BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

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MONTANA FIVE-YEAR 2015-2020 ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE
PUBLIC MEETING

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TRANSCRIPT OF THE PROCEEDINGS

Heard before Jennifer Olson, Presiding Officer
Montana Department of Commerce
301 South Park, Room 228
Helena, Montana

July 29, 2015
11:36 a.m.

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Traci Sears
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Attendees in Room 228

Julianna Crowley
Bruce Brensdal

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WHEREUPON, the proceedings were had as follows:

MS. OLSON: Good morning, everyone. My name is Jennifer Olson. I am the Department of Commerce Community Grants Bureau Chief, and I'd like to welcome you to our first meeting today.

If you don't know, we have two public hearings going on today. The first one is regarding our Montana Five-Year Analysis of Impediments to Fair Housing Choice. And so this is part of the development of the documents that we produce on a regular basis, every five years in this case, to meet the requirements of HUD in regards to the Consolidated Plan. So if you don't know, at 1:30 we'll be having another public hearing about the Five-Year Consolidated Plan and 2015 to 2016 Annual Action Plan. So I wanted to put that little commercial in there to let everybody know about that meeting.

So thank you so much for coming this morning. I appreciate your time and interest in the Analysis of Impediments to the Fair Housing Choice. If you are joining us via webinar, I appreciate you doing that, you can use the computer to type in your questions. We have Stephanie here to help us with translating those questions.

But first, before we begin through the presentations, I want to make sure that we have all of the people noted
and recorded for our meeting, as we have a court reporter that will be transcribing this public hearing today. We'll go through the room and I'll just introduce who is here, or else they can introduce themselves.

So Stephanie.


MS. OLSON: Thank you so much. And in the room we have, as I said, I'm Jennifer Olson with the Community Grants Bureau, and Stephanie Crider, who is also in the Community Grants Bureau. And we have Sarah Grieb, our legal intern, and Julianna Crowley from Department of Public Health and Human Services, the ESG Program, and Bruce Brensdal with the Housing Division. So thank you all for joining me today.

So what you should see on your screen hopefully -- if everything is working right, you should see I've flipped the screen, but if not, please type in a question and ask for help. Stephanie can help you with access in the webinar.

So the Analysis of Impediments, or we call it the AI, is part of, like I said, a five-year update. This applies to not only Department of Commerce but also Department of Health and Human Services based on the HUD-funded programs
that you see there: Community Development Block Grant, HOME Investment Partnerships Program, and Emergency Solutions Grant.

And you can see on the very bottom there's a link to the website. So we have copies available today for you to read here at the public hearing, but then also the document is available online at that website. And we also have 18 repositories across the state that you can also go and visit to review the documents so you don't have to look at them if you have trouble with Internet access or don't want to print them out. And we also provide alternative forms of the document as well.

So Montana's certification for affirmatively furthering fair housing to HUD is really what the purpose of the Analysis of Impediments is. The certification that we submit to HUD includes three different elements. It's a complete analysis of the impediments, and so as you go through the document you can see how we've identified those impediments, and I'll get to that in a little bit; what actions we're going to take in order to overcome those effects of the impediments that we've identified; and also, our responsibility is to maintain records reflecting the actions that we've taken in order to meet those goals and actions that we've established to respond to the address of the impediments.
So additionally, the AI examines a couple of different things, but all in the realm of housing. So we look at a variety of sources related to housing. We also look at the fair housing delivery system, so how that's being instituted, where those assistance mechanisms lie; the Montana Fair Housing office is a good example of the delivery system. And then also housing transactions that the Department of Commerce takes, and particularly those that are protected under fair housing laws or those people that are part of the housing transaction that are protected under the fair housing law.

The definition of an impediment actually comes right directly from our plan. It's 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; and any actions, omissions, or decisions which have this effect.

The other thing that we want to point out is, when we're looking at the analysis of impediments for those housing choices, we look at how that impediment is impacting protected classes. And so we use the definition under the federal Fair Housing Act and also under MCA, which broadens the federal Fair Housing Act definition to include protections based on creed, marital status, and
So there's several components to the AI as you go through the document. There are ten different sections, and I've listed them here for you: Executive Summary; Introduction; Socio-Economic Context; Fair Housing Law, Study and Case Review; Review of Existing Fair Housing Structures; Fair Housing in the Private Sector; Fair Housing in the Public Sector; Public Involvement; Summary of Findings; and Impediments and Suggested Actions. I won't be going through each one of these sections, but I will discuss the last one because I think that's where we kind of get to where the rubber meets the road: What are the impediments that we identified and what are the actions we're taking in order to overcome them.

The draft, like I said, is available online, and the comment period began July 13, 2015, and will end in about two weeks, August 12, 2015. So please make sure that you submit all of your written comments to us about the Analysis of Impediments to Fair Housing Choice in Montana by 5:00 p.m. August 12th. And there will be more information about where and how you can submit that. And again, there's 18 repositories across the state. We did that new this year because we thought that would give a greater access to those people that are using our programs across the state that may not have Internet capabilities.
or don't have a draft copy of the document to review, so
hoping to expand our ability to receive public feedback
and comment on this draft.

So as I said, there are nine impediments that we
identified, and there are 17 actions, which we also
identified, to address those impediments. And just as a
note, CDBG and HOME and ESG have Barriers to Affordable
Housing as part of the Annual Action Plan, which we'll
talk about this afternoon. So the Analysis of Impediments
has an impact and overlays and informs the Annual Action
Plan. So on an annual basis, we'll be looking at that.

But I wanted to make sure that you understand that
there's a section within the Annual Action Plan that
specifically discusses barriers to affordable housing, and
it identifies the action items that are not only in the
AI, but then are translated or transposed into the
analysis -- or into the Annual Action Plan. So we'll
continue to review this throughout the next five-year
period.

Here's our contact information. You can see
anybody -- Kelly, myself, or Allison can be of assistance,
and also our website. And then our partners in the
Analysis of Impediments: Department of Health and Human
Services, Jamie and Kane, and not to forget Julianna, who
is the room. So there's definitely more people that help
us complete these documents.

    Again, public comment will be accepted through August 12th. But right now, I'd like to open up the comment period for this public hearing to those that are present on webinar or even in the room, to ask questions or provide comment. If you could please make sure, when you are providing comment, to state and spell your name -- that not only helps us with our record, but then also for our court reporter -- and then also what organization you are representing, if you are representing an organization.

    So any comments from anybody in the room? And then we'll go to the webinar.

    Stephanie, do you have any comments from the webinar?

    MS. CRIDER: None so far.

    MS. OLSON: So if you're looking at the document, beginning on page 101 is Section 10, titled Impediments and Suggested Actions. And so here, we have identified those nine impediments. And you'll note, when you look at this section, that there are action items and measurable objects. So what is the action item that the State proposes to take on and then how are we going to measure our ability to meet that objective and how are we going to be able to report that back to HUD in the coming years.

    So not to say that the first 100 pages of the document aren't important. They are. They provide the supporting
documentation to identify how we came to the conclusion of
establishing and/or identifying those impediments.

MS. CRIDER: We might have a question.

MS. OLSON: And again, I think what I'll do is
also point out, in the back of the document there are a
number of appendices that support the development of the
plan and the analysis, so some tables and maps also. You
can use that to find out more information about how those
impediments were identified. And lastly, the public
comments, the appendices are also available online so you
can look at them individually.

MR. O'NEIL (through S.C.): First, a number of
tables in the AI online have data that is illegible.

MS. OLSON: And maybe I could ask a question of
Michael. By "illegible," you mean the numbers aren't
coming through or there's some sort of -- I'd be happy to
talk about that. And maybe the hard copies as we've
printed them didn't quite translate, so we'll be happy to
look into that.

So Stephanie is working on modifying the webinar just
slightly so that we can allow for the people that are
joining us on webinar to speak -- instead of in writing on
the computer, speak verbally in response through the
conference call that's provided. I'll give her just a
moment to work on that.
We're getting a little bit of feedback noise, but I think, Michael, you should be able to comment if you would like.

MR. O'NEIL: Can people hear me?

MS. OLSON: Yep. We can hear you.

MR. O'NEIL: A couple things. On the, the tables in the AI, on the online version, you look in some of the tables and it's just kind of squiggly in the data. You can almost make out the number. So it's just a matter of looking on the online version to see why it didn't save right.

MS. OLSON: You bet. We'll take a look at those.

MR. O'NEIL: So that's just something to draw to your attention.

My primary question is related to how the AI deals with the issue of reasonable accommodations and reasonable modifications for people with disabilities. That is the most frequent issue of discrimination we run across on a regular basis.

We hear of tales, and sometimes directly experience, landlords reacting in a very negative fashion to requests for reasonable accommodation/modification, making -- throwing the onus of responsibility back to the tenant with the disabling condition and often making the tenant feel like they're doing something wrong or underhanded.
And I haven't seen that necessarily raised in the AI. I may have missed it. I haven't done a complete review. I particularly would raise the issue of therapeutic animals and support animals.

MS. OLSON: Thank you for your comment, Michael. We'll definitely consider that as we develop the final draft.

MR. O'NEIL: Is there a section in the AI on reasonable accommodation/modification specifically addressing that concern?

MS. OLSON: At this point, you know, like I said, I'm happy to review it as public comments come in, and then we can definitely consider that as part of the final draft submitted to HUD. So I appreciate your comment.

MR. O'NEIL: Thanks.

MR. MORTON (through S.C.): Have you included any reference to disparate impact?

MS. OLSON: Jim, maybe could you further expand on what you mean by "disparate impact"?

MR. MORTON: Can you hear me?

MS. OLSON: We can. Thanks, Jim.

MR. MORTON: Okay. You know, the kinds of impact that some property managers have had on applicants using different pieces of information like credit scores, which then sometimes eliminates people of lower income status,
disability, minority.

MS. OLSON: And the Analysis of Impediments does include discussion about specific populations, including those, you know, different income populations, also different race populations. And so I am happy that you've provided that comment. We'll definitely consider that in the final draft version as we review all the public comments in order to prepare that to HUD. I think there's probably information in there, but I'm happy to receive any specific comments if there's something that you feel has not been addressed in the AI.

MR. MORTON: I'm just thinking, since the Supreme Court upheld the HUD rule, that there will be a lot of confusion and perhaps some changes. And when there's that kind of a change, sometimes confusion ensues and then some of our clientele and participants get disadvantaged, because I think the impact will be that some landlords will change the way they screen applicants.

So perhaps the Department could provide some educational opportunities. I know, you know, you support a lot of different educational opportunities; so maybe in the future, on one of those agendas, we could have an item about disparate impact.

MS. OLSON: You bet. I appreciate the comment and information.
MR. MORTON: That's it for me.

MS. OLSON: Thank you, Jim.

Well, I appreciate the comments that have been made today and want to encourage you to continue to review the document. It's definitely very important that we receive your feedback and your comments for our consideration to formalize any of those comments to finalize the AI document before submission to HUD.

Which brings me to my final slide, which is that written comments on this plan can be submitted to Department of Commerce. You can see the address below, but for the record, P.O. Box 200523, Helena, Montana 59620-0523. And if you put it to the attention of the Consolidated Plan, it will definitely be included as part of the public record and we will be able to use that comment.

And I have been able to hear that other people are interested in providing comments, so by 5:00 p.m. on August 12th. If that's via e-mail or regular postal mail, please do definitely provide that to us. And the e-mail is DocConPlan@mt.gov.

We really appreciate your comments today and taking your time out of your busy schedules to join us. And I again encourage you to attend the second public hearing today about the Five-Year Consolidated Plan and the

So I'll look to Stephanie to see if there's any other final comments or remarks.

Seeing none, thank you so much for your time, and we'll end the public hearing. Have a great day.

(The proceedings concluded at 11:57 a.m.)

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COURT REPORTER'S CERTIFICATE

STATE OF MONTANA

COUNTY OF LEWIS AND CLARK

I, CHERYL ROMSA, Court Reporter, residing in Helena, Montana, do hereby certify:

That the foregoing proceedings were reported by me in shorthand and later transcribed into typewriting; and that the -15- pages contain a true record of the proceedings to the best of my ability.

DATED this 7th of August, 2015.

s/Cheryl A. Romsa

CHERYL A. ROMSA