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Agenda Item: ID16-543 (2-C)

Date: 5/12/16

2016 MAY 12 PM 8:07

FRESNO CITY COUNCIL

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Supplemental Information Packet

Agenda Related Item(s) – ID16-543 (2-C)

**Contents of Supplement: Summary Matrix from
Development and Resource Management Department
Item(s)**

Attached please find a Supplement to File ID16-543 (2-C). The title of the item is as follows:

RESOLUTION - Adopting the Analysis of Impediments to Fair Housing Choice; approving submission to the U.S. Department of Housing and Urban Development (HUD); and authorizing the City Manager to sign all implementing documents required by HUD approved as to form by the City Attorney.

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.



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Development and Resource Management

Jennifer K. Clark, AICP, HDFP
Director

May 11, 2016

TO: HONORABLE MAYOR ASHLEY SWEARENGIN
CITY COUNCIL PRESIDENT PAUL CAPRIOGLIO
CITY COUNCIL MEMBERS
HOUSING AND COMMUNITY DEVELOPMENT COMMISSION

FROM:  Jennifer Clark, Director, Development and Resource Management
Kelli Furtado, Assistant Director
Jose Trujillo, Housing Manager

RE: 2016 City of Fresno Analysis of Impediments to Fair Housing Choice
Response to Comments

Please find attached four comments received on Monday, May 9, 2016 regarding the City's draft Analysis of Impediments to Fair Housing Choice (AI). Also attached is a summary matrix of the comments and a response to comments.

Please let me know if you have any additional questions.

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Comments on the DRAFT 2016 City of Fresno
Analysis of Impediments to Fair Housing Choice
From Councilmember Oliver L. Baines III
Representing District Three
May 9, 2016

Page 4- Speak to City of Fresno stats and then switch to County of Fresno stats, are there City of Fresno stats that can be used

Page 5- Should there be an explanation of why more housing units added in the city over adding new households-recession, cultural with more generations living under one roof, what are the other factors?

Page 9- what policies would staff recommend to address the concerns of high percent of loan applicants who issued high annual-percentages rates, even if a city policy wont address issue beyond Action 1.1 as mentioned on page 11?

Page 13- understand that staff is adding additional funding to Fair Housing Council to assist on Impediment 4- please share policies and benchmarks as described at the City Council hearing on May 5, 2016 beyond action items listed.

Page 14- please come back in 90 days or less with a City Council policy to address the formations of Enhanced Infrastructure Financing Districts (EIFD).

Page 15- please come back in 90 days or less with a City Council policy to address

ADDITIONAL ACTION ITEMS FOR STAFF

Action: Public Involvement Process must change, legal notices in English and small font published in the Fresno Bee does not attract the community to participate.

ADDITIONAL ACTION ITEMS BEING LOOKED AT BY MY OFFICE

Action: Need to provide an incentive to encourage development of affordable housing outside of the designated low income neighborhoods in order to create mixed income neighborhoods over increased concentration in just low income areas of the City of Fresno- I plan to propose a plan in the next 90 days to encourage buy down of units

May 8, 2016

Sophia Pagoulatos, Planning Manager, DARM
Jennifer Clark, Director, DARM
Fresno City Hall
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The Analysis of Impediments, as intended, is a wonderful opportunity to deeply evaluate how successful the development community has been in changing the geography of poverty and race. While Fresno's heavy concentrations of poverty have been in the public consciousness for the past decade, many of the trends identified in the Analysis of Impediments are surprisingly negative.

We are regressing

Not only is Fresno strongly segregated by income and race compared with other cities nation-wide, the trends are getting worse:

1. Since 2000, not one of the *Racially/Ethnically concentrated Areas of Poverty (RECAPS)* has dropped below the 40% poverty threshold and the total number of tracts has increased (pages 47 and 48 of the Draft Analysis of Impediments Report).¹
2. The vast majority of new low-income units are developed through tax credit finance (LIHTCs). My analysis shows the distribution of these units is further concentrating poverty:

Low-Income units developed north of Shaw:

Before 2003: 1,188 (36% of total)

Since 2003: 0

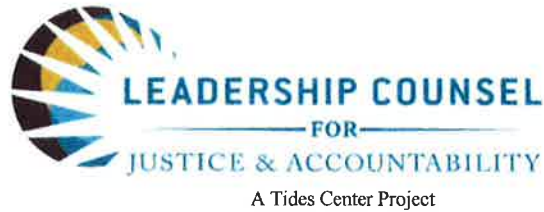
Since 2003, 2,063 new low-income units have been constructed on 32 locations, all south of Shaw. Of these, approximately 90% were built in *Racially/Ethnically concentrated Areas of Poverty (RECAPS)*.

How is this happening?

The concentration is not solely the result of market forces or the desire of a few developers. Two major factors play a role in where affordable and low-income housing units get built:

1. **Gap finance.** Of the 32 projects built south of Shaw since 2003, the majority utilized gap finance provided by the city in the form of HOME or RDA funds. Both programs identify priority zones and evaluate projects in these zones more favorably. Few, if any, of these projects would have been built without gap finance.

¹ The Century Foundation's Architecture of Segregation Report provides more detailed analysis on this regressive trend.



May 9, 2016

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Fresno Housing & Community Development Commission
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2600 Fresno Street
Fresno, CA 93721

Paul Capriologio, Council President
Fresno City Council
City Hall
2600 Fresno Street, Room 2097
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Sent via Email

Re: City of Fresno's March 25, 2016 Draft Analysis of Impediments to Fair Housing Choice

Dear Commissioners and Councilmembers:

We are writing to submit comments on the City of Fresno's 2016 Draft Analysis of Impediments to Fair Housing Choice ("Draft AI"). As you know, Leadership Counsel for Justice and Accountability works alongside residents of low-income neighborhoods of color, including residents from Southeast Fresno, West Fresno, and the Jane Addams neighborhood, to secure equal access to opportunity regardless of wealth, race, income, or place. We work extensively in Fresno and throughout the San Joaquin Valley to ensure investment in basic infrastructure, services, and amenities in those neighborhoods; healthy land use policies and practices; access to safe and affordable housing for all residents throughout Fresno; and inclusive public processes.

Through our comments, we aim to assist the City in developing a robust final AI ("Final AI") which satisfies the objectives of the AI to "*analyze* and *eliminate* housing discrimination" in the City of Fresno and promote fair housing choice for all persons.

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Paul Caprioligio, Council President, City Council
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Italics added. HUD's Fair Housing Planning Guide ("FHPG"), 1996, 1:2-3. The Draft AI does not meet this standard. The City can and must do more to further fair housing through its Final AI. Our comments below identify deficiencies in the Draft AI and set

forth specific ways in which the City can address those deficiencies through further analysis and actions.

1. The City Must Enhance its Efforts to Engage the Public in the AI Update & the Development & Implementation of Housing-Related Policies

a. The City Has Failed to Make Sufficient Efforts to Engage the Public in the Development of the Draft AI

HUD expects entitlement jurisdictions "to develop an AI that involves and addresses the concerns of the entire community." FHPG, 3:3. According to HUD's Fair Housing Planning Guide, "The AI structure should provide for effective, ongoing relationships with *all* elements of the community with clear and continuous exchange of concerns, ideas, analysis, and evaluation of results." FHPG, 2:12. The "[chief executive] should ensure, through focus groups, an advisory commission, town meetings, or other effective means, that regular contact and working arrangements are created and maintained" with fair housing organizations, other governments in the metropolitan area or region, advocacy groups, housing providers, banks and other financial institutions, and the general public. 2:13-14.

Fresno's efforts to solicit input from residents and stakeholders do not meet this standard. The City's public participation process in developing the Draft AI consisted of a total of three public workshops clustered together over two days, including one workshop at 3:00 p.m. during the workday, and the distribution of a fair housing survey. Only a handful of people (between approximately two to six) attended each of the workshops and according to the Draft AI, only seven people completed the survey.¹ Only approximately one to three individuals at each meeting were residents participating on their own time (as opposed to agency or non-profit staff). The limited public participation in the AI update process is consistent with the City's pattern and practice of failing to engage the public, also evidenced by limited public participation in development of the City's recently adopted Housing Element and Development Code Updates.

¹ This number includes the author of these comments, who attended each of the three public workshops.

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As we have advised the City in written and oral comments on various occasions, the City must assess the reasons for the limited public participation during housing-related planning processes in the City and revise its public participation strategy accordingly.

We have previously recommended to the City and recommend again now that the City adopt the following practices to enhance public participation:

- Schedule all housing-related meetings, workshops, and hearings after 5 p.m. so that residents who work have the opportunity to attend;
- Take advantage of free advertising opportunities with bilingual and foreign language media, such as with Radio Bilingue, Hmong TV, and Arriba Valle Central (Channel 21). (If an outlet does not run a notice provided by the City, the City should follow up by inquiring why not);
- Use automated voice messages and text messaging to inform residents of public participation opportunities;
- Inform key community leaders and organizations, who can share information with their networks, of upcoming participation opportunities directly through telephone calls;
- Ensure that fliers explain the significance of technical terms in lay person language (i.e., Analysis of Impediments to Fair Housing)

The City also should make additional efforts to engage the public prior to adoption of the AI. We are unaware of efforts made by the City to date to promote public awareness of the release of the Draft AI and encourage and respond to public comment. The City has scheduled its City Council hearing on the AI as an untimed item to be heard during the Council's regular Thursday meeting in the day. The City declined our request to move the hearing to a time in the evening which would allow participation by residents who work during the day.

Given the lack of public engagement in the AI update process to date, including the lack of engagement of low-income residents and members of protected classes, the City must make additional efforts to achieve public participation prior to adoption. We appreciated our meeting with City staff and residents today regarding residents' recommendations for ways the City can improve its efforts to engage the public. We are hopeful that the City will adopt some of the recommendations made by residents as well as recommendations contained in this letter.

b. The Draft AI Fails to Respond to Public Comments

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As mentioned above, the City is required “to develop an AI that involves and *addresses* the concerns of the entire community.” (italics added). FHPPG, 3:3. The Draft AI fails to do so, however, as the impediments, actions and objectives identified in the Draft AI do

not respond to or address the barriers to fair housing identified by workshop participants, as described in Appendix C. Workshop participants’ fair housing concerns raised during the public workshops included the lack of zoning for housing affordable to low-income populations in higher income neighborhoods; the concentration of subsidized housing in R/ECAPs; the lack of protective barriers between train tracks and multi-family housing complexes; failure of landlords to respond to tenant housing complaints, the use of intimidation to prevent tenants from reporting housing issues, and the lack of code enforcement by the City; the need to ensure affordable housing opportunities as the City continues to grow outwards. pp. 164, 168, 170, 171. The Draft AI fails to analyze or identify as impediments any of these concerns. The Draft AI also fails to adopt actions that directly address these concerns, other than a non-specific commitment to “[a]dvocate and facilitate the conservation and rehabilitation of substandard housing”.

The Final AI must address the fair housing concerns raised in the AI workshops by analyzing the concerns and adopting responsive impediments, actions, and objectives as appropriate.

c. The City Must Update its Citizen Participation Plan in Accordance with the New AFFH Regulations

The City of Fresno must update its existing Citizen Participation Plan to conform with the new AFFH regulations adopted by HUD. *See* 24 C.F.R. § 91.105(a)(1). This will provide the City with an opportunity to adopt public participation policies and practices that address the limited public engagement in the City’s housing-related planning efforts. The Final AI should include the CPP update as an action item and identify a timeline for conducting the update. The public should be afforded ample opportunity to provide meaningful input on the updated Citizen Participation Plan.

2. The City Must Ensure Consistency Between the AI and 2015-2023 Housing Element

The City’s duty to affirmatively further fair housing applies to *all* of its housing-related planning and activities. FHPLG, 1:3; ; *see also* 24 C.F.R. § 5.152 (definition of “affirmatively furthering fair housing” included in the new AFFH rule states that the “duty to affirmatively further fair

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housing extends to all of a program participant's activities and programs relating to housing and urban development.”). The City thus should incorporate information and analysis contained in the AI into the City's newly adopted 2015-2023 Housing Element and vice versa to ensure consistency between the documents and to tailor the policies and programs contained therein such that they advance and do not hinder the achievement of fair housing objectives. This includes ensuring that sites identified for low-income housing in the housing element do not further entrench and exacerbate existing patterns of concentrated poverty but rather expand fair housing opportunity throughout the City. See Section 7(b).

3. The Final AI Should Consider the AFFH Regulations & Utilize the AFFH Data & Mapping Tool in Preparing the Final AI

In 2015, HUD issued its new Affirmatively Furthering Fair Housing (“AFFH”) Rule, under which jurisdictions will be required to prepare an Assessment of Fair Housing, which will take the place of the AI, as a lead up to the next update of their Consolidated Plan. The AFFH Rule sets out a framework for local governments to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities free from discrimination in accordance with the purposes and policies of the Fair Housing Act of 1968. HUD has provided an AFFH Data & Mapping Tool to aid jurisdictions in setting local fair housing priorities and goals. While the AI update is not subject to the new AFFH rule, the City should consider the guidance provided by the rule and utilize the AFFH Data and Mapping Tool to create a robust AI that fulfills the purpose of the Fair Housing Act to eliminate historic patterns of segregation and discrimination.

4. The Final AI Should Consider & Respond to Relevant Studies

HUD strongly encourages jurisdictions to “become familiar with all studies that apply to their community and region as a first step in planning an AI” in order to “plan and carry out actions to address the problems” identified in those studies. FHPG, 2:18. The Draft AI fails to consider several existing and recent studies that document fair housing problems impacting the community in Fresno, including the 2014 Fair Housing and Equity Assessment,² which was prepared by various Central Valley jurisdictions including the City of Fresno, and studies by the Brookings Institute identifying highly

²Available at https://www.fresnostate.edu/academics/oced/documents/SJV_Fair-Housing-and-Equity-Assessment_April-2014.pdf

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concentrated poverty and uneven distribution of the benefits of the economic recovery across race and class lines in Fresno³. The Final AI should consider the information

contained in these and other relevant studies in order to identify impediments to fair housing and adopt appropriate responsive actions and objectives.

5. The Draft AI Fails to Identify Specific Actions the City Will Take to Achieve Measurable Outcomes to Eliminate Impediments to Fair Housing Choice

a. The Draft AI Fails to Identify Specific Actions the City Will Take Pursuant to Established Timelines to Achieve Measurable Outcomes

The AI must contain actions which the City will take to overcome the effects of identified impediments. HUD encourages entitlement jurisdictions to “establish strong performance goals to measure the success” of the AI and suggests that jurisdictions organize the actions they will take into a “prioritized list of specific actions” “[w]ith milestones, timetables, and measurable results” “[t]o be undertaken by the jurisdiction in each of the 4 years following completion/update of the AI.” FHPG, 1:5; 2:6. The actions identified should be “in response to the impediments identified in the AI”. 2:6. HUD “considers the achievement of measurable results as the basis of the successful FHP.” *Id.*

The Draft AI fails to establish such specific actions, milestones, and timetables, in response to various impediments identified therein. Instead, in these cases, the “Action” contained in the Draft AI in response to an identified impediment consists of only a vague commitment to “promote”, “explore”, or “consider” certain opportunities or actions without a commitment to any specific action steps or timelines. The Draft AI further fails to establish measurable goals by which would allow the City to assess the success of its action taken to address the identified impediments, but rather establishes the City’s accomplishments themselves as the standard by which to measure those same accomplishments.

³ MetroMonitor 2016; Tracking Growth, Prosperity, and Inclusion in the 100 Largest U.S. Metropolitan Areas, available at <http://www.brookings.edu/~media/research/files/interactives/2016/metro-monitor/metromonitor.pdf>; U.S. concentrated poverty in the wake of the Great Recession, available at <http://www.brookings.edu/research/reports/2016/03/31-concentrated-poverty-recession-kneebone-holmes>
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A few examples of drafted actions and objectives contained in the Draft AI which fail to contain the requisite specificity, timelines, and measurable goals include the following:

- “[Private Sector] Impediment 2: Failure to make reasonable modification or accommodation.”
“Action 2.4: Promote the provision of disabled-accessible units and housing for persons with mental and physical disabilities...”

“Measurable Objective 2.4: Efforts and policies to promote the provision of disabled-accessible units.” (p. 12)
- “[Private Sector] Impediment 3: Relatively low levels of private investment in racial/ethnic minority neighborhoods and areas with comparatively high poverty rates.”
“Action 3.1: Consider funding, matching funds, training programs and Section 3 opportunities for small business loan investment and to prepare small businesses for loans.”
“Measurable Objective 3.1: The amount of funding dedicated to investment in small business and Section 3 training opportunities, and the amount of private sector investment supported or facilitated by those public investments.” (p. 13)
- “[Public Sector] Impediment 1: Persistence of concentrated areas of poverty with disproportionate shares of racial/ethnic minorities.”
“Action 1.4: Advocate and facilitate the conservation and rehabilitation of substandard residential properties by homeowners and landlords”
“Measurable Objective 1.4: Policies and actions designed to facilitate conservation and rehabilitation of substandard housing.” (pp. 13-14)
- “[Public Sector] Impediment 2: Concentration of assisted housing in concentrated areas of poverty with relatively high concentrations of racial/ethnic minority residents.”
“Action 2.2: Encourage the Fresno Housing Authority to provide mobility counseling to voucher recipients.”
“Measurable Objective 2.2: The number of voucher recipients who have been provided mobility counseling.”

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The Final AI must contain revised actions and objectives which identify the *specific* actions the City will take to mitigate and eliminate impediments pursuant to established timelines and tied to measurable outcomes.

b. Actions and Objectives Fail to Respond to Identified Impediments

In various instances, the actions and objectives identified by the Draft AI fail to respond to or address the associated impediment. The Final AI must contain revised and

additional actions and objectives that directly respond to and address the corresponding impediments. FHPG, 2:6.

For instance, Private Sector Impediment 3 reads, “Relatively low levels of private investment in racial/ethnic minority neighborhoods and areas with comparatively high poverty rates,” and was identified through CRA data demonstrating relatively few small business loans issued in high poverty census tracts with high concentrations of black and hispanic residents. However, none of the actions or objectives included in response to the impediment specifically address the lack of private investment in R/ECAPs. Action 3.1 and Measurable Objective 3.1 commit the City to consider funding and training programs for small businesses generally, without regard to location or the owners’ protected class status. Action 3.2 and Measurable Objective 3.2 directs the City to explore funding to support transit oriented mixed-income housing without connection to or impact on the lack of private investment and small business loans in R/ECAPs.

Similarly, Public Sector Impediment 1 reads, “Persistence of concentrated areas of poverty with disproportionate shares of racial/ethnic minorities”. The actions and objectives identified in response to Impediment 1 generally aim to target certain resources to low-income populations and/or areas of racially and ethnically concentrated poverty; however, they do not in fact aim to address the impediment of racially and ethnically concentrated poverty itself (see e.g., “Action 1.4: Advocate and facilitate the conservation and rehabilitation of substandard residential properties by homeowners and landlords”; Action 1.5: Continue to facilitate access to rehabilitation programs that provide financial and technical assistance to low- and moderate income households...”) While critical to improve the health and well-being of Fresno’s neighborhoods with high levels of concentrated poverty, these actions are non-responsive to the identified impediment.

6. The Draft AI Fails to Assess Prior and Current Actions to AFFH

The Fair Housing Planning Guide indicates that the AI should assess prior and current actions taken by the jurisdiction as well as the housing industry, PHA, private organizations and foundations, and neighborhood groups to AFFH. 2:19. The FHP fails to contain any such assessment of efforts by the City to implement its current AI or any other efforts to AFFH. The FHP describes but does not assess certain state, federal, and private initiatives relevant to fair housing.

The Final AI should assess prior and current actions taken in Fresno to AFFH in accordance with HUD regulations and modify its impediments, actions, and objectives in response to that assessment.

7. The Draft AI Fails to Adopt Adequate Actions and Measurable Objectives to Address Continued Racially and Ethnically Concentrated Poverty & the Concentration of Assisted Housing in R/ECAPs

The Draft AI acknowledges the persistence of racially and ethnically concentrated areas of poverty as well as the concentration of subsidized housing units in such areas as impediments to fair housing choice. Public Sector Impediments 1 & 2. Indeed, various studies not considered in the Draft AI identify Fresno as among the jurisdictions with among the highest levels of racially and ethnically concentrated poverty in the nation.⁴ Since 2003, all 2,063 new units constructed with low-income housing tax credits in Fresno were located South of Shaw Avenue, with approximately 90% of those units located in R/ECAPs and the majority receiving HOME, CDBG, and RDA gap financing from the City. The AI workshop meeting minutes confirm community concern regarding Fresno's persistently high levels of racially and ethnically concentrated poverty and concentration of subsidized housing in such areas. Despite these facts, the Draft fails to analyze the reasons for the existence of these impediments or to identify and adopt available actions and objectives to meaningfully address them.

a. The Draft AI Fails to Include Actions and Objectives Designed to Address Public Sector Impediments 1 and 2

⁴ See e.g., Elizabeth Kneebone, U.S. concentrated poverty in the wake of the great recession, March 2016, available at <http://www.brookings.edu/research/reports2/2016/03/31-concentrated-poverty-recession-kneebone-holmes>; Elizabeth Kneebone, The Growth & Spread of Concentrated Poverty, 2000 to 2008-2012, July 2014, available at <http://www.brookings.edu/research/interactives/2014/concentrated-poverty#/M10420>

As explained above in Section 5(b), the actions and objectives associated with Draft AI Impediment 1 would target certain resources towards low-income neighborhoods but do not in fact aim to address the impediment of racially and ethnically concentrated poverty itself. Similarly, Draft AI fails to directly address Impediment 2 by failing to include an action or objective to prevent the City's continued support for the construction of LIHTC units and gap financed projects in R/ECAP areas South of Shaw Avenue and to target resources to support the development of subsidized housing to more affluent and whiter neighborhoods.

b. The Draft AI Fails to Consider or Address the Lack of Sites for Affordable Housing Outside of R/ECAPs

Workshop participants raised concerns regarding the lack of higher density zoned residential sites, including sites zoned for multi-family housing, in the Northern, more affluent areas of the City and in growth areas as a factor contributing to Fresno's racially and ethnically concentrated poverty and the lack of subsidized housing units in North Fresno. The body of the Draft AI fails to analyze or respond to this concern.

As we stated in its written comments to the City on its Draft 2015-2023 Housing Element dated March 30, 2016, attached hereto as Exhibit A for reference, the sites identified for housing affordable to low- and moderate-income residents are located predominately in R/ECAPs, including West Fresno, Downtown, and Pinedale, and in economically disadvantaged neighborhoods that lack access to necessary infrastructure and/or services such as public transportation. The Housing Element identified no sites for affordable housing north of Herndon Avenue -- the northern dividing line between the most economically distressed neighborhoods in the City and nation according to Fresno's 2035 General Plan⁵ -- which are not located within or immediately adjacent to an R/ECAP.

The Final AI must assess the distribution of high density sites in Fresno and its impact on the availability of affordable and subsidized housing in higher income areas and must adopt actions and objectives to ensure an equitable distribution of higher density residential sites throughout the City.

⁵ P. 12:11.

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The Final AI must also assess barriers to affordable housing outside of R/ECAPs associated with lack of services, such as public transportation, in higher income areas, and adopt actions and objectives to eliminate those barriers.

c. The Draft AI Inappropriately Dismisses the Development Code's Prohibition on Inclusionary Zoning as a Barrier to Fair Housing

The Draft AI notes that Development Code Section 15-2201(H) prohibits the City from adopting an inclusionary zoning requirement obligating developers to include housing affordable to low- and moderate-income populations in their developments without first updating its 2014 General Plan. p. 129. Inclusionary zoning is a tool used by nearly 200

jurisdictions in California alone by addressing the lack of production of housing affordable to low-income populations and expanding affordable housing opportunities in higher income and higher opportunity neighborhoods. However, the Draft AI fails to identify Section 15-2201(H) as an impediment to fair housing choice or to adopt any action or program to eliminate the policy or mitigate its impact. Rather, the Draft AI dismisses the adoption of an inclusionary zoning requirement in Fresno as impossible and states that "other options will have to be considered". p. 10. Given the importance of inclusionary zoning as a key tool to AFFH, the Final AI must assess options to address the barrier to fair housing posed by Development Code Section 15-2201(H), including its repeal, and should incorporate an action to consider the development and adoption of an inclusionary zoning ordinance or other comparable mechanism to AFFH through zoning and financing policies and practices.

d. The Draft AI Fails to Consider or Respond to the Lack of Adequate Financial Resources to Expand Affordable Housing Options

Higher density zoning is necessary but not sufficient to expand affordable housing opportunity for low-income residents in higher opportunity areas given the relatively high housing costs in those areas. The Draft AI fails to analyze or respond to how funding and resource limitations restrict the City, PHA, and private actors' ability to AFFH through the construction of subsidized housing in higher opportunity areas. The Final AI should include a program to assess and pursue local affordable housing financing options, including but not limited to an inclusionary zoning requirement and a commercial linkage fee, that could support the development of affordable housing in higher income neighborhoods.

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8. The Draft AI Lacks Information & Analysis Relating to Jobs-Housing Fit

The FHPG suggests that AIs should include a focus on the location of job centers in the jurisdictions and in nearby jurisdictions; the geographic relationship of such centers to the current and planned locations of housing for lower-income households; and the need for accessible public transportation to link job centers with housing affordable to lower-income households. 2:27. The Draft AI does not contain such information and analysis. The Final AI must do so.

9. The Draft AI Fails to Analyze & Adopt Actions that Respond to Impediments to Fair Housing Choice Associated with the City's Development Code

HUD guidelines require that the City conduct a “*comprehensive* review of [its] laws, regulations and administrative policies, procedures and practices affecting the location, availability, and accessibility of housing, as well as an assessment of conditions, both public and private, affecting fair housing choice.” FHPG, 4:4.

The Draft AI claims that the City’s 2015 Development Code contains the “potential to mitigate some of the impediments facing the city to the extent that it promotes economic, infrastructural, and housing development in areas with relatively high poverty rates and concentrations of racial/ethnic minority residents.” p. 10. Beyond that and other broad statements, the Draft AI does little however to actually review the provisions of the new code and their impact on fair housing choice. The Final AI must consider how specific provisions in the Development Code as well as the City’s General Plan, Municipal Code and its administrative practices and procedures impact fair housing choice and include any actions and objectives necessary to address impediments identified.

Leadership Counsel has previously submitted written comments dated June 1, 2015 to the City identifying various impediments to fair housing associated with the Development Code as well as comments regarding other City land use policies, regulations and practices. These include but are not limited to the following:

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- Lack of sufficient requirements guaranteeing a diversity of residential zoning, including multi-family residential zoning, on land in growth areas annexed for development.
- Application of fees to the development of affordable housing outside of “Inner City” areas characterized by racially and ethnically concentrated poverty.
- Inadequate park space and amenities in areas of racially and ethnically concentrated poverty
- The concentration of industrial and heavy commercial zoning and facilities that store or process hazardous materials in and around low-income neighborhoods of color in South Fresno pursuant to the General Plan Land Use Map.
- Reduced permitting and environmental review requirements for industrial, heavy commercial, and other potentially hazardous and polluting facilities under the Development Code as compared to the previous Zoning Ordinance.
- The elimination of Conditional Use Permit and public notice requirements for various land uses which disproportionately adversely impact low-income residents of color in South Fresno neighborhoods, including but not limited to various industrial and heavy commercial facilities.

The Draft AI does not consider or respond to these and other barriers to fair housing choice associated with the City’s laws, regulations and administrative policies, procedures and practices. The Final AI must analyze the barriers to fair housing associated with these and other City policies and practices and adopt actions and objectives to address them.

10. Protect Low-Income Residents and Protected Classes From Displacement Due to Rising Rents

As we have explained to the City in previous comment letters, low-income residents of color are at risk of displacement from rising rental costs as a result of the City’s targeted revitalization efforts in the Downtown, certain neighborhoods surrounding the Downtown, and the Blackstone Corridor, as well as the advent of High Speed Rail, population growth, the increasing scarcity of land for new development, and millenials’ preference for housing in urban centers. Data from the magazine, Governing, indicates that certain census tracts in the Lowell Neighborhood, just North of Downtown, are

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already experiencing gentrification and possible displacement of low-income residents of color, further exacerbating existing concentrations of poverty.⁶

The Draft AI does not mention, let alone analyze, existing or potential displacement of protected classes due to rising rents. The Fair Housing Planning Guide advises jurisdictions take specific actions not only to address existing barriers but also prevent or ameliorate possible future impediments to fair housing. 2:7. The Final AI must analyze existing and potential displacement of low-income residents and protected classes in Fresno and identify and adopt actions and objectives to address such displacement. Such actions and objectives include but are not limited to adoption of a method to monitor and record displacement; adoption of rent control; and inclusionary zoning requirements applicable to areas targeted for revitalization.

11. Lack of Actions to Address High Rates of Race-Based and National Origin Discrimination in the Private Rental Market

The Draft AI states that fair housing testing in the Fresno and Clovis housing markets revealed race-based discrimination in 40% of tests and national origin discrimination in 32% of tests. P. 78. However, the Draft AI fails to identify as an impediment or adopt actions and objectives to address discrimination in the private rental market against members of protected classes. The Final AI must identify race-based and national-origin discrimination as impediments to fair housing and adopt actions to mitigate and eliminate the impediment.

12. Need for Additional Action to Address Concentration of Housing Choice Voucher Use in R/ECAPs

The Draft AI states that Housing Choice Voucher use in Fresno is disproportionately concentrated in low-income neighborhoods of color in South Fresno, resulting in residential segregation. Pp. 69, 123. The only action identified by the Draft AI in response to this fair housing barrier is for the City to “[e]ncourage the Fresno Housing Authority to provide mobility counsel to voucher recipients”. Public Sector Impediment 2, Action 2.2, p. 15. The Draft AI does not state any specific action the City will take to “encourage” the Housing Authority to do so. The Draft AI also does not contain an

⁶Governing, Fresno Gentrification Maps and Data, available at <http://www.governing.com/gov-data/fresno-gentrification-maps-demographic-data.html>

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established target with respect to the number of voucher recipients to be assisted as a result of the City's encouragement. Rather, it proposes as Measurable Objective 2.2, "The number of voucher recipients who have been provided mobility counseling."

Many local jurisdictions across the country have enacted prohibitions on source of income discrimination in order to expand housing choice and combat *de facto* discrimination when landlords use source of income as a proxy for race. The Final AI should include an action to consider the adoption of such a prohibition in Fresno.

13. The Draft AI Fails to Assess & Respond to Ongoing Incidences of Foreclosure

The Draft AI completely fails to analyze and respond to ongoing incidences of foreclosure in Fresno which, to our knowledge, disproportionately impact low-income residents of color. We work with many residents who continue to be at risk of or face impending foreclosure, particularly with respect to properties purchased before the onset

of the recession. These residents need assistance in obtaining reduced interest rates, securing reduced principal payments, and paying outstanding mortgage debt. The Final AI must analyze foreclosure incidences and risks that disproportionately impact residents on the basis of a protected class and include programs and objectives to address those impacts.

14. The Draft AI Fails to Include Actions to Combat NIMBY-ism

The Draft AI indicates that at least two of three City staff interviewed for the AI update identified NIMBY-ism as a barrier to the development of affordable housing. p. 127. We agree that NIMBY-ism against affordable housing exists in Fresno and constitutes a significant barrier to affordable housing development, especially in higher income and whiter neighborhoods in North Fresno. We further believe that much of the public and even elected official opposition to higher density and subsidized housing is racially motivated.

The Final AI should include further analysis of NIMBY-ism as a barrier to affordable in Fresno and actions and objectives to combat it. Such actions may include training programs for elected officials on the manifestations and impacts of NIMBY-ism and actions officials can take to overcome hostility to and win approval of affordable housing developments.

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15. The Draft AI Fails to Analyze or Respond to Fair Housing Impediments Faced by Immigrants

The Draft AI fails to analyze impediments to fair housing associated with limited English proficiency and/or lack of legal status that disproportionately impact protected classes in Fresno, including but not limited to on the basis of race, color and national origin. Our comment letter on the City's Draft Housing Element dated March 30th and attached herein as Exhibit A details several such barriers. pp. 15-16. The Final AI must analyze these barriers and include appropriate actions and objectives to ameliorate and eliminate them.

16. The City Should Engage in Regional Efforts to AFFH

Fresno County, Clovis, Coalinga, Fowler, Huron, Kerman, Kingsburg, Mendota, Parlier, Reedley, San Joaquin, Sanger, and Selma recently completed a 2015-2023 multi-

jurisdictional housing element which contains a regional-level analysis, policy goals and programs calling for cooperative efforts to eliminate barriers to affordable housing and to further fair housing throughout the jurisdictions, as well as individually tailored analysis, policies, and programs for each jurisdiction. The City of Fresno did not participate in the multi-jurisdictional housing element update. However, in accordance with HUD guidance encouraging region-wide fair housing planning, the City could and should participate in the ongoing collaborative efforts of the thirteen jurisdictions to develop and implement regional solutions to affordable and fair housing barriers. See FHPLG, 1:5; 2:11.

In addition, the City should initiate, strengthen and formalize efforts to engage the Fresno County Housing Authorities and local school districts in regional fair housing planning discussions.

* * * * *

We thank you for the opportunity to provide comments on the Draft AI and look forward to continuing to work together to develop a robust final AI ("Final AI") that will allow the City to further fair housing opportunities for all protected classes. Please contact us to find a time to discuss these comments in person.

Sincerely,

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/s/

/s/

Ashley Werner, Esq.
Leadership Counsel for
Justice & Accountability

Marcos Segura, Esq.
Central California Legal Services

cc: Jeff Jackson, Chief, Program Compliance Branch, HUD-FHEO SF
Adrianna Windham, Equal Opportunity Specialist, HUD-FHEO SF

May 9, 2016

Jennifer Clark, Director
Department of Development and Resource Management

by email to: Jennifer.Clark@fresno.gov, Cindy.Bruer@fresno.gov, District1@fresno.gov,
District2@fresno.gov, District3@fresno.gov, District4@fresno.gov, District5@fresno.gov,
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RE: 2016 Draft Analysis of Impediments

Dear Ms. Clark:

I write to provide a few comments on the City's 2016 Analysis of Impediments to Fair Housing Choice.

As you may recall, CCLS attorney Marcos Segura and I wrote to you in February (copy attached), during the early stages of your consultant's work on the Analysis of Impediments. That letter followed, and raised many of the same issues, from our January 19 meeting, also attended by Luisa Medina, Joe Trujillo, and two members of the City Attorney's staff. We'd wanted to give early warning of looming obstacles to a valid and useful Analysis of Impediments—so that you and your consultant would have time to course-correct. Alas, to no avail.

So the final product is indeed inadequate in many of the ways we had feared: failing to secure adequate public input; failing to call out City-perpetuated structural impediments to fair housing choice; and, crucially, failing to analyze the disparate impacts of the City's own administrative and entitlement decisions.

"Public Involvement"

As our February letter predicted (pages 3-4), the consultant bent the poorly drafted survey tool to purposes it was never intended to serve. Resulting participation: 7 (*seven*) respondents. Resulting data: apparently 0 (zero)—the tables purporting to report the responses are empty of data, and Appendix B (AI p.161), where it's all supposed to be collected, is likewise vacant, except for the (unfulfilled) promise "To be included in future drafts of the Analysis of Impediments." (Not that data from seven respondents could possibly be of any use whatsoever. But still—your consultants ought to have finished their work before it goes to Council, and definitely before they bill us all for it.)

Though they confess to the miserable survey response, the consultants do not mention the similarly miserable turnout at the "Fair Housing Forums." The Forum that I attended included one non-advocate community member and her two small children; the other 5 or 6 of us were The Usual Suspects. I heard from attendees at other forums that attendance there was also small. These poor results follow logically from the poorly organized and last-minute effort to accomplish public input that was apparently never integral or essential to the project.

Unfortunately, bringing the AI to the Housing and Community Development Commission the evening before the City Council hearing – precluding a substantive written staff report conveying the Commissioners' input to the City Council – is an inadequate substitute for real community involvement in the process. Finally, the City Council hearing itself is scheduled for mid-morning, after the Council President denied a request for a 5 p.m. setting to permit working members of the public to attend.

City-perpetuated impediments to fair housing choice

Housing Element

The newly-adopted Housing Element is a structural contributor to segregated housing in the City of Fresno: it maps out future housing development along the same large-lots-in-the-north/density-in-the-south pattern that has been the rule for decades. Although the Housing Element calls for distribution of some less-dense/higher-income housing in the south part of the City, it fails to provide practical, enforceable measures to finance or otherwise incentivize such development. More problematically, the Housing Element preserves (for example) the almost entirely higher income enclave in northeast neighborhoods.

The AI's maps clearly show the racially segregating impact of these allocations, but the AI text mentions the Housing Element's proposed programs without calling out the Housing Element parcel inventory as itself being a barrier.

Entitlement decisions

The City's entitlement grants over the past decade or so have persistently privileged above-moderate income housing, and have all but completely failed to incentivize, or otherwise to ensure, housing built for Fresnoans with moderate incomes and below.

The Analysis of Impediments fails to call out this structural barrier to fair housing, let alone provide some Actions or Measurable Objectives to correct this practice.

Lack of coherent affordable housing policy

The Analysis of Impediments does identify various ways in which the City of Fresno could begin to organize an achievable housing policy – one that meets the needs of all Fresnoans for safe, healthy and affordable housing in neighborhoods of opportunity.

But this AI is deeply flawed as a mechanism for accomplishing that aim. Such Actions and Measurable Objectives as the Analysis of Impediments does identify are untethered to deadlines, or to any analysis of the resources required to achieve them, or to any particular department or administrative function. It's hard to say they're even aspirational: in their current form, they are meaningless.

In a city where almost 50% of renters are paying more than 30% of their

from	page	comment (summary)	response
Leadership Counsel for Justice and Accountability (LCJA)	1	Introduction "the objectives of the AI to 'analyze and eliminate housing discrimination' in the City of Fresno and promote fair housing choice for all persons. The Draft AI does not meet this standard."	The goal of the AI is to eliminate, mitigate, or overcome impediments to fair housing choice. The Consolidated Plan regulations (24 CFR 91.225) require each jurisdiction to submit a certification that it is affirmatively furthering fair housing. This means it will (1) conduct an analysis of impediments to fair housing choice within the jurisdiction; (2) take appropriate actions to overcome the effects of any impediments identified through that analysis; and (3) maintain records reflecting the analysis and actions in this regard. The City's AI meets this requirement. While the FHPG is not codified under federal law, the City has a continuing commitment to work with HUD in order to satisfy its best practices.
LCJA	2	1a The City Has Failed to Make Sufficient Efforts to Engage the Public in the AI Update & the Development & Implementation of Housing-Related Policies	The City of Fresno utilized the following means of engaging the public during the AI process: - On January 15, 2016 Fair Housing Forums scheduled for January 25, 26, 2016 were advertised through a flyer that was published in English, Spanish and Hmong. Flyers were distributed through; o the city's public information office (council offices, twitter, facebook) o posted to the Housing web page o email list of 528 individuals and organizations which include faith based organizations o city public libraries o Housing Authority o BNCP o City Office of the ADA Coordinator o National Association of Hispanic Real Estate Professionals o Fresno Realtors Association o Fresno Council of Governments - Public Notice published in the Fresno Bee on January 17, 2016 (English, Spanish, Hmong) and Vida de la Valle (Spanish) on January 20, 2016, advertising Fair Housing Forums scheduled for January 25 and 26, 2016. - AI survey link posted to the city website on January 26, 2016. Surveys were published in English, Spanish and Hmong. Information was distributed the same as the Fair Housing Forum flyer published on January 15, 2016. Surveys were discussed and made available at the Forums, HCDC, Housing Element meetings and the Fair Housing Council Conference. - Public Notice of Public Hearing and Public Comment period published in the Fresno Bee (English, Spanish, Hmong) April 8, 2016 and Vida de la Valle (Spanish) on April 13, 2016. This information was also distributed in the same manner as the Fair Housing Forum and AI Survey.
LCJA	4	1b The draft AI fails to respond to public comments	The City considered all public comments received during the AI process, and used those comments to inform the AI analysis. See below for detail on specific omissions cited by the commenter.

from	page	comment (summary)	response
LCJA	4	1b The draft AI fails to respond to public comments: Lack of zoning for multifamily in high-income areas	These and related concerns informed both the identification of Public Impediment 2 and the development of actions proposed to address the impediment. Public Sector Action 2.1 and 2.2, as well as the relevant Measurable Objectives, are explicitly designed to promote the availability of affordable housing beyond areas with high concentrations of poverty and racial/ethnic minority residents.
LCJA	4	1b The draft AI fails to respond to public comments: Concentration of subsidized housing in R/ECAPs	Though the City did not use the term "R/ECAP" (i.e., "racially/ethnically concentrated area of poverty"), Public Sector Impediment 2 explicitly addresses concentrations of subsidized housing in concentrated areas of poverty with relatively high concentrations of racial/ethnic minority residents. Such areas encompass those that meet HUD's definition of R/ECAPs as well as others that may have high concentrations of racial/ethnic minority residents and poverty, but that may not meet the definition of R/ECAP as an area with a poverty rate above 40 percent and in which non-Hispanic white residents account for less than half of the population.
LCJA	4	1b The draft AI fails to respond to public comments: Lack of protective barrier between train tracks and multifamily housing developments	In accordance with the updated Development Code, newly constructed housing units and developments located near railroad lines will need to be separated from those lines by a noise barrier of masonry block, concrete, or similar material.
LCJA	4	1b The draft AI fails to respond to public comments: Failure of landlords to respond to tenant complaints	As a component of the outreach the City will conduct in accordance with Private Sector Action 4.1 and 4.2, as well as Public Sector Action 3.3, Action 4.1 and Action 4.4, the City will focus on resources available to tenants who believe they have faced discrimination in the rental housing market.
LCJA	4	1b The draft AI fails to respond to public comments: Use of intimidation to prevent report of fair housing issues	See Previous Response
LCJA	4	1b The draft AI fails to respond to public comments: Lack of code enforcement by the City	The Mayor/Council Task Force on Code Enforcement has been engaged in evaluation of Code Enforcement activities including Blighted Vacant Buildings and Rental Occupancy Standards, among other issues, which impact neighborhoods and residents. This work has resulted in the Vacant Blighted Building Ordinance which was passed last summer as well as a redirection of resources to the STOPP Team tasked with inspecting high priority multifamily complexes.
LCJA	4	1b The draft AI fails to respond to public comments: The need to ensure affordable housing opportunities as the City continues to grow outwards	Public Sector Actions 2.1 and 2.2 seek to promote the development of affordable housing beyond areas with current high concentrations of affordable housing.
LCJA	4	1c The City Must Update its Citizen Participation Plan in Accordance with the New AFFH Regulations	Agreed. When the City submits the new AFFH in October 2018, it will include an update to the Citizen Participation Plan.

from	page	comment (summary)	response
LCJA	4	2 The City Must Ensure Consistency Between the AI and 2015-2023 Housing Element.	The proposed AI and adopted HE have the following common policies/action steps: In response to private sector impediments: AI Action 1.3 and HE Program 5; AI Action 2.4 and HE Policy H-5-d; AI Action 2.5 and HE Policy H-5-f; AI Action 3.2 and HE Program 5; AI Action 4.3 and HE Program 25. In response to public sector impediments: AI Action-1.4 and HE Policy H-4-b; AI Action 1.5 and HE Policy H-4-e; AI Action 2.3 and HE Program 5; AI Action 2.4 and HE Policy H-5-e; AI Action 3.3 and HE Program 25; Action 4.4 and HE Program 25;
LCJA	5	3 The Final AI Should Consider the AFFH Regulations & Utilize the AFFH Data & Mapping Tool in Preparing the Final AI	The proposed AI utilizes data from the AFFH Mapping Tool in Section VI Maps VI.3, VI.4, and VI.5.
LCJA	5	4 The AI Should Consider and Respond to Relevant Studies	The findings from specific studies mentioned by the commenter are very much in keeping with the findings presented in the 2016 Fresno AI, and including them in this document would not have substantially altered the content of the AI. While every effort is made to be inclusive and comprehensive in presenting the research conducted for the AI, space and time preclude the inclusion of every potentially relevant study. The City encourages the public to review the 2014 San Joaquin Valley Fair Housing Equity Assessment and 2016 Metro Monitor Report produced by the Brookings Institution. Studies cited in the current AI effort included, but were not limited to the following: "City of Fresno User's Guide to the New Development Code." "Fresno General Plan: 2015-2023 Housing Element - Revised Public Review Draft." March 2016. Faber and Cohen. "Inclusionary Zoning Requirements: Still Possible?" League of California Cities, 2014. Rich, Joseph D. "HUD's New Discriminatory Effects Regulation: Adding Strength and Clarity to Efforts to End Residential Segregation." Lawyer's Committee for Civil Rights Under Law, 2013. Denton, Nancy A. "Half Empty or Half Full: Segregation and Segregated Neighborhoods 30 Years After the Fair Housing Act." Cityscape: A Journal of Policy Development and Research, 1999. Turner, Margery A. et al. "Housing Discrimination Against Racial and Ethnic Minorities 2012." The Urban Institute. June 2013. "Description of California Tax Credit Allocation Committee Programs". California Tax Credit Allocation Committee. Accessed June 24, 2015 at www.treasurer.ca.gov/ctac/program.pdf . Memorandum.
LCJA	6	5a: "The Draft AI fails to Identify Specific Actions the City Will Take Pursuant to Established Timelines to Achieve Measurable Outcomes." "The Action contained in the Draft AI Response to an identified impediment consists of only a vague commitment to 'promote', 'explore', or 'consider' certain opportunities or actions without a commitment to any specific action steps or timelines."	The Consolidated Plan regulations (24 CFR 91.225) require each jurisdiction to submit a certification that it is affirmatively furthering fair housing. This means it will (1) conduct an analysis of impediments to fair housing choice within the jurisdiction; (2) take appropriate actions to overcome the effects of any impediments identified through that analysis; and (3) maintain records reflecting the analysis and actions in this regard. The City's AI meets this requirement. While the FHPG is not codified under federal law, the City has a continuing commitment to work with HUD in order to satisfy its best practices. However, as part of the Consolidated Annual Performance and Evaluation Report (CAPER) the City will provide HUD with a summary of the AI and the City's accomplishments or actions taken to overcome the effects of impediments identified through the analysis.

from		page comment (summary)	response
LCJA	8	5b: Actions and Objectives Fail to Respond to Identified Impediments	The actions and objectives in Public Sector Impediment 1 are oriented toward encouraging investment in infrastructures and quality of housing in areas that show a high concentration of poverty. The actions and objectives in Public Sector Impediment 2 articulate tools that may assist in enhancing the broad choices of housing available to low income residents.
LCJA	9	6: The Draft AI Fails to Assess Prior and Current Actions to AFFH	Annually, as part of the Consolidated Annual Performance and Evaluation Report (CAPER) the City provides HUD with a summary of the AI and the City's accomplishments or actions taken to overcome the effects of impediments identified through the analysis.
LCJA	9-10	7a The Draft AI Fails to Include Actions and Objectives Designed to Address Public Sector Impediments 1 and 2	There are six Actions and Measurable Objectives related to Public Sector Impediment 1 and four Actions and Measurable Objectives related to Public Sector Impediment 2. These include new Action 1.6 Work with the Fresno Housing Authority to raise housing payment standards for Housing Choice Vouchers to expand housing choice for low-income residents in areas with higher housing costs and lower concentrations of subsidized units with related Measurable Objective 1.6; and new Measurable Objective 2.1.3 Hold a forum with affordable housing developers highlighting recent and projected investments in the Bus Rapid Transit system, to identify methods to attract and support mixed-income development/redevelopment.
LCJA	10	7b: "The Draft AI Fails to Consider or Address the Lack of Sites for Affordable Housing Outside of R/ECAPs."	Please see the 2015-2023 Housing Element prepared pursuant to California Government Code section 65580 et seq for discussion on residential zoning within the City of Fresno.
LCJA	11	7c The Draft AI Inappropriately Dismisses the Development Code's Prohibition on Inclusionary Zoning as a Barrier to Fair Housing	There is no affirmative duty for a City to adopt an inclusionary zoning ordinance. However, the City is facilitating and encouraging mixed income housing through TOD, height and density bonuses as well as various programs within the Housing Element. Please see the 2015-2023 Housing Element prepared pursuant to California Government Code section 65580 et seq for discussion on these programs.
LCJA	11	7d The Draft AI Fails to Consider or Respond to the Lack of Adequate Financial Resources to Expand Affordable Housing Options.	The proposed AI has a number of Actions designed to leverage or attract private investment to expand affordable housing options. These include Public Actions: Action 1.1, Action 1.2, Action 1.3, Action 1.5, Action 1.6 (new), Action 2.1, Action 2.2, and Action 2.4
LCJA	12	The Draft AI Fails to Analyze and Adopt Actions that Respond to Impediments to Fair Housing Choice Associated with the City's Development Code	The AI does include a discussion of the Development Code, including potential benefits and perceived challenges associated with the zoning code on page 130 of the Draft AI for Public Review. The Development Code was not identified as an impediment in the current study.

from	page	comment (summary)	response
LCJA	12-13	9 The Draft AI Fails to Analyze & Adopt Actions that Respond to Impediments to Fair Housing Choice Associated with the City's Development Code.	The commenter's comments related to the Development Code were reviewed and considered during the Development Code adoption process.
LCJA	13	10 Protect Low-Income Residents and Protected Classes From Displacement Due to Rising Rents.	The proposed AI Actions are all designed to remove barriers to Fair Housing Choice including affordability and location of housing options.
LCJA	14	11 Lack of Actions to Address High Rates of Race-Based and National Origin Discrimination in the Private Rental Market	Agreed, though it should be noted that the study in question pertained to home sales rather than rental housing market. In response, the City has added Private Sector Impediment 5, which specifically identifies racial and national origin discrimination as an impediment and proposes additional actions to address the impediment. These actions were developed to address discrimination in the home sales market, they are designed to uncover and address potential discrimination in the rental market as well.
LCJA	14	12 Need for Additional Action to Address Concentration of Housing Choice Voucher Use in R/ECAPs	Public Sector Actions 2.1 and 2.2 seek to promote the development of affordable housing beyond areas with current high concentrations of affordable housing. It should be noted that while Public Sector Impediment 2 does not identify "R/ECAPs" specifically, such areas come under the umbrella of "areas of poverty with relatively high concentrations of racial/ethnic minority residents" identified in the impediment.
LCJA	15	13 Draft fails to assess and respond to ongoing incidences of foreclosure	In spite of high foreclosure rates during and after the recent recession, foreclosure rates have been considerably lower in the last few years (Lee, BoNhia. "Fresno foreclosures at lowest level in eight years." The Fresno Bee. January 15, 2015.) While acknowledging the ongoing challenges for residents facing foreclosure, the 2016 AI is intended to emphasize persistent issues that are unlikely to be resolved or mitigated without a focused, targeted effort on the part of the City, city residents, and stakeholders.
LCJA	15	14 The Draft AI Fails to Include Actions to Combat NIMBY-ism	HUD defines an impediment to fair housing choice as "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 record contains no indication or direct correlation with perceived NIMBYism and any actions, omissions or decisions that meet the definition above.
LCJA	16	16 The City Should Engage in Regional Efforts to AFFH.	Agreed. The City will continue to work with neighboring cities, Fresno County, and the Fresno Housing Authority in fair housing planning discussions.

from	page comment (summary)	response
Councilmember Baines, Council District 3	N/A Page 4 Are there BEA Statistics for the City of Fresno?	The BEA figures cited are only available at the county level. Added explanatory footnote.
Councilmember Baines, Council District 3	N/A Page 5 Should there be an explanation of why more housing units added in the city over adding new households	These figures are discussed in greater detail in Section II of the document, beginning around page 49 of the draft for public review. It is likely that a number of factors contribute to growth in the average household size, both economic and cultural.
Councilmember Baines, Council District 3	N/A Page 9 What policies would staff recommend to address... high annual-percentage rates	The City staff has not included recommendations relating to HALs: Though HALs accounted for nearly half of home purchase loans in 2005 and 2006, HALs have accounted for less than one percent of home mortgage originations since 2010.
Councilmember Baines, Council District 3	N/A Page 13 Please share policies and benchmarks as described at the City Council Hearing on May 5, 2016	The proposed Annual Action Plan calls for \$40,000 in funding to be allocated to the Fair Housing Council to provide specific services as identified in the AI. 1. Outreach and education to area landlords related to reasonable accommodation requirements under the Fair Housing Act, Americans with Disabilities Act, and the California Fair Employment and Housing Act. At least two seminars will be presented at a time, date and location acceptable to the City of Fresno. 2. Create content for the city website detailing the rights and responsibilities of city residents under federal and state fair housing law including hyperlinks. Webpage content will be completed by September 30, 2016. 3. Conduct Fair Housing workshops and seminars in English, Spanish, and Hmong. At least three workshops will be held at a time, place and location acceptable to the City of Fresno. 4. Promote Fair Housing marketing materials through a variety of tools including but not limited to flyers, media advertisements, and school/church bulletins. Content to be completed by September 30, 2016 and three separate promotional activities to be completed by June 30, 2017.
Councilmember Baines, Council District 3	N/A Page 14 Please come back in 90 days or less with a City Council policy to address the formations of Enhanced Infrastructure Financing Districts (EIFD)	City Staff will evaluate EIFDs for development of infrastructure in established neighborhoods.
Councilmember Baines, Council District 3	N/A Page 15 Please come back in 90 days or less with a City Council policy to address	City Staff will evaluate potential policies related to Public Sector Action 2.3 Policies and actions designed to secure funding for development, preservation, and rehabilitation of housing with and emphasis on developing mixed-income neighborhoods.

from	page	comment (summary)	response
Patience Milrod	1	Public Involvement	<p>The City of Fresno utilized the following means of enaging the public during the AI process:</p> <ul style="list-style-type: none"> - On January 15, 2016 Fair Housing Forums scheduled for January 25, 26, 2016 were advertised through a flyer that was published in English, Spanish and Hmong. Flyers were distributed through; <ul style="list-style-type: none"> o the city's public information office (council offices, twitter, facebook) o posted to the Housing web page o email list of 528 individuals and organizations which include faith based organizations o city public libraries o Housing Authority o BNCP o City Office of the ADA Coordinator o National Association of Hispanic Real Estate Professionals o Fresno Realtors Association o Fresno Council of Governments - Public Notice published in the Fresno Bee on January 17, 2016 (English, Spanish, Hmong) and Vida de la Valle (Spanish) on January 20, 2016, advertising Fair Housing Forums scheduled for January 25 and 26, 2016. - AI survey link posted to the city website on January 26, 2016. Surveys were published in English, Spanish and Hmong. Information was distributed the same as the Fair Housing Forum flyer published on January 15, 2016. Surveys were discussed and made available at the Forums, HCDC, Housing Element meetings and the Fair Housing Council Conference. - Public Notice of Public Hearing and Public Comment period published in the Fresno Bee (English, Spanish, Hmong) April 8, 2016 and Vida de la Valle (Spanish) on April 13, 2016. This information was also distributed in the same manner as the Fair Housing Forum and AI Survey.
Patience Milrod	2	Housing Element	<p>The Housing Element was reviewed during the AI process, and was not identified in itself as an impediment to fair housing choice. However, concerns about the Housing Element that were raised during the AI process were relayed in the discussion on page 130 of the draft for public review. In addition, actions proposed in response to Public Sector Impediment 2 are designed to address concentrations of affordable housing in areas with high concentrations of poverty and racial/ethnic minority residents, including Action 2.1, Action 2.2, and Action 2.3.</p>
Patience Milrod	2	Entitlement Decisions	<p>The City proposes a number of actions designed to facilitate the development of affordable housing, redevelop and rehabilitate existing housing stock, and promote affordable housing development outside of areas with current high concentrations of those units. These actions include Public Sector Action 1.2, Action 1.3, Action 1.4, Action 1.5, Action 2.1, Action 2.2, and Action 2.3.</p>

from	page	comment (summary)	response
Patience Milrod	2	Lack of coherent affordable housing policy	Though the analysis of impediments is not primarily designed as a planning document for affordable housing development, the City recognizes the linkage between limitations in the availability of affordable housing and impediments to fair housing choice. This recognition is reflected in the identification of current concentrations of affordable housing as Public Sector Impediment 2. In response to this impediment, the AI includes recommendations that are designed to contribute to the development of a more cohesive affordable housing policy, one that promotes housing choice for low-income families beyond those areas with current high concentrations of poverty and racial/ethnic minority residents.
Dave Brenner	2	Private Sector Impediment 3 calls for more redevelopment efforts however this is in conflict with efforts to deconcentrate poverty	Public Sector Actions 2.1 and 2.2 seek to promote the development of affordable housing beyond areas with current high concentrations of affordable housing. It should be noted that while Public Sector Impediment 2 does not identify "R/ECAPs" specifically, such areas come under the umbrella of "areas of poverty with relatively high concentrations of racial/ethnic minority residents" identified in the impediment.
Dave Brenner	2	Readers may interpret this as the result of market forces or the desire of developers when analysis is showing the City's actions have had a significant impact	Comment acknowledged.
Dave Brenner	2	High density zoned land in northern parts of the city is unlikely to rebalance the historical distribution of low-income housing	The proposed AI has a number of Actions designed to leverage or attract private investment to expand affordable housing options. These include Public Actions: Action 1.1, Action 1.2, Action 1.3, Action 1.5, Action 1.6 (new), Action 2.1, Action 2.2, and Action 2.4
Dave Brenner	2	Public Sector Impediment #2 - other incentives and zoning compulsions	There is no affirmative duty for a City to adopt an inclusionary zoning ordinance. However, the City is facilitating and encouraging mixed income housing through TOD, height and density bonuses as well as various programs within the Housing Element. Please see the 2015-2023 Housing Element prepared pursuant to California Government Code section 65580 et seq for discussion on these programs.