



**Fair Housing & Jurisdictions  
Affordable Housing Advisory Committee &  
Neighborhood Association  
October 14, 2020**

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# **This session will address:**

- **A short history of land use and development/ how our communities became segregated**
- **The roles and responsibilities of jurisdictions under the Fair Housing Act**
- **The impact of Affirmatively Furthering Fair Housing (AFFH) and where we are today**
- **How you can help create more inclusive communities in your region**



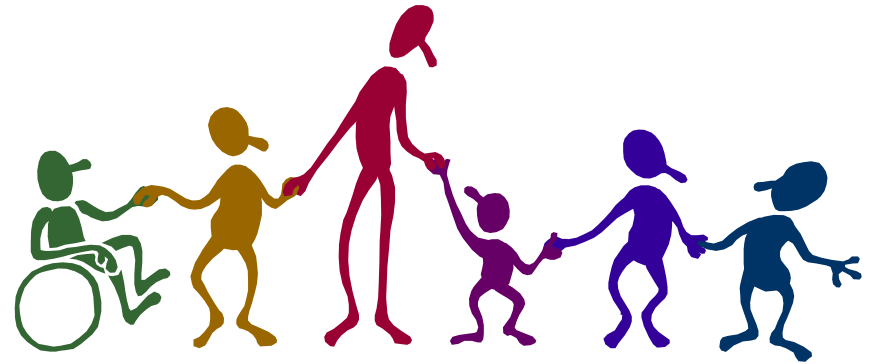
# What is Fair Housing?

- The set of federal, state, and local **civil rights laws** that protect individuals based on their membership in a protected class from individual or systemic discrimination in housing transactions
- Proactive elimination of segregation and promotion of equal opportunity access to housing; **Affirmatively Affirming Fair Housing**

# Protected Classes

## Federal:

- Race
- Color
- National Origin
- Religion
- Gender
- Familial Status  
(families with  
children under 18)
- Disability





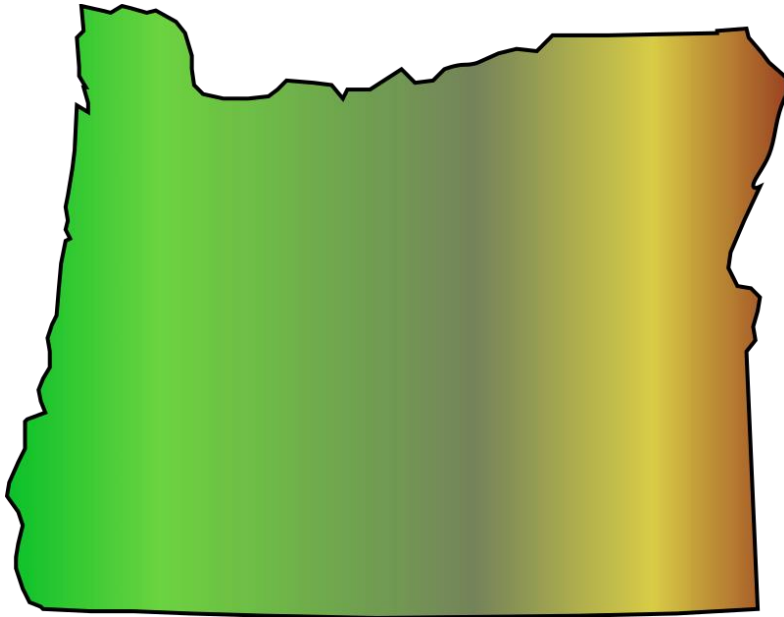
# Oregon Protected Classes

- **Marital Status**
- **Source of Income**
  - Includes Section 8/Housing Choice vouchers
- **Sexual Orientation & Gender Identity**
- **Local Ordinances**





# Oregon's Demographics



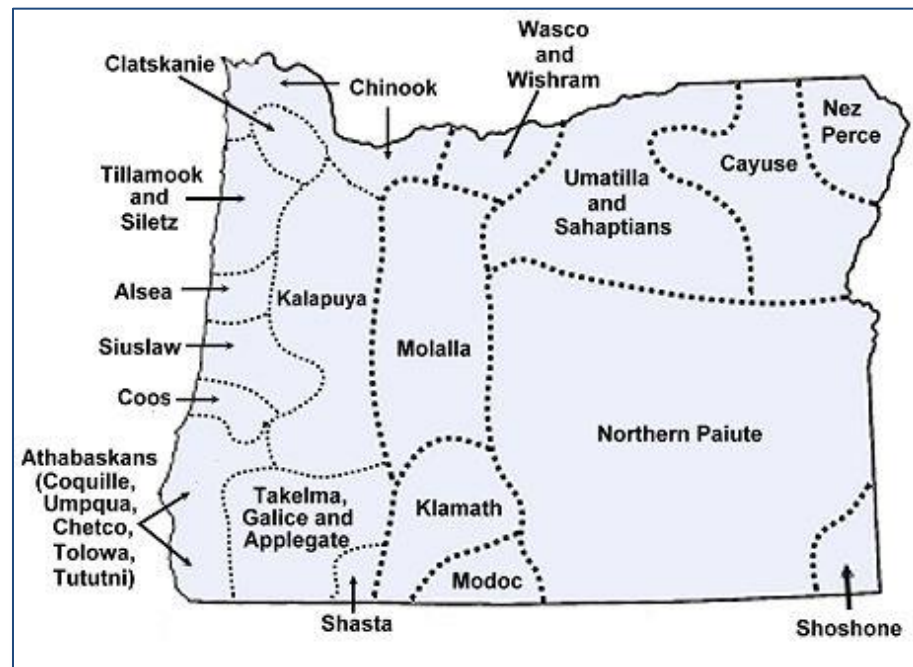
- 87.4% White
- 12.8 %Hispanic or Latino
- 2.1% African American
- 1.8% Native American
- 4.5% Asian
- .4 % Pacific Islander
- 3.8% two or more races

**HOW DID WE GET HERE?**

# Indigenous Peoples in Oregon



**80% of the Native population  
decimated by disease & wars  
with settlers**





# Oregon's History of Discrimination

**African Americans were excluded from living here & punished by “lash laws”**

- **1844 & 1849 Oregon Territory Laws**
- **1859 - Oregon admitted as free state with exclusion law in Constitution**
- **1927- Exclusion finally eliminated from Oregon Constitution**

**African Americans, Chinese & Japanese weren't allowed to own real estate**



the party shall have been duly convicted.

And if a majority of all the votes given for and against free negroes, shall be given against free negroes, then the following section shall be added to the Bill of Rights, and shall be part of this constitution :

“Section ——. No free negro or mulatto, not residing in this State at the time of the adoption of this constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein ; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein.”

5. Until an enumeration of the white inhabitants of the State shall

attorney in the prosecution of any claim against this State.

8. No Chinaman, not a resident of this State at the time of the adoption of this constitution, shall ever hold any real estate or mining claim, or work any mining claim therein.

The Legislative Assembly shall provide by law in the most effectual

# KKK in Oregon



- Oregon had the largest KKK per capita in the nation in the 20s
  - More than 60 active “Klaverns”
  - 35,000 members in 1923

CHIEF KLUXERS TELL LAW ENFORCEMENT OFFICERS JUST WHAT MYSTIC ORGANIZATION PROPOSES TO DO IN CITY OF PORTLAND





**FAIR  
HOUSING  
COUNCIL  
OF OREGON**

## Bend Bulletin

On July 15, 1923, a car of white clad figures were headed towards Pilot Butte. A burning cross could be seen atop the Butte later that evening.

In September 1923 the Klan paraded through the main streets of Bend toward a Klan ceremony on Pilot Butte.

## **FIERY CROSS SEEN ON BUTTE SUMMIT**

**Car of White Clad Figures Seen  
Heading for Hill Late on  
Sunday Evening**

Residents of Bend who were abroad at 10 o'clock Sunday evening, noticed at the summit of Pilot Butte, a blazing cross, the arm showing above the skyline of the butte. It shone for several minutes, then collapsed into a single blaze and died out. The demonstration is generally credited to the Ku Klux Klan.

One automobile load of white clad figures was seen headed toward the butte shortly before 10 o'clock, by the local police, who were in the northeast part of town investigating a report that someone had been shooting a revolver or rifle in that vicinity.

# The KKK in Bend

- **E.D. Gilson, Bend Mayor from 1921-22, is listed in the KKK directory as a local Ku Klux Klan representative with a Klan office in the O’Kane Building**
- **Bend KKK membership peaked at 320 members**
- **The Bend Klan lost its charter and disbanded**



**FAIR  
HOUSING  
COUNCIL  
OF OREGON**

# Internal Conflict Dissolves Klan in Bend Bend Bulletin 4-11-25

## MANY OF MEMBERSHIP INACTIVE AFTER SPLIT IN ORDER'S RANKS

### \*\*\*\*\* KLEAGLE SAYS CHARTER WAS REVOKED FOR CAUSE \*\*\*\*\*

The charter of Bend Klan No. 39, Knights of the Ku Klux Klan, has been revoked for just cause, a new charter has been opened for propagation, and new officers have been appointed by the state organization, was the statement today of Kleagle H. W. Giddings.

What the cause of the revoking of the old charter was, Giddings would not state, but he declared that the political organization within the klan in Deschutes county has now been broken up. The klan, locally and nationally, he said, is entirely out of politics, and exists solely upon a basis of Americanism as laid down in the klan doctrines.

In regard to the seizing of robes, which he said belonged to members who were suspended, Giddings stated that a klanaman's obligation includes an agreement to surrender his paraphernalia when for any cause he leaves the organization. The robes are always the property of the organization, he declared.

\*\*\*\*\*

### Office of Grand Dragon Gets Blame

### RANSACK RECORDS

### Regalia Taken After Cy- clops Refuses Demand for Business Session

Undermining influences felt for some time within the organization have finally resulted in a split in the membership of the Ku Klux Klan in Bend, the most significant aspect of which is the withdrawal of officers unanimously elected a year ago, and with them at least half a hundred other members.

These are the highlights of information secured from officers of the order. From the same source it is strongly intimated that the disturbing influence which resulted in the local upheaval emanated from the office of Fred Gifford, Grand Dragon, and that the lapsing of some 300 local memberships in the past year has been a manifestation of general displeasure at this form of interference in local klan affairs.

Faction Develops

### Faction Develops

Numbered among the withdrawing officers are G. H. Baker, who recently succeeded E. D. Gilson as Cyclops, heading the local order; Curtis Beesley, Klokard, or vice president; Floyd Turner, Kligrapp or secretary; and Dr. F. C. Bloom, Klabee or treasurer.

An attempt by a faction of the klan-headed by I. G. Shaw, until recently pastor of the Christian church here, to unseat the men then in office had been set for the night of Friday, March 13, it was stated. Actual accomplishment of this, however, was frustrated by the fact that the meeting called in the Labor temple was an open session, announced primarily for organization of the women. Luncheons had been brought and a social evening prepared for.

### Lockers Looted

Baker was in the chair when H. W. Gittings, formerly of Portland, who has been placed in charge of klan affairs in Crook and Deschutes counties, and Tom Akers, editor of the now defunct Western American, entered, robed but unmasked. As they started to identify themselves as klanmen according to the ritual, they were halted by Baker who informed them that the meeting was not in secret session. They then demanded that the meeting be called to order, and Baker refused to comply. After final adjournment, when the officers and their adherents had gone home, records were ransacked, and lockers containing members' robes were broken into and their contents taken. It was the last meeting of the klan at which Baker, Beesley, Turner and Bloom have presided as officers.

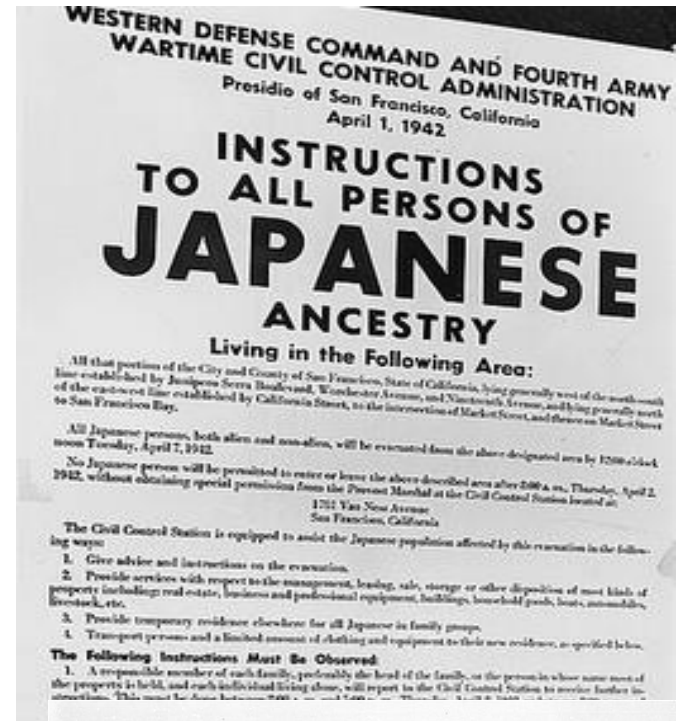
The interference leading to the disruption of the organization is laid by withdrawing members either to a desire on the part of the Grand Dragon's office for more revenues than have been coming in, or to an actual desire in state headquarters to terminate the effectiveness of the order.

# December 7<sup>th</sup>, 1941

- The Japanese in Oregon
  - Came after Chinese Exclusion Act
  - Alien land law
  - 4,000 Japanese in Oregon
    - Largest community in Hood River (4%)
    - Portland's Japan Town

Executive Order #9066 –

- 120K lost homes; 2/3 US citizens



# BEND CITY COUNCIL INSISTS ON SEPARATE QUARTERS FOR AFRICAN-AMERICANS

The Bulletin - Google News x  
Secure | https://news.google.com/newspapers?nid=WTSYGHz1bkC&dat=19430709&printsec=frontpage&hl=en  
The Bulletin - Jul 9, 1943 Browse this newspaper » Browse all newspapers » Page 1 of 4

# BEND BULLETIN

CENTRAL OREGON'S DAILY NEWSPAPER

Temperature  
(All Data More Than 24 Hours Old)  
Maximum yesterday, 78 degrees  
Minimum yesterday, 59 degrees

THE BEND BULLETIN, BEND, DESCHUTES COUNTY, OREGON, FRIDAY, JULY 9, 1943 NO. 28

## Tanks Against Nazi Armies

### at, Main Jap eved Near

### st in Kula Engagement

### Sicily Pounded From Africa For Sixth Day

### Mobile USO Units to Serve Troops on Maneuver Asked

### Fate of Reds Seems to Rest On Big Battle

### War's Biggest Armored Engagement Now Under Way on Eastern Front

### Dairymen Join in Protection Drive

**Bend Council Also Seeks New Quarters for Colored Boys to Be Stationed in Midstate**

Originally organized to serve Camp Abbot and fliers from the Redmond and Madras air bases visiting in town, the Bend USO center has suddenly discovered that it occupies the "hot spot" of western America, because of army maneuvers to be held in Central Oregon this summer.

In fact, the spot is so hot that the San Francisco and New York offices of the USO are being called on for help, it was revealed at the monthly meeting of the local USO council last night in the former Sather hall, with Carl A. Johnson presiding. The regional and national offices of the USO are being asked to provide mobile units for the tens of thousands of soldiers who will be scattered over Central Oregon this summer.

Five Airdromes Feel Full Force of Bombs Released by Airmen

Allied Headquarters, North Africa, July 9 (AP)—Sicily rocked under its sixth day of non-stop aerial bombardment yesterday as flight after flight of allied bombers pounded its airdromes and communications in a pre-invasion

London, July 9 (AP) — Berlin broadcast a DNB claim tonight that German SS elite troops had crossed the Donets river in the area of Belgorod.

(By United Press)

Russian and German tanks





# **We're From the Government, We're Here to Help**

- 1940's to 1980's Institutional policies further solidify policies and practices leading to segregation**
  - FHA appraisal standards**
  - VA loan policies**
  - Transportation "improvements"**
  - Urban Renewal/Removal**
  - White flight**



# Redlining

Process of rating neighborhood for stability using the presence of people of color or new immigrants as major factors for deeming a neighborhood unstable



# FHA Loans



This **redlining of neighborhoods**, predominantly communities of color, led to **extreme racial inequities** in FHA loans: Between 1934 and 1962, of **\$120 billion in loans** made by the FHA, less than **two percent** went to **non-whites**

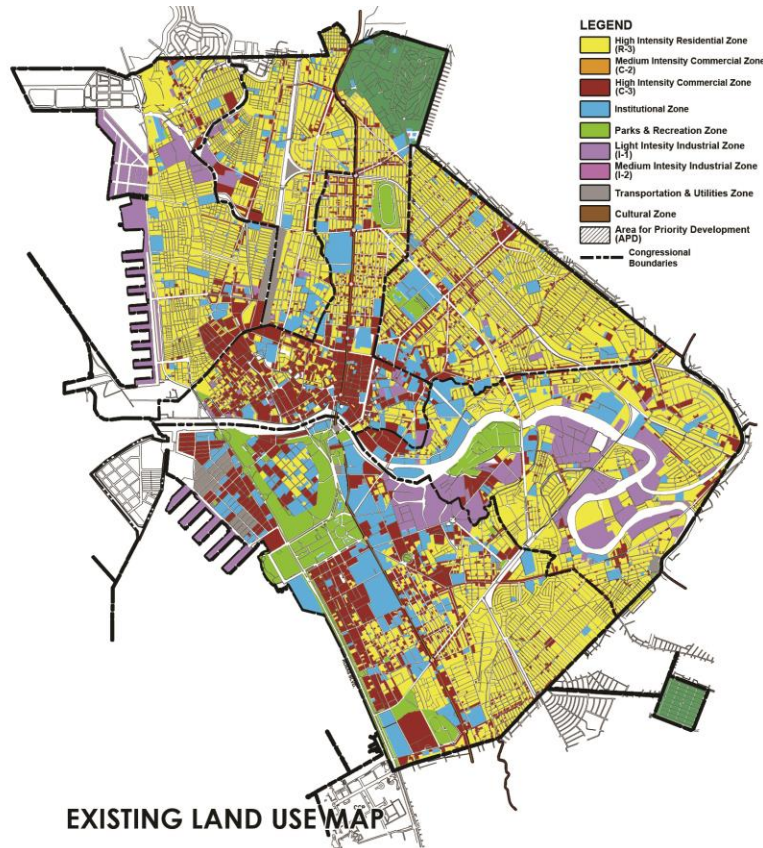
# Restrictive Covenants

- Prevented owner of real estate to sell or transfer property to blacks or other racial minorities and various religions
- Supreme Court declared such restrictive covenants unenforceable (*Shelley v Kraemer, 334 USA 1948*)

# Zoning Fosters Segregation

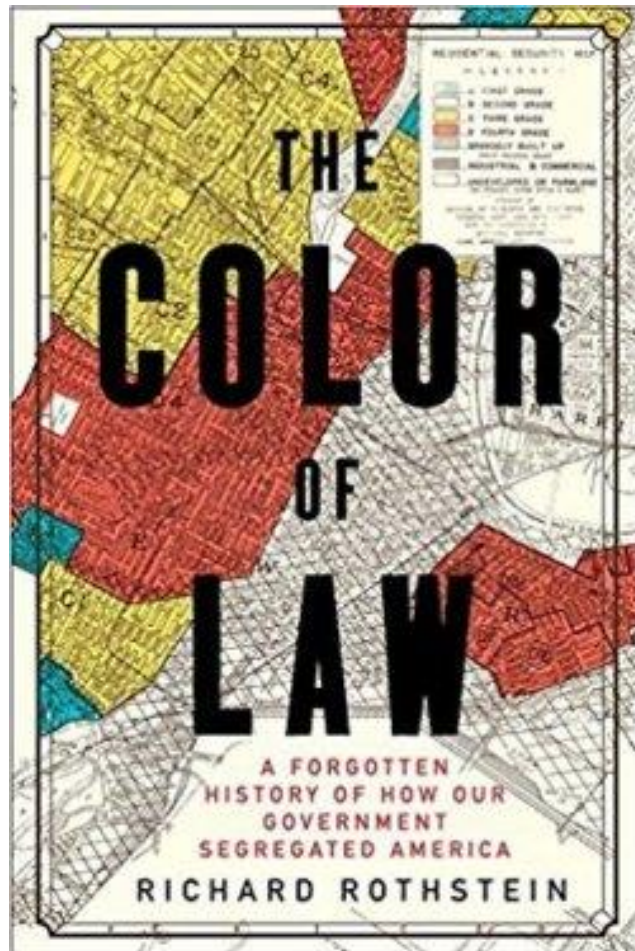
- From the start, zoning has separated more than just land uses. It has also separated people
- <https://housingmatters.urban.org/feature/zoning-matters-how-land-use-policies-shape-our-lives>
- In the early 20th Century, many communities explicitly used zoning ordinances to racially segregate neighborhoods

# Continuing Impacts Today



**Exclusionary zoning policies continue to restrict lower cost or higher density housing limit racial and economic diversity and raise housing costs excluding people from equal access to opportunities**

# Zoning and Segregation



This history is spelled out in Richard Rothstein's book "The Color of Law: A Forgotten History of How Our Government Segregated America"  
*Segregated by Design*  
*vimeo*

<https://vimeo.com/328684375>

# Fair Housing Act

- **1968 Fair Housing Act enacted**
- **HUD named to enforce Fair Housing laws**
- **Penalties instituted for violations**
- **Affirmatively Furthering Fair Housing required**





# **AFFH Addresses Discrimination & Segregation**

- **HUD has been under an obligation to affirmatively further fair housing in its programs since 1968**
- **Jurisdictions receiving federal housing and community development funding are held to a higher standard in their obligations**
- **Addresses the removal of barriers to fair housing choice and creates ways to access housing choice & access to opportunity**





# Indicators of Barriers to Equal Opportunity in Housing

- **Education:** school performance, test scores, graduation rates, teacher ratios, free school lunch percentages
- **Economic Development:** land use policies, zoning decisions, incentives for mixed use and affordable housing, affirmative marketing
- **Economic Health in the Neighborhood:** job opportunities, grocery stores, publicly funded economic development/infrastructure investments

# Separate is Not Equal

- **Accessibility of housing: near transportation and services, barrier free, meets design and construction standards**
- **Location, availability, accessibility of housing: unit sizes, accessible features, environmental features**
- **Special considerations: group homes, mixed income, first time homebuyer (gentrification), foreclosures and other predatory indicators, public transportation and LIDs, environmental issues**

# AFFH & the Current Administration

**“I am happy to inform all of the people living their Suburban Lifestyle Dream that you will no longer be bothered or financially hurt by having low income housing built in your neighborhood. Your housing prices will go up based on the market, and crime will go down.”- Tweet from President Trump**



# HUD Revocation on of AFFH Rule

- **Does not mean that AFFH is no longer required (still in the Fair Housing Act)**
- **Less accountability required of jurisdictions around examination of racial concentration and concentration of poverty**
- **Initially suspended in 2018; Little impact except confusion among jurisdictions on reporting requirements**



# Jurisdictions & Fair Housing Responsibilities

**Counties and Cities are subject to the Fair Housing Act:**

- **Occupancy Standards**
- **Reasonable Accommodations ( i.e. parking)**
- **Land use and zoning issues ( i.e. group homes, recovery homes, shelters, supportive housing)**
- **Code Enforcement**



# Fair Housing and Land Use Laws

**Fair housing law prohibits land use regulations, restrictive covenants and conditional or special use permits that may limit housing choice based on protective class**



# Common Fair Housing Land Use Violations

- **Requiring projects to undergo additional approval steps, hearings, or meetings with neighbors not required of for other housing projects**
- **Requiring projects to have extra screening, setbacks or other design modifications not required of for other housing projects**
- **Requiring burdensome public safety requirements**





- **Prohibiting or restricting the development of housing based on the belief that the residents have a particular protected characteristic, such as race, disability, or family status**
- ***Example: Moratorium on the development of multifamily housing because of concerns that residents will include those with a particular protected characteristic***

- **Imposing restrictions on housing because of alleged public safety concerns based on stereotypes about the residents or anticipated residents who have protected characteristics**
- ***Example: Requiring a proposed development to provide additional security measures based on belief that persons with particular protected characteristics are more likely to engage in criminal activity***

- Refusing to provide reasonable accommodations to land use or zoning policies when such accommodations may be necessary to allow persons with disabilities to have an equal opportunity to use and enjoy the housing
- *Example: Denying a request to modify a setback requirement so an accessible sidewalk or ramp can be provided for one or more persons with mobility disabilities*



**Definition (HUD Rule): A practice that results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin**

## **DISPARATE IMPACT**



# Disparate Impact & the Supreme Court Decision

**June 25, 2015: SCOTUS, in a 5-4 ruling, upheld more than 45 years of precedent affirming that disparate impact claims are allowed under the Fair Housing Act**

***Texas Department of Housing v Inclusive Communities***



## Examples of Policies that may have a Disparate Impact

**A Local zoning ordinance restricts housing with more than 3 bedrooms**  
***Result: disparate impact on people with larger families (discrimination based on familial status)***

- **Urban renewal**
- **Code enforcement**
- **Exclusionary zoning**
- **Residency preferences**

# NEW HUD Ruling

**September 2020- HUD released a rule which weakens use of this disparate impact tool making it much more difficult to use in legal cases against perpetrators of housing discrimination**



# Affordable Housing, Goal 10 &HNAs

- **Affordable Housing and Fair Housing – the nexus is that many with protected class characteristics live in affordable housing**
- **Residential segregation by income;  
Income as a proxy for race/ethnicity**
- **Goal 10 and Housing Needs Analysis – Oregon  
Land Use Planning**



# Planning Goal 10

**To provide for the housing needs of citizens of the state**

**Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density**





# Housing Needs Analysis (HNA)

- A housing needs analysis (HNA) is one of the components a city needs to consider if the city wants to satisfy the housing needs of its residents over a 20 year period. An HNA is both a product and a process that the city goes through to determine areas of need in their current inventory of housing and their buildable land supply.



# **Post-Acknowledgement Plan Amendment Project (PAPA)**

- **Project began in 2015 in a collaboration between FHCO and Housing Land Advocates (HLA)**
- **Funded by Oregon Housing and Consumer Services, Oregon Business Development Division and HUD**
- **Process: review post-acknowledgement plan amendments (PAPAs) across Oregon when those amendments either have insufficient Statewide Planning Goal 10 (Goal 10) findings or the Goal 10 findings do not support adoption of the amendment**

# Project Goals

- To protect and promote affordable housing by reminding local governments of their Goal 10 obligations and, when necessary, preserving error in the record for appeal to the Land Use Board of Appeals
- To Raise Awareness of Goal 10 Requirements
- To determine whether a PAPA's adoption would violate the Fair Housing Act by discriminating against protected classes through disparate impact



## Senate Bill 1051- Misc Land Use (2017)

- **Legalized Accessory Dwelling Units (ADUs)**
- **Strengthened clear and objective standards for local jurisdictions**
- **Expedited permitting for affordable housing**
- **Affordable housing by-right on land owned by religious organizations**
- **Density (Height and FAR) as entitlement**

# House Bill 2001 (2019)

## Missing Middle Housing



### Cities >25K and Metro jurisdictions

- **Must allow a duplex on each lot that allows a single-family home**
- **Must allow triplexes, quads, cottage clusters, and townhouses in areas that allow for detached single-family homes**
- **Deadline: June 30, 2022**



# **House Bill 2003 (2019)**

## **Goal 10 Accountability**

### **Regional Housing Needs Analysis (RHNA) study**

- **One time analysis of regional housing need and housing shortages ( Deadline: September 2020)**
- **Report to Legislature that includes a review of RHNA as a policy ( Deadline: March 2020)**

# **House Bill 2003(2019)**

## **Goal 10 Accountability**

### **Housing Productions Strategies**

- **Cities must do a housing production strategy within one year of completing a housing needs analysis**

**Local jurisdictions outside of Metro (>10K)  
must update HNA every 8 years**

**Metro must update its HNA every 6 years**

- **Strategies should encourage the development of needed housing**
- **DLCD has enforcement authority over local jurisdiction's progress**





# Regional Housing Needs Analysis

**The RHNA must include:**

- **A racial equity needs analysis**
- **A distribution methodology for total housing units by affordability level that addresses the historic underproduction of high-income jurisdictions**
- **A definition of “equitable distribution of publicly supported housing” that increases housing choice for people earning low-incomes in a region**

## **What can you do to promote Inclusive Communities in your region?**

- **Distribute the Good Neighbor Guide**
- **Familiarize yourself with FHCO's Finding Common Ground Inclusive Communities Toolkit**
- **Watch for projects and developments coming before your local Planning Commission and City Council; provide a heads up to FHCO if assistance is needed**
- **Provide testimony at public hearings in support of shelters, supportive housing and group homes as well as zoning changes providing more multifamily housing**

## **Communicate with your jurisdiction about their Fair Housing responsibilities including:**

- **Occupancy Standards: Best practice is 2 people per bedroom plus 1 additional person (Keating Memorandum)**
- **Code Enforcement: Needs to be city-wide and equitable not focusing solely on rental properties or multifamily properties or certain neighborhoods**

# And...

- **Reasonable Accommodations: Jurisdictions need policies for accommodations for people with disabilities (Examples: parking certain vehicles where they would otherwise be prohibited; ordinances not permitting certain dog breeds, etc.)**
- **Compliance with FHA Design and Construction Standards**



# How to Equalize Opportunity in Communities

- Know the fair housing protected classes
- Address “Not in My Backyard” attitudes
- Watch out for Red Flag language such as saying this is not “compatible with the existing neighborhood” or this would “change the character of the neighborhood”
- Consider the location of key infrastructure & economic development projects

- **Consider the location and availability of affordable housing and all housing types throughout the community**
- **Promote housing that is structurally accessible to people with disabilities; address issues related to zoning for residential care facilities**
- **Offer incentives for mixed use and affordable housing**
- **Promote public transportation routes in all neighborhoods**
- **Don't limit siting of new affordable housing development along existing transit lines**

- **Ensure that economic development & housing opportunities are related to transit lines in diverse communities**
- **Ensure that public infrastructure is connected to low income housing**
- **Consider access to employment in all neighborhoods**
- **Ensure that land use policies encourage diversity**
- **Foster access to grocery stores in low income neighborhoods**



# Contact the Fair Housing Council of Oregon for More Information

Fair Housing Hotline

(800) 424-3247 Ext. 2

Housing Provider Hotline Ext. 5

[information@fhco.org](mailto:information@fhco.org)

[www.fhco.org](http://www.fhco.org)