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2014 ANALYSIS OF IMPEDIMENTS
TO FAIR HOUSING CHOICE FOCUS GROUP

SPONSORED BY MONTANA DEPARTMENT OF COMMERCE
IN SUPPORT OF MONTANA'S
FIVE-YEAR CONSOLIDATED PLAN

TRANSCRIPT OF PROCEEDINGS

Robert Gaudin, Facilitator

Guesthouse Inn
Winchester Room
Kalispell, Montana

Wednesday, July 16, 2014
9:02 A.M.

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PARTICIPANTS

IN WINCHESTER ROOM:

DIANNA KINTZLER
LYNA WEST
Summit Independent Living Center

ALLISON METZLER
Community Action Partnership
of Northwest Montana

KIRBY CAMPBELL-RIERSON
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ON WEBINAR/TELEPHONE CONFERENCE:

JEAN HARTE
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ERIC KOHRING
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Great Falls Housing Authority

DEPARTMENT OF COMMERCE:

PENNY COPE
STEPHANIE CRIDER

1 PROCEEDINGS ~ WEDNESDAY, JULY 16, 2014

2 MR. GAUDIN: Well, good morning,
3 everyone.

4 MS. COPE: Good morning.

5 MR. GAUDIN: It's good to be
6 here. My name is Rob Gaudin. I'm the
7 Director of Research and Planning for Western
8 Economic Services. It's a consulting
9 organization out of the city of Portland.

10 The Commerce -- Department of
11 Commerce has hired my firm to help them with a
12 couple of different studies for this planning
13 cycle, one of which is the Analysis of
14 Impediments to Fair Housing Choice.

15 You know, for a few of you who were
16 here yesterday, you've probably heard this
17 already, but I've been working with Commerce
18 for 28 years, and for the last 20 years we've
19 been doing this particular study for them
20 approximately every five years. So we're
21 embarking upon this effort today.

22 This particular study is a
23 requirement for receiving money from HUD for
24 housing and community development purposes.

25 The idea is that they need to certify

1 that they're affirmatively furthering fair
2 housing. Now, this is not like a little form
3 you sign and you put it in a drawer and you're
4 forever good with that.

5 You know, this is actually a
6 three-step process. You need to actually
7 conduct this Analysis of Impediments, or AI.
8 It's a study of both quantitative and
9 qualitative research, evaluation, inferences
10 you might make from various qualitative types
11 of situations. If you identify some
12 impediments to fair housing choice, you need
13 to take action and then report back to HUD.
14 Generally speaking, that would be in your
15 Consolidated Annual Performance and Evaluation
16 Report.

17 But I do want to emphasize,
18 especially for those callers who have -- are
19 attending, that if you have a question at any
20 time, just speak up, you know, please
21 interrupt me. You know, this is really about
22 an exchange of information. And I'm just not
23 a speaker or a presenter, but it's also about
24 how you feel. This is about your community.
25 So, please, if I'm not being clear or if I'm

1 mistaken about the situation here in
2 Kalispell, or whatever it is, just please take
3 the opportunity to let me know how you feel.

4 You know, the intent here -- the
5 entire purpose, really, is to take a look at
6 the situation, you know, see if we can
7 identify some impediments, and then make some
8 recommendations about which Commerce can act
9 upon.

10 You know, of course, in this process
11 we begin to separate, you know, actions that
12 occur in a private sector, whether that's
13 banking and lending, or property management,
14 or appraisals, or real estate agents, or what
15 have you, and those which also happen in the
16 public sector.

17 Maybe there's things about local
18 planning and zoning, or policies and
19 practices, or ways in which we've allocated
20 resources and had certain things happen in the
21 past. But we're really trying to assess, you
22 know, what barriers there are to housing
23 choice.

24 So to begin, really, I'm going to
25 talk a little bit about the context, you know,

1 some fair housing information, what this means
2 in terms of, you know, our preliminary
3 findings. And again, as I mentioned, this is
4 about an opportunity for you to provide input
5 about this information, about this process,
6 you know, what it means for you, what it means
7 for the state, and so on.

8 It's important, however, to
9 understand fundamentally what an impediment to
10 fair housing choice means. Now, these are
11 actions, omissions or decisions -- whether
12 you're in the private sector or the public
13 sector -- actions, omissions or decisions
14 which restrict housing choice due to protected
15 class status.

16 Now, different jurisdictions can have
17 different protected classes. If you're a
18 state or local government you could add them.
19 Here, both state and federal law have this
20 group; race, color, creed, religion, familial
21 status, marital status, age, gender,
22 disability and national origin.

23 So we're talking about actions,
24 omissions or decisions which are strict or
25 have the effect of restricting housing choice

1 for people in these groups.

2 You know, this study, this Analysis
3 of Impediments, kind of got its start when the
4 Consolidated Plan first came about, which was
5 actually the reorientation of four programs,
6 so that they would be all in the same planning
7 cycle and application cycle; CDBG, HOME, ESG
8 and HOPWA. That's when they got consolidated.

9 In the very beginning, you know, it
10 was to try to make a fairly, you know,
11 good-faith effort to evaluate these things.
12 In 1996 HUD came out with a Fair Housing
13 Planning Guide, you know, about how to do
14 these. Montana's AI was in that guide. But
15 over the years there has been a distinct
16 evolution in what HUD expects to have happen.
17 This particular evolution really kind of
18 turned a corner just a few years ago.

19 In New York there's Westchester
20 County, it's a pie-shaped county with a point
21 that abuts the City of New York. And all
22 these folks would drive into the city to work
23 and then drive home.

24 Well, Westchester County gets money
25 from HUD, and they're supposed to certify that

1 they're affirmatively furthering fair housing,
2 when they did their study they said, Oh, man,
3 we have an affordable housing crisis, we're
4 gonna build affordable housing. That is also
5 true. But where they built them and what they
6 did, the consequence of their actions,
7 increased concentrations of poverty, increased
8 concentrations of racial and ethnic minorities.

9 So the Antidiscrimination Center of
10 New York City sued them for falsely claiming
11 the certification that they're gonna
12 affirmatively further fair housing.

13 That started in 2006, it ended in
14 2009. Westchester County lost, so they had to
15 pay the \$50 million -- 50, 5-0 -- back to HUD
16 for all the projects they built that
17 contributed to the problem. They also had to
18 spend 51 million more to pay off all the
19 attorneys. And so the taxpayer had to come up
20 with a hundred million and they're back to
21 square one.

22 The fundamental issue for them is
23 that they have completely lost their
24 flexibility and their control over their
25 programs. Now the New York court system tells

1 them how they're gonna spend their money.

2 The rest of us in the county,
3 however, get to be under HUD's magnifying
4 glass about what we're doing to make sure we
5 avoid these kinds of problems. So the
6 scrutiny is significantly greater since that,
7 so in the last five years.

8 People at HUD really want to look at
9 how our decisions are being implemented.
10 Certain states are reviewing how their
11 low-income housing tax credits are evaluated,
12 their QAP, Qualified Application Plan.

13 You know, there used to be a time
14 when they'd give a little bit more points for
15 areas of low income. Now they're shying away
16 from that because we don't want to promote it
17 just in lower-income areas. So there's been
18 some shift just across the board.

19 And those expectations from HUD have
20 also increased. They also, in middle of last
21 year, in July of last year, they issued a
22 proposed rule to change it again, you know,
23 the certification, and that hasn't been
24 resolved yet, so we're operating under this
25 little bit of cloud.

1 Some people at HUD are thinking that
2 we're gonna do it the new way, and some people
3 are thinking we're gonna do it the old way.
4 But all those ways are evolving, so it's a
5 little bit uncertain how this all turns out.

6 But the path we've chosen this time
7 is to do the non-entitled areas of the state.
8 You can barely see it. Missoula, Billings and
9 Great Falls, those tiny little patches of
10 white, are outside the study because
11 entitlements, like states, they get funds
12 directly from HUD, must also do their own AI.
13 So we don't want to get crosswise with each of
14 the communities, so we're doing the
15 non-entitled portions of the state.

16 So the data, nearly everything --
17 except, of course, the next slide -- nearly
18 everything else in this presentation relates
19 to the non-entitled areas of the state.

20 Now, I just want to give some
21 context. HUD's gonna look at, Hey, look, you
22 know, we're growing really nicely over the
23 years. When we begin to look at how the
24 population has grown, which groups are growing
25 quickly, which are growing more slowly,

1 non-entitled areas of the state, right? We're
2 growing at 8.8 percent in the non-entitled
3 areas, it's a little bit less than the more
4 urbanized areas.

5 Nevertheless, you know, whites are
6 growing the slowest. Some of these -- you
7 know, Native Americans are growing at 9
8 percent, almost the average, they're the next
9 largest minority, but Hispanics at 60 percent,
10 still a small group, less than 20,000 people.

11 But HUD's gonna ask us, Okay, what
12 about the legacy of decisions -- kind of like
13 the Westchester County case -- have you
14 changed in the distribution of the population
15 from then to now, has there been any change?

16 You know, it's difficult to make good
17 statements when this is a 2000 data and we
18 have all these sets of Tribal lands. Well, of
19 course, there's a reason for that, why there
20 are high concentrations.

21 Now, throughout this series of
22 discussions I'm gonna be having these maps
23 colored in terms of disproportionate share.

24 The jurisdiction average will be in
25 the -- kind of the light yellow. Ten

1 percentage points above that, which is this
2 next green here, the 7.1 to 17 percent. If it
3 gets above 17 percent, 10 percentage points
4 above the average, that's a disproportionate
5 share.

6 Do you have a question?

7 A PARTICIPANT: Yeah. It's not
8 really a question. Is there any way we can
9 make it a little bit darker, I mean not so
10 light, so we could see it better?

11 MR. GAUDIN: I think we can turn
12 the light right there off. Is that correct?

13 A PARTICIPANT: Sorry to
14 interrupt.

15 MR. GAUDIN: That's quite all
16 right. I was asked that question yesterday.
17 Nah, nah, it's fine, so... Not sure it's
18 clarified, but it's totally fine.

19 MS. CRIDER: And I'd just like to
20 remind everybody, if you're gonna ask a
21 question, for the court reporter please state
22 your name.

23 MR. GAUDIN: While that's been
24 being worked on, technical details, these
25 darker colors, this kind of mottled -- the

1 middle one here, blue-green, darker blue,
2 these are all disproportionate concentrations,
3 over-concentrations. Now, of course, we have
4 the Tribal and trust lands and, of course,
5 there's over-concentration.

6 But the question is, Okay, that's our
7 legacy; what's happened in the last decade?
8 We do see some migration and
9 over-concentration outside some of the Tribal
10 lands, but not as much.

11 When we look at Hispanic -- I didn't
12 reproduce this Hispanic map right here -- we
13 only see one area of over-concentration,
14 that's West Yellowstone, that has appeared
15 since 2000.

16 Does that work better for you?

17 A PARTICIPANT: Yeah, thank you.

18 MR. GAUDIN: Okay, great. You
19 know, so HUD's gonna ask us, Are there certain
20 things about this migration or this change,
21 have we affected change positively or not?

22 Also kind of like to take a look at
23 poverty. You know, you guys are fortunate for
24 the non-entitled areas of the state, the
25 poverty rate actually declined a tiny bit

1 between the 2000 and the 2012 American
2 Community Survey. I'm sure there's a few more
3 people in poverty, but what we see is a
4 poverty rate declining.

5 But how is that distributed? Again,
6 we're gonna use the same concept where these
7 darker blue ones are over-concentrations of
8 poverty. This is from 2000. And granted,
9 2000 and 2012 we also have a different set of
10 census tracts.

11 But we see higher concentrations and
12 less distribution. So we're shifting to
13 higher concentrations of poverty in certain
14 areas of the state.

15 What we also have at play -- and this
16 is again -- this is not deflated, this is
17 nominal values. What we do see, the number of
18 households by income here. Lower-income
19 households are substantially fewer in
20 percentage and higher incomes households are
21 substantially greater. In fact, those above a
22 hundred thousand were double in percentage.
23 So we do have a shifting. But that's not to
24 say there aren't problems.

25 You know, part of what we're trying

1 to do is encourage, you know, the various
2 banking laws and so on. We want to encourage
3 our bankers to invest in all areas of our
4 communities.

5 So in this exercise, in the last few
6 years I've begun to gather Community
7 Reinvestment Act information, right -- our
8 bankers are supposed to invest in all the
9 areas of our community -- and just to kind of
10 take a look at how we can facilitate, you
11 know, development and attractiveness of our
12 communities by investing across the range of
13 them.

14 And this -- the percent of business
15 loans made in the non-entitled areas of the
16 state, for those census tracts that are less
17 than 50 percent of median family there's
18 almost no investment down here.

19 So for those areas that are poverty,
20 those areas that have difficulties, you know,
21 we're basically keeping them there, as opposed
22 to kind of encouraging some changes. So there
23 are mechanisms available to us to help
24 encourage that, maybe some changes in those
25 investment patterns.

1 I do want to take a look at, you
2 know, some of our housing choices. We have
3 this legacy here kind of thing, number of
4 households in the non-entitled areas of the
5 state.

6 You know, occupied housing units grew
7 14 percent, total 17.4 percent. And, you
8 know, homeownership slipped a little bit.
9 This generally set the pattern for statewide
10 as well.

11 But I am a little concerned about
12 vacant housing units, you know, jumping
13 36 percent. That's comprised of units that,
14 of course, are for sale or for rent. But down
15 here we have these other vacant units. You
16 know, there's a large portion in the
17 non-entitled areas of the state, that
18 35 percent increase.

19 Now, those types of housing units are
20 those which are not for sale or not for rent
21 and not available to the marketplace. So we
22 have some challenges ahead of us.

23 So during this time where we had
24 total housing units, you know, increasing
25 faster than our demand, what about some

1 production in terms of where we've placed, you
2 know, some of our assisted housing?

3 This just kind of responds to
4 Westchester County. Now in a state, this --
5 Westchester County is like one of our 56
6 counties, right, it's just a small county.
7 They have a lot more people.

8 But the idea here, you know,
9 project-based Section 8, Commerce gave me the
10 physical addresses of all their project-based
11 Section 8, and I attached the longitude and
12 latitude coordinate to it for those that are
13 outside of the entitlements and distributed
14 them across the state. I mean, these can be,
15 you know, four, eight or 36-unit facilities,
16 right, they could be small or large.

17 But the idea is, how have our set of
18 decisions over time distributed these
19 throughout the state? This tells me we really
20 haven't presented these things specifically in
21 concentrated areas, that we do not have the
22 same problem that Westchester County had.

23 You know, sure, you can't put one of
24 these units way out in the middle of nowhere,
25 where there's no infrastructure and there's no

1 sewer or water. At the same time, though,
2 these are all gonna be in smaller communities.
3 But it does seem to be distributed throughout
4 the state.

5 I have a couple different ways to
6 look at that. Section 8 vouchers, actually
7 got the vouchers. We tried as best we could,
8 'cause the voucher is a dot. I mean,
9 Missoula -- those are actually dots outside of
10 town, but the dot itself is bigger than the
11 house 'cause you couldn't see the dot
12 otherwise.

13 But this is how those are clustered.
14 More along, you know, where rental housing is
15 available. But I don't necessarily see a
16 pattern that they're only being used in a
17 particular, you know, locale or a particular
18 concentration associated with poverty. So
19 this is also a good thing.

20 Sure, I mean, there are areas,
21 particularly the northwestern part of the
22 state, where we have a number of them, but
23 scattered throughout the state. So this is
24 also a good development.

25 We have some HOME investment. You

1 know, there are some concentrations in certain
2 geographic areas around up here, around in
3 Helena, but I don't see them concentrated
4 necessarily near poverty.

5 Last, but not least, of that series
6 of maps, low-income housing tax credit issues.
7 Even with a past low-income QATs, we really
8 don't see these concentrated in areas of
9 poverty necessarily, they're distributed well
10 around the state.

11 So my conclusion is, for Commerce's
12 ability to influence their decision and their
13 legacy of decisions, we don't really have the
14 exposure like Westchester County has had. So
15 that's actually a real good...

16 But part of this also is to evaluate
17 a couple other pieces. You know, that's kind
18 of some of our public decision-making. And it
19 appears to be in line with our duty to certify
20 that we're affirmatively furthering fair
21 housing.

22 But there's also private sector
23 markets. And first thing I want to do is kind
24 of take a look at some housing complaint data.

25 The very first time I did this for

1 the State, back in 1994 or '93, I wrote a
2 letter to HUD, asking for this housing
3 complaint data 'cause it's controlled by them,
4 and they didn't reply, didn't reply, didn't
5 reply and didn't reply. Then I realized, Oh,
6 that's right, I have to file a Freedom of
7 Information Act request to get data from them
8 to report back to them.

9 So once I learned that, then it's
10 always worked well because they have to do it
11 within 22 days. The Denver office never
12 charged anything, Atlanta charged me as much
13 as \$67.

14 But this is, again, for the
15 non-entitled areas of Montana. I mean, look
16 at all these years. We have ten years of
17 data. 2014, of course, is a partial year.
18 The total number of complaints is tiny, 125.

19 Now, the bases are those protected
20 classes. They do follow retaliation in
21 federal -- these are only federal protections,
22 not states' protections. Retaliation is just
23 a tracking mechanism. But in this reporting
24 system they call it teapots [verbatim] for
25 some reason. The basis of the complaint, you

1 can have more than one basis per complaint.

2 I sorted it by most frequent bases
3 here in the state's disability. Disability,
4 race and familial status are traditionally the
5 top three nationally, not necessarily in that
6 record. But disability is certainly the
7 number one reason for the complaints here.

8 Of course, there are issues
9 associated with these complaints, like what is
10 the alleged action that occurred during the
11 housing transaction. Here we have the total
12 number of complaints, and you can have
13 certainly more than one issue per complaint.
14 There could be several things going on.

15 Failure to make reasonable
16 accommodation is the most frequent. Granted,
17 I sorted these, again, by frequency.
18 Discriminatory refusal to rent, you know,
19 rental, rental, rental.

20 Generally speaking, all the housing
21 complaints that flow through HUD are gonna be
22 related to rental markets. Not so much sales.
23 Occasionally you'll see something.
24 Occasionally you'll see some complaint about
25 local government blocking something. But

1 usually it's about the rental market and it's
2 a transaction that's gone astray between a
3 rental provider, a property management
4 company, or a mom-and-pop group and the
5 prospective tenant.

6 Yes, ma'am.

7 MS. COPE: Rob, there's a
8 question on the webinar here. And the person
9 asking the question is Eric Kohring,
10 K-o-h-r-i-n-g. He's stating, housing
11 complaints should be included from Montana
12 Fair Housing and the Human Rights Bureau and
13 not just HUD.

14 MR. GAUDIN: That is correct.
15 Don't hold your breath.

16 MS. COPE: Thank you.

17 MR. GAUDIN: Of those, you know,
18 a certain number of them have been found to be
19 with cause. After the complaint goes in, then
20 HUD will go and take a look at it.

21 This is a pittance compared to the
22 125, only 47 were found to be with cause. In
23 some years there were nothing. This implies
24 that the fair housing infrastructure is not
25 fully in place.

1 Now, the gentleman who had a comment
2 was addressing these housing complaints. This
3 is Montana Fair Housing data. We requested
4 their information as well. They have the
5 addition of a few of the state protections.
6 They also track retaliation and harassment,
7 and so on.

8 Their total complaints, considerably
9 higher, approximately 90 complaints higher,
10 over a similar period. Total number of bases,
11 309. So it's significantly greater levels of
12 activity.

13 In the early days here, Montana Fair
14 Housing was in Missoula and now it's in Butte.
15 So there may be some geographic fielding of
16 issues that may have changed there.
17 Nevertheless, we have some information about
18 those. Again, just like HUD's data,
19 disability is far and beyond, you know, the
20 main issue.

21 Pam Beam [phonetic] tracks design and
22 construction as a basis in her data system.
23 It's not really a protected class. But, you
24 know, disability, familial status definitely
25 in tune with HUD's information.

1 We have not received anything from
2 Montana Human Rights Bureau. When we look at
3 those with cause from Montana Fair Housing, we
4 find a similar reduction in the number of
5 complaints that were valid, or were determined
6 to be with cause. Nevertheless, disability,
7 familial status still coming out as the most
8 frequent, but significantly fewer than those
9 complaints that first came in.

10 But this does tell us some important
11 things. Even with Montana Fair Housing with
12 one location in Butte, you know, these last --
13 look at this. I think they started in Butte
14 approximately in 2010, can't precisely
15 remember. But, I mean, this is just not what
16 I would expect to see across the entire state.
17 Seven or nine or one, that's a small number.

18 Often a complaint -- this is -- I'm
19 here in Kalispell and that's in Butte, and I
20 can go to Denver. Why don't I just go down
21 the block and find a new place.

22 MS. COPE: Rob --

23 MR. GAUDIN: Yes.

24 MS. COPE: -- there's a request
25 by Nancy Harte to ask a question.

1 MR. GAUDIN: Please.

2 MS. COPE: Nancy, go ahead.

3 NANCY HARTE: Can you hear me?

4 MS. COPE: Now I can, Nancy, yep.

5 NANCY HARTE: You can hear me?

6 MR. GAUDIN: Yes.

7 NANCY HARTE: Okay, great. Hi
8 Rob, this is Nancy. The standard that you
9 have for fair housing is non-entitlement
10 areas?

11 MR. GAUDIN: That is correct.

12 NANCY HARTE: That is correct,
13 okay. So that would mean that -- would the
14 Missoula bias be in there because we know it
15 wouldn't be in there?

16 MR. GAUDIN: Missoula is not in
17 this data.

18 NANCY HARTE: Okay. So,
19 theoretically then, their moving from Missoula
20 to Butte wouldn't necessarily affect that?

21 MR. GAUDIN: Just because their
22 one location was there -- in fact, I think
23 in -- well, originally the fair housing group
24 was in Great Falls, the Concerned Citizens --
25 Council for Concerned Citizens. And I think

1 by 2004 they had disbanded and it was only
2 Montana Fair Housing out of Missoula then.

3 So I do not -- I mean, I do think
4 that the location has something to do with it.
5 You know, if someone's in Kalispell, where we
6 are today, and they need to go to Missoula,
7 it's easier than going to Butte or going to
8 Billings or going to Miles City.

9 So the location would be better if
10 there were multiple locations throughout the
11 state. But, you know, the issue I mentioned a
12 few slides ago about the infrastructure being
13 somewhat limited, it does also mean that maybe
14 we have not enough places to access the fair
15 housing system.

16 NANCY HARTE: Right. But the
17 little Billings and Great Falls aren't in the
18 data?

19 MR. GAUDIN: No. That's correct.

20 NANCY HARTE: Okay, great.

21 Thanks, Rob.

22 MR. GAUDIN: Uh-huh. Okay.
23 Well, I'm actually pleased to see that the
24 question and answer thing works over the
25 telephones. That's all good. Okay.

1 I also -- I guess my point here is
2 that, regardless of whether it's HUD or
3 Montana Fair Housing, and the Human Rights
4 Bureau hasn't yet replied to our request for
5 data. I hope they do; sometimes they don't.

6 But nevertheless, what we do see is a
7 kind of a preponderance for the housing
8 complaints that run through the rental
9 markets. And disability and familial status
10 are kind of the frequent themes, who is
11 getting discriminated against.

12 Generally speaking, that's gonna be,
13 you know, refusal to make reasonable
14 accommodation or modification, or simply
15 saying, No, we can't have kids, or we can't
16 have that many kids, something like that.

17 The other piece I wanted to take a
18 look at is lending. Now, HMDA, Home Mortgage
19 Disclosure Act, was passed by the U.S.
20 Congress in the late '70s, and it gave lending
21 institutions certain rules by which to report
22 certain types of information for all mortgage
23 applicants. Whether that was a home purchase
24 or a home improvement or a refinancing, they
25 needed to report this information.

1 Now, what I want to look at is those
2 which is a home purchase, right? I mean,
3 there's other things that come and go on in
4 home improvements and funny business in
5 refinancing, and so on. But, really, we're
6 trying to find out about our choice to elect
7 to purchase a home.

8 Within this, the lender, whether it's
9 a depository or non-depository institution,
10 they'll get the loan application and they'll
11 take a look at it and start assessing, you
12 know, the attributes of the loan applicant.

13 They can make a bunch of different
14 decisions. I apologize for the slides. There
15 are probably too many numbers and too many
16 letters and words, and so on. But these are
17 all the kind of decisions that they can make.

18 The top one on far left, they can
19 originate the loan. They can make the loan.
20 Everybody signs the papers, we go home, we
21 crack our bottle of champagne and celebrate
22 when I got my house.

23 They add these other things. These
24 closed for incompleteness, it's not, you know,
25 this or whatever.

1 The other one I'm concerned about is
2 application denied, where the lender says no,
3 it's a thumbs-down deal. So we have the
4 originations and the denials, and that gives
5 us a denial rate.

6 And this is what the denial rates
7 have been over the last several years. 2012
8 is currently the most recently available Home
9 Mortgage Disclosure Act data. It usually
10 comes out late in the year. Later this year
11 2013 will come out.

12 But here we are, and the denial rates
13 have fell way off. Now, denial rates around
14 15 percent are actually pretty good, so the
15 denial rate today is nice. But you know
16 what's interesting about this information, we
17 know certain things about the applicants.
18 Their gender, you know, their race, their
19 ethnicity, where the houses are being applied
20 for, you know, the census tracts.

21 So when we look at the distribution
22 of denial rates using the same themes as --
23 and color themes as I had before, we see where
24 kind of the concentrations of the denial rates
25 are.

1 Home Mortgage Disclosure Act shifted
2 from the 2000 census tracts to the 2010 census
3 tracts in 2012, so I can't overlay the two.
4 This is why. We see where denials are
5 occurring. You know, they're more frequently
6 up here. In 2012 we also see continuation in
7 a few areas.

8 You have to be careful here
9 interpreting a smaller number. When this says
10 a hundred percent here it could be one loan
11 that got denied. So I'm more concerned about
12 the ones that are a little bit less blue.

13 But what I really am concerned about,
14 it tells us the race and ethnicity of the
15 borrower, or hopefully the borrower, and what
16 we see here is who gets denied more often.

17 American Indians are a larger
18 minority than these others. But whites are
19 17 percent and American Indians are
20 34 percent. You know, basically twice the
21 denial rates.

22 It was probably 15 years ago when we
23 did this study and we found that certain
24 lenders were denying American Indians a
25 hundred percent of the time on manufactured

1 housing that was sold near the Tribal lands
2 because the banks were afraid that they would
3 just hook it up to the truck and tow it, and
4 then they have no recourse for recovery. I
5 think the University of the Montana Law School
6 has written some codes, some legal codes, to
7 resolve that. There's been some resolution of
8 that, but not in its entirety.

9 Part of the reason I like to choose
10 2004 in this Home Mortgage Disclosure Act data
11 is because they actually correctly define
12 Hispanic beginning that year. Prior to that,
13 Hispanic, believe it or not, in this data
14 system was erased. I was wrong. But they
15 also added some other information about the
16 attributes of the loan.

17 I got to back up. You know, the
18 federal reserve says that you cannot
19 conclusively say that our lenders are being
20 discriminatory even though these patterns
21 exist, be that as it may.

22 Now, stepping forward, the other
23 attributes of the loans, starting in 2004, we
24 can identify which loans are predatory in
25 nature. These are HALs, high annual

1 percentage rate loans. They're at least three
2 percentage points above the comparable
3 treasury security at the time that the loan
4 was made.

5 Notice here, when we had the bubble
6 we had a lot more, almost -- more than
7 20 percent of all our loans were these
8 predatory-style loans.

9 Now, here in Kalispell I'm sure that
10 was more than that. You know, in some
11 jurisdictions that I was working at at that
12 time, it was like 35 and 40 percent, and they
13 had really a bad situation.

14 Notice that we have had a fall-off in
15 these predatory-style loans. There's been a
16 little bit of recovery here since the last
17 couple of years, so I'm a little bit concerned
18 about that. Other jurisdictions have come
19 back to be more than 12 percent of the base.
20 So they're kind of making a resurgence.

21 The problem with this is that who
22 gets these predatory-style loans. We can
23 determine that, too. All right? It comes
24 right back to this. Not only do these guys
25 here -- not only do the American Indians get

1 one of the higher denial rates, when they get
2 a loan they get a predatory loan. Almost --
3 well, a little more than a quarter of all
4 those loans were predatory-style in nature.

5 Now, I didn't drill down for this
6 presence, but I'm pretty sure it's the same
7 story. There are certain lenders that prey on
8 certain lower-income minority groups.

9 And right now I have AIs in doing New
10 Mexico and Mississippi, and it's the same
11 lenders doing different groups. In one group
12 it's blacks, in the other, in New Mexico, it's
13 American Indians. But it's the same lenders,
14 and they're all lending on manufactured
15 housing. So we have some problems with this
16 part of our market.

17 Okay, the federal reserve says you
18 can't say that they're deliberately doing
19 this, but what can we do to help them avoid --
20 I mean, what this says here is who carries the
21 foreclosure burden, right, who's got it on
22 their back. You know, Hispanics are also a
23 little bit higher. Blacks and Hispanics --
24 yes.

25 MS. COPE: Are these storefront

1 lenders or online?

2 MR. GAUDIN: They can be all
3 kinds of things.

4 MS. COPE: Okay.

5 MR. GAUDIN: They are usually not
6 the hometown banker. You know, your
7 established hometown banker. You know, when
8 we did this for Los Angeles County several
9 years ago, it turned out to be a guy standing
10 on the corner, talking in, you know, the same
11 Spanish dialect and getting people to walk in
12 the door, they build a trust, and then a --
13 so a predatory-style thing.

14 So, you know -- but they're a little
15 bit fly-by-night sometimes. Many of those
16 kinds of institutions are now gone, they went
17 out of business, good riddance to them.

18 But nevertheless, you know, these
19 things, what can we do about it? You know,
20 sometimes people talk about financial literacy
21 and what it means, and how do you get good
22 credit and keep good credit and those kinds of
23 things.

24 I had a customer in the South one
25 time say, I want the list, and I can produce

1 the list of who makes these loans, and then --
2 but they didn't really have the -- you know,
3 the muscle to go after them. It's a big
4 muscle.

5 The last piece I want to address
6 here -- or nearly the last piece of our data
7 collection, we do have a Fair Housing Survey
8 ongoing. We started it a little bit later
9 than the Housing and Community Development
10 Survey that some of you learned about
11 yesterday. So we have, as of last week,
12 slightly less than a hundred.

13 Please, if you can, take a look at
14 this, send it to your friends and family, and
15 maybe we can get some more folks. What we do
16 have, you know, is a fairly broad array of
17 people participating, and I'm certainly hoping
18 we can get some more folks.

19 But let's take a look at what these
20 preliminary things are saying thus far.
21 Again, this is preliminary. You know, we
22 start out fairly simple, are these laws
23 difficult to understand or follow? You know,
24 enough people are saying yes, it tells me
25 that -- I mean, these are stakeholders, right?

1 They got solicited by Commerce to participate.
2 It wasn't Joe Six-Pack who saw it in the
3 newspaper.

4 So we have stakeholders and enough
5 stakeholders saying, Yeah, I don't really
6 understand it that well. So it tells me
7 there's a little bit of outreach education
8 issues.

9 Do you think fair housing laws should
10 be changed? Enough are saying, Well, I don't
11 know, maybe. No or yes, there's some people
12 who -- those who say yes will see what they're
13 saying in a few minutes.

14 Are they adequately enforced? Some
15 say yes, some say no.

16 One of the other types of things we
17 ask about -- we had a bunch of private sector
18 questions, and I just kind of wanted to touch
19 base with you on these. It's a little bit
20 early. You know, what kinds of things are
21 severe impediments, what kinds of things are
22 not at all impediments?

23 You know, when we look through this
24 list, what we're really seeing is really very
25 little that people see as an impediment to

1 fair housing choice.

2 You know, down here, lack of
3 knowledge, that's the number one thing,
4 according to our participants in the survey.
5 Generally speaking, HUD has heard us say that
6 for 20 years now, and they kind of expect us
7 to do more than outreach and education. So,
8 you know, we need to think about what more
9 there might be for us to do. You know, we
10 have issues. Sometimes there's people who
11 build things that don't build completely right
12 with ADA, you know, so maybe some audit
13 testing is an appropriate type of thing.

14 But these are private sector issues,
15 and the people don't see much in the way of
16 severity. But for those that do, we have some
17 comments.

18 Public sector issues, you know, the
19 very severe impediments not really too much.
20 Inadequate access to public transportation,
21 that was one of our questions. Generally
22 speaking, in an urbanized environment with a
23 mass transit system, you're going to see if
24 the way in which your mass transit system is
25 laid out so that people who live in

1 lower-income areas can have access to
2 employment opportunities. And that's kind of
3 a way to facilitate, you know, their ability
4 to choose -- get in a job, then allows them to
5 have greater opportunity to choose to live
6 elsewhere if they wish to do so.

7 In a large state like Montana, with
8 so little infrastructure outside -- you know,
9 transportation infrastructure outside the
10 entitlement areas, you know, some of these
11 questions aren't necessarily quite as valid.

12 Nevertheless, you know, access to
13 employment opportunities are a problem
14 sometimes as other things. But we've not
15 really seen the richness of the narrative
16 about what the public sector can really help
17 us accomplish in kind of overcoming some of
18 our goals.

19 A couple things that we also touch
20 upon, is the respondent aware of any local,
21 kind of, city or county fair housing
22 ordinance. A few say yes, but mostly people
23 are kind of going, Well, I haven't got -- skip
24 that question 'cause I don't really know.

25 How about policies or practices to

1 affirmatively further fair housing? A few
2 yes, a bunch no. You know, this is telling me
3 we lack, A, some fair housing infrastructure;
4 B, back to the same thing about outreach and
5 education. And specific areas, some people
6 said yes, a lot of people said, Really -- I
7 don't really know. So we're missing some
8 information.

9 You know, we asked folks early in the
10 survey to qualify themselves. Many
11 professions, whether you're a banker or a
12 realtor, or so on, you have the opportunity in
13 your training and your continuing education to
14 get exposure to fair housing training. And so
15 we've asked folks, did you have this exposure?
16 We have a bunch of people that say yes, some
17 say don't know. Have you participated? Well,
18 no, not as much.

19 You know -- and then later we're
20 asking about awareness of testing, and that
21 just falls right off. You know, there doesn't
22 seem to be very much, we don't see many
23 complaints, so why would there be much
24 testing?

25 Is there sufficient outreach in

1 education? There's always somebody that says
2 there's too much, so we got one here that said
3 too much.

4 Generally, the sentiment is there
5 just isn't quite enough. And fair housing
6 testing in the state, you know, really, people
7 don't know because -- again, it comes back to
8 the fair housing infrastructure. We have a
9 tiny piece of it to serve a massive geographic
10 area, and Pam's just like one person in one
11 office kind of thing. I'm sure she has a
12 couple people with her.

13 Just some comments that some of our
14 respondents have shared. You know, people are
15 talking about adding additional fair housing
16 protections such as what you might see in
17 national news, and so on, right now.

18 People also talked about the fact
19 that, yes, discrimination does exist, that we
20 have a lack of local resources. Same kind of
21 theme we're seeing throughout all of this. We
22 don't have an infrastructure in place to do
23 anything.

24 And there has been another theme kind
25 of being brought out. I know it's, so far,

1 only less than a hundred folks have replied.
2 But landlords simply do not comply or do not
3 feel they need to comply. It's my property, I
4 can do whatever I want. And I think it's more
5 just a lack of awareness of what their rights
6 and obligations are to prospective tenants and
7 so on.

8 So at this point I have a kind of a
9 notions about preliminary findings of
10 impediments. You know, this list can probably
11 grow.

12 But in the private sector, of course,
13 we see, you know, in the rental markets
14 discriminatory terms and conditions, failure
15 to make reasonable accommodation, certainly
16 lack of understanding of fair housing law. We
17 have higher denial rates, kind of problematic
18 for our American Indians, and higher incidence
19 of predatory-style loans for the same groups.

20 The questions are, of course, what
21 can we do about these things, and that's where
22 I'm open to ideas. In the public sector, you
23 know, it's -- Montana is such a huge state,
24 and how do we kind of put our arms around
25 this, you know, lack of protections for

1 selected subpopulations. Maybe that's
2 something we can think about, insufficient
3 outreach and education, testing of course as
4 well.

5 So beyond these things, you know,
6 what roles can the State have? I mean, we are
7 also -- we haven't quite finished it. We're
8 also calling a selection of smaller
9 non-entitlement communities and conducting
10 interviews about how they define family and a
11 residential dwelling. We're kind of just
12 trying to see if there's incidences where
13 larger families might be discriminated against
14 because the local regulations say there can't
15 be more than six people or something like
16 that. And I'm not gonna say which community
17 has that 'cause that's not really the point.

18 The point is to see if there's some
19 frequency associated with that and whether we
20 need to kind of reach out to some of our
21 non-entitlement units of local government and
22 talk to them about kind of coming more in
23 terms with, you know, our duty to certify that
24 we're affirmatively furthering fair housing.

25 And, you know, that's really where

1 I'm at with this right now. I'd be happy to
2 answer any questions, clarify any matters.
3 It's -- we're not done with this because the
4 list is a little bit short. I expect to add
5 some more to both these two things if I can
6 get a little bit more definition from the
7 survey about what our public sector
8 responsibilities are, in particular about how
9 we might enhance our practices for, you know,
10 affirmatively furthering fair housing.

11 But I'm open for any questions, any
12 comments. Nancy, please chime in with
13 anything you might have and offer on that
14 respect, even though I know you're in
15 Missoula.

16 MS. COPE: I'm dying to ask a
17 little bit more clarity on these vacant houses
18 in the state. I mean, what is the real
19 picture of those? They're just -- there's
20 that many houses sitting there, they're not
21 seasonal houses, they're not being -- no one's
22 living there, they're just sitting there; is
23 that what it is?

24 MR. GAUDIN: Yes. That is
25 correct.

1 MS. COPE: Is it like the parents
2 have moved into assisted living, the kids live
3 out of state, it's just sitting there in case
4 they want to come back someday, or are they
5 unlivable or...?

6 MR. GAUDIN: There's all of the
7 above.

8 MS. COPE: Okay.

9 MR. GAUDIN: For, if you will,
10 pioneer housing, you know, that was built a
11 long time ago, and it's outside far away from
12 services, that's an isolated unit, that will
13 likely collapse in time.

14 MS. COPE: Those old farmhouses
15 sitting out there?

16 MR. GAUDIN: Yes, that's right.
17 And I remember in one of our early focus
18 groups we were talking about this exact
19 problem in a small town that had been losing
20 some population, and these homes were fine,
21 but they couldn't rent them because there was
22 no one there to rent, so they're empty.

23 And in time, those units become
24 dilapidated because there's nobody's there to
25 take care of them. In those cases, mom and

1 dad, grandma and grandpa have all passed away
2 or moved away and the kids are in California,
3 or something. And there's -- may even be an
4 issue about who actually owns the property
5 now.

6 On top of all those things -- now,
7 that's a case where we have some redevelopment
8 opportunity 'cause they might be homes in the
9 small area of a part of town.

10 There are also the complications from
11 the foreclosure crisis. And for those homes
12 that are caught up in that, sometimes those
13 homes are so badly trashed now that they're
14 not worth much to fix. I mean, it's really
15 difficult to fix.

16 And so there's, you know, an embedded
17 base now in something that we need to think
18 about how do we kind of clean up this, if we
19 can, and what do we do about it. So that's a
20 housing production issue associated more with
21 a consolidated plan.

22 MS. COPE: Yep, this is Rob.

23 NANCY HARTE: Rob, this is Nancy.

24 MR. GAUDIN: Yes.

25 NANCY HARTE: Hey, Rob?

1 MR. GAUDIN: Yes.

2 NANCY HARTE: Hi, this is Nancy.

3 I have a comment regarding the question,
4 really. In Missoula, for the City, we just
5 finished our AI for the Consolidated Plan, and
6 just occurred yesterday, great.

7 One of the things that we did was,
8 Missoula is an entitlement city, but of course
9 we have all the county area out there. And
10 our office administer spoke with the City and
11 the County, so that's part of the reason why
12 we have an interest in the State plan as well.

13 I think, as you talked about in terms
14 of checking in with some of those smaller
15 communities about their regulations is really
16 important. One of the things that we found in
17 doing our AI was that there was sometimes a
18 disconnect between the office that says the
19 regulations permitting red zones and those
20 kinds of things and how that plays out in fair
21 housing.

22 We had a really good discussion and
23 actually developed an action plan to work with
24 that other office to make sure that fair
25 housing is incorporated into -- or at least,

1 you know, on their minds and suppose they're
2 being written.

3 And sometimes it's really subtle in
4 the way that it has played out in terms of
5 it's not an obvious discriminatory act, but
6 it's something that might lead to that, so...
7 I find your interest to do that -- and I know
8 it takes some digging, but I think it's a
9 really good, important part of the whole
10 process.

11 MR. GAUDIN: Thank you.

12 If you all think of anything else --
13 if you're like me, that great question never
14 comes to me until after the meeting -- please
15 send Jennifer Olson a note, and I'm sure I'll
16 get it and I can get back to you, at your
17 earliest convenience.

18 I want to thank you very much for
19 coming today. I know you didn't have a whole
20 lot to say but, you know, I certainly
21 appreciate your presence here and, you know,
22 your interest. So thank you very much.

23 MS. COPE: Thank you very much,
24 Rob. I learned a lot. I really appreciate
25 it.

1 MR. GAUDIN: You're welcome.

2 MS. COPE: Thank you. Thanks you
3 guys for coming.

4 A PARTICIPANT: Thanks for having
5 us.

6 MS. CRIDER: I have some flyers
7 in the back regarding the surveys. If you
8 wanted to take some of those, I know that we
9 would really appreciate it. Especially the
10 Fair Housing Survey, we really want to get
11 those numbers out.

12 MS. COPE: And spread them around
13 to all your e-mail lists and stuff.

14 (Meeting concluded at 9:58 a.m.)

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COURT REPORTER'S CERTIFICATE

STATE OF MONTANA)
 : ss
County of Flathead)

I, NANCY J. SKURVID, Registered
Professional Reporter, residing in Kalispell,
Montana, do hereby certify:

That the foregoing proceedings were
reported by me in shorthand and subsequently
reduced to writing; that the foregoing pages
represent a true and accurate record of the
proceedings to the best of my ability.

DATED this 21st day of August, 2014.

 /s/ Nancy J. Skurvid
Nancy J. Skurvid