kind with regard to zoning codes, use permits and fees. Requiring a CUP for group homes of 6 or less persons with disabilities constitutes an impediment to fair housing choice.

Some cities have more restrictive parking requirements for group homes than for other families in a residential area. Most cities require a maximum of two off street parking places for a single family residence and most homes are built to this requirement. If the city requires more parking for a group home of six or less, than many single family residences are not allowable as group homes. The parking regulation discriminates against persons with disabilities and is an impediment to fair housing choice.

**10.5 Assessment of Kern County Zoning and Land Use Policies**

Review of zoning codes within Kern County showed that no jurisdiction limits the number of occupants in a dwelling beyond the number allowed by the Uniform Housing Code.

The Kern County Zoning Code is a model of a non-discriminatory zoning code. Up to six unrelated persons may live as a family in a single family residence. Group homes of six or less are allowed by right in all residential areas. Group homes of ten or less are allowed by right in the R3 residential zone, twelve or less by right in the C1 commercial zone, and unlimited size by right in the C2 commercial zone. Community Care Facilities are allowed with a CUP in all other areas. CUPs are issued without time limit and irrevocable except under well-defined stringent conditions (see Section 4 of this report). The off-street parking formula for Community Care Facilities equates to two spaces for group homes of six or less, the same as for all single family residences. There are no impediments to fair housing choice embodied in the Kern County Zoning Code.
California City has a restrictive definition of family (Fig. 10.2), limiting family size of unrelated persons to 5 or less. With this definition, a married couple with four children could live in a residential neighborhood but an unmarried couple with four children could not. A group home with six would also be prohibited. This violates State Law against familial discrimination and discrimination against persons with disabilities and is therefore an impediment to fair housing choice.

California City’s zoning policy on group homes is also discriminatory. A CUP is required for group homes of six persons or less in all residential areas, allowed by right only in the Community Medical Center zone. This violates the 1988 Fair Housing Amendments Act as codified in State Law and is therefore an impediment to fair housing choice. California City allows group homes of seven or more in the CMC zone and in some other areas with a CUP. However, the CUP is revocable and was found to be an impediment in the 1996 Analysis of Impediments to Fair Housing.

The City of Shafter also has zoning code policies that are discriminatory against group homes of six or less for the disabled. Community Care Facilities are allowed in all residential areas, but only for the elderly, not for persons with disabilities. Off-street parking requirements also discriminate against group homes, two required for single family residences and four for Community Care Facilities of any size. CUP policy is also questionable, subject to revocation and periodic review under ill-defined guidelines.

The City of Tehachapi’s zoning code is also discriminatory. Group homes for six or less are not allowed in agricultural residential areas. They are permitted with a CUP in the Estate residential and C1 and C2 commercial zones. Residential Care Facilities are permitted by right in the R1, R2, R3 residential zones, but only for the elderly, not for persons with disabilities.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Family Definition</th>
<th>Group Homes, 1-6</th>
<th>Group Homes, 7 or more</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kern County</td>
<td>6 or less unrelated by blood</td>
<td>Permitted, A, A1, E, R1, R2, R3, C1, RF, PL</td>
<td>Community Care Facility with CUP, A, A1, E, R1, R2, R3, C1, RF, PL</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Community Care Facility permitted, C2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Residential Care Facility &lt; 10 permitted, R3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Residential Care Facility &lt; 12 permitted, C1</td>
</tr>
<tr>
<td>Arvin</td>
<td>no definition</td>
<td>No mention in complete code</td>
<td>No mention</td>
</tr>
<tr>
<td>California City</td>
<td>5 or less unrelated by blood</td>
<td>RA-no mention by right. With CUP rest homes but no acute psychos, drunks or addicts R1, R2, R3, R4, R5 - no mention by right. Permitted with CUP</td>
<td>RA-no mention by right. With CUP rest homes but no acute psychos, drunks or addicts R1, R2, R3, R4, R5 - not allowed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>RM1, RM2 - no mention by right. With CUP rest homes but no acute psychos, drunks or addicts CMC (Community Medical)</td>
<td>RM1, RM2 - no mention by right. With CUP rest homes but no acute psychos, drunks or addicts CMC (Community Medical Center) - permitted</td>
</tr>
<tr>
<td>Maricopa</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>McFarland</td>
<td></td>
<td>Permitted R4</td>
<td>Permitted R4</td>
</tr>
<tr>
<td>Ridgecrest</td>
<td></td>
<td>Plan in Housing Element for all residential</td>
<td></td>
</tr>
<tr>
<td>Shafter</td>
<td>6 or less unrelated by blood</td>
<td>Community Care Facility for Elderly in all residential</td>
<td>Board and care for 12 or more with CUP in R2, R3</td>
</tr>
<tr>
<td>Tehachapi</td>
<td>6 or less unrelated by blood</td>
<td>Ag RP - no</td>
<td>Ag, R1, R2, R3, RP - no</td>
</tr>
<tr>
<td></td>
<td></td>
<td>E, C2, C3 - with CUP</td>
<td>E, C2, C3 - with CUP</td>
</tr>
</tbody>
</table>

Fig. 10.2. Assessment of zoning and land use policy for discriminatory statutes.
Neither Ridgecrest nor Maricopa mention group homes of six or less by right in residential areas. Ridgecrest allows rest homes with a CUP, but not for the severely mentally disabled or recovering drug or alcohol dependent. Maricopa allows foster homes with a CUP.

The City of Arvin does not mention group homes of six or less in its zoning code. Lack of explicit permission could be construed as denial of the right to develop.

10.6 Identified Impediments to Fair Housing Choice

Impediments 1, 2 and 3: These impediments relating to zoning regulations were first identified in the 1996 Analysis of Impediments to Fair Housing in Kern County and are discussed in Section 4 of this report.

Impediment 5. The City of California City has a restrictive definition of family that discriminates against persons with disabilities and some other families with children.

Recommendation: Modify the definition of family in the California City zoning code to include an unrelated group of six or less individuals.